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**JOINT SUBMISSION OF THE INTERNATIONAL COMMISSION OF JURISTS AND  
SHERO THAILAND TO THE UN COMMITTEE AGAINST TORTURE IN VIEW OF THE  
COMMITTEE'S EXAMINATION OF THAILAND'S SECOND PERIODIC REPORT UNDER  
ARTICLE 19 OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL,  
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

Submitted on 30 September 2024

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*SHero (pronounced She-Ro) is a civil society organization dedicated to ending gender-based violence and de-normalizing violent culture in Thailand. Since our establishment in 2016, we have provided legal and emotional support to survivors of violence, conducted workshops on gender-based violence prevention, and advocated for better access to justice for survivors. SHero trained 175 lawyers and caseworkers on gender-based violence, the survivor-centered approach, trauma-informed care, feminist legal theory, and case management. We have recruited a group of inspiring pro bono lawyers to join our team. Currently, our collective consists of 45 pro bono lawyers, social workers, therapists, case workers, and trained volunteers working together to support both Thai and non-Thai survivors of domestic and gender-based violence in Thailand.*

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**I. Introduction**

1. During its 81<sup>st</sup> session, from 28 October to 22 November 2024, the UN Committee Against Torture (the Committee) will examine Thailand's compliance with its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention), including in light of the State Party's second periodic report under Article 19 of the Convention. In this context, the International Commission of Jurists (ICJ) and SHero Thailand welcome the opportunity to submit the present briefing to the Committee.
2. In this submission, the two organizations focus specifically on concerns about Thailand's implementation of Articles 2, 12, 13, 14 and 16 of the Convention resulting from Thailand's failure to effectively discharge its obligations under the Convention to prevent, investigate and prosecute gender-based violence (GBV) and its failure to provide access to justice and effective remedies to survivors of such violence. In particular, the above-mentioned concerns arise as a result of:
  - a) Laws that neither appropriately nor adequately prohibit all forms of GBV, and fail to impose effective, proportionate, and dissuasive sanctions and punishments; and
  - b) The lack of prompt and effective investigations into all credible allegations of GBV, aimed at ensuring access to justice and remedies, and fair, effective prosecution of alleged perpetrators, while respecting and protecting the dignity and rights of witnesses, and avoiding the re-victimization of GBV survivors.
3. The concerns outlined in this briefing have been identified and documented by SHero as part of its work assisting and representing survivors/victims of GBV over the past eight years, along with legal analysis conducted by the ICJ.<sup>1</sup>

**II. Legal frameworks for combatting GBV**

4. Since the Committee's review of Thailand's initial report under the Convention in 2014, law reform initiatives have updated outdated laws, bringing certain domestic legislative provisions into compliance with Thailand's international obligations under the Convention, as illustrated by the examples below. Nevertheless, concerns remain regarding certain domestic legal provisions that neither adequately nor appropriately prohibit all forms of GBV, and fail to impose effective, proportionate, and dissuasive sanctions, in contravention of Thailand's obligations under sections 2, 12-14, and 16

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<sup>1</sup> The ICJ and the Justice for Peace Foundation (JPF) in their 2012 report entitled *Women's Access to Justice: Identifying the Obstacles & Need for Change in Thailand* had already identified several of the same concerns. While the report was released in 2012, much of its analysis and conclusions remain largely relevant. ICJ, 'Women's Access to Justice: Identifying the Obstacles & Need for Change in Thailand,' 2012, available at: <https://www.icj.org/wp-content/uploads/2012/08/ICJ-JPF-Report-Thailand-Womens-Access-to-Justice-English.pdf>

of the Convention, as well as the Committee's General Comments No. 2 and 3. The following paragraphs describe such concerns.

### Sexual violence

5. The Thai Criminal Code criminalizes various forms of sexual violence in sections 276 to 287, including rape<sup>2</sup> and indecent assault.<sup>3</sup> It also addresses indecent acts committed in public, as stated in section 388, and actions intended to bully, harass, shame, trouble, or annoy another person, as described in section 397.
6. In 2019 the Thai Criminal Code was amended<sup>4</sup> to make rape and indecent assault non-compoundable offences in certain circumstances. As a result, survivors/victims cannot withdraw complaints or reach settlements with alleged perpetrators, ensuring that legal proceedings initiated by the State must continue unless the individuals involved are over 15 years old and certain conditions are met, such as if the assault occurs between spouses, is not in a public setting, or does not result in grievous bodily harm or death.<sup>5</sup> In cases of rape, the amended section 276 further provides a mitigating circumstance for marital couples who wish to remain together. Such exceptions to non-compoundable offences, as well as a mitigating circumstance of this nature, risk violating Thailand's obligation to prevent, investigate, prosecute, sanction and redress impermissible acts under the Convention (i.e., articles 2, 12-14 and 16) as affirmed by the Committee's General Comment Nos. 2<sup>6</sup> and 3.<sup>7</sup>
7. Additionally, the amended section 1(18) incorporates a narrow definition of rape, excluding non-consensual penetration of a sexual nature involving objects or body parts other than sexual organs, which is now classified as indecent assault and potentially subject to lesser penalties.<sup>8</sup> To fully align with the Convention and international legal standards, the law should explicitly encompass all types of non-consensual penetration of a sexual nature, regardless of the object and body part involved, however slight.<sup>9</sup>

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<sup>2</sup> Sections 276 and 277 *ter* of the Criminal Code

<sup>3</sup> Sections 278-280/1 of the Criminal Code

<sup>4</sup> Available at: [https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/069/T\\_0127.PDF](https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/069/T_0127.PDF)

<sup>5</sup> Section 281 of the Criminal Code

<sup>6</sup> Committee Against Torture, General Comment No.2, Implementation of Article 2 by States Parties, CAT/C/GC/2, 24 January 2008 para. 18. ('CAT's General Comment No. 2')

<sup>7</sup> Committee Against Torture, General comment No. 3, Implementation of article 14 by States parties CAT/C/GC/3, 13 December 2012, para. 23. ('CAT's General Comment No. 3')

<sup>8</sup> Under section 276, rape is subject to a prison sentence of four to 20 years and a fine between 80,000-400,000 THB (approx. 2450-12240 USD), while indecent assault under section 278 is punishable by up to 10 years of imprisonment or a fine of no more than 200,000 THB (approx. 6100 USD). However, if the assault involves the use of an object or a body part other than sexual organs with another person's sexual organ or anus, it will be subject to the same penalty as rape.

<sup>9</sup> See also, for example, the framework for legislation on rape based on international law and standards proposed by the former UN Special Rapporteur on violence against women and girls, its causes and consequences, Dubravka Simonovic, 'A framework for legislation on rape (Model

8. The 2019 amendment also increased penalties for various sexual offences and introduced the death penalty for cases where rape results in the victim's death,<sup>10</sup> which is not necessarily consistent with international human rights law and standards.<sup>11</sup> Both ICJ and SHero oppose the death penalty unconditionally and in all circumstances, viewing it as a violation of the right to life and the ultimate cruel, inhuman, and degrading punishment.
9. The current definition of rape in section 276 remains inadequate, as it does not explicitly identify an essential element of the crime - the absence of freely given consent.<sup>12</sup> Article 276 defines rape as involving "threats by any means, use of violence or force, circumstances where the survivor cannot resist, or a misunderstanding that the perpetrator is another person." The plain language of these provisions indicates that rape is not defined broadly encompassing all circumstances in which consent is absent but, instead, defines the offence solely in circumstances where force or the threat of force or deception are used. Additionally, references to "circumstances where they [i.e., the victims] cannot resist" do not fully capture the concept of lack of consent. The law also fails to clearly define in which circumstances consent would be absent, including with respect to the relationship between consent and coercive circumstances. This failure may result in a lack of prosecution of perpetrators, contrary to articles 2, 12-14 and 16 of the Convention and the Committee's General Comments Nos. 2<sup>13</sup> and 3,<sup>14</sup> as well as the Committee's 2014 Concluding Observations.<sup>15</sup>
10. As SHero observed while supporting GBV survivors in rape cases, investigators tend to question victims/survivors in a way aimed at proving whether they physically resisted the sexual conduct, as a means to establish the elements of the offence, and tend to ignore other circumstances in which consent was absent, notwithstanding the fact that the victims/survivors did not physically resist. The Royal Thai Police's 2021 Police Investigation Manual, which outlines questions for inquiry officers in rape cases, reflects the same flawed approach to the investigation and prosecution of rape offences. While the manual acknowledges that consent should be considered,

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Rape Law) : report of the Special Rapporteur on Violence against Women, Its Causes and Consequences,' A/HRC/47/26/Add.1, 15 June 2021.

<sup>10</sup> Section 277 bis of the Criminal Code.

<sup>11</sup> See also: Human Rights Committee, 'General comment No. 36', CCPR/C/GC/36, 3 September 2019, paras 5, 10, 35.

<sup>12</sup> CEDAW, 'General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19 (1992)', CEDAW/C/GC/35, 26 July 2017, para 29(e) ('CEDAW's GR No. 35'); CEDAW, 'Committee Communication No. 34/2011, R. P. B. v. the Philippines,' CEDAW/C/57/D/34/2011, para 8.10; CEDAW, 'Committee Communication No. 18/2008, Vertido v. the Philippines,' CEDAW/C/46/D/18/2008, para. 8.7.

<sup>13</sup> CAT's General Comment No. 2, para. 18.

<sup>14</sup> CAT's General Comment No. 3, para. 23.

<sup>15</sup> Committee Against Torture, 'Concluding observations on the initial report of Thailand,' CAT/C/THA/CO/1, 20 June 2014, para. 16(c) ('2014 Concluding Observations'), in which the Committee expressed concerns on the "discriminatory rules of evidence in legal procedures of rape cases, which result ... lack of prosecution for the perpetrator."

examples of questions include: "Was force used, or did the survivor fight back?" and "Did the survivor shout for help, and did anyone come to assist?".<sup>16</sup>

11. Furthermore, with respect to the offence of sexual harassment, which is criminalized under section 397, paragraph 2, of the Criminal Code, there is a lack of clarity regarding the definition of "bully, harass, shame, trouble, or annoy another person" when done "in a manner that suggests sexual harassment". There are also no comprehensive regulations to guide justice sector actors in addressing instances of sexual harassment across various contexts. This gap has led to instances where law enforcement officials have refused to file complaints of sexual harassment, even in serious cases. For example, in one case, a victim was stalked both online and offline for an extended period, facing harassment and non-consensual sharing of personal photos. Initially, the authorities did not consider this behavior as "sexual harassment" and refused to register the complaint. The case only progressed after a SHero lawyer intervened to challenge this decision.

### Domestic Violence

12. In its 2014 Concluding observations on Thailand's initial report, the Committee recommended that Thailand revise the relevant provisions of the Domestic Violence Victim Protection Act B.E. 2550 (2007) ('DVVP'). However, efforts to amend the law—namely through the Act on the Promotion of the Development and Protection of the Family Institution—have not been successful, and the new draft bills introduced this year (described below) fail to address the concerns raised by the Committee.<sup>17</sup>

### *Domestic Violence Victim Protection Act (DVVP)*

13. In its 2021 Second Periodic Report, Thailand indicated that the DVVP had been replaced by the Act on the Promotion of the Development and Protection of the Family Institution B.E. 2562 (2019) ('PDPF'), which, according to Thailand, addresses some of the Committee's concerns. However, in reality, the replacement has not yet taken effect due to an Emergency Decree enacted on 23 August 2019,<sup>18</sup> which delayed the PDPF's entry into force. Moreover, the above-mentioned decree justified the postponement of the PDPF's entry into force by admitting Thailand's ongoing challenges faced by responsible agencies, including personnel shortages and insufficient specialization in handling GBV cases, which have still not been addressed.

14. As a result, the DVVP remains in force, with all its shortcomings, which the Committee had identified in its 2014 Concluding observations, including:

- Section 4 of the DVVP, where domestic violence remains a "compoundable" offence,<sup>19</sup> risking violating Thailand's obligations to ensure the effective and fair

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<sup>16</sup> Royal Thai Police, 'Police Investigation Manual,' 2021, at 108-109.

<sup>17</sup> 2014 Concluding Observations, para. 16. These concerns include the unresponsive attitude of the police and judiciary, the fact that domestic violence remains a 'compoundable' offense, that the victim must lodge a complaint in order for the offense to be prosecuted, and that reaching a settlement in domestic violence cases is prioritized over the victim's well-being and safety.

<sup>18</sup> Available at: [https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/092/T\\_0001.PDF](https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/092/T_0001.PDF)

<sup>19</sup> This means survivors/victims can withdraw complaints or reach settlements with alleged perpetrators, which will result in the cessation of legal proceedings.

prosecution of those allegedly responsible.<sup>20</sup> While this section notes that it does not affect the prosecution of other criminal offences, an exception is made for acts of physical assault under Section 295 of the Criminal Code, rendering them automatically compoundable offences;

- Section 7 of the DVVP, which requires survivors to pursue a case and file a complaint within a three-month time limit from the incident, at the expiry of which they lose the right to file any such complaint. Contrary to this provision, the Committee and other international authorities have taken the opposite view and have advocated for *ex officio* prosecution<sup>21</sup> when appropriate, as this requirement may be regarded as potentially encouraging or granting *de facto* impunity;<sup>22</sup> and
- Section 15 of the DVVP, which prioritizes reaching a compromise in cases of domestic violence at every stage of the prosecution and requires the court to prioritize “the peace and co-existence of the family” during the settlement process, often compromises the survivor’s safety. Its preference for settlement, rather than sanctions for the perpetrator, may at times place those facing domestic violence at risk of continued violence and abuse, in contravention of Thailand’s obligations under the Convention as affirmed by the Committee in its 2014 Concluding Observations.<sup>23</sup>

15. In addition to the concerns highlighted by the Committee in 2014, other sections of the DVVP give rise to concern, including:

- Section 3 of the DVVP, which narrowly defines “person in the family”<sup>24</sup>—who may be considered a survivor of domestic violence and should be protected—is often interpreted to exclude individuals in intimate partnerships or *de facto* relationships, who are, or were, not living together;<sup>25</sup>
- Section 16 of the DVVP, which allows State officials and judges to appoint “conciliators,” including parents, guardians, relatives, or other assigned persons, who are not independent mediators or conciliators, nor are they

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<sup>20</sup> CAT’s General Comment No. 3, para. 23.

<sup>21</sup> CEDAW’s GR No. 35, para 32(a); and CEDAW, ‘General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women,’ CEDAW/C/GC/28, 16 December 2010, para 34.

<sup>22</sup> CAT’s General Comment No.2, para. 18.

<sup>23</sup> 2014 Concluding Observations, para. 16(b), in which the Committee expressed concern on “the arriving at a settlement in cases of domestic violence has priority over the victim’s well-being and safety.”

<sup>24</sup> Include only those in marital status, former spouses, individuals cohabitating as husband and wife without a marriage certificate, children, and other family members, including anyone who depends on and lives in the same household.

<sup>25</sup> CAT’s General Comment No.2, para 18; CEDAW Committee, ‘Concept and scope of protection against domestic violence as GBV under the CEDAW Convention, GR 35 and CEDAW Optional Protocol, and in the practice of the UN SR VAW - Main issues identified, recommendations and guidance to SPs, good practices,’ accessed on 16 September 2024, available at: <https://www.ohchr.org/sites/default/files/2023-08/domestic-violence-as-gender-based-violence-under-cedaw.doc>

professionals specially trained to understand and adequately intervene in cases of GBV.<sup>26</sup> SHero has also found that "lay judges"<sup>27</sup> are frequently appointed, many of whom lack an understanding of domestic violence dynamics and the need for a survivor-centered approach;

16. Notably, the reliance on mediation and reconciliation in the context of domestic violence, as enshrined in Sections 15 and 16 of the DVVP, raises several concerns. It eliminates the possibility of investigation and prosecution and should not be permitted, let alone mandatory, particularly in serious GBV cases, as it places those facing domestic violence at risk of continued violence and abuse. In exceptional cases where mediation may be allowed, its effectiveness is also contingent upon the neutrality and expertise of the conciliator, as well as the voluntary participation of both parties. However, under the current legal arrangement, such distinctions or what constitutes exceptional circumstances are not recognized, nor is the free and informed consent of the survivor explicitly required for mediation and reconciliation. As a result, survivors risk being coerced into agreements or settlements that are not in their best interests, especially if they feel pressured to reconcile due to societal or familial expectations.
17. Certain safeguards enshrined in the DVVP have also not been implemented in practice. For example, under Section 10, designated officials have the authority to impose temporary measures to alleviate the survivor's suffering, such as ordering the perpetrator to undergo medical treatment, provide financial relief, or stay away from the family home, regardless of whether or not there has been a request from the survivor/victim. However, in cases where they provide legal assistance, SHero has observed that these powers have rarely been exercised in practice, and some authorities are not even aware that they have the power to do so. Similarly, several court officers contacted by SHero are also not aware that the court may impose such protection measures.<sup>28</sup> Additionally, in cases where measures are imposed, there is often a lack of effective follow-up to ensure their implementation in practice.

*Act on the Promotion of the Development and Protection of the Family Institution (PDPF)*

18. Regrettably, while the PDPF,<sup>29</sup> introduced to replace the DVVP, is still being phased out, it fails, in its current form, in any event, to address the concerns noted above. As its name suggests and as stated in the law's intendment, rather than addressing and combatting domestic violence in compliance with Thailand's international human rights law obligations, including those under the Convention, the law prioritizes the promotion of "the family institution".<sup>30</sup> This is further confirmed in the Act's preamble,

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<sup>26</sup> CEDAW's GR No. 35, para 32(b).

<sup>27</sup> A lay judge is a person assisting a judge in a trial. Lay judges are appointed volunteers and often require some legal instruction.

<sup>28</sup> Despite Section 10 of the DVVP, the Court may also impose measures that comply with the Regulations of the President of the Supreme Court regarding Welfare Protection Litigation B.E. 2554 (2011), which were adopted by virtue of Sections 7 and 171 of the Act for the Establishment of, and Procedure for, the Juvenile and Thai Family Court, available at: <https://jvnc.coj.go.th/th/content/category/detail/id/8/cid/2726/iid/31609>

<sup>29</sup> Available at: [https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/067/T\\_0171.PDF](https://www.ratchakitcha.soc.go.th/DATA/PDF/2562/A/067/T_0171.PDF)

<sup>30</sup> Hi Focus, 'Dissecting the Family Promotion Act: The Content Has Lost Its Direction, Only Focus on Mediation and the Enduring Myth of 'Tongue and Teeth'', 15 September 2019, available at: <https://www.hfocus.org/content/2019/09/17735>



which states that the Act aims to “promote and develop the family” and “protect safety in ways that strengthen and improve the family institution.”

19. In addition, the PDPF’s reliance on the “Promotion and Protection of Family Institution Center” under the Ministry of Social Development and Human Security (MSDHS)<sup>31</sup> raises concern. The Center is granted wide-ranging powers, including promoting and improving the family institution,<sup>32</sup> protecting persons in the family from domestic violence,<sup>33</sup> mediating or taking steps to reach a compromise when domestic violence occurs,<sup>34</sup> and proposing to courts temporary measures—known as “safety protection measures”—to protect family members from domestic violence.<sup>35</sup> However, the promotion of the family institution and combating domestic violence should not be managed by the same authorities and agencies under the same law, as they may in fact give rise to conflict of interests and potential violations of the Convention when the approach is flawed. In relation to this, the protection of people from prohibited ill-treatment, which domestic violence often entails, is paramount.

20. Certain provisions that have been highlighted as positive aspects of the PDPF compared to the DVVP, in Thailand’s Responses in its Second Periodic Report, are also ambiguous. For instance, regarding the non-compoundable offence status of domestic violence, the Report<sup>36</sup> states that, unlike under the DVVP, acts of physical assault under section 295 of the Criminal Code are no longer automatically considered compoundable offences unless “the perpetrator has been prosecuted and has complied with all of the court’s orders.”<sup>37</sup> However, the ICJ and SHero would like to clarify that, based on their understanding, section 36 of the PDPF allows offences under section 295 to be compoundable “when the court invokes safety protection measures ... and if the domestic violence perpetrator has complied with all safety protection measures imposed.” This does not necessarily mean that the perpetrator must comply with all court orders related to criminal prosecution, as the Second Periodic Report may unintentionally suggest.

21. Furthermore, the definition of “person in the family” in section 4 of the PDPF,<sup>38</sup> as also referred to in Thailand’s Second Periodic Report,<sup>39</sup> closely resembles that of the DVVP and does not explicitly include individuals in intimate partnerships or *de facto*

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<sup>31</sup> Section 13 of the PDPF

<sup>32</sup> Section 13 (1) and (3) of the PDPF

<sup>33</sup> Sections 22-24 of the PDPF

<sup>34</sup> Sections 13(2) and 22-24 of the PDPF

<sup>35</sup> Sections 28-29 of the PDPF

<sup>36</sup> Thailand, ‘Second periodic report submitted by Thailand under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2018,’ 21 December 2021, CAT/C/THA/2 (‘Thailand’s 2021 second periodic report’).

<sup>37</sup> Thailand’s 2021 second periodic report, para. 38(a).

<sup>38</sup> includes “parents, descendants, spouses, former spouses, individuals cohabitating or who have cohabitated as husband and wife without a marriage certificate, adopted children, and any dependent persons who live in the same household.”

<sup>39</sup> Thailand’s 2021 second periodic report, para. 38(c).



relationships, regardless of whether they are or were living together, as required by international law and standards.<sup>40</sup>

*Draft Domestic Violence Victim Protection Act (No. ...) B.E....*

22. Between 31 May and 14 June 2024, the Ministry of Social Development and Human Security (MSDHS) presented the Draft Domestic Violence Victim Protection Act (No. ...) B.E... at a public hearing.<sup>41</sup> Nevertheless, many of the concerns mentioned above remained unaddressed, and the efforts to address others were still inadequate.
23. While noting some positive aspects, including the expanded definition of “persons in the family”, which would include those in intimate relationships,<sup>42</sup> and the broader grounds for officials to be able to file a complaint on the victim’s behalf—including when the survivor has expressed willingness but has no ability to file; suffers from mental health issues; lacks opportunity; or is unwilling to file themselves<sup>43</sup>—concerns remain. They include the fact that domestic violence offences, along with offences under section 295 of the Criminal Code, are still recognized as compoundable offences.<sup>44</sup> Additionally, the draft legislation retains the requirement that the survivor/victim must lodge a complaint for domestic violence for criminal proceedings to take place. With respect to this, as noted above, while the draft expands the grounds on which the authorities may lodge a complaint on behalf of victims/survivors, this is still subject to the survivor’s willingness to come forward. According to SHero’s experience, it can be challenging for survivors to express willingness to file a complaint, as many face significant barriers. These may include isolation from support networks, coercive control by the perpetrator, or financial dependence, which collectively hinder their ability to come forward.
24. It is of concern that the draft legislation retains the requirement that to pursue a case survivors must file a complaint within a certain time from the incident, at the expiry of which they lose the right to file any such complaint, albeit the time limit would increase from three to six months if the draft is adopted as currently formulated.<sup>45</sup> Nevertheless, this extension may still be insufficient for some victims due to ongoing fear, trauma, or dependence on the abuser, which may even increase with the passage of time, as also recognized in the Committee’s General Comment No. 3.<sup>46</sup> This is especially concerning since the new legislation fails to specify mechanisms to support victims in coming forward beyond merely extending the timeframe.

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<sup>40</sup> See *supra* note 25

<sup>41</sup> The public hearing and the draft bill can be accessed via:  
[https://law.go.th/listeningDetail?survey\\_id=MzgzMERHQV9MQVdfRIJPTIRFTkQ=](https://law.go.th/listeningDetail?survey_id=MzgzMERHQV9MQVdfRIJPTIRFTkQ=)

<sup>42</sup> Section 3 of the draft Bill (section 3 of the DVVP)

<sup>43</sup> Section 6 of the draft bill (section 6 of the DVVP)

<sup>44</sup> Section 5 of the draft bill (section 4 of the DVVP)

<sup>45</sup> Section 8 of the draft bill (section 7 of the DVVP)

<sup>46</sup> According to CAT’s General Comment No. 3, para 40, the Committee states that, for many victims, the passage of time does not attenuate the harm; in some cases, the harm may increase due to post-traumatic stress that requires medical, psychological, and social support, which is often inaccessible to those who have not received redress.

25. Additionally, the draft bill expands the jurisdiction of the Juvenile and Family Court to handle cases where domestic violence offences are committed alongside other criminal offences, provided that such offences are punishable by imprisonment not exceeding ten years.<sup>47</sup> While this change aims at a better-coordinated judicial response, expanding the Juvenile and Family Court's jurisdiction should be accompanied by allocating additional resources and providing additional training; otherwise, such an expansion could end up overwhelming the juvenile and family court system, leading to inefficiencies, mishandling, and prolonged cases. This concern has been raised by several CSOs with the ICJ and SHero.
26. Regarding the conciliation process, the draft bill still allows domestic violence cases to resort to mandatory alternative dispute resolution instead of prosecution in the formal justice process without explicitly enshrining the free and informed consent of the survivors/victims as an essential requirement.<sup>48</sup> It replaces section 15 of the DVVP, changing the term "compromise" to "producing a plan to address and prevent domestic violence" by the relevant authorities, which must receive court approval. While the plan aims to protect the rights and benefits of survivors, as well as their safety, it also includes an objective to "preserve and protect the marital status of men and women or partners who wish to remain together as husband and wife." Furthermore, instead of referring to a "conciliator" as in section 16 of the DVVP, the draft bill introduces the role of "manager in domestic violence cases," who may organize meetings with family members or others, as appropriate, to facilitate the creation of the "plan to address and prevent domestic violence,"<sup>49</sup> without the necessary safeguards to ensure that the consent of the victim/survivor is freely given, informed, and absent of coercive circumstances.

### III. Access to Justice

27. Over the past decade, ICJ and SHero found that a significant gap persisted between the number of GBV incidents reported to the police and those that ultimately reached the courts. The information submitted in Thailand's Second Periodic Report, which provided statistics on domestic violence complaints received by the MSDHS from 2010 to 2019 (e.g., 1,200 incidents in 2017, 1,299 in 2018, and 1,532 in 2019) compared to the number of domestic violence cases prosecuted by the Office of the Attorney General (151 cases in 2017, 150 in 2018, and 145 in 2019), appears to attest to the abovementioned gap.<sup>50</sup> These trends continued; according to the annual report of domestic violence crimes by the MSDHS, domestic violence cases reported to the MSDHS's Department of Women's Affairs and Family Development between 2020 and 2023 (e.g., 1,789 incidents in 2020, 2,114 in 2021, and 1,802 in 2022) compared to the number of domestic violence cases prosecuted by the Office of the Attorney General (157 cases in 2020, 282 in 2021, and 8 in 2022) and cases of domestic violence that victims/survivors directly filed in court (53 cases in 2020, 168 cases in 2021, and 207 cases in 2022) illustrate that significant gaps remained between the cases that were reported and those that proceeded to trial.<sup>51</sup>

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<sup>47</sup> Section 9 of the draft bill (section 8 of the DVVP)

<sup>48</sup> CEDAW's GR No. 35, para 32(b)

<sup>49</sup> Section 13 of the draft bill (sections 15 and 16 of the DVVP)

<sup>50</sup> See Thailand's 2021 second periodic report, paras. 36-37.

<sup>51</sup> The reports can be accessed via: <https://dwf.go.th/contents/48156>

28. As identified by the Committee in its 2014 Concluding observations,<sup>52</sup> the low level of prosecution for sexual and domestic violence offences was due, in part, to obstacles inherent in the legal framework — several such obstacles arise as a result of concerns outlined in Part II above — and the unresponsive attitudes of the police and judiciary towards such offences.

29. The ICJ and SHero regret that these challenges persist. The next sections provide the Committee with some updates on: (i) the laws that obstruct access to justice for GBV survivors/victims; (ii) persistent gender stereotyping by justice sector actors; (iii) Thailand's failure to ensure gender-sensitive procedures; and (iv) other resource-related obstacles, among other concerns. All of these issues have led to violations of sections 2, 12-14, and 16 of the Convention, as well as the Committee's General Comment Nos. 2<sup>53</sup> and 3.<sup>54</sup>

#### Obstacles inherent in the legal framework

30. Apart from those previously mentioned in Part II., several laws create substantial barriers for GBV survivors/victims in accessing justice as they are forced to endure additional difficulties due to fear of arrest and prosecution. These barriers include the criminalization of sex work, consensual possession or dissemination of "obscene materials," and the criminalization of undocumented migrants and refugees. Apart from creating opportunities for *de facto* impunity in violation of the Convention, these barriers contribute to Thailand's failure to protect certain minority and/or marginalized individuals or populations, especially those at risk of torture, as the Committee's General Comment No. 2 underscores.<sup>55</sup>

31. Sex work and consensual possession or dissemination of "obscene materials" are criminalized under Thai law, which undermines access to justice and effective remedies for many GBV survivors/victims.<sup>56</sup> The Prevention and Suppression of Prostitution Act B.E. 2539 (1996)<sup>57</sup> criminalizes "prostitution in brothels" and public advertisements, imposing prison sentences.<sup>58</sup> Additionally, the Criminal Code penalizes individuals who "procure, seduce, or assist in prostitution",<sup>59</sup> or "benefit financially from a prostitute's earnings".<sup>60</sup> The production, possession, import, export, or dissemination of materials involving adults that are deemed "obscene" is punishable under the Criminal Code.<sup>61</sup>

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<sup>52</sup> 2014 Concluding Observations, para. 16(b).

<sup>53</sup> CAT's General Comment No. 2, para 18 and 21.

<sup>54</sup> CAT's General Comment No. 3, paras 18, 23, 33-35.

<sup>55</sup> CAT's General Comment No. 2, para 18 and 21.

<sup>56</sup> CEDAW, 'General recommendation No. 33 on women's access to justice', CEDAW/C/GC/33, 3 August 2015, paras 9 and 10 ('CEDAW's GR No. 33').

<sup>57</sup> Unofficial English translation can be assessed via:  
<https://www.refworld.org/legal/legislation/natlegbod/1996/en/58177>

<sup>58</sup> Sections 6-7 of the Prevention and Suppression of Prostitution Act B.E. 2539

<sup>59</sup> Section 282 of the Criminal Code

<sup>60</sup> Section 286 of the Criminal Code

<sup>61</sup> Section 287 of the Criminal Code

Thailand's Computer-related Crime Act B.E. 2550 (2007) also criminalizes entering what may be deemed "obscene data" into a computer system accessible to the public.<sup>62</sup> These criminal legal provisions increase the risk that sex workers -- and other adults working in the sex industry -- who are consensually engaged in this work and may be subjected to or at risk of GBV will be deterred from reporting it. In addition, reporting incidents often exposes survivors, as well as others involved in these industries, to prosecution for providing or facilitating sexual services.<sup>63</sup>

32. Strict immigration laws further hinder GBV survivors from seeking justice. Undocumented migrants, in particular, may face arrest and deportation under Thai immigration law,<sup>64</sup> including the Immigration Act B.E. 2522 (1979),<sup>65</sup> which effectively prevents them from contacting the authorities, let alone filing a complaint. SHero's experience also reveals that, in the rare cases where undocumented migrants have sought help, a number of survivors have been arrested and threatened with deportation on the grounds of "illegal immigration" into Thailand. Even when legal proceedings against perpetrators of GBV occur, they often end in settlement due to the lengthy process or are simply discontinued because the survivors do not feel safe engaging the authorities throughout the entire proceedings.
33. Similarly, asylum seekers and refugees who enter Thailand "irregularly" face challenges comparable to those of undocumented migrants, as Thailand does not recognize their status and treats them as "undocumented immigrants" by law. Without legal refugee status or protection under a legal framework, they remain in legal limbo and are at risk of arbitrary arrest, detention and deportation, leaving them with minimal protection in accessing justice for GBV.
34. Documented migrant workers also face significant barriers. Restrictions on travel<sup>66</sup> and employer changes<sup>67</sup> can trap them in abusive situations at home or work. Leaving such situations may breach work permit conditions, causing them to lose their legal status

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<sup>62</sup> Section 14(4) of the Computer-related Crime Act B.E. 2550 (2007)

<sup>63</sup> iLaw, 'Decriminalize sex work: Civil Society Proposes Repealing Laws Suppressing Prostitution,' 8 April 2021, available at: [https://www.ilaw.or.th/articles/4598?fbclid=IwY2xjawFWFh5leHRuA2FibQIxMQABHZgRqh9tlfzfdZAe5TDKQqpCbNeWMLqBehr\\_JTJWPZ2IWKKEqrLhVgU51A\\_aem\\_iWTAhrJDqYc0a0Sy9MDM2g&fbclid=IwY2xjawFWFh5leHRuA2FibQIxMQABHZgRqh9tlfzfdZAe5TDKQqpCbNeWMLqBehr\\_JTJWPZ2IWKKEqrLhVgU51A\\_aem\\_iWTAhrJDqYc0a0Sy9MDM2g&fbclid=IwY2xjawFWFh5leHRuA2FibQIxMQABHZgRqh9tlfzfdZAe5TDKQqpCbNeWMLqBehr\\_JTJWPZ2IWKKEqrLhVgU51A\\_aem\\_iWTAhrJDqYc0a0Sy9MDM2g](https://www.ilaw.or.th/articles/4598?fbclid=IwY2xjawFWFh5leHRuA2FibQIxMQABHZgRqh9tlfzfdZAe5TDKQqpCbNeWMLqBehr_JTJWPZ2IWKKEqrLhVgU51A_aem_iWTAhrJDqYc0a0Sy9MDM2g&fbclid=IwY2xjawFWFh5leHRuA2FibQIxMQABHZgRqh9tlfzfdZAe5TDKQqpCbNeWMLqBehr_JTJWPZ2IWKKEqrLhVgU51A_aem_iWTAhrJDqYc0a0Sy9MDM2g&fbclid=IwY2xjawFWFh5leHRuA2FibQIxMQABHZgRqh9tlfzfdZAe5TDKQqpCbNeWMLqBehr_JTJWPZ2IWKKEqrLhVgU51A_aem_iWTAhrJDqYc0a0Sy9MDM2g)

<sup>64</sup> Section 54 of the Immigration Act

<sup>65</sup> Unofficial English translation can be assessed via: [https://www.royalthaipolice.go.th/downloads/laws/laws\\_03\\_03-03.pdf](https://www.royalthaipolice.go.th/downloads/laws/laws_03_03-03.pdf). This excepts in trafficking cases where deportation may be delayed until court testimony is completed.

<sup>66</sup> Depending on the type of permit, certain permits will not allow migrants from neighboring countries to leave the 'specific areas,' which usually encompass several districts in the border zones.

<sup>67</sup> An exception to the prohibition on changing employers specifies that if an employer resorts to torture or bodily assault, fails to comply with labor protection laws, or places employees in dangerous working environments, among other violations, migrants will not lose their legal status or face arrest and deportation, provided they find a new employer within 15 days. See also: Emergency Decree on Managing the Work of Aliens B.E. 2560 (2017) (amended in 2018).

and become undocumented. In some cases, SHero has found that employers have even denied workers leave to file GBV complaints with law enforcement.

### Attitude of justice sector actors

35. As noted by the Committee in its 2014 Concluding Observations, the unresponsive attitude of justice sector actors toward GBV obstructs access to justice.<sup>68</sup> This concern persists. Over the past eight years, SHero has observed trials and witnessed countless incidents in which police, public prosecutors and judges have used blaming, shaming, and retraumatizing language during questioning, exposing GBV survivors to the risk of revictimization and stigmatization, in violation of the Convention and the Committee's General Comment No. 3.<sup>69</sup>
36. We are of the view that such practices persist also due to the absence of legislative provisions, regulations, or guidelines for the police, prosecutors and the judiciary regarding the applicable rules of evidence in cases of sexual violence and the requirements of consent, similar to concerns raised by the Committee in its 2014 Concluding Observations to Thailand.<sup>70</sup> Although the Royal Thai Police's 2021 Police Investigation Manual is available, it is clearly inadequate, as it only lists elements of crimes and examples of questions for inquiry officers. These questions are framed in a manner that reinforces stereotypes, as illustrated in a rape case, namely: "Did the offender pick up the survivor or vice versa?" "Was force used, or did the survivor fight back?" "Did the survivor shout for help, and did anyone come to assist?."<sup>71</sup>
37. Without clear and adequate victim/survivor-centered and non-discriminatory provisions and guidelines, factors, such as whether there is proof of injury or other physical evidence of struggle, the time-lapse between the alleged incident and the survivor's reporting it to the authorities, the survivor's background and sexual history, and the nature of the relationship between the survivor and alleged perpetrator, are often determinative criteria in decisions to pursue prosecutions and in court decisions in Thailand. In contrast, international authorities have clearly indicated that reliance on such criteria undermines compliance with the requirement that justice processes be gender-sensitive, as they reflect reliance on harmful gender stereotypes or discriminatory assumptions.<sup>72</sup>
38. In addition, in most cases SHero has represented over the past decade, similar to the concern raised by the Committee in 2014,<sup>73</sup> police officers, prosecutors and judges often continue to treat cases of domestic violence as private, personal, or family matters and thus do not regard them as "important cases." This deep-rooted attitude

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<sup>68</sup> 2014 Concluding Observations, para. 16(b).

<sup>69</sup> CAT's General Comment No. 3, para. 33.

<sup>70</sup> 2014 Concluding Observations, para 16(c), where the Committee raised concerns about "discriminatory rules of evidence in legal procedures for rape cases, which result in the revictimization and stigmatization of victims, as well as the lack of prosecution for perpetrators. The relevant legislation fails to regulate the admissibility of evidence."

<sup>71</sup> Royal Thai Police, 'Police Investigation Manual,' 2021, at 108-109.

<sup>72</sup> CAT's General comment No. 3, para. 33; and CEDAW, 'Karen Tayag Vertido v. Philippines, Communication No. 18/2008,' 1 September 2010, Paras. 8.5-8.9.

<sup>73</sup> 2014 Concluding Observations, para 16(b).

is partly influenced by laws such as the DVVP and PDPF mentioned earlier. In many instances, GBV survivors/victims are left to struggle with gathering evidence themselves, such as arranging DNA testing in rape cases for further legal proceedings.

#### Failure to ensure gender-sensitive procedures

39. The aforementioned discriminatory attitudes of justice sector actors have also contributed to the failure to implement gender-sensitive procedures, as required by the Committee's General Comment No. 3,<sup>74</sup> or create a supportive environment necessary for reporting gender-based crimes,<sup>75</sup> resulting in dismissive and derogatory treatment of GBV victims/survivors and a failure to prosecute such crimes. For example, a GBV survivor may be interviewed three to four times about the incidents, which can traumatize them further. These interviews may be conducted by the inquiry officer who registers the case, a multidisciplinary team if the survivor is a child,<sup>76</sup> as well as by public prosecutors, judges, and lawyers during the court examination sessions.
40. Some safeguards designed to protect GBV survivors are unfortunately not adhered to by relevant authorities, leaving them in vulnerable situations. For instance, according to the Head of the Supreme Court's Recommendations regarding Guidelines to Treat Victims in Criminal Cases B.E. 2563 (2020),<sup>77</sup> sexual and domestic violence survivors should not be required to confront the alleged perpetrator. Courts should establish appropriate mechanisms for survivors to give testimony, including the use of video conferencing, and provide proper court facilities, such as separate waiting rooms for survivors and witnesses. However, as observed by SHero, in very few cases are such guidelines followed by the judges.
41. Similarly, at the initial reporting and investigative stage, separate waiting or private rooms are not always available for victims/survivors to register their complaints confidentially and in a stigma-free environment, particularly at police stations outside Bangkok.

#### Practical resource obstacles

42. There are also practical obstacles related to lack of/inadequate resources. These include a shortage of trained female inquiry officials to interview survivors/victims, a lack of lawyers to represent cases, a scarcity of interpreters in all languages—particularly female interpreters—and a shortage of MSDHS officers, who are key personnel under several laws protecting survivors of sexual violence. Additionally, there are no specific funds allocated for reparations for GBV survivors, nor are there State-run emergency shelters for them.
43. According to Article 133 of the Criminal Procedure Code, GBV victims/survivors should be interviewed by a female inquiry officer unless they consent to be interviewed by a

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<sup>74</sup> CAT's General Comment No. 3, para. 33.

<sup>75</sup> CEDAW's GR No. 33, para 51 (d)

<sup>76</sup> Section 133 bis of the Criminal Code

<sup>77</sup> Available at:

<https://opsc.coj.go.th/th/content/category/detail/id/8/cid/1145/iid/218017>

male officer or in instances where it will be a necessity to proceed to interview with a male officer. However, in most cases monitored by SHero, female victims/survivors were not interviewed by female inquiry officials, nor the male police officers were adequately trained to be able to assist with GBV cases. This is primarily due to the low number of women in law enforcement, with many police stations across Thailand lacking female inquiry officers. An opposition Member of Parliament revealed that, as of 2022, there were only 763 female inquiry officers out of a total of 11,607 in Thailand, accounting for just 6.6%, despite the country having 1,482 police stations.<sup>78</sup> The situation was further exacerbated when the Royal Police Cadet Academy announced that it would admit only men starting from 2019, thus limiting opportunities for women to join law enforcement.<sup>79</sup>

44. Similarly, there is a notable lack of female interpreters and a general shortage of Thailand's Ministry of Justice-certified interpreters for languages other than English and Chinese. This shortage was highlighted by a police officer during a workshop, titled 'The Non-Discriminated Justice System,' co-hosted by ICJ in Bangkok on 23 August 2024.<sup>80</sup>

45. During the same workshop, the President of the Human Rights Lawyer Association mentioned a shortage of trained lawyers stationed at police stations who can immediately take up GBV cases when a complaint is filed, a concern also shared by SHero. This shortage hinders GBV survivors' access to high-quality, gender-sensitive legal advice and representation and, in turn, their ability to seek and obtain justice and effective remedies. According to the President of the Human Rights Lawyer Association, most lawyers at police stations are only mandated to provide legal advice and have limitations in representing cases.<sup>81</sup>

46. The officers of the MSDHS stationed at the Prevention of Domestic Violence Center, tasked with enforcing the provisions of the DVVP (and the PDPF, once in effect), are also facing a shortage of human resources. In SHero experience, many offices have only a few officers per province, with several provinces having as few as one officer. This greatly limits their ability to perform duties outlined in various laws. This shortage was acknowledged by the government in the Emergency Decree enacted on 23 August 2019, which phased out the implementation of the PDPF.<sup>82</sup>

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<sup>78</sup> Move Forward Party, 'Female police officers and the justice system in sexual harassment cases', 10 July 2022, available at: <https://think.moveforwardparty.org/article/urban-development/2783/>

<sup>79</sup> Attending the four-year program at the cadet academy as a Matthayom 6 high-school graduate is one of the principal ways to become a policewoman. Two other options are to enter different pre-cadet training programs and to take another test, or obtain a bachelor's degree and then a six-month training program by the Royal Thai Police. See: Khaosod English, 'women Banned From Police Academy Starting 2019,' 3 September 2018, available at: <https://www.khaosodenglish.com/news/2018/09/03/women-banned-from-police-academy-starting-2019/>

<sup>80</sup> The workshop, titled 'The Non-Discriminated Justice System', was co-hosted by ICJ, OHCHR, the National Human Rights Commission of Thailand, the Office of the Administrative Court, the Office of the Attorney General, and the Lawyers Council of Thailand, with the support of the European Union, on 23 August 2024 in Bangkok.

<sup>81</sup> Ibid

<sup>82</sup> Available at: [https://www.ratchakittha.soc.go.th/DATA/PDF/2562/A/092/T\\_0001.PDF](https://www.ratchakittha.soc.go.th/DATA/PDF/2562/A/092/T_0001.PDF)



47. Most significantly, there are no specific funds created by any law, including the DVVP, for reparations and assistance to GBV survivors. This creates a gap in prevention and support efforts, leaving many survivors without adequate assistance. In the absence of financial support, there are also no State-run emergency shelters specifically for survivors of sexual and/or domestic violence, although there are privately run shelters, despite the measures being vital in fulfilling Thailand's obligations to prevent acts of torture under Article 2 of the Convention, as affirmed by the Committee in General Comment No. 3.<sup>83</sup> State-run shelters are only available to women with children,<sup>84</sup> as they were established by virtue of the Child Protection Act B.E. 2546 (2003) and operate in 76 provinces of Thailand.

48. Additionally, there is a shortage of adequate long-term psychological and counseling services, which are essential for the recovery of survivors, as required by article 14 of the Convention. The available services face limitations, primarily due to insufficient allocation of financial resources. According to SHero's experience, although a support system should streamline services among various agencies, there remains confusion regarding which agencies are responsible for long-term psychological and counseling services—whether it be the MSDHS or the Ministry of Health's One-Stop Service Center (OSCC) stationed at various hospitals. Furthermore, the Ministry of Health's OSCC faces specific challenges, including a lack of financial resources to support survivors in the long term and inconsistent activity in the hospitals where it is stationed. In some hospitals, staff members have limited knowledge of the OSCC's functions, while only a few are truly active in providing the necessary support.

#### **IV. Recommendations**

49. Against the background of the information provided within this submission, consistent with its obligations under the Convention, the ICJ and SHero consider that the Royal Thai Government must:

##### In relation to the legal provisions in respect of combatting GBV

- a) Amend Section 276 of the Criminal Code that criminalizes rape to ensure that it:
  - Centers on consent that is voluntary, genuine and results from free will, including express provisions to not infer consent from silence of the victim, non-resistance, whether verbal or physical by the victim, the victim's past sexual behaviour, or the victim's status, occupation or relationship to the accused and to consider coercive circumstances in determining consent;
  - Does not allow exceptions that make it a compoundable offence or provide for mitigating circumstances for marital couples who apparently wish to remain together, without appropriate safeguards for determining whether the victim's/survivor's consent is freely given;

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<sup>83</sup> CAT's General Comment No. 3, para. 18.

<sup>84</sup>The state-run Children and their Families' Shelters are operated by MSDHS in 76 provinces of Thailand. For more, see: MSDHS, 'Children and their Families' Shelters', available at: <https://www.dcy.go.th/childrenandfamilyhomes>

- Includes all types of non-consensual penetration of a sexual nature in the definition; and
  - Abolishes the death penalty in all circumstances, including for cases where rape results in the victim's death.
- b) Ensure that law enforcement officers are knowledgeable about all forms of sexual harassment that fall within the scope of Section 397 of the Criminal Code, including through the provision of guidelines or by amending Section 397 to address the vague language;
- c) Amend the Domestic Violence Victim Protection Act and the Draft Domestic Violence Victim Protection Act to ensure that:
- The definition of "persons in the family" includes individuals in intimate partnerships or *de facto* relationships, regardless of whether they are or were living together;
  - Domestic violence is made a non-compoundable offence, and other provisions that automatically render offences compoundable, including acts of physical assault under Section 295 of the Criminal Code, are amended accordingly;
  - *Ex officio* prosecution is allowed so that when violence is brought to the attention of the authorities, they must, of their own motion, immediately, thoroughly, and impartially investigate such violence, and where warranted by that investigation, prosecute those responsible vigilantly and promptly; and
  - Any resort to alternative dispute resolution, including "mediation" or "compromise" or "producing plans to address and prevent domestic violence," is not mandatory and is limited to exceptional cases. It should, in no case, prevent prosecutions in serious domestic violence cases from going forward. If allowed, it should also be initiated by and with the free and informed consent of the victim/survivor and carried out by independent mediators and conciliators—professionals specially trained to understand and adequately intervene in cases of GBV, including in cases involving coercive circumstances. Additionally, ensure that these processes do not prioritize so-called "family solidarity" over the safety of survivors based on harmful gender-stereotypes of the role of women in the family.
- d) Amend the Act on the Promotion of the Development and Protection of the Family Institution to repeal provisions handling domestic violence, as the Act fails to adopt a victims/survivor-centered approach, is based on harmful gender-stereotypes, and is not an appropriate tool for this purpose.

In relation to barriers to accessing justice for GBV survivors/victims:

- e) Address provisions that create substantial barriers for GBV survivors/victims in accessing justice as they have to face additional difficulties due to fear of arrest and prosecution, including by:
- Repealing the Prevention and Suppression of Prostitution Act B.E. 2539 (1996) and relevant provisions of the Criminal Code that criminalize the consensual exchange of sexual services between consenting adults, and

- decriminalizing those third parties who, directly or indirectly, receive financial or material benefit, facilitate, manage, organize, or advertise such services under fair conditions;
- Amending the provisions related to the production, possession, and dissemination of “obscene materials,” to limit them to non-consensual production, possession, and dissemination only, except in cases involving child pornography, and clearly define the term “obscene materials”; and
  - Amending the Immigration Act and other immigration-related regulations to ensure that GBV survivors/victims may report GBV without fear of prosecution, detention or deportation on grounds of “illegal immigration”, including adopting a law that recognizes the legal status of asylum seekers and refugees and provides protection for them.
- f) Enhance training for justice sector actors and other responsible authorities on the application of international human rights law and standards to the investigation, prosecution, adjudication, and sentencing of GBV-related criminal offences;
- g) Prevent and address gender stereotypes, promote gender sensitivity among justice system professionals by increasing training within the justice sector, and establish specialized GBV units within the police and prosecution systems to ensure consistent and sensitive application of the domestic law, as also suggested by the Committee in the General Comment No. 3;
- h) Amend the Royal Thai Police’s 2021 Police Investigation Manual, with meaningful participation from civil society organizations, and adopt legislative provisions, regulations, or guidelines for prosecutors and the judiciary regarding the applicable rules of evidence in cases of sexual violence and what the requirement of consent entails, in compliance with international law and standards;
- i) Eliminate practices that expose GBV survivors to secondary victimization throughout legal proceedings and ensure the creation of supportive environments that encourage them to assert their rights. This includes ensuring the effective implementation of the Supreme Court’s Recommendations regarding Guidelines to Treat Victims in Criminal Cases B.E. 2563 (2020);
- j) Increase the number of trained female police officers and enhance women’s participation in the justice sector as a matter of urgency, including by removing the discriminatory policy barring the recruitment of women to the Royal Police Cadet Academy and taking steps to appoint women to all ranks of the Royal Thai Police;
- k) Increase the number of trained lawyers stationed at police stations and ensure that they can effectively represent and provide high-quality, gender-sensitive free legal aid to victims/survivors and provide referrals to other necessary support services;
- l) Increase the number of interpreters in other languages, particularly female interpreters;
- m) Establish specific funds to provide reparations and other forms of assistance to GBV survivors/victims, including timely access to a full range of sexual and reproductive health services; and

- n) Ensure the availability of State-run shelters for GBV survivors and other supportive services, such as long-term psychological and counseling services and access to sexual and reproductive health services which could aid in recovery, especially in rural or remote regions, and ensure that these services are accessible to all those in need.