

Strengthening the Capacity of the Thai Judiciary to Protect Survivors of Domestic Violence:

Justice for Society's

“Little Dots”

UN WOMEN
Regional Office for Asia and the Pacific

September 2013

ABOUT UN WOMEN

UN Women is the UN organization dedicated to gender equality and the empowerment of women. A global champion for women and girls, UN Women was established to accelerate progress on meeting their needs worldwide.

UN Women supports UN Member States as they set global standards for achieving gender equality, and works with governments and civil society to design laws, policies, programmes and services needed to implement these standards. It stands behind women's equal participation in all aspects of life, focusing on five priority areas: increasing women's leadership and participation; ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment; and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the UN system's work in advancing gender equality.

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Foreword

Without access to effective and gender-responsive justice, discrimination against women will continue to curtail women's capacities and capabilities, restricting their legitimate demands to voice, choice and safety.

Since its accession to CEDAW in 1985, Thailand has made significant progress in line with the recommendations from the CEDAW Committee on law and policy reform. However, as elsewhere, there are still shortfalls in the implementation of laws and policies caused by a persistence of gender stereotypes. A study on Sexuality in Court Decisions conducted in 2006 by Chiangmai University and supported by UN Women found that the Supreme Court decisions on sexual violence cases were influenced not only by the understanding of the law but as well by gendered expectations, personal belief, values and on women's sexuality and women's roles and backgrounds.

This study concluded that the promotion of gender equality and women's access to justice required not only the enactment of new laws that were compliant with international standards such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) but that these laws should be implemented by a gender-sensitive administration of justice. This indeed is one of the State obligations under CEDAW which calls on states to "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women".

Mainstreaming gender equality in the justice sector must be done through raising awareness and capacity development among the judiciary and court officials on women's human rights. What is also required is that justice institutions and support services have gender-responsive mandates and procedures, specialized services providers for women with properly trained personnel, clear accountability procedures and sustained monitoring of implementation of laws and protocols by agencies, and gender-responsive policing and judicial decision-making.

This publication presents examples of such efforts to strengthen women's access to justice in two main Criminal Courts in Bangkok and a provincial court in Tak. In collaboration with UN Women, a series of consultations and trainings were undertaken with the judiciary.

We hope that this publication will be a useful input for the development of similar programmes by the justice sector to further the acceleration of gender equality and women's enjoyment of their human rights and fundamental freedoms.



Roberta Clarke

Regional Director

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Executive summary

From 2006 to March 2011, UN Women's Regional Office for Asia and the Pacific helped advance the cause of justice for domestic violence or sexual survivors in Thailand with the first phase of its project on "Strengthening the Capacity of the Thai Judiciary to Protect Women's Human Rights in Compliance with CEDAW." CEDAW is the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the project is supported by the Canadian International Development Agency.

Domestic violence is a significant and underreported problem in Thailand, a traditionally patriarchal society with little awareness of women's rights. UN Women's advocacy, partnership and training activities with the Thai judiciary have produced noticeable changes in its attitudes and procedures on domestic violence.

UN Women began by commissioning research that reflected bias against women in the Thai Supreme Court's decisions on rape and physical violence. It then worked with the momentum created by Thailand's promulgation in 2007 of the Domestic Violence Victims Protection Act, which gave women protections from their abusers and help to obtain justice. UN Women expanded its partnership beyond the government's women's affairs office and built new alliances with other state agencies that affect women's welfare, including the Office of the Judiciary and the National Human Rights Commission of Thailand. It sponsored overseas study trips and forums in which Thai judges learned how to apply the CEDAW framework to their work. UN Women then sponsored a series of workshops to train a total of 304 judges and staff of the Thonburi Criminal Court and the Criminal Court in Bangkok, and the Tak Provincial Court in the northwest, on how to apply the domestic violence act and how to deal sensitively with aggrieved women. The innovative training centered on dialogue and role-playing that joined people of all ranks, and a theater play that revealed the difficulties that such women face in their quest for justice.

Participants said the study trips and workshops opened their eyes to how they and the rest of society had been "re-victimizing" domestic violence survivors by not treating them with understanding and sympathy. The Thonburi Criminal Court's Chief Judge said that after the workshops, the court's rulings and services showed greater sensitivity for domestic violence survivors.

Inspired by the new perspectives, in 2009 the Thonburi Criminal Court set up a model “women-friendly” court. It installed a partitioned witness area in the courtroom so that aggrieved women would not have to directly confront their alleged attackers while testifying. The court developed procedures to give women the added protections and services of the domestic violence act, and to more sensitively treat them so that they did not have to relive their trauma and fear. This model inspired the Criminal Court and the Tak Provincial Court to move toward the similar model. The Office of the Judiciary, the judiciary branch’s administrative arm, made medium plans to install in courts nationwide the non-confrontation courtrooms and the gender sensitivity training programme for personnel of the selected courts.

As a result of their work with UN Women, the courts, the Office of the Judiciary and the national human rights commission incorporated a greater focus on achieving justice for women. UN Women’s project amplified the voices of leading gender-equality advocates in these institutions and elevated their reforms as models for Thailand. The foundation has been laid for a broad-based, national effort to secure future reforms to protect and help survivors of domestic violence.

The second phase of UN Women’s project on justice for Thai women started in Early 2012 and will run to 2015. UN Women will continue to support training and other capacity development programmes for the judiciary. A new focus will be on encouraging the judiciary and justice sector agencies including the Office of the Attorney General, the Ministry of Justice, and the police to develop a joint initiative to promote women’s access to justice, especially for survivors of domestic and sexual violence from disadvantaged groups in order to have a greater impact on the courts nationwide, not just in Bangkok.

Women's human rights, domestic violence and sexual violence in Thailand

While important progress has been made in more recent years, Thailand has traditionally been a strongly patriarchal society. Social norms that remain commonly held among both men and women today include that the wife is the husband's asset and that women are "the hind legs of the elephant," following the men's front legs. Discriminatory laws, particularly relating to family institutions and matters, remain in the books.

The U.S. State Department's human rights in Thailand report for 2011 said, "Domestic violence against women continued to be a significant problem. ... Domestic violence frequently went unreported, and police often were reluctant to pursue reports of domestic violence." The report said that Thailand's Ministry of Social Development and Human Security recorded 831 cases of domestic violence during the year, but in only 136 of those cases were the victims known to have pursued criminal charges.

The report on Perceptions and Attitudes of Young People on Issues Related to Violence Against Women and Girls in Thailand for 2012 funded by AusAID and coordinated by UN Women in partnership with the Office of Basic Education (OBEC), Ministry of Education in Thailand confirmed the same notion. Moreover, girls and women are often assigned at least partial blame for incidents of such violence, and this stigma may serve as an added barrier to accessing support and is a common reason why survivors may withdraw complaints after reporting." A 2006 Thai government survey showed that 8.6 percent of married women 15-49 years old had experienced physical or psychological violence from their spouses in the past month. A (differently structured) survey in 2009 showed that 2.9 percent of married women had experienced physical violence from their spouses during the past year. The figures were cited in a December 2011 report on *Gender-based Violence against Women and Girls*, done by the Office of Women's Affairs and Family Development, Ministry of Social Development and Human Security. (The report was done with support from the United Nations Development Programme).

The report noted that Thai social norms regard domestic violence as an internal matter, not to be shared with or interfered in by people outside the family. "This has kept Thai women in silence," the report said. It added: "Women abused by their spouses are often blamed for some kind of misconduct, and are perceived to be failing in their responsibility one way

or another. Though alcohol plays an important roles that make women are attacked by husbands who are addicted to alcohol, the roots cause of such violence is imbalance power relations between women and men that deeply rooted in the patriarchal society. Men's abuse of power and irresponsibility to care for their families are thus common thread[s] in domestic violence. Domestic violence often results in injury, disability, and death.”



Laying the foundation for change, 2006–2009

Thailand signed the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1985. Signatories are committed to abolish all discriminatory laws and establish tribunals and other public institutions to protect women from discrimination. For the judiciary, UN Women, through its CEDAW Southeast Asia Programme, has been supporting this important effort to change attitudes and improve judicial procedures through its project on “Strengthening the Capacity of the Thai Judiciary to Protect Women’s Human Rights in Compliance with CEDAW.” The first phase of the project ran from June 2006 to March 2009.

In June 2006, UN Women commissioned the Faculty of Law at Chiang Mai University to research gender bias in the Supreme Court’s decisions. The researchers studied the court’s decisions on rape over the past 50 years to find out how it defined consensual and forced sex, and what factors led to its decisions to reduce or increase sentences. The lead researcher, Assistant Professor Somchai Preechasilapakul, dean of the Faculty of Law, concluded that the court tended to be biased against women when deciding rape cases: It required that the woman have been physically wounded in the attack, that she did not wait too long to report the attack, and that she did not have a previous intimate relationship with the attacker. Sentences were reduced if the women agreed to monetary compensation and cases dismissed if they stopped attending court hearings. Prof. Somchai concluded that to promote gender equality, it was not enough to just enact new laws incorporating standards such as the CEDAW. “These laws remain ineffective if not properly interpreted and enforced by the court,” he wrote in a summary of his findings. “[The] court cannot be neutral and judges are not free from cultural values or gender bias. ... The gender bias will persist if the court still subscribes to patriarchal values and nobody question[s] the decisions.”

In July 2007, Thailand promulgated the Domestic Violence Victims Protection Act, partly in response to recommendations by the United Nations CEDAW Committee. At the time, Thai judicial officers, along with the rest of society, had very little awareness of women’s human rights.

The act came into force in November 2007. It recognized that domestic violence was not a private issue, and said that survivors and witnesses have the duty to report such acts to the authorities. The law protects spouses and ex-spouses, unmarried people who are or were living together, and relatives and others living in the same household. It provides a complaint mechanism, criminal and civil trial processes, temporary relief measures, and penalties.

However, some provisions of the act are at odds with internationally recommended practice. The act's prime concern is maintaining the family relationship rather than ensuring the interests of the aggrieved woman, so it allows compromise between the woman and her abuser even in criminal cases. The act defines domestic violence as physical and mental abuse and does not explicitly include sexual abuse. And few women and officers in state agencies knew about the legislation. Police officers still generally followed the criminal code routine for assaults, instead of the more complicated exercise of the domestic violence act.

Before the passage of the act, UN Women already had identified a number of Thai judges who were gender-equality advocates and had leadership roles. UN Women also developed partnerships with key agencies: the Office of the Judiciary (the secretariat of the courts that does research and training for judges); the National Human Rights Commission of Thailand, to co-sponsor activities; and the Teeranat Kanjanauksorn Foundation, a non-governmental women's organization, to carry out gender sensitivity training for judges and court personnel.

UN Women's partnership with the Thai judiciary fully launching in 2007 marked a significant expansion of its partnership with state institutions that do work crucial to access to justice of women. In October 2007, UN Women and its partners organized a Southeast Asia Regional Judicial Colloquium on the Role of the Judiciary in Promoting Gender Equality. The forum, held in Chiang Mai, was aimed at encouraging judges to carry out the CEDAW principles. It brought together 19 justices and five senior officials in judicial training institutions in Cambodia, Indonesia, the Lao People's Democratic Republic, Philippines, Thailand, Timor-Leste and Vietnam.

The findings of the research on gender bias in the Thai Supreme Court's decisions were presented at the colloquium. Also at the colloquium, Justice Douglas R. Campbell of the Federal Court of Canada shared his extensive experience teaching gender equality to justices in South Asia, Australia, South Africa and Palestine. Participants visited NGOs and spoke with women survivors of domestic violence. They learned about CEDAW principles and the concept of substantive equality through discussions and role-playing. The role-playing – on the case of a daughter of a high-profile judge who was raped by a friend – demonstrated the difficult search for justice faced by survivors of domestic violence. This use of role-playing to stimulate learning would later be adapted as one of the training techniques of the UN Women-sponsored gender sensitivity workshops for Thai judges and court staff.

The colloquium rooted what would become UN Women's long-term partnership with the Thai judiciary. The Thai judges learned how the gender biases of society could influence the decisions they make in the courtroom. They learned that women appearing in their courtroom may have disadvantages that block their access to justice. And they learned that they can only know of these disadvantages if they know more about who these women are, that knowing their stories is part of the process of judging, a part of recognizing the reality.

The colloquium paved the way for a series of roundtable discussions involving UN Women with the Office of the Judiciary, the National Human Rights Commission, the Thonburi Criminal Court, the Criminal Court and the Appeals Court. These institutions subsequently became leading advocates of justice for women.

In January 2008, the CEDAW Southeast Asia Programme organized a study visit by nine Thai justices and women's rights experts to the Philippines, where the Supreme Court has set an example by integrating gender concerns into all levels of its policies and functions. The Thai delegates included Chief Judge Vacharin Patjekvinyusakul of the Thonburi Criminal Court; judges and justices from the Appeals Court, the Central Juvenile and Family Court, and the Office of the Judiciary; a commissioner of the National Human Rights Commission-Naiyana Supapung, and a woman human rights expert-Associate Professor Virada Somswasdi. They held discussions with former Philippines Chief Justice Hillario G. Davide Jr., who is known for his pioneering work on gender justice. UN Women subsequently organized the translation and distribution to Thai justice sector agencies of publications including *The Davide Court: Its Contributions to Gender and Women's Rights and Engendering the Philippine Judiciary*.

After the visit, Chief Judge Vacharin soon initiated gender-sensitive reforms at the Thonburi Criminal Court. After completing her tenure at the national human rights commission, Ms. Naiyana became the head of the Teeranat Kanjanauksorn Foundation, which conducted a series of UN Women-sponsored gender sensitivity workshops for the Thonburi Criminal Court, the Tak Provincial Court and the Criminal Court in 2009 and 2010.

In mid-2008, UN Women's "Say NO – UNiTE to End Violence against Women" campaign gathered momentum in Thailand with the appointment of Princess Bajrakitiyabha, a granddaughter of the His Majesty King Bhumibol Adulyadej as UN Women Goodwill Ambassador. A public prosecutor herself, the princess raised the profile of violence against women and women's rights as public concerns in Thailand, and motivated actions by key state institutions, notably the judiciary and the police. More than 3 million signatures were collected in Thailand for the global "Say NO" campaign in 2008.

In November 2009, Princess Bajrakitiyabha visited the United Nations in New York, and with United Nations Secretary-General Ban Ki-moon jointly launched a campaign to engage men as partners to end violence against women. Senior Thai officers including Secretary-General Wirat Chinwinigkul of the Office of the Judiciary were part of the delegation. After the visit, Mr. Wirat showed a strong commitment to promote justice for women within the judiciary. He attributed his commitment to the leadership of Princess Bajrakitiyabha.

The first gender sensitivity consultations among Thai judicial personnel, 2008 and 2009

To identify ways to better protect domestic violence survivors, UN Women sponsored two consultations for judicial officers on carrying out the domestic violence legislation. The forums focused on the impacts of domestic violence on women; gaps in the application of the legislation to prosecute perpetrators and to protect women's rights; and case studies of the legislation. These consultations, as well as later gender sensitivity workshops for the Thonburi Criminal Court, the Tak Provincial Court and the Criminal Court, were funded by UN Women and the National Human Rights Commission and carried out by the Teeranat Kanjanauksorn Foundation.

The first consultation, in November 2008 in Phetchaburi, brought together 31 judges, prosecutors, court mediators, medical practitioners and academics working in the central region of Thailand. A key result was that the Thonburi Criminal Court committed to develop trial and mediation guidelines for cases under the domestic violence act and to refit the courtroom so that aggrieved women did not have to directly confront their alleged abusers during a trial.

The second consultation, in February 2009 in the northeastern province of Khon Kaen, brought together 37 judges, prosecutors, human rights experts, and doctors and nurses from the One-stop Crisis Centers that are based in hospitals nationwide to help survivors of violence. They shared experiences in carrying out the domestic violence act. Chief Judge Vacharin told them about his "women-friendly" pilot project at the Thonburi court. He described how one headline-grabbing domestic violence case arrived at the court among a pile of criminal cases, without citation of the domestic violence act and thus, without its expanded protection of aggrieved women. "We judges got together to discuss how to protect victims of cases like that in the future. And so we decided on a guideline for our court's practices and how we work in the direction of protecting survivors," he said.

Piloting a women-friendly court: the Thonburi Criminal Court



There are three criminal courts in Bangkok: the Criminal Court, which is the largest and has nationwide jurisdiction; the Criminal Court of Southern Bangkok; and the Thonburi Criminal Court, which has jurisdiction over nine of the city's 50 districts. Chief Judge Vacharin of the Thonburi court is well-known for his work in the family and juvenile courts. Alongside his commitment to the Thonburi Criminal Court's women-friendly pilot project, he often participated in the activities organized by UN Women, government agencies and non-governmental organisations. In 2010, he was appointed by the Office of the Judiciary as the Chairperson of the working group to develop the Rule of Courts for the Juvenile and Family Courts nationwide to implement related laws, including domestic violence act.

Impressed by Judge Vacharin's seminal approach, UN Women began its gender sensitivity training workshops with the Thonburi Criminal Court. A total of 174 of the court's judges and support staff including paralegal officers, public relations officers, and security guards attended the workshops in January and March of 2009, and in January 2010.

The workshops were designed and conducted by the Teeranat Kanjanauksorn Foundation. Judges and support staff mingled in groups to learn together. A main component of the workshop was a play performed by professional actors of Bai Mai Wai (Moving Leaf) Troupe. The play, called *Little Dots, and I Do Hope*, captured the difficult journey that survivors of domestic violence must take to obtain justice. The play stimulated discussion on how court personnel can help make the survivors feel protected and respected and get justice. (See box 1)



Little Dots, and I Do Hope by
Bai Mai Wai Troupe

Photograph by Viroj Katikamolpisuth

Chief Judge Vacharin told the workshop participants:

You can copy my template of the model court, which I am most willing to share. But if the same old mindset persists among people working in it, infrastructure such as a non-confrontation [women-friendly] bench and guidelines is of no use. You have to address people's attitudes first, and I am not talking about only judges, but the entire workforce. ... For example, security guards whom women prosecution witnesses would first encounter upon arriving at the court must be on the same page as me on the issue of women's rights.

Said Amporn Puechkiew, a legal officer at the Thonburi Criminal Court:

In the past, I would react to a rape case in court with a touch of personal curiosity. Was the rape victim beautiful? Was her account as sensational as what we read in the newspapers? But the training workshop has changed ... the way I think and what I do as an officer working at the court. I know now that for some women, the road to justice could take years. I know now that we must empathize with them. The way I look at women survivors showing up at court now does not arouse my curiosity. I just want to give them all the support that I can, and to assure them that they can count on us.

With these new perspectives on gender sensitivity, Thonburi Criminal Court officers started complying with the domestic violence act in February 2009. The court classified domestic violence cases separately from normal criminal cases and established guidelines on how to deal with domestic violence cases. If police officers sought a court order for pre-trial detention on an assault charge, judges and court staff would check whether domestic violence was involved. If so, the court would then instruct the police to duly invoke the domestic violence act. This would make it possible for the court to offer a range of services beyond the normal criminal court proceedings, including mediation between the accused and the defendant, counseling for the defendant, and the use of women-friendly courtroom facilities and procedures in a trial. (See box 2)

In February 2009, Chief Judge Vacharin invited about 200 police officers, investigators, prosecutors, medical practitioners, social workers, and probation officers working in the Thonburi court's jurisdiction to a workshop to inform them that the court was adopting the domestic violence act guidelines, and to ask for their cooperation. In August 2010, he gathered the same group to discuss lessons learned since the pilot project began. Chief Judge Vacharin said people frequently asked whether judges, who are supposed to decide based only on the facts and the evidence, were being biased when they took into account the needs of domestic violence survivors. He told the workshop participants: "I'd say that all are equal before the law. But the capacity of individuals to access such equality is different. To reach out one's hand from the bench to help one side so that it can stand on an even ground with the other side does not mean showing bias."

The Thonburi Criminal Court's pilot project built up steadily. On 25 August 2009, the court opened Bench #20, a witness testimony area with partitioning and a closed circuit TV so that battered women could testify against their alleged abusers without directly confronting them. The court also installed a "witness room," a safe area outside the courtroom for the women to wait for the trial to start.



Bench #20, the courtroom that women survivor feels free from any threatening acts of the perpetrator.

Photograph by Viroj Katikamolpisuth

The Criminal Court starts to set a national example

Following the Thonburi Criminal Court's pilot project, the Criminal Court which is the largest and most influential criminal court gradually began its similar plan with a series of training workshops for its court personnel. With its differential characteristics in size, organizational structure and jurisdiction area, the capacity building programme of the Criminal Court needs a longer plan to improve its process.

Presiding Judge Patumporn Kumnerdrith of the Criminal Court noted that the Thonburi Criminal Court is relatively small, making it easier for its personnel to learn together across ranks and to make changes. The Criminal Court is much bigger, with 100 judges and 300 support staff. It has nationwide jurisdiction and courts in the rest of Thailand look to the Criminal Court as the standard for best practices -- "That's why we have to move with caution," Judge Pratumporn said.



Active participation of another group of judges of the Criminal Court.

Photograph by Kittiporn Boon-am

Members of the Criminal Court observed the gender sensitivity workshop for the Thonburi Criminal Court in January 2010. The first gender sensitivity workshop for Criminal Court judges took place in Pattaya in April 2010. The participants -- senior, presiding, and trainee judges -- were divided into groups; each group analyzed domestic violence cases of the Philippines and drew comparisons with the Thai legal and social contexts. A second workshop, for Criminal Court judges and Supreme Court judges took place in May 2010. A workshop for the Criminal Court's

support staff was held in July 2010. In all, 69 judges and 39 support staff of the Criminal Court attended the workshops.

Deputy Chief Judge Kamol Khamphen of the Criminal Court said:

We were very nervous at the planning stage. It's not easy to change attitude and perception, and it's hard for judges to speak up. Another concern of ours was that in the interactive sessions, senior judges might dominate the floor and junior judges wouldn't speak up. Also, in the past most training activities have been one-way lecturing. But during the two-day workshop, all judges across ranks and seniority actively expressed their thoughts and opinions and shared their experience fully. ...



Deputy Chief Judge Kamol Khamphen, Criminal Court (middle) collaboratively designed the case studies with the women's human rights expert and closely monitor each session.

Photograph by Kittiporn Boon-am

Upon completion of the three workshops, the change of perspectives emerged very clearly. In the past, many judges were of the view that gender-based violence was inflicted only at the physical level. But now they have come to be aware of the trauma aspects too. From what we have observed, the rulings after the workshops reflected more gender sensitivity. Survivors of violence awaiting court verdicts received better service and protection throughout the trial.

Beneficiaries beyond Bangkok: the Tak Provincial Court

Tak province is in the northwest, bordering Myanmar. The Tak Provincial Court has a total of 32 judges and staff. Its involvement with UN Women began when a representative of the court observed the January 2010 workshop for the Thonburi Criminal Court. That led to the gender sensitivity workshop for the entire staff of the Tak court in March 2010. Participants discussed domestic violence cases that were heard at the court.

A commissioner of the National Human Rights Commission, Paiboon Varahapaitoon, told the participants of a seminal case that he handled in 2003 as the secretary-general of the Constitutional Court. He was assigned to study how to apply the CEDAW framework to rule on a petition by Thai women MPs for amendment of a law so they could keep their maiden names after marriage. The court revoked the 41-year-old law. UN Women's National Programme Officer, Ms. Supatra Putananusorn, explained the concept of "substantive equality" -- how women must be equal to really enjoy "substantive equality" in the justice system, not just to be protected by law through gender neutral policies and programmes but through a gender responsive ones and the sensitivity of justice sector on the results made from the justice delivery process. Chief Judge Vacharin and Judge Chavalit Changsalak from the Thonburi Criminal Court discussed the lessons learned from the court's pilot project.



"This is a new approach to learning that should be expanded to the rest of Thailand," said Tak Provincial Court Chief Judge Sornchai Varanichakul. "We at the court hope to work together with you to take actions based on what we learned to end discrimination and to improve protection of women's rights."

The Tak court subsequently adopted the gender-sensitive procedures of the Thonburi court.



Inspired into action: the Office of the Judiciary

The Office of the Judiciary strongly supported gender sensitivity reforms in partnership with UN Women and the Thai National Human Rights Commission since November 2009, when its executive joined Princess Bajrakitiyabha's visit to the United Nations in her capacity as a UN Women Goodwill Ambassador and returned inspired by her leadership.

In March 2011, the Office of the Judiciary organizes a concluding meeting of a core group of 27 judges who had attended the UN Women-sponsored workshops. Justice Sittisak Wanachagit revealed that the Office of the Judiciary planned to refit courtrooms nationwide so that aggrieved women could testify without confronting their alleged abusers. By 2015, a few more non-confrontation courtrooms (in addition to those at the Thonburi Criminal Court) will be established in the courts that handle large numbers of cases, he said. Justice Sittisak said the Office of the Judiciary would continue training judicial personnel on how the courts can protect women's rights in line with international norms. It also planned to develop judicial guidelines for courts nationwide on handling domestic violence cases, and to urge other core agencies including the Office of the Attorney General and the police to follow the same guidelines. The Office of the Judiciary has also set the plan to incorporate the issues of women's rights and women's access to justice more specifically into its strategic plan for 2014-2016.

A key partnership: the National Human Rights Commission of Thailand

The national human rights commission, which has the legal mandate to monitor Thailand's compliance with international human rights treaties including CEDAW, has given greater priority to gender issues as a result of its partnership with UN Women.

This partnership started when Ms. Naiyana, a well-known women's rights lawyer, served as one of the commissioners, until 2008. Ms. Naiyana actively participated in UN Women's activities. She has maintained good ties with the current leadership of the National Human Rights Commission, which bodes well for the women's justice project.

The current leadership of the commission, elected to serve from 2009–2015, include chairwoman Amara Pongsapich and commissioner Paiboon. Prof. Amara is a highly respected academic who specializes in social development and gender issues, so her words carried extra weight when she spoke at the gender sensitivity workshops and advised judiciary personnel to apply the gender rights approach. Mr. Paiboon had served as Secretary-General of Thailand's Constitutional Court, which during his tenure ruled that women could keep their maiden names after marriage. Mr. Paiboon participated in several of the gender sensitivity workshops for judiciary personnel. He said:

First of all, it is most important for people working in all fields to be aware of non-discrimination principles as enshrined in the Thai Constitution as well as in CEDAW. Secondly, these workshops provide a forum for exchanging views, experiences, case studies, and outcomes so far of the application of the domestic violence act in Thailand. These exercises helped us to fine-tune our understanding of the questions of equality and non-discrimination. ... If we are able to act along this path, then we may see less domestic violence and gender-based violence.

Paving the road ahead

UN Women's project to promote justice in Thailand within the CEDAW framework has established the foundation for further reform in the years to come.

Building on the momentum of the passage of the domestic violence act in 2007, UN Women inspired the Thonburi Criminal Court to launch its women-friendly pilot project and the Criminal Court and the Tak Provincial Court to move towards the innovative gender responsive model.

A total of 304 judges and staff working for Thailand's major courts completed the training in the rights-based approach to helping survivors of domestic violence.

The workshops refined an innovative curriculum that could enrich gender sensitivity through dialogue, role-playing and a theatre troupe performance. This curriculum will be developed further and utilized to train other judicial personnel in the future. The workshops also have created a pool of training experts from the national human rights commission, the Thonburi Criminal Court, the Criminal Court, and the Teeranat Kanjanauksorn Foundation, and Mahidol University.

Through the workshops and other activities, UN Women identified and amplified the voices of senior judges and others who have taken leading roles in spreading the message of gender justice in Thailand. They included Chief Judge Vacharin, who led the pilot program at the Thonburi court; Justice Sittisak, the focal point of the Office of the Judiciary; and Ms. Naiyana, a former commissioner of the National Human Rights Commission who continued her advocacy at the Teeranat Kanjanauksorn Foundation. They have become catalysts for further change.

In its advocacy for gender justice, UN Women looked beyond the single government agency traditionally entrusted with women's affairs in Thailand. From 2006 to 2011, it deepened its partnerships with the National Human Rights Commission, the Office of the Judiciary, the Thonburi Criminal Court, the Criminal Court, the Tak Provincial Court, and the Teeranat Kanjanauksorn Foundation. With UN Women's technical and financial support, the key state institutions have become committed to carrying out justice in the framework of CEDAW. This partnership ensures that Thailand will continue to push forward the cause of women's justice as a broad-based, national concern.

The work of UN Women and its partners also laid the foundation for "Every Home a Safe Home," a joint project between the Office of Women's Affairs and Family Development of the Ministry of Social Development and Human Security and the UN Country Team in

Thailand. The project was funded by the UN Trust Fund to End Violence against Women and ran from July 2010 to October 2013. It was aimed at enhancing the management of Thailand's data on violence against women and girls, and promoting the use of this data to make policies and programs to reduce the problem.

The second phase of UN Women's project on justice for Thai women started in November 2012 and will run to 2015. UN Women will continue to support training and other capacity development programmes for the Thai judiciary. A new focus will be on encouraging knowledge sharing and cooperation between the judiciary and justice sector agencies including the Office of the Attorney General, the Ministry of Justice, and legal aid providers. The goal is to develop a joint initiative by these institutions to promote women's access to justice, especially for survivors of violence from disadvantaged groups. UN Women also hopes the second phase activities to have a greater impact on the courts nationwide, not just in Bangkok.

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BOX 1:

Little Dots, and I Do Hope

Naiyana Supapung, the former commissioner of the National Human Rights Commission, organized the gender sensitivity workshops for judges and court personnel as the new head of the Teeranat Kanjanauksorn Foundation. She had the innovative idea of using a stage play as a core teaching tool, and wrote the script along with Judge Suntariya Muanpawong of the Rabibhadanasak Judiciary Research Institute in the Office of the Judiciary and UN Women's Thailand National Programme Officer Supatra Putananusorn. A professional theatre troupe called Bai Mai Wai (Moving Leaf) performed the play at workshops in 2009 and 2010 for the Thonburi Criminal Court, the Tak Provincial Court and the Criminal Court.

The premise of the play is that many court officers see survivors of domestic and sexual violence as insignificant "little dots" that they encounter in their routine work. Again and again they ask the women questions that make them relive their trauma: "Why didn't you cry?" "How deep did his organ penetrate your body?" Many of the women already have low self-esteem and see themselves as the bottom of society. All they can think of is: "Why is this happening to me?" "How can I be treated better?"

The play tells the stories of four women of different social backgrounds who suffer different forms of violence from their partners: a teenager is raped by her boyfriend; a student is harassed by her teacher; a woman is verbally

abused by her husband, a doctor; and a housewife is beaten by her drunken wage labour husband to the point where she finally kills him. The play shows the trauma and the fear the women experience before they decide to go to the police and press charges. And it depicts the tortuous journey they have to go through from the moment they make that decision. Already humiliated and traumatized, the women must endure skeptical stares at the police station, the frigid ambience of the courtroom, and hostile cross-examination by the defense attorney.

Again and again they ask the women questions that make them relive their trauma: "Why didn't you cry?" "How deep did his organ penetrate your body?"

The final part of the play incorporates discussions among workshop participants on how court personnel can show sensitivity to the women, avoid making them feel like victims again, and soothe their fears about coming to the court.

Workshop participants said *Little Dots. and I Do Hope* helped them understand gender sensitivity and how to incorporate it into their work.

Judge Phetnamphueng Thepphiphit, from Chachoengsao Provincial Court, said:

It indeed reflects multiple aspects of re-victimization and discrimination that women go through in every step of the way towards justice. The courts and judges ignore the violence that's going on right in front of them. The scene of the woman being cross-examined by a lawyer asking insensitive questions ... should be seen, perhaps in the form of the play recorded on CDs, and distributed among wider audiences. Because every time you see it, you are reminded that we are also inflicting violence against women.

Attorney Chantima Thanasawangkul of the Legal Advice Division, Office of the Attorney-General, said the play shows "the need to have a human touch." "Most training workshops for legal personnel to date have given emphasis to thinking and reasoning, which legal people and law students already have," she said. "But what is lacking is empathy for the plight and difficulties of people in society, and this is a weakness of people in the legal field."

BOX 2:

Pim, June and Somjai: the Thonburi Criminal Court at the service of three “little dots”

PIM

...she felt good and safe not having to see her ex-husband while testifying. She also appreciated that the judge allowed her children to have a moment with their father.

Pim's case in 2009 was one of the first to test the Thonburi Criminal Court's pilot project for handling domestic violence act cases. Pim (not her real name) was 33 when her former husband, fearing that she might find a new man, slashed her throat with a blade and nearly severed her windpipe. Her face still bore the marks of previous attacks, including a nose broken after he punched her to the ground. Still, Pim said she felt guilty if he were to go to jail the money that he gave her for raising their children from time to time would be no more inactive. She asked the police to drop the charges. She only wanted to live separately from him, and to share custody of their two children. But because her ex-husband faced the serious combination of attempted murder and a string of drug-related charges, she had to testify as a state witness.

Pim worked for 200-something baht (7-10 dollars) a day. She was not aware of how to claim the rights and support she was entitled to under the domestic violence act.

Pim arrived at the courtroom in July 2009 with her two children, and was escorted by court staff to the witness room, a safe area where she waited for the trial to start. She then testified from Bench #20. On one side of the partition, Pim appeared calm at the start of the trial as she testified before three judges and the prosecutor. Her former husband, in prison uniform and shackles, sat facing the bench on the other side of the partition. The two could not see each other but even so, Pim broke down in tears as she was asked to recall how she was attacked.

Afterwards, Pim said she felt good and safe not having to see her ex-husband while testifying. She also appreciated that the judge allowed her children to have a moment with their father.

JUNE

June (not her real name), 16 years of age was an incest rape survivor when she testified in the Thonburi Criminal Court against her father in 2010. She had been abused by her father, a wage worker, since she was 13. Her mother had no clue about what was happening because she worked the night shift in a garment factory.

June's journey towards justice was more tortuous than any vignette captured in *Little Dots. and I Do Hope*.

In 2007, June showed up at school one morning covered with bruises after her father raped her for exchanging phone text messages with her male school friend the previous night. When her friends asked about the bruises, she spoke for the first time of being raped by her father.

At her friends' urging, June sought help from the school counselor, who took her to see the headmaster. The headmaster took her to a foundation for women and children, an NGO that provides shelter and legal aid. The foundation helped file a complaint with the police and found new accommodations for June.

When her friends asked about the bruises, she spoke for the first time of being raped by her father.

The case was handled as a domestic violence act case. Judge Chavalit Changsalak called a pre-trial session, attended by June and her social worker, her mother and relatives from her father's side, and the public prosecutor. At the session, June agreed to testify against her father. The judge then asked the prosecutor to be sensitive in his line of questioning, especially since the perpetrator had already confessed.

June had already told her story nearly a dozen times to the police and other parties. In February 2010, when June arrived at Thonburi Criminal Court to testify, she had to relive her ordeal yet again.

June testified from the child witness's room, which is located outside the courtroom and equipped with a closed circuit TV. Her mother testified from Bench # 20, where she could speak without directly confronting her husband. A couple of months later, the man was sentenced to 20 years imprisonment for incest and rape.

SOMJAI

Series of domestic violence had undoubtedly an effect on her decision making process and judgment over some situations.

Somjai's case clearly shows women's human rights-based justice delivery of the Thonburi Criminal Court to a woman who had long been battered by her husband. Somjai (not her real name) aged 44 married with Roj aged 59. They have three sons, studying at the university, secondary and primary levels, respectively. Somjai earned her living from running a small restaurant while Roj worked outside.

One day in 2011, Roj started drinking beer in the restaurant of his wife from 6 – 10 p.m. and continued to drink somewhere outside. He came back home at 2 a.m. completely drunk. He scolded at his wife and accused her of committing adultery. He threatened to burn down the house. Somjai asked the eldest son to let his father in. Roj mistook his own son for an adulterer and was about to throw a fist at him. His son had to awake his father's consciousness.

When Roj got into the house he went on yelling at her the same old blame. He started to beat her. She fought back and finally stabbed him with a sharp knife on his left shoulder, the back of his left hand and the left side of his back. The wound on his back was four centimeter long and 12 centimeter deep. The knife got through this chest and cut the artery. He was bleeding to death. Somjai was facing a charge of first-degree murder after stabbing her husband with an excessive self-defense under the circumstances. She was found guilty of perpetrating domestic violence.

The judges considered, **"Though the defender and the deceased were married, it didn't mean that the deceased would have legitimacy to rudely scold on her. The deceased was the first one who started to beat her causing physical harm to her, thus, she had the right to defend herself.**" She stabbed him with a knife in self-defense as he was beating her, just to stop him from such violating act. She did not intend to stab at any specific parts of his body but just to fight back to free herself from danger which was exceeding what was reasonable under the circumstances."

However, with gender sensitivity of the group of judges responsible for the case, a probation officer was assigned to investigate further for background of the incident. The investigation revealed domestic violence in Roj's two previous marriages and he was divorced. Roj was jealous and violent in his life history. With Somjai, Roj was as violent and beating her up in quarrels. Traumatized was Somjai, she ran away but returned for the sake of her children.

The judges said in the verdict, **"It was believed that Somjai had suffered from battered wife syndrome in her marriage which affected her mental health. Series of domestic violence had undoubtedly an effect on her decision making process and judgment over some situations.**" What she did at the murder scene was an unexpected reaction to the physical danger perpetrated by her husband and not a decision that may be made in any normal circumstances. **Therefore, she deserved to be rehabilitated instead of being punished with an imprisonment charge in order to be given an opportunity to access an appropriate psychological treatment and to resume her role of raising her own children."** The verdict was a suspended sentence of two years and that she was to be provided psycho-counseling services within a year as required by the counselor.

BOX 3:

CEDAW General Recommendation No. 19

CEDAW General Recommendation No. 19 on Violence Against Women (11th session, 1992)

“...6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
- (d) The right to liberty and security of person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;
- (h) The right to just and favourable conditions of work.”

Key Steps in Strengthening the Capacity of the Thai Judiciary to Protect Women's Human Rights in Compliance with CEDAW (2006 – 2011)

DATES	ACTIVITIES	ORGANIZATIONS INVOLVED	RESULTS
June 2006 to mid 2007	UN Women commissions research on Sexuality in Supreme Court decisions	<ul style="list-style-type: none"> • Research done by Faculty of Law, Chiang Mai University (Researcher: Assoc. Prof. Somchai Preechasilapakul) • The National Human Rights Commission of Thailand sponsors printing of the research report 	The research findings are shared at the national judicial seminar and the Southeast Asia Regional Judicial Colloquium on the Role of Judiciary in Promoting Gender Equality, October 2007, Chiang Mai. Over 2,000 copies of the research report are disseminated to justice sector agencies and women's human rights advocates.
January 2008	Sponsors study trip for senior Thai and Vietnamese judges to learn the Philippines' efforts to strengthen gender sensitivity in the judiciary		<ul style="list-style-type: none"> • After the trip, Thai participants led by Chief Judge Vacharin Patjekvinyusakul plan to introduce gender-sensitive procedures at the Thonburi Criminal Court. • UN Women provides the study group with a set of publications on the Philippines experience, including "The Davide Court" and "Engendering the Philippine Judiciary", and coordinates translation and publication rights. • The National Human Rights Commission of Thailand supports translation, printing and distribution of the publications to justice sector agencies.

DATES	ACTIVITIES	ORGANIZATIONS INVOLVED	RESULTS
November 2008 and February 2009	Sponsors two consultations among senior judges to identify initiatives to better protect women survivors of domestic violence, in Phetchaburi and Khon Kaen	<ul style="list-style-type: none"> Costs shared by the National Human Rights Commission of Thailand, the Teeranat Kanjanauksorn Foundation and UN Women 	<ul style="list-style-type: none"> In the 1st consultation, the Thonburi Criminal Court commits to develop procedural guidelines for trying domestic violence act cases and to refit a courtroom with a closed circuit TV so the accuser does not have to directly confront the defendant. In the 2nd consultation, judges, doctors and nurses working at One-stop Crisis Centers share experiences in carrying out the domestic violence act. UN Women supports printing and dissemination of The Courts and Gender Justice Development, written by the Rabibhadanasak Judicial Research Institute in partnership with Teeranat Kanjanauksorn Foundation.
January 2009 to January 2010	Sponsors training workshops for judges and other personnel of the Thonburi Criminal Court to enhance awareness of women's rights and gender sensitive delivery of justice	<ul style="list-style-type: none"> Costs shared by the National Human Rights Commission of Thailand, the Teeranat Kanjanauksorn Foundation and UN Women 	<ul style="list-style-type: none"> A total of 174 judges and staff at the Thonburi Criminal Court learn and have greater awareness of women's rights. The Thonburi court further develops its procedures to better protect domestic violence survivors and establishes a "women-friendly" courtroom. The Thonburi Criminal Court's procedural guidelines are made known to about 200 police, health workers, social workers and volunteers working within the court's jurisdiction.

DATES

ACTIVITIES

ORGANIZATIONS INVOLVED

RESULTS

April to July
2010

Sponsors expansion of the training workshops to the Criminal Court and the Tak Provincial Court

- Costs shared by the National Human Rights Commission of Thailand, the Teeranat Kanjanauksorn Foundation and UN Women

- A total of 108 judges and staff of the Criminal Court and 32 judges and staff of the Tak Provincial Court learn and have greater awareness of women's rights.
- Following the training, the Tak Provincial Court adopts the Thonburi Criminal Court's procedural guidelines for domestic violence cases.
- The Deputy Chief Judge of the Criminal Court, Kamol Khamphen, says that after the workshops, the court's rulings and services showed greater sensitivity for domestic violence survivors. The Criminal Court aims further to set itself a role model for courts nationwide by:
 - » Refitting its courtrooms so that survivors do not have to directly face their alleged abusers
 - » Developing guidelines and procedures in line with international good practices to protect domestic violence survivors, and to continue supporting them post-trial.

DATES

ACTIVITIES

ORGANIZATIONS INVOLVED

RESULTS

March 2011

Sponsors a concluding meeting of a core group of 27 judges who attended previous UN Women-sponsored workshops, to discuss further steps to promote women's justice

- The Office of the Judiciary in collaboration with the Teernat Kanjanauksorn Foundation and UN Women

- Justice Sittisak Wanachagit, Spoke Person of the Office of the Judiciary, reveals that that the Office of the Judiciary plans to:
 - » - Refit trial chambers nationwide. By 2015, a few more non-confrontation courtrooms will be established in the courts that have large numbers of cases.
 - » - Continue training judicial personnel on how the courts can protect women's rights in line with international norms
 - » - Incorporate women's rights and access to justice more specifically into the office's next strategic plan, for 2014-2016

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