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Thailand's experience of monitoring the state of implementation of the Protection of Domestic Violence Act (2007)

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1. Current Situation of the Country:

Domestic violence is a legal offence. Many Thais regard such violence as a private matter. Most victims were reluctant to reveal their cases because it was an embarrassment for them. All they could do is to keep quiet and get on with their lives. Furthermore, the lack of understanding and knowledge about domestic violence of general public is another impediment against the effort to get rid of this social ill. If no laws and regulations exist to safeguard and intervene in such matter, the problem might get worse and go beyond control.

According to the information acquired from more than 600 One Stop Crisis Centres (OSCC), all over the country, the Ministry of Health, in 2009, the number of women and children who were domestic violence victims that came for OSCC services were 64 per day. According to such information, the person who committed violence was either a family member or a close relative and often a male figure in the family.

2. Basic Protection Instruments

Thailand has acceded to the Convention on the Elimination of all forms of Discrimination against Women since August 9, 1985. One of the obligations states that members must employ every means necessary, which include legislations, for the advancement of women. Law, which prevents violence against women and children, is crucial and necessary for member states to put into actions. Basic instruments that prevent domestic violence in Thailand are as follows,

2.1 Constitution of the Kingdom of Thailand B.E. 2550 (2007)

Article 40 (6) states "Children, youths, women, and disabled or handicapped persons have the right to proper protection during the judicial process and proper treatment in the case related to sexual violence"

Article 52, paragraph 2 states "Children, youths, women and family members shall have the right to be protected by the State against violence and unfair treatment and the right to receive remedy in such case.

2.2 Cabinet Joint Resolution

On June 29, 1999, the cabinet approved 8 measures aim to end sexual violence against women and children and approved the establishment of service centers as a safe house for runaway women and children. The service centers later changed the name to One Stop Crisis Center in commemoration of Queen Sirikit 72nd Birthday. The Cabinet Joint Resolution, on May 16, 2000 also approved policy and plan to eliminate all forms of violence against women and children.

2.3 Women's Development Plan

The 10th National Economic and Social Development Plan (2007-2011) aims to shift societal attitudes towards deeper awareness of and respect for human rights and gender equality; to advance women's empowerment for greater participation in national development; to improve participation of women in the area of cultural development, economic participation, political participation and public policy formulation; and to promote access to quality health care and reproductive health services.

Domestic violence is a human rights violation and contributes threat to women's human rights. It also has enormous social and economic costs. It is a sensitive and complicated issue since it happens among family members and close relatives. Domestic violence is therefore unique and inappropriate to be categorized along with other existing criminal offences, considering special relationships between the perpetrators and the victims. In some cases, the victims do not welcome the court sentence to punish the perpetrators. Moreover, the judicial process may be time consuming. Without their companions, women have to endure more responsibilities. They would have no one to turn to and have no chance of escaping from such pain.

3. The Protection of Domestic Violence Victims Act :

Thailand is one of the six ASEAN countries which has a law specifically focuses on domestic violence. This specific law, the Protection of Domestic Violence Victims Act was enforced on November 12, 2007.

3.1 Major aims

- To solve domestic violence problems
- To protect the domestic violence victims
- To maintain the family cohesion unit

3.2 The core of the Act

3.2.1 Definition of domestic violence

- An act with intention to inflict harm both physical and psychological to the family member
- An act which might lead to violence
- An act that limits freedom of the family member in order to commit, omit or to accept any unlawful act, except for an act committed through negligence.

3.2.2 Protected person: Family member includes a spouse, former spouse, person who lives and cohabits or used to live and cohabit together as husband and wife without registering marriage, legitimate child, adopted child, family member, including any dependent person who has to live in the same household.

3.2.3 Method of State intervention: Juvenile and Family Court has the power to specify methods of rehabilitation, treatment, probation to be used for the offender.

3.2.4 Penalty: Any person who has committed a domestic violence act shall be deemed to have committed a domestic violence offence and shall be liable to a term of imprisonment not exceeding six months or a fine not exceeding six thousand baht or both. However, such offence shall be compoundable to maintain a relation in the family.

3.2.5 Notification of an act of domestic violence: A person encountering an act of domestic violence has the duty to notify an official for further actions as stipulated under this Act. The domestic violence is a public matter, not a private one. Persons notifying an official in good faith shall receive protection.

3.2.6 Statutory: The domestic violence victim can notify within a period of 3 months since the case happens or from the time that the victim is able or has the opportunity to make a notification.

3.2.7 Investigation: The investigation officer shall investigate the case without delay and send the domestic violence perpetrator and investigation file including opinions for filing the case at the court within 48 hours. But if filing at the court cannot be done within such period, a request can be made to the court for an extension period not exceeding six days per time, but not exceeding three times.

3.2.8 Dissemination of case information: It is forbidden for any person to advertise or disseminate by any means to the public any photograph, content or data which may likely cause damage to the perpetrator or victim in the case.

3.2.9 Temporary Measures: There are temporary measures to protect a domestic violence victim both during investigation and in the court. The designated official has the power to issue any order as necessary and appropriate including restraining order.

3.2.10 Supporting system: The Ministry of Social Development and Human Security shall set up working systems to support the operations of solving domestic violence cases.

3.2.11 Trial proceedings: Submission and admissibility of evidences that are not specifically stipulated in this Act, the laws on Establishment of Juvenile and Family Court and the Juvenile and Family Procedure Code shall be applied instead.

3.2.12 Family settlement: The court shall try to attain a settlement between the litigants with an aim towards achieving peaceful cohabitations within the family.

3.2.13 Appointing mediator: The official or the court has the power to appoint mediator for the benefit of attaining settlement in a domestic violence case.

3.2.14 Annual report: The Ministry of Social Development and Human Security shall prepare annual report showing the number of domestic violence cases, the number of orders specifying relieve measures or methods, the number of violations against order specifying relieve measures or methods by officials or the court and the number of settled cases, to be presented to the Cabinet and the Parliament.

3.2.15 Appointment of law enforcement officials: The Ministry of Social Development and Human Security has the power to appoint law enforcement officials and issue ministerial regulations to enable the implementation of this Act.

3.3 Problems/Obstacles

After implementation of the Protection of Domestic Violence Victims Act in 2007, the research and follow up found various problems and obstacles as follows:

- 3.3.1 Viewpoints and attitudes of general public on domestic violence lie on the assumption of women's roles in patriarchal power, structure and practices. Therefore, to many people, domestic violence is still "acceptable" and regarded as "private matter".
- 3.3.2 Since the Act aims to maintain the family cohesion unit, it has an influence on leading the trial proceedings toward this direction. The root cause (imbalance power relationship between men and women), therefore has never been solved. The women's rights to liberty, health, quality of life, and in some cases their lives, have been ignored.
- 3.3.3 The definition of violence excludes sexual violence. Hence the domestic sexual violence victims do not have access to any protective measures.
- 3.3.4 The relationship between spouses is the special one and different from other types of family relationships, but the Act does not differentiate forms and measures to solve the problem efficiently.
- 3.3.5 The Act protects both male and female victims, but does not identify different measures and practices accordingly (such as social and medical assistance measures).
- 3.3.6 Lack of sufficient law enforcement officials, in particular, the knowledgeable and skilled officials.
- 3.3.7 The victims do not get the immediate temporary protection measures, due to time consuming of the practical processing.
- 3.3.8 The victims do not have access to any protection measures, if they decide not to file for a complaint.
- 3.3.9 Inadequate coordination among, as well as training for all stakeholders involved in the process (law enforcement officials, judges, prosecutors, defence attorneys, social workers, mediators etc).
- 3.3.10 Lack of responsible unit with sufficient budget and skilled officials for treatment and rehabilitation, in particular, the perpetrators.
- 3.3.11 There is no special budget allocated for supporting proper enforcement of the Act.
- 3.3.12 The Act does not cover the area of prevention. Therefore long term measures, such as school programmers for male and female children / teenagers as well as teachers training, raising awareness in all sectors of society on violence against women and gender equality, are not recommended.

To conclude, effective enforcement of the Act remains a challenge for all. Perhaps, a more hopeful alternative approach to solve domestic violence is to encourage entrepreneurship among women so that women can raise self esteem, increase social liberty and most significantly, to gain economic independence.
