The Trial of Rape: Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam

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Study overview

• UN inter-agency initiative (UN Women, UNDP, UNODC) with strong involvement of national partners and researchers

• Focus on reported cases of rape/sexual assault against women and girls in two countries (Thailand and Viet Nam)

• Aims to understand the specific factors that are associated with the disposition of rape cases and which undermine women’s access to justice
  • Where and why attrition happens and how it can be reduced

• Help inform evidence-based policies and programmes to support effective enforcement of policy commitments
Understanding attrition

- **Attrition** is the process by which cases of rape and sexual assault fail to proceed through the criminal justice system, those cases that are discontinued and thus fail to reach trial and/or result in conviction.

- **Non-recorded** cases per definition not available – “pre-attrition”
Research methods and scope

- **Mapping** of sexual violence legislation and legal processes in each country
- A **quantitative review** of a minimum of 120 police and/or court case files in each country
- **Qualitative interviews** and focus group discussions with a total of 213 key informants
Research findings
Myth | “Real rape” involves strangers
Finding | In the majority of cases, victims and suspects knew each other

Thailand

91 per cent of victims reported knowing the suspect

Viet Nam

86 per cent of victims reported knowing the suspect
Myth | “Real rape” involves physical injury

Finding | The majority of cases reviewed had no record or documentation of physical injury

**Thailand**

68%

68 per cent of victims had no visible signs of injury

**Viet Nam**

76%

76 per cent of victims had no visible signs of injury
Myth | “Real rape” occurs in public
Finding | The majority of cases took place in private spaces such as homes or hotels

The majority of rapes and sexual assaults took place in a private space: most frequently the home of the victim and/or suspect, followed by another person’s home or a hotel room.
Myth | Rape and sexual violence are problems only when they happen to ‘good’ or ‘innocent’ women and girls.

“Raping a virgin is worse than raping a non-virgin.”
- A male police officer

Myth | Sexual violence only happens in certain segments of society.

“Rape is something that only happens to ‘low class’ people, the uneducated or migrants.”
- A female justice official

Myth | A victim will report everything at the first available opportunity.

“They are often not reported immediately but only after one or two days, a week or even a month after the incident, therefore it is hard to collect physical evidence... Even victims often find these acts so terrible that they wash themselves immediately after it happens.”
- A male criminal investigator
Research findings - 1

- Women reporting cases of rape in Thailand and Viet Nam encounter significant societal, legal and institutional policies and practices that act as barriers to justice.

“I was so embarrassed and scared. At the time, I also felt stupid for having trusted the person. I did not dare tell anyone. I only wanted to commit suicide.”
- Female rape survivor

“The police and Women’s Union do not believe rape can happen in marriage, so they try to solve these problems through reconciliation”
- A female academic
Research findings - 2

- The vulnerability of women and girls to sexual violence is embedded in and supported by discriminatory social and cultural values, patterns and practices

“...A girl who is drunk or showing a lot of cleavage might be the cause of the offence.”
- A male police officer

“You were raped because of the way you dressed; if not by this offender, you would have been abused by another.”
- A female social worker reporting a statement from a police officer handling a case of a rape victim who was 12 years of age
Research findings - 3

• Many women have **limited knowledge** and **limited access to information** about their rights and what they can should expect as they navigate complex criminal justice systems and processes.

  "I can easily sum up my experiences in the prosecution stage in three words: I don’t understand. I don’t understand the law, I don’t understand why it takes so long, and I don’t understand the language used in correspondence from the prosecutor’s office. Of course I felt like quitting and leaving everything behind."

  - A female rape survivor
In both countries, attrition is high at the initial contact and reporting stage.

“The first question that was put to me was, ‘Why didn’t you report earlier? So I explained that I did not know how. I did not have legal knowledge. Then the other police officer asked me ‘Why didn’t you simply accept compensation from him (the offender)? You already have children, why were you asking for so many things?’ I thought that was an insult. It was me who was raped and I had to be the one who understands and compromises?”

- A female rape survivor
Research findings - 5

- Court proceedings can be long and drawn out, and often focus on physical or forensic evidence or the victim’s credibility rather than the credibility of the reported event or the victim’s lack of consent

“In the case of a good woman, the person who reports the crime generally seems confused and timid... By looking at the way a subject dresses herself, you can guess her profession. If her attitude when answering questions about sexual matters is quite open, then you have to reconsider the case.”

- A male police officer
Research findings - 6

- There are few, women-or victim-friendly facilities in police stations, hospitals, and medical facilities where forensic examinations are conducted, or in courts.

“It was difficult for me to explain to male police officers. I was raped by men and I had to tell the story to men?”

- A female rape survivor
Research findings - 7

- **Data** collection and **analysis** mechanisms are limited
  - Inadequate or incomplete **administrative data** – lack of disaggregation
  - Poor record- and evidence-keeping
  - Limited **monitoring** of duration or outcomes of cases
There are limited referral networks and coordination mechanisms within the justice system, and among government departments, justice system agencies, and civil society service providers. Often this results in uncoordinated and inconsistent services.
### Research findings - 9

- **Good and promising policies and practices** have been introduced in both countries.

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<thead>
<tr>
<th>Thailand</th>
<th>Viet Nam</th>
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<tr>
<td>• Revision of the Criminal Code</td>
<td>• Revision of the Penal Code and Criminal Procedure Code</td>
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<td>• Establishment and expansion of One-Stop Crisis Centres</td>
<td>• Revised codes that have expanded sexual violence offences and introduced gender-sensitive criminal procedures and evidentiary rules</td>
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<td>• Interdisciplinary teams in responding to sexual violence cases</td>
<td>• Introduction of the right of legal counsel to represent victims in criminal proceedings</td>
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<td>• Current Royal Thai Police campaign to recruit more female officers</td>
<td>• Development of curriculum for prosecutors and police officers on response to domestic violence and protocol for gender-responsive policing</td>
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<td>• Establishment of victim-centred court spaces</td>
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<td>• Ongoing training of Royal Thai Police, prosecutors and court personnel in partnership with UN Women</td>
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Recommendations and entry points for change
Recommendations

To address the challenges and to strengthen the criminal justice sector response to sexual violence

1. **Establish quality essential justice services for victims** that prioritize their safety, protection and support.

2. **Build institutional capacities** to transform organizational cultures and create gender awareness and sensitivity.

3. **Promote comprehensive legal and policy frameworks.**
Recommendations

4. Ensure approaches sensitive to sexual violence survivors are reflected in criminal justice policies, practices and resources.

5. Develop effective internal and external oversight and accountability mechanisms.

6. Promote specialized expertise at all stages of the criminal justice system.
Recommendations

7. Promote an integrated and coordinated criminal justice, government and civil society response.

8. Develop effective monitoring and evaluation mechanisms.

9. Prioritize resources, both human and financial, for effective delivery of services.
“It was a complex process. The system is not women-friendly. But I couldn’t surrender just because of that. I continued to fight for my rights, for the justice that I deserve.”

- A female rape survivor

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