

**Promoting the Implementation of the UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the field of Crime Prevention and Criminal Justice**

**“Thailand and the Model Strategies on VAC”**

***Talking Points***

**Introduction**

1. I am very glad to have chance to talk about the United Nations Model Strategies and Practical Measures for the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, the instrument that Thailand has the privilege to have worked closely with a number of member states and stakeholders from the drafting stage.
2. In February 2014, the Open-ended Inter-governmental Expert Group Meeting was held in Bangkok by the Government of Thailand, and was chaired by Her Royal Highness Princess Bajrakitiyabha Mahidol of Thailand, to prepare the draft Model Strategies for the consideration by this Commission before its adoption by the General Assembly in December 2014. Since then, the Model Strategies has provided the useful guidelines for stakeholders at international and national levels in their efforts to adopt and promote a holistic approach for the protection of the children from all forms of violence, particularly through the right-based criminal justice responses.
3. It is also commendable that UNODC and UNICEF have jointly developed the Global Programme on VAC which serves as a global platform for sharing good practices in implementing this instrument.
4. My presentation today will focus on Thailand’s approach to promote the implementation of the Model Strategies in particular our plan or the “National Roadmap” for the implementation of the UN Model strategies. While the drafting of the roadmap is in progress, the Office of the Attorney General of Thailand has already initiated activities to enhance

implementation of the Model Strategies. My presentation will therefore also touch upon tangible examples of activities initiated by the OGA of Thailand.

## **Part I**

### **The National Roadmap**

5. Before going into details of the National Roadmap, it is perhaps useful to explain in few words about our approach and process leading up to the drafting of the roadmap.
6. Like many parts of the world, protection of children in Thailand requires concerted effort from a number of actors. There are several governmental bodies involved in the protection of children who come in contact with criminal justice system at several stages, including the police, prosecutors, lawyers, social workers and the court. While we work closely with government agencies involved in policy making and implementation, we believe it better for this Roadmap to be developed through an open, inclusive and informal consultation process among stakeholders from all sectors.
7. A series of informal discussion have been taken place since 2014 facilitated by the Thailand Institute of Justice or TIJ. Through the discussion, actors agreed to move forward with a National Roadmap for the implementation of the UN Model Strategy in Thailand. We also agreed that some groundwork would be needed to identify the gaps and challenges faced by agencies involved in juvenile justice.

8. An essential ingredient for the “National Roadmap” is the self-assessment and identification of opportunities and challenges for our criminal justice system. Once key priorities and main responsible parties have been identified, a number of strategic programs will be proposed with specific time-frame for implementation. This process forms an integral part of the informal consultation. .
9. While this process is still underway, some preliminary findings can be shared in this side-event, in particular, for the part of self-assessment and priorities in the local Thailand context.

**self-assessment.**

10. From self-assessment exercise, two preliminary observations were found:

11. Firstly, there are a number legislations providing safeguard and protection of the right of the child. These include the Juvenile and Family Court Procedure Act of 2010, the Child Protection Act of 2003, Domestic Violence Victim Protection Act of 2007, and specific provisions under the Civil and Criminal Codes, as well as the Criminal Procedure Code.

12. Therefore, in terms of legal infrastructure, Thailand has found its place with adequate legal provisions to protect the rights of the child. However, having a number of legal provisions does not necessary lead to their effective implementation. In many occasions, parents and children do not have access to information about their rights and the procedures to seek the protection of their rights. Law enforcement officials as well as other governmental bodies sometime struggle and feel reluctant to implement legal provisions that go beyond their common practices.

13. Secondly, implementation of the Model Strategies requires involvement of a wide range of actors. In Thailand a number of governmental bodies are responsible for the protection for children from violence with differing roles in criminal justice procedure. These agencies and bodies include the police, public prosecutor, the court, Department of Juvenile Observation and Protection, healthcare officials, psychologist, social workers, schools and

community leaders. These actors function independently. The challenge is not therefore the lack of institutional resource but rather the problem of cooperation among actors. This issue of cooperation has resulted in limited access to data and necessary information among actors and weakened sense of commitment as a whole.

### **Priorities/ pilot projects**

14.Apart from identifying challenges and opportunities, the National Roadmap also allow to identify areas of priority with concrete activities. Three areas have been identified namely: sexual violence against children, effective use of diversion, and improving participation of actors in decision making process.

#### Pilot Project I: Protection for children experienced sexual violence

15.In Thailand, while there exists legal framework to protect child victims of sexual violence, in practice the treatment of child victims can be inadequate in certain aspects. Shortfalls include insufficient medical experts in criminal process, lack of sensitivity from the part of officials involved in interviewing the victims, and difficulty in accessing legal remedy.

16.In addressing the situation, a number of activities have been identified such as creating a one-stop-services for child victims, issuing one common Standard Operating Procedure to be followed by all stakeholders in dealing with child victims, creating a medical expert team- the same type as “Sexual Assault Nurse Examiner” in some countries to deal with the victims. The roadmap also underlines the need for stakeholders to work together to come up with appropriate measures to evaluate the success and to further identify challenges of mechanism in protecting the victim of sexual violence.

#### Pilot Project II: The effective use of diversion

17.Thai legislation (*the Juvenile and Family Court Procedure Act*) provides mechanisms to divert child offenders out of criminal procedure at several stages: before filing criminal case (Article 86), during the hearing (article 90)

and when the hearing reaches the final stage before the court renders a judgment (article 132).

18. While the legal framework is in place, the actual implementation of the diversion measures remain relatively limited, with roughly only 10% of the children who come into contact with the law are actually diverted from the formal proceedings.

19. The national roadmap envisages a set of proposal to increase the use of diversion measures including the creation of “**diversion division**” within criminal justice system to proper examine cases with potential elements to be diverted from the system. Although the decision to divert child offenders out of the criminal procedure belongs to the public prosecutor or the court (for offences with more than five years of imprisonment), police also play an important role as they come in contact with children at the first place. Early identification of cases with possibility to be diverted by the police would also help to reduce the number of children in contact with the justice system. Capacity building among officials could also raise awareness on the diversion measures.

Pilot Project III : Enhancing participation of all stakeholders across sectors in decision making process with impact of the rights of children

20. On a number of occasions, the court, public prosecutor or the police are left alone to make decision affecting the rights of children such as the decision for temporary release, decision related to rehabilitation plan for child offenders, or related to remedy for child victims.

21. Key activities have been identified to move forward with integrated approach in providing protection for children such as the establishment of national taskforce to give direction on the programme and areas on works where stakeholders can cooperate. Knowledge and information sharing among actors could be improved. There could be a common Standard

Operating Procedure (SOP) as well as common indicators to evaluate the success and to identify shortfall of the justice system in protecting children.

## **Part II**

### **Activities implemented by the Office of the Attorney General**

22.In the second part of my presentation, I would like to focus on some concrete programs initiated by the Office of the Attorney General of Thailand to enhance the implementation of the UN Model Strategies, particularly the participatory approach to strengthen the network among stakeholders at local community levels.

23.As mentioned earlier, the problem of the juvenile justice system in Thailand is not the lack of legal platform. The key rights of the child are already provided in relevant legislations. The challenge in Thailand at the local level is rather the coordination among actors to implement protection measures provided by the law.

24.As such, the Office of the Attorney General since last year created a multi-disciplinary team to respond to violence and to protect children in contact with criminal justice system. This multi-disciplinary team has functioned in nine pilot provinces across the country. (อุบลราชธานี, ชลบุรี, ฉะเชิงเทรา, ขอนแก่น, ลพบุรี, พิษณุโลก, ประจวบคีรีขันธ์, สุราษฎร์ธานี, ยะลา) The members of the team include the police, medical officials, social workers, teachers and community leaders with provincial public prosecutor as the coordinator.

25.By regular meetings and exchange of information, this network has enhanced the functioning of regular criminal justice mechanism to be in

line with the UN Model Strategies. Following areas are practical developments emerged in criminal justice system contributed by the network:

Enhancing reporting mechanism

26.The networks first focus on creating a robust reporting and monitoring mechanism. Informal communication such as SMS or Line messenger among members became useful tool to share information on incidents and measures to be taken. By way of regular meetings among network, the situation has been reported and information related to the existing risk have been early identified.

Assisting in designing appropriate prevention measure to each case

27.Thai law gives power to the court to apply a range of protection measures aimed at protecting children from violence. These measures can be flexible and can include the court order to separate children from suspected violators, education and rehabilitation of family members causing the violence, and placing children in care of relevant authorities, legal and physiologist consultation for children and their family members. In order to best design protection measure fitting to each specific case, views from all relevant stakeholders are needed. The Office of the Attorney General acts in provinces as coordinator among actors in order to determine best course of action for each case, in consultation with the multi-disciplinary team, taking account the best interest of the child.

28.Since the establishment of this networking project, the multi-disciplinary team have found solutions for 90 violence cases affected children in nine provinces (most of the cases are in the context of domestic violence).

### Enhancing decision making on rehabilitation plan

- 29.The Model strategies on VAC underlines diversion including restorative justice program as effective measures to reduce the number of children in contact with the justice system. In implementing those measures, there are factors that need to be taken into consideration: age, personal records, behaviors, intelligence, educational background, physical and mental conditions, occupation, financial status and cause of the offence.
- 30.Although, as mentioned earlier, Thailand is at the beginning stage to implement the diversion measures, the network of multi-disciplinary team already plays an important role in providing direction to each case as well as in designing appropriate rehabilitation plans agreed by all parties. By having experts in various profession working together, a range of flexible rehabilitation program can be explored. This can include, participation in meditation sessions, participate in community outreach activities, conduct volunteer work in library or in a nursing home. Activities under the rehabilitation plan are also evaluated mutually by the team.

### Knowledge and information sharing among the multidisciplinary team

- 31.Training and capacity building among actors are parts of regular activities within the network. Training courses are designed to disseminate knowledges, updated laws, as well as to identify good practices in dealing with children. The course aims at local police, prosecutor, social workers, community leaders and other actors who come into contact with children in criminal justice procedure.

### Awareness raising

- 32.Apart from training courses for stakeholders, the Office of the Attorney General also offers training activities targeting public audience. The course aim to raise awareness on the rights of children and women and impact on violence against children.

33.In addition, the Office of the Attorney General places importance on giving children and family immunity from violence. A number of training courses focus on the Late King Bhumibol Aduldej's philosophy of Sufficiency Economy as a core principle. Participants in the training courses will learn to be moderate, reasonable and self-immune in their decision making in all aspect of their life, knowing impact of their actions on environment, their livelihoods and their community.

34.For more information on these training programme you can refer to the information booklet available in this room. Officials from the office of Attorney General are also present here, they will be more than happy to provide you with information you wish to know.

**To conclude:**

35.This network coordinated by the office of the Attorney General and the project to establish a National Roadmap is a work in progress and there remain a lot to do. However, there are a few lessons-learned drawn from Thailand's experience in moving toward to the implementation of the UN Model Strategies.

36.Firstly, in implementing the UN Model Strategies, some may stress on the need of a new set of laws. Thailand, especially the Office of the Attorney General has proved that regular functioning of mechanism can be improved simply by a robust networking among actors. Changing in legal provisions may be necessary but the process could take time. At the initial stage, a sort of "soft law" among actors such as MOU or a set of commonly accepted Standard Operating Procedure can provide common platform in moving forward with activities.

37.Secondly, in working together with stakeholders, common goals need to be set and should be able to mutually evaluated. The evaluation should be based on tangible indicators with empirical data.

38.The best interest of the child occupies central part of activities to implement the UN Model Strategies. Measures within right-based approach can be innovated and should not be fixated to one or two formal traditional ways. One possible way to move ahead with the juvenile justice system reform is to adopt an outward looking approach, and to put our reform effort within a larger context of development this will include the rule of law, the culture of lawfulness as well as participation from community.