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**Crime Prevention**  
and **Criminal Justice**  
within the **Context** of  
the **Sustainable**  
**Development Goals**

*Matti Joutsen*





**'Addressing the link between crime  
and development is important in  
promoting the rule of law.  
Crime hinders sustainable development,  
but development can help reduce crime.  
The rule of law and sustainable  
socio-economic development are thus  
two forces that work together for the  
betterment of society.'**

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*Her Royal Highness Princess Bajrakitiyabha's  
Statement on behalf of ASEAN member states at the High-Level  
Meeting on the Rule of Law at the National  
and International Levels, United Nations Headquarters,  
New York,  
24 September 2012*

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# Foreword

This book is designed as a contribution of the Thailand Institute of Justice to the implementation of the Sustainable Development Goals (SDGs) adopted by the General Assembly of the United Nations in 2015. The primary focus of the book is on Thailand's experience in crime prevention and criminal justice. It describes among other things, Thailand's success in eradicating illicit cultivation of the opium poppy, and Thailand's experience in the social reintegration of women prisoners. It also describes the challenges that Thailand continues to face, such as one of the highest prison populations in the world (in both absolute and relative terms), continued poverty and lack of access to justice among vulnerable population groups, and significant (and constantly evolving) organized crime. The impact of the ongoing and worldwide COVID-19 pandemic has exacerbated these challenges.

Thailand's success story, for example, in eradicating illicit cultivation of the opium poppy did not come about by chance, but was based on a fundamental shift in Thailand's approach to crime prevention and criminal justice. Before the interventions by His Majesty the late King Bhumibol Adulyadej, the prevailing approach in Thailand was the same as elsewhere in the world - drug cultivation and drug trafficking were seen as a problem of criminal law, to be addressed through punitive measures. His Majesty, however, realized that the underlying issues were more one of underdevelopment and unequal development in society.

The book is also a presentation of the extensive research and technical assistance that the Thailand Institute of Justice has conducted in Thailand and among Southeast Asian countries as well as the TIJ's work in cooperation with the United Nations Office on Drugs and Crime (UNODC) to develop and implement standards and norms on crime prevention and criminal justice. The book appears in connection with the celebration of the first ten years of the work of the Thailand Institute of Justice.

The experience in Thailand shows the importance of approaching crime prevention and criminal justice within the broader context of the Sustainable Development Goals. Accordingly, this book presents a fundamental argument on behalf of placing crime prevention and criminal justice within the context of the Sustainable Development Goals. Particular attention is paid to identifying how implementation of Goals 1 through 15 as well as 17 are connected to work on Goal 16 (peace, security and justice), and how the work on

Goal 16 bolsters the implementation of the other Goals. Crime prevention and criminal justice are an integral part of sustainable development. Where the rule of law prevails, persons who have been victimized by crime can receive the protection and justice that they expect and deserve. Perhaps even more important is that where the rule of law prevails and the principles of sustainable development guide national development, many people would not be drawn into criminal behaviour because they would have legitimate opportunities to fulfil their needs and the needs of those close to them.

This book provides examples from Thailand and elsewhere on how the rule of law is relevant to our lives and how empowering people is crucial for sustainable results. The examples can be used to draw useful lessons in how to improve the treatment of offenders by applying relevant international standards, and to improve the quality of lives for all members of society by applying a sustainable development approach. This approach, which can also be referred to as 'development-led crime prevention' and 'development-led criminal justice', can and should be mainstreamed into policy decisions around the world, regardless of legal system or stage of development.

If we work with a 'silo mentality' and do not see how various aspects of societal policy form a whole, we cannot fully address the complex issues connected with the development of a society. We hope that the good practices and lessons learned from Thailand can be adapted and used to guide sustainable development efforts around the world. These are the lessons that are closely aligned with the 2030 Agenda for Sustainable Development.

The book has been edited by Dr Matti Joutsen, who served as Special Advisor to the Thailand Institute of Justice from 2017 to 2020. I would like to express my warmest thanks to him for his work.

*Dr Phiset Sa-ardyen*  
*Executive Director, Thailand Institute of Justice*

*Bangkok, 1 September 2021*

# Editor's foreword

My editing of this book was the result of several fortuitous events.

In 2010, I had the privilege, as Director of the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), to have a minor role in the establishment of the Thailand Institute of Justice (TIJ), and subsequently to follow its quick rise to become one of the most effective, active and innovative members of the United Nations Programme Network of Institutes. I have great admiration for how much the TIJ has achieved during these first ten years.

In 2017, on my retirement as Director of HEUNI, I was asked by Dr Kittipong Kittiyarak, the Executive Director at the time of the TIJ, to serve as TIJ's Special Advisor from 2017 to 2020. I would like to express my warmest thanks to him, and to his successor as Executive Director, Dr Phiset Sa-ardyen, for their trust in the value of whatever advisory services I could deliver.

The mandate of the TIJ is closely aligned with sustainable development, justice and rule of law issues, and thus at the heart of the Sustainable Development Goals adopted by the General Assembly of the United Nations in 2015. I have had my own special interest in the justice and security issues dealt with in particular in Goal 16, since I had spent over four decades working within the scope of the United Nations Crime Prevention and Criminal Justice Programme, primarily as a representative of my country, Finland, at UN 'Crime Programme' meetings and negotiations in Vienna and around the world. I thus thought that I would be treading familiar paths as TIJ's Special Advisor.

Soon after my arrival in Bangkok, however, I found that in one surprising way, I was being asked to step outside of my comfort zone. Despite having worked on UN crime and criminal justice issues since the 1970s, I realized that I was not familiar with UN work in drug control, and thus was woefully unaware of what Thailand had achieved in this sector. To simplify, when global representatives meet within the framework of the United Nations, 'justice' (crime prevention and criminal justice) issues are dealt with largely by representatives of the ministries of justice, while drug control issues are dealt with largely by representatives of the ministries of health and social welfare. (Representatives of ministries of the interior straddle

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To be clear, 'alternative development' is not the prevailing approach in global drug policy; most countries support giving priority to a punitive, law enforcement-driven approach. See subsection 1.2.

both sets of issues, but in both, tend to take a back seat. And in practice, the negotiations in Vienna on both drug control and crime issues are often taken care of by diplomats working for their respective ministries of foreign affairs.)

I thus came to realize that, although the UN Secretariat itself combines drug control and crime issues in Vienna, and since 1996 has brought them within the same operational structure, the United Nations Office on Drugs and Crime (UNODC), the lessons in either field do not necessarily reach those who should be most concerned, the practitioners.

I further realized that, although Thailand and the UNODC had extensively reported at sessions of the UN Commission on Narcotic Drugs on Thailand's experience in what has become known (in the drug control field) as 'alternative development,' this experience had not been brought into the discussions of the United Nations Commission on Crime Prevention and Criminal Justice.

One reason for this lack of cross-fertilization is that alternative development is so very closely associated with efforts to encourage persons engaged in the cultivation of controlled drugs to shift to 'licit' crops or other 'legal' livelihoods. It is, apparently, one thing to replace fields of poppies or coca leaf with (for example) coffee and mangos and help the farmers bring these to market; it is – presumably – quite different to convince a young person engaged in (say) property crime or cybercrime to use his or her skills in a 'legitimate' manner.<sup>1</sup>

A collection of speeches by Her Royal Highness Princess Bajrakitiyabha Narendiradebyavati Kromluang Rajasarinisiribajra Mahavajrarajadhita. Given on various occasions from 2009 to 2018 (2020). Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/a-collection-of-speeches-by-hrh-bajrakitiyabha#book/>

The more I studied the experience of Thailand, the less sense this made to me. On the one hand, for example the Doi Tung Foundation had realized early on that drug trafficking in the Golden Triangle was closely related to other forms of crime, such as trafficking in persons or trafficking in wildlife. On the other hand, such basic criminological theories as social disorganization theory, social learning theory, subculture theories and especially rational choice theory can help to explain why individuals may choose to engage in drug crime as well as other forms of crime. Thailand has much to offer to both sides of the house, and its experience could contribute also globally to the implementation of the Sustainable Development Goals.

During my time at the TIJ, it was my privilege and pleasure to go through rich material on the Thai experience, and to participate in a number of national, regional and global meetings, projects and events that helped to strengthen this broader view of how we should approach crime, justice, security, the rule of law, and drug control issues.

Among the first sources I turned to were the speeches given by Her Royal Highness Princess Bajrakitiyabha Narendiradebyavati Kromluang Rajasarinisiribajra Mahavajrarajadhita. Her Royal Highness, whose personal and professional interest in law and justice has significantly contributed to legal reforms, changes in policy and even international UN standards, has spoken extensively and perceptively on many aspects of the Thai experience, and on fundamental issues of law and justice in general.<sup>2</sup>

Mentioning any individual person runs the risk of overlooking the contributions of those not singled out, for which



I apologize. Nevertheless, I would like to express my admiration and appreciation to Dr Kittipong, who has worked hard and long on rule of law issues; Prof. David Kennedy, who marshalled the extensive network created by the Institute for Global Law and Policy at the Harvard Law School, to field an impressive team which, together with Dr Kittipong and the TIJ, organized very lively and stimulating workshops on different aspects of the rule of law; Jeremy Douglas, UNODC Regional Representative for Southeast Asia and the Pacific, who was the ‘face’ of the UNODC in Bangkok and throughout the region; and Javier Sagredo, international consultant, who has written thoughtfully on how the lessons of alternative development can be applied in urban areas. Many of the texts that form the basic elements for this publication were produced by the extensive TIJ staff, or were discussed at meetings co-organized by the TIJ, often together with the UNODC. My particular thanks go to Dr Phiset Sa-ardyen, who kindly provided material on the Thai police and system of prosecution as well as invaluable editing suggestions; Khun Chontit Chuenurah, who is a true expert on corrections and especially on the Bangkok Rules; Khun Kohnwilai Teppunkoonngam, who provided knowledgeable input on the section on trafficking in persons, and Khun Jane Holloway, who provided a considerable amount of material on alternative development in Thailand. I am also very grateful to Khun Kittipoom Neamhom, Khun Sudarak Suvannanonda and Khun Fareda Aukkpathsakun, for doing such wonderful work on the layout of this publication, giving it vibrancy and depth.

I would like to take this occasion to thank warmly and more broadly all my TIJ colleagues, who over the years patiently tolerated my halting ‘farang’ ability to learn Thai, my gradual inurement to chili-laden food, and my nit-picking approach to English and to UN editing. It is largely through them that I have come to appreciate how much it was a privilege to live and work in Thailand, and with the extended family at the Thailand Institute of Justice.

*Dr Matti Joutsen  
Special Advisor, Thailand Institute of Justice*

*Helsinki, 1 September 2021*



# INTRODUCTION

01

# 1.1 Background

Northern Thailand is a beautiful region with mountains and lush forests, teeming with wildlife. It is becoming increasingly developed, and historical cities such as Chiang Mai and Chiang Rai are attracting more and more tourists.

If we go back only a few decades in time, however, things looked very different. Chiang Mai, the largest town in Northern Thailand, then had a population of only about 60,000 persons. The mountainous land surrounding the city belonged at that time to the State, and was managed by the Royal Forest Department. The Royal Forest Department did not allow any farming in this area, on the reasonable grounds that agriculture was best practiced in the lowlands, and that cutting trees was a waste of resources. Any farmers in the area were regarded as illegal settlers who should be evicted.<sup>3</sup>

Members of various ethnic groups, however, had engaged in farming in the area for many generations. This farming was of the slash-and-burn type, where a family would cut down trees in order to clear a small field for rice or other crops that they needed to support their family. When the field no longer produced a sustainable crop, the family would move on to a new area, and perhaps return after several years when the former fields had recovered. While the Lua and Karen ethnic groups tended to live at lower elevations of the mountains, other ethnic groups, such as the Hmong, Mien, Lahu and Lisu practiced a subsistence economy on the higher reaches of the mountains.

Since all the farmers were, from the point of view of the law and the state, illegal settlers, they were not able to register their households. This prevented them not only from registering themselves as Thai citizens, but also from receiving basic services such as education or health care.<sup>4</sup> They lived in poverty, and had to depend on their crops and on what they could hunt or fish for their survival. They had little that could be sold to earn them the money that they would need to buy supplies or to improve their standard of living.

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For more information on the historical development in Northern Thailand, see for example Ronald D. Renard (2010), *Mainstreaming Alternative Development in Thailand, Lao PDR and Myanmar: A Process of Learning*, UNODC, Bangkok, pp. 33-63. Available at: [https://www.unodc.org/documents/alternative-development/Final\\_Published\\_version\\_Mainstreaming\\_AD.pdf](https://www.unodc.org/documents/alternative-development/Final_Published_version_Mainstreaming_AD.pdf)

4

As recently as 1990, less than half of the 600,000 'hill people' in Thailand were registered as citizens. *Alternative Development: A Global Thematic Evaluation. Final Synthesis Report* (2005), UNODC, Vienna, p. 1.

One crop that could and did generate some income for them was the opium poppy. Northern Thailand was at that time part of what has become known as the 'Golden Triangle,' which up to the end of the 1900s was the major source of opium in the world (opium was not banned in Thailand until 1958). The way in which the opium poppy is grown is somewhat different from that of most subsistence crops. Cultivation of opium poppy tends to be very detrimental to the environment, leading to the denuding of mountains, the pollution of rivers and to other long-term environmental damage, which in turn resulted in conflicts between different groups of farmers.

Many village elders began to be concerned that the opium poppy crop was taking a toll among some members of their own village who were becoming drug addicts. They also sensed that the communities were increasingly at the mercy of ruthless and unreliable middlemen, who paid them a pittance for the opium poppy, but were not to be found when government agents raided the farms to eradicate the fields, leaving the farmers destitute.

During the 1950s, a new source of tension arose. In the neighbouring countries of Viet Nam, the Laos People's Democratic Republic and Myanmar, there was growing political unrest and even open military conflicts.

Two different worlds were in danger of colliding in Thailand.

On the one hand were the Thai officials, who regarded the members of the ethnic minorities as interlopers, living on land that did not belong to them, speaking foreign languages and to a large extent growing an illicit crop which was used to make a dangerous and addictive drug, heroin.



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On the other hand, there were the ethnic communities, which were living peaceably on land that had, in their view, belonged to them for generations. The members of these ethnic communities had little contact with the outside world. When Thai officials would appear, these tended to be soldiers or police officers who would threaten to eradicate the crops (both licit and illicit), throw them off their land, and punish them for conduct that the local population did not regard as illegal.

In such a situation, the typical approach of the government would be to use force - forcibly move the ethnic groups out of the areas designated as protected forests, destroy the illicit crops, and arrest the persons found to be engaged in the cultivation of opium poppy or otherwise in drug trafficking to be sentenced to many years of imprisonment.

But one man entered the scene who made a difference - His Majesty the late King Bhumibol Adulyadej. Since his late Majesty's accession to the throne in 1946, he had taken it upon himself to travel to remote and underdeveloped rural regions in the country to reach out to the poorest and most vulnerable communities. He wanted to discover for himself how his people lived their everyday life.

His travels took him to Northern Thailand. He talked with the elders of different communities, and sought to understand their way of life in these areas, and how they survived. In addition to listening to the needs of the people, he also observed topographical conditions of the area in order to find solutions to their problems and address their concerns. His late Majesty was known to always travel with a notebook, camera, map and walkie-talkie in hand - in today's terms, it could be said that he was taking an integrated, evidence-based approach to development.





When travelling among the ethnic minorities in Northern Thailand, His Majesty saw for himself the prevalence of opium poppy cultivation, and sought to understand how best to approach this problem of under-development. He understood that those who were growing opium poppy were not doing this because they were 'bad,' but because for them it was the only possible cash crop that could be cultivated in the high mountainous areas.

He further realized that entire ethnic communities could not be forcibly moved from one area to another without this causing irreparable harm to these communities. Such harm, in turn, could lead not only to a growing burden on the State to support them, but also to the possibility that members of the communities may turn to crime, for lack of other means of making a living.

His solution was innovative. He did not order his soldiers in to destroy the fields and evict the members of the communities. He did not even condemn those who were growing opium poppy. He ordered his advisors to work with the elders of the communities to see if there could be other ways in which the communities could thrive: the cultivation of other crops, the stocking of rivers and lakes with fish, the development of handicraft industries. He also ordered his advisors to set up stations throughout the region where officials would provide hands-on advice on different aspects of cultivation, production, packing, shipping and marketing. One perhaps surprising decision of his was that the opium fields were not to be destroyed until the communities had other sources of livelihood. Subsequent analysis of alternative development has emphasized the importance of this 'sequencing' - start by offering the local population legitimate livelihoods, provide them with other necessary services, ensure that they are able to make a good living, and only then eradicate the illicit crops and use punitive measures to deter those who continue to engage in drug trafficking.<sup>5</sup>

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Proper sequencing is not simply a matter of offering local villagers viable options before proceeding to the eradication of crops and the imposition of punitive measures. The new livelihoods must be sustainable. For example, roads may have to be built so that the products can be transported to markets to be sold. In some alternative development projects carried out in other countries, poorly planned options led to an oversupply and instigated price collapses, thus offsetting any potential benefits to farmers and communities. Still other failures in sequencing included promoting industries that would take years (even in ideal circumstances) to become profitable.

Small-scale development efforts were formulated and put in place in order to address the needs of the people. A series of programmes and projects were implemented that addressed almost every aspect of their lives - from health and education, to land, forest and water management as a vehicle of economic, social and environmental sustainability. The local communities benefited from the reforestation models promoted by His late Majesty, involving the growing of mixed forests divided into preservation forests, economic forests, and cultivated land. This model of small farm management advocates integrated farming techniques

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*Thailand's Best Practices and Lessons Learned in Development* Vol. 1 (2017). Thailand International Development Cooperation Agency and UNDP Bangkok, pp. 30 – 31.

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See, for example, Royol Chitradon (2018), *Sustainable Development and Culture of Lawfulness*, in *TIJ Workshop for Emerging Leaders on the Rule of Law and Policy. Workshop Summary*. Thailand Institute of Justice, Bangkok, pp. 14-15.

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Information on the Volunteer Doctors programme and the Volunteer Flying Doctors units is available (in Thai) at <https://www.saranukromthai.or.th/sub/book/book.php?book=9&chap=5&page=t9-5-infodetail07.html>

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See below, section 2.3.

in order to grow crops for local consumption and as cash crops to improve the diversity and resilience of farms and to break farmers out of the debt-and-poverty cycle. The goal was to move these isolated rural communities up through three stages: from a survival economy, to a sufficiency economy, and up to a sustainable economy. The focus emphasized by His late Majesty was on moderation, appropriate technology, careful management of risk, and flexibility in dealing with change, a philosophy which applies equally to life at the individual, family, community and national level.<sup>6</sup>

One example is the Huai Pla Lod village in the Tak Province of Thailand, which is home to about a thousand members of the 'Black Muser' ethnic group.<sup>7</sup> The community was at one time heavily reliant on opium cultivation, which led to deforestation, barren soil and regular drought – and, of course, to drug trafficking and various other forms of crime. When His late Majesty visited the community in 1974, he realized that using law enforcement to respond to this drug trafficking would, in itself, harm the ethnic community. His visit set in motion a chain of events, such as the replacement of opium with the cultivation of coffee, the introduction of forest management techniques and the agreement of the community to act as stewards of the land, even after 1981, when the area became designated as part of a national park.

Also other members of the royal family worked with the ethnic groups in Northern Thailand. In 1955, the Border Patrol Police had been set up, and with the financial support from HRH Princess Somdet Phra Srinakarindra Boromarajonani (the 'Princess Mother', the mother of His Majesty the late King Bhumibol Adulyadej), the first set of Border Patrol Police schools were set up and members of the Border Patrol Police – the first officials whom many members of the ethnic groups had seen in their life – began to serve as teachers for the children in remote communities. In 1969, the Princess Mother established the Volunteer Doctors programme, in which physicians circulated among the remote areas to provide basic and necessary medical assistance free of charge.<sup>8</sup> In 1972, she established the Volunteer Flying Doctor Units, which provided telemedicine for people living in highland areas. In 1988, the Princess Mother initiated the Doi Tung development project in Chiang Rai province,<sup>9</sup> near the border with Myanmar.

This is only the bare outline of the story, and it involves others beyond His Majesty the late King and the Princess Mother. It also involves more than identifying gainful products and providing education and health care to members of various ethnic groups. What His late Majesty was doing

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In the prevention and control of drug trafficking, the widely used term in this connection is 'alternative development'. Other terms used include 'alternative economic livelihoods', and 'sustainable rural development'. An extensive literature has evolved on this approach to the curtailment of the supply of illicit drugs. The concept of 'alternative development', however, is used very rarely in discussions on crime, even though it has close connections with criminological theories such as social disorganization theory, subculture theory, community development theory and situational crime prevention theory.

For more on alternative development, see for example Ronald D. Renard (2010), *Mainstreaming Alternative Development in Thailand, Lao PDR and Myanmar. A Process of Learning*, UNODC. Available at: [https://www.unodc.org/documents/alternative-development/Final\\_Published\\_version\\_Mainstreaming\\_AD.pdf](https://www.unodc.org/documents/alternative-development/Final_Published_version_Mainstreaming_AD.pdf)

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The importance of maintaining a gender perspective in alternative development has been recognized in Thailand and elsewhere. Peasant women, while beset by spousal abuse and the main responsibility for raising the children, often perform much of the work in crop cultivation. If cultivation of opium poppy (or, for example, coca leaf) is no longer possible, women may be forced to seek other livelihoods, including in the sex trade. The Doi Tung project described below in section 2.3. achieved good results by focusing on training and securing local jobs for women and in increasing their participation in local decision-making.

was one of the world's first and most successful examples of a new approach to how crime can be prevented, and how we can ensure that former offenders are reintegrated as productive members of society. This approach that has come to be called 'alternative development'.<sup>10</sup> Since 2002, the United Nations Office on Drug and Crime has declared Thailand to be 'poppy free'.

\* \* \* \* \*

This book places crime prevention and criminal justice squarely within the framework of the Sustainable Development Goals. This combination may at first glance seem odd, perhaps even obscure and uncomfortable to criminal justice practitioners and policymakers. The underlying approach, however, is ultimately very simple and common-sensical.

When *crime prevention* is placed within the context of the Sustainable Development Goals, we are bringing together the different aspects and functions of society, so that they help to strengthen the well-being of the individual, the community and the state so that people can live a life that is, to the extent possible, free of crime. This involves individual and community health, housing, education, gender equality,<sup>11</sup> employment, protection of the environment and the many other sectors of our life in society. Each sector is important in its own right; of course, we should do all we can to ensure that everyone is healthy, everyone has adequate and affordable housing, everyone can obtain the education that he or she wants and is suitable for, and so on. However, all of these sectors also contribute to the prevention of crime and to the safety of our communities and our nation in ways that will be described in greater detail later on in this book. At the same time, the prevention of crime supports our work in other sectors of life. Preventing the cultivation of the opium poppy promotes health; preventing domestic violence promotes gender equality; preventing economic crime promotes national economic growth, and so on.





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When we place *criminal justice* (the operation of the criminal justice system in the wide sense of the concept) within the framework of the Sustainable Development Goals, we are taking into consideration how the decisions that criminal justice practitioners make could have an impact on the different aspects of the life of the victim, the offender and the community – on their health, their housing, their education and so on. At the same time, we are seeking to have all of those involved understand how these different aspects of life can be brought together in order to restore the victim to the situation in which she or he was before the offence, to reintegrate the offender into society as a law-abiding and productive citizen, and to strengthen the ability of the community to function. This book will provide many examples of how this can be and is being done in Thailand as well as in other countries.

When we approach crime prevention and criminal justice in this way, we are taking advantage of the fundamental connections among the Sustainable Development Goals adopted by the United Nations General Assembly in 2015 and using them to promote Goal 16, in particular, on the promotion of peaceful and inclusive societies.



## 1.2 Alternative development in drug control and in criminal justice

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The Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol; the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. The text of these conventions is available for example at: [https://www.unodc.org/documents/commissions/CND/Int\\_Drug\\_Control\\_Conventions/Ebook/The\\_International\\_Drug\\_Control\\_Conventions\\_E.pdf](https://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf)

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The term popularly used in this context is 'illegal drugs.' The three main conventions do not use this term, but instead refer to subjecting various types of drugs to different regimes of control, and to 'illicit trafficking' and 'illicit use'. The present report follows UN practice and uses the term 'illicit drugs.' [org/documents/commissions/CND/Int\\_Drug\\_Control\\_Conventions/Ebook/The\\_International\\_Drug\\_Control\\_Conventions\\_E.pdf](https://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf)

In line with the three main international drug control conventions,<sup>12</sup> which have achieved almost global adherence, the cultivation of controlled drugs<sup>13</sup> is a crime. The standard response by the authorities throughout the world to the crime has been and continues to be repression – eradication of illicit crops and interdiction, which consists of efforts to identify, apprehend and punish drug traffickers, confiscate and destroy drugs, and freeze and confiscate the proceeds of illicit drug trafficking.<sup>14</sup>

The illicit cultivation of drugs takes place primarily in remote and poverty-stricken areas, where local residents have few viable options; areas such as the Andes, mountainous areas in Central Asia, and the highlands in Southeast Asia. Traditional law enforcement often have difficulties patrolling such areas, where roads are poor, and perhaps even impassable during part of the year, and where overgrowth can hide fields from aerial surveillance. Law enforcement can be further hindered by insurgent activity in some of these areas, by armed resistance by the farmers themselves, and by the organized criminal groups involved in the drug trafficking. Law enforcement can further be weakened by corruption, largely in the form of bribes paid by organized criminal groups to officials to look the other way or to provide warning of possible raids.

Destroying the illicit crops of farmers will not stop them from replanting, as long as they have the economic imperative to try to secure a livelihood

for themselves and their family. Where crops are eradicated, farmers will move to other areas with their slash-and-burn cultivation, planting new illicit crops.

A shift in thinking away from pure repression was shown by early attempts to encourage farmers to grow licit crops, such as coffee beans (the main replacement crop promoted in the Andes), mangos, bananas, citrus fruit and natural rubber. However, many such crops require several years to mature, as opposed to coca, which can be harvested in 12 to 24 months, and the opium poppy, which has a growth cycle of only three months. Moreover, such alternative products may be expensive to process; the drying of coffee beans requires fans, yucca requires dehydration facilities, and the extraction of raw sugar from cane requires expensive machinery. Transport from remote areas where the crops are cultivated adds further costs, and some perishable products (such as papaya, mango and passion fruit) must reach the consumer within weeks or even days.

Some attempts to encourage farmers to grow licit crops have failed due to political instability. Perhaps the two most notable examples were to be found in regions where illicit cultivation of drugs was fuel insurgencies – FARC in Colombia and the Taliban in Afghanistan. Here, the focus was inevitably on the need to quell the insurgency first, leading to a highly militarized and repressive approach also to the control of drugs.

Despite such difficulties, the thinking behind early efforts to get farmers to grow licit crops led to what is known as the alternative development approach in drug policy. Attempts to assist farmers in growing licit crops broadened to efforts to improve the standard of living in general in areas producing illicit drugs. The UNODC defines alternative development as follows:

‘a process to prevent and eliminate the illicit cultivation of plants containing narcotics and psychotropic substances through specifically designed rural development measures in the context of sustained national growth and sustainable development efforts in countries taking action against drugs, recognizing the particular socio-economic characteristics of the target communities and groups, within the framework of a comprehensive and permanent solution to the problem of illicit drugs.’<sup>15</sup>

This process thus seeks not only to address rural poverty and economic factors which lead farmers to grow illicit drugs, but also to provide members of local communities with health care, education and social services, a way of securing rights to land and access to credit, and technical assistance in selecting, growing, packaging and marketing their products.

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In particular the negotiations in advance of the 2016 Special Session of the General Assembly on the world drug problem (UNGASS) indicated that several states are questioning the dominance of this repressive approach. See Summer Walker, *Global Drug Policy and Sustainable Development: An Uneasy Relationship*, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 380 – 395.

15

Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development. 20<sup>th</sup> special session of the UNGASS, 1998. General Assembly resolution S-20/4 E. Available at: <https://www.unodc.org/documents/alternative-development/UNGASSActionPlanAD.pdf>

A recent extensive presentation of alternative development is provided in *World Drug Report 2015*, UNODC, Vienna, pp. 77-119. Available at: [https://www.unodc.org/documents/wdr2015/World\\_Drug\\_Report\\_2015.pdf](https://www.unodc.org/documents/wdr2015/World_Drug_Report_2015.pdf)

The process also seeks to strengthen basic human rights, including the rights of indigenous people to citizenship, gender mainstreaming, and participation in local decision-making. Alternative development further seeks to provide irrigation, potable water, electricity, roads and infrastructure, used not only to provide access to the market far beyond local communities, but also to allow access to other services available in more developed areas of the country.

The earliest practical large-scale application of alternative development was in Thailand. In addition to the measures described in the previous section, during his 70-year reign, His late Majesty initiated over 4,500 development projects throughout the country to support sustainable development in rural and urban areas, notably in areas of illicit opium poppy cultivation.<sup>16</sup> Many of these projects can be examined through the prism of five of the Sustainable Development Goals – those dealing with health (Goal 3), education (Goal 4), water resources (Goal 14), land resources (Goal 15), and peace, security and justice (Goal 16).<sup>17</sup>

16

See for example, <http://kanchanapisek.or.th/projects/index.en.html>, which also contains a list of Royal projects (primarily only in Thai).

17

A list of the Sustainable Development Goals is provided in the annex.

*Goal 3. Ensure healthy lives.* Good health and well-being are prerequisites for people to be productive individuals and to earn a livelihood to support their family and communities. A prosperous and healthy population, in turn, helps to foster a peaceful society. His late Majesty looked at the full spectrum of health needs and recognized that as, over time, lives and conditions improved, the needs of the people continued to change and new solutions had to be adopted.



## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

In the early days of his reign, he grew increasingly concerned with the health of the Thai people, and His late Majesty focused on medical and social welfare activities, since public health services were not widely accessible. His Majesty provided personal funds and initiated a range of health initiatives, including research on the treatment of leprosy, a vaccine for tuberculosis, the local production of saline to treat cholera, and the provision of artificial limbs for military personnel and other victims of war.

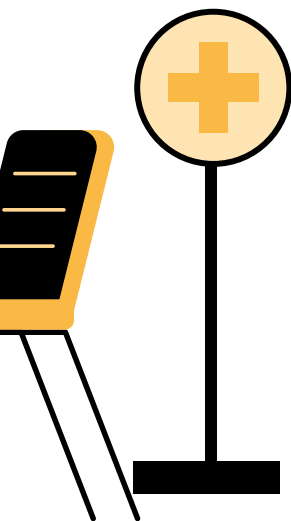
In 1982 His late Majesty initiated the 'Village Health Trainee Project' to provide volunteers with basic medical training in first aid, nutrition, sanitation and prevention of diseases at the village level. The training programmes were early initiatives in areas that grew illicit opium poppies.

In 1992, the World Health Organization recognized His Majesty for his contribution to public health by awarding him the 'Health-for-all Gold Medal.' The same year, His Majesty established the annual Prince Mahidol Award to recognize outstanding achievements in medicine and public health worldwide.

*Goal 4. Ensure inclusive and equitable quality education.* His Majesty attached great importance to education for individuals as a means of human development. His projects focused on improving access to education for people of all ages and genders, including persons with disabilities and children living in remote areas. By providing education, the projects increased opportunities for all.

One of His Majesty's earliest initiatives was the publication in 1968 of the *Thai Junior Encyclopaedia*, a set of books written in Thai for children so that they could have access to a range of knowledge.

In 1972, His Majesty established 'Romklao Schools' with staff of the border patrol police assigned to teach and run schools along the border areas. Many of these schools were established in Thailand's 'Golden Triangle' where the opium poppy was being illicitly grown and trafficked. The schools provided children in remote areas, for the first time, the opportunity for an education, and also increased security by improving relations between villagers and security forces. Long-distance education was another initiative of His Majesty to provide free education for all, especially in remote areas. With the support of the telephone organization of Thailand (now run by the Ministry of Education), primary and secondary school education as well as special courses were provided via satellite television.



His Majesty continued to promote equal access to education. In 1975, the *King's Scholarships* were established, providing scholarships for Thailand's brightest students to study abroad regardless of their background and wealth. In 1976, His Majesty established the *Phra Dabot Schools* to provide free vocational training for those not within the ambit of the formal education system.

*Goal 14. Conserve and sustainably use the oceans, seas and marine resources.* One of the first Royal initiatives to promote nutrition and well-being for people living in remote areas in Thailand involved the stocking of *Tilapia mosambica* fish in 1951 from Malaysia through the assistance of the Food and Agriculture Organization.

His late Majesty's contribution to water and soil management has also been significant. In 1971, His Majesty established the *Artificial Rain-making Research and Development Project* where he personally held several patents for artificial rain-making. From 1977, His late Majesty initiated water projects building dams, reservoirs and irrigation canals to address flooding and water scarcity. His late Majesty also invented a flood control technique known as 'monkey cheek' to store water from floods to be used by farmers during the dry season.<sup>18</sup>

*Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems.* His late Majesty believed that farmers are the backbone of the country, and appropriate management of land and water can foster a sustainable economy. Access to arable land, water and suitable varieties of crops for different topographies were essential to farmers, as was investing in finding solutions to the severe droughts and floods that plagued Thailand's environment.

Perhaps His late Majesty's most notable contributions to sustainable development were in the areas of technology and establishing a philosophy on improving the environment – ways to rehabilitate natural resources that had been depleted by deforestation and non-sustainable farming methods were rehabilitated, methods of improving irrigation, and new approaches in soil and water management have helped to increase food security and sustain livelihoods for farmers.

His late Majesty promoted sustainable forestry by advocating the growing of mixed forests, an initiative referred to as the 'Three Forests, Four Benefits' approach. This combines agro-forestry and socio-economic considerations into a comprehensive approach to afforestation. In this model, forest tracts are divided into three parts to grow timber, fruit and firewood. These forests offer at least three benefits to the local commu-

18

The Monkey Cheek Project. Available at: [https://www.satapornbooks.co.th/imgadmins/product\\_pdf/20170515\\_SardPraracha\\_kamLing.pdf](https://www.satapornbooks.co.th/imgadmins/product_pdf/20170515_SardPraracha_kamLing.pdf)

nities, and encourage them to preserve the forests. The fourth benefit, a by-product of the 'Three Forests' model, is the conservation of soil and watersheds.

Of the 4,500 development projects initiated by His late Majesty, more than 3,000 are agriculture- and water-related projects under the responsibility of the Ministry of Agriculture and Cooperatives (MOAC). The Ministry coordinates among various departments and at community level in order to replicate the programmes throughout Thailand. Local administrative organizations and provincial district, sub-district and villages all play key roles in community and rural development.

In 1979, the *Khao Hin Sorn* Royal Development Study Centre was established (later expanded to six Royal Development Centres in different regions) as a centre for farmers to learn self-reliant and sustainable farming practices in line with the late King's sufficiency economy philosophy.

In 1988, His late Majesty established the Chaipattana Foundation to implement agriculture projects that provided interest-free loans, operating dairy farms and training centres. He also developed and obtained a patent for a waste water aerator called the 'Chai Pattana'.<sup>19</sup>

In 2013, the United Nations General Assembly declared 5 December to be World Soil Day, the same date as His late Majesty's birthday, in recognition of his efforts in soil resource development and agriculture development.

*Goal 16. Promote peaceful and inclusive societies, provide access to justice for all and build effective, accountable and inclusive institutions.* Access to legal identity is a crucial means for gaining access to and opportunities for full participation in social, political and economic life, reducing inequality and social and economic vulnerabilities. There are six ethnic minority groups living in the area covered by the Doi Tung Project (see below, section 2.3.). In 1992 only 38 per cent out of the roughly 10,000 inhabitants had Thai citizenship. By 2014, the number of citizens had increased to 83 percent. In areas covered by the Royal Project (see below, section 2.3.), 98 per cent of the people now have Thai citizenship. Within the scope of the development projects, the government and implementing foundations were able to provide registration, which in turn made possible the issuing of identity cards and land documents for the inhabitants of the project areas so that they could have access to land and basic services.

His late Majesty's development model, which places the people at the centre of development, has also been adapted to local contexts in many other countries around the world, such as Afghanistan, Bhutan, Colombia, Indonesia, Laos PDR, and Myanmar. It has also become an integral basis of the UN Guiding Principles on Alternative Development.<sup>20</sup>

A notable aspect of the Thai experience is that the alternative development approach, although commonly associated with drug policy, has almost from the outset been applied to many other forms of crime. The ethnic minorities in the mountainous regions of northern Thailand cultivated the opium poppy because they believed that they did not have any other viable options in making a living. Some individuals were also beginning to become engaged in other criminal activities. Rural communities that become impoverished and vulnerable may not necessarily turn only to drug trafficking. In many places throughout the world, corresponding situations have led to an increase in, for example, trafficking in persons, illicit logging, trafficking in endangered species, trafficking in firearms, smuggling, and even terrorism. The alternative development approach should not be seen only in the context of preventing and controlling drug trafficking; the lessons can and should be applied also to other forms of crime.

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General Assembly resolution 68/196, adopted on 18 December 2013.

The lessons learned in mountainous and rural areas can also be adapted to the slums, favelas, barrios and overcrowded tenements in urban areas. Ethnic minorities, the impoverished and other vulnerable groups especially in our larger cities often face the challenges of lack of access to viable livelihoods, and many turn to crime out of despair. Their physical proximity to modern and bustling shopping malls, gated communities and conspicuous signs of inequalities in the distribution of wealth may increase their sense that they have been dealt with unfairly, and that they and their families have been abandoned in the national pursuit of development. For them, drug trafficking, petty thefts, burglaries, street robberies and confidence games may seem the only option, and joining criminal gangs may become a rite of passage. Also they need to be provided with legitimate paths to provide for themselves and their families.





## 1.3 From alternative development to the Sustainable Development Goals as a framework for crime prevention and criminal justice

Throughout this book, reference will be made to *crime prevention within the context of the Sustainable Development Goals* and to criminal justice within the context of the Sustainable Development Goals. The two terms are used to place the focus on the need for both crime prevention and the operation of the criminal justice system to build on a multi-sectoral approach in line with the Sustainable Development Goals.

The realisation that crime and development are connected is not new. Criminology has long examined the link between social development and crime, and much effort has been expended to identify the 'root causes of crime,' whether these be in poverty, lack of educational opportunities, unemployment, social neglect, entrenched racism or other societal ills. During the early part of the 1900s, there was also optimism that with a more equitable society, where extensive public education, welfare and public housing programmes are available to all, the rising standard of living will gradually reduce crime, since there would be less need and motivation to commit crime.

Within the framework of the United Nations Crime Prevention and Criminal Justice Programme, the growing number of developing countries among Member States during the 1960s and the 1970s led to considerable discussion on development and crime. Already at the Second United Nations Congress on Crime Prevention and Criminal Justice (CCPCJ), held in 1960, one of the main topics was 'Prevention of types of criminality resulting from social change and economic development in less developed countries,' and the overall theme of the Fourth UN Crime Congress, held in 1970, was 'Crime and Development'. Development was present on the agenda of virtually all of the subsequent UN Crime Congresses. However, several factors intervened to change the nature of the debate on UN 'crime policy,' in particular, the securitization of the debate on crime and the increased focus on transnational organized crime.<sup>21</sup> Those involved in international development cooperation continued to emphasize the linkage between underdevelopment and crime, but tended to avoid seeking a direct impact on criminal policy. In the states receiving development funds, criminal policy was widely regarded as a solely domestic issue and attempts to 'link' the provision of development funds with, for example, reforms in criminal justice were regarded as inappropriate.

One sign of the disconnect between the debates in the UN on, respectively, development and crime, was that when the Millennium Development Goals (MGDs) were adopted by the General Assembly in 2000, it did not identify any goals related to the justice system.

One indicator that this was beginning to change was the 2005 report of the UN Secretary-General, 'In larger freedom: towards development, security and human rights for all', in which he stressed the interdependence of development, security and human rights.

The linkage was made clear with the incorporation of Goal 16 into the Sustainable Development Goals adopted by the General Assembly in 2015. The UN member states and the other key stakeholders have thus acknowledged the importance of justice and security issues and challenges in development, and of the key institutions that deliver on these issues. The SDGs are contributing to a transformative change in how we address challenges to law enforcement and justice systems posed not only by 'ordinary' crime, but also by transnational organized crime, drugs, trafficking in persons, terrorism and corruption. Our justice institutions can provide for a fair and just society. The inclusive UN 2030 Agenda sets the stage for success in this.

The Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, in adopting the 'Kyoto Declaration,' provided a well-structured roadmap for the criminal justice community on how to continue work.<sup>22</sup>

21

See Sasha Jespersen (2021), Responding to Organised Crime through Sustainable Development: Tensions and Prospects, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 43-62; and Joutsen, Matti, Organized crime on the agenda of the United Nations, in Felia Aluuum (ed.), *Handbook of Organized Crime and Politics*, Edward Elgar Publishing, 2019, pp. 468-481.

22

Available at: [https://www.unodc.org/documents/commissions/Congress/21-02815\\_Kyoto\\_Declaration\\_ebook\\_rev\\_cover.pdf](https://www.unodc.org/documents/commissions/Congress/21-02815_Kyoto_Declaration_ebook_rev_cover.pdf)

*Crime prevention within the context of the Sustainable Development Goals*, which is dealt with in greater detail in chapter 2, stresses that in order for crime prevention to be truly successful in the long term, we need to take a new look on what are known as the root causes of crime, the risk factors that increase the likelihood that a given person or members of a given vulnerable population will commit crime, factors such as poor physical and mental health, lack of education, unemployment, substance abuse, and 'bad' influence from peers. Many people tend to continue to see this as a 'social welfare' approach that focuses on improving the individual's standard of living. Such a social welfare approach is generally regarded as the opposite of a deterrence-based approach, which in turn focuses on deterring potential offenders by increasing the likelihood that, should they commit crimes, they will be detected, apprehended, and subjected to sanctions. Such a deterrence-based approach works largely – but not solely – through the operation of the formal criminal justice system.

Both the social welfare approach and the deterrence-based approach, however, should not be seen as simplistic. If crime could be prevented by improving the standard of living, then societies that have a high standard of living should have low levels of crime – something that a quick glance at countries around the world would show is simply not true. (For one thing, a higher standard of living creates more opportunities for crime, and it may even create new kinds of crime.) And on the other hand, if crime could be prevented by a 'get tough' approach, then societies with a high level of policing and long sentences of imprisonment should have low levels of crime – again something that we know from experience is not true. The prevention of crime requires a more comprehensive approach.

The social welfare approach has evolved into a more nuanced combination of child development, community development and social development. *Child development* seeks to influence risk factors in early childhood associated with later delinquency, using such measures such as improved parental skills, enriched early education, and improved mental and physical health. *Community development* seeks to strengthen the economic viability and social cohesiveness of local communities. *The social development* approach has much in common with the earlier social welfare approach. It assumes that much crime results from poverty, poor education, discrimination etc., and seeks to tackle these problem sectors. All three approaches, in turn, can work on different levels – a universal level that targets an entire population or age cohort, regardless of whether or not certain individuals are deemed 'at risk' of becoming offenders (*primary* prevention strategies), a selective level that targets specific risk groups, such as minority families in deprived areas (*secondary* prevention strategies), and a focused level that targets individuals who display risky behaviour or who have been found to have been involved in criminal conduct and reintegrate them into the community and prevent further criminal conduct (*tertiary* prevention strategies).

These three approaches, child development, community development and social development fit in neatly with the Sustainable Development Goals and underscores the importance of different sectors of administration and different stakeholders in society, working together to promote better societies.

Alongside these three preventive approaches, a fourth approach has shown considerable promise – situational crime prevention. This approach assumes that much crime results from situational factors, and that these factors can be influenced or 'designed out'. The theoretical basis of the approach has much in common with the almost universal saying that 'opportunity makes the thief,' the realization that many offences are committed because the offender:

- has a predisposition to commit a crime
- is provided with a suitable target
- has no 'capable guardian' (e.g. in the absence of someone who might effectively intervene to stop the offence).

Situational crime prevention seeks to reduce opportunities for crime, increase the perceived risk of detection and apprehension, make crime less rewarding, and make crime less 'excusable.' The opportunity for crime can be reduced, for example, by 'hardening the target' or by placing it outside the reach of the offender. A simple example is that more locks, bars and barriers can be used to make it more difficult for the (potential) offender to reach the target. The perceived risk of apprehension can be increased, for example, through environmental design, by increasing visibility or 'natural' surveillance by passers-by. As for making crime less rewarding, this can be done for example in the prevention of shoplifting by attaching capsules to goods for sale which, if removed by the potential offender without the proper tools, would explode and cover the goods with a dye. Finally, crime can be made less 'excusable' through public campaigns emphasizing that certain conducts (such as unauthorized downloading of music or movies) is a crime.<sup>23</sup>

The deterrence-based approach to crime prevention can also be seen to have evolved. Among the more important new approaches are community-oriented policing, problem-oriented policing, and devolution of the responsibility for crime prevention. These are dealt with in section 3.6.

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The situational crime prevention approach is no panacea, and has been criticized on several grounds, including that it does not come to grips with the root causes of crime and may serve only to 'displace' crime from one area, time or crime type to another.

24

Javier Segrado (2018), *Prevention and Treatment of Offenders: Key Conceptual References*, paper presented at the UNODC Regional Colloquium on 'Empowering Vulnerable Communities and Women for Sustainable Development,' Chiang Rai, Thailand, 27 January 2018 (on file with the editor), p. 19.

To turn to *criminal justice within the context of the Sustainable Development Goals*, a fair, rational, humane and effective criminal justice system is important in its own right, in protecting societies against crime, bringing offenders to justice, and ensuring that the rights of the victim are respected and protected. When it fulfils its function fairly, rationally, humanely and effectively, it plays an important role also in ensuring that the conditions are in place to allow for sustainable development. (Criminal justice within the context of the Sustainable Development Goals is dealt with in greater detail in chapter 3.) When the rule of law is lacking, the social and economic development goals that we collectively seek are undermined. At the same time, equitable and predictable forms of justice are fundamental to building societies with a rule of law foundation that facilitates growth and development.

In the past, and as recently as with the Millennium Development Goals (MDGs) adopted by the General Assembly in 2000, the focus in development plans has been on economic, environmental, health and education indicators, which are so-called traditional development issues. This had resulted in the stakeholders responsible for criminal justice and law

enforcement (and more widely, the entire justice system and its stakeholders) being left out of the discussions and out of the formulation of development policy.

The essence of criminal justice within the context of the Sustainable Development Goals lies in the realization that when decisions are made within the criminal justice system, they have an impact on other sectors of life. For example, when a police officer decides to arrest a suspect, instead of letting him or her go with a caution, this may affect the suspect's employment or education. If a judge decides to impose a sentence of imprisonment, this decision may remove the only provider from a family, thus leading to the break-up of the family, with a knock-down effect on the education and future development of the children.

This should not be understood as a blanket criticism of the decision to arrest, or of the imposition of the sentence of imprisonment. These decisions may be justified in themselves, and may even, under the circumstances in the case, be mandatory under the law. However, it is important to realize that such decisions do have consequences in different sectors of life and society, and that the decision-maker could and should consider whether the decisions could be made differently, in a way that promotes sustainable development more broadly, while still ensuring that the purposes of criminal justice are met.

Crime prevention and criminal justice within the context of the Sustainable Development Goals can also be understood from the point of view of the discussion on human security. The focus of *human security* is to protect people against seven main categories of threats – economic, food, health, environmental, personal, community and political insecurity.<sup>24</sup> The concept of human security complements that of State security, and takes a people-centred approach towards protecting the vital core of all human life, while promoting fundamental human rights and freedoms. It seeks to provide people with 'Freedom from Fear' and 'Freedom from Want': freedom from the fear of crime, violence and armed conflicts, and freedom from want caused by poverty, disparity, social exclusion, hunger, famine, and natural disaster, to name but a few.





Conventional wisdom has it that the threats to human security occur in the public sphere, both in war and non-war settings. However, for example the violence that happens in the confines of a private home often goes unnoticed. In both cases, women and girls as well as members of other vulnerable groups are most often the victims. If they survive the ordeal, the harm that they have suffered will continue to stigmatize and adversely affect their lives and standard of living. This must be recognized, and the responses to such threats should be comprehensive and involve the individuals themselves as well as cooperation at the community, national, regional, and international levels.

Over the years, human security scholars have grappled with the vicious cycle driven by the ‘want’ and the ‘fear’ factors. We know that poverty (dealt with by Goal 1 in the SDGs) constitutes one of the major root causes of crime and violence. Crime threatens human life, livelihoods and the society as a whole. In the non-conducive environment of poverty, the prospects for sustainable development, the rule of law and the respect for human rights are often compromised. Marginalization in turn breeds deepening poverty, poor nutrition (Goal 2), ill health (Goal 3), illiteracy (Goal 4), and other challenges to sustainable development. Being compounded by the lingering effects of economic crisis, such a cycle is doomed to spiral and lead to a quagmire of instability.

For Thailand, such a cycle has been all too familiar in the past. It is perhaps the reason why human security has always been an essential component of Thailand’s socio-economic and foreign policies. Thailand seeks to focus its attention more on the human development side. This is largely influenced by Thailand’s national philosophy of a ‘sufficiency economy,’ which stresses a path of moderation in all aspects of our economic lives. In essence, this balanced approach to development is intended to enhance society’s immune system in order to guard against various forms of social illnesses. This can be considered as a sort of community-based measure to prevent crime and violence.



# CRIME PREVENTION WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

# 02



## 2.1 Placing crime prevention within the context of the Sustainable Development Goals

25

Kyoto Declaration on advancing crime prevention, criminal justice and the rule of law: towards the achievement of the 2030 Agenda for Sustainable Development, para. 3. Available at: [https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_30/Kyoto\\_Declaration\\_V2102815.pdf](https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_30/Kyoto_Declaration_V2102815.pdf)

In today's globalized world, crime has evolved and expanded, often involving complex activities carried out by multi-faceted and transnational networks of criminal organizations. Crime and corruption undermines the rule of law, the justice system, and society as a whole, especially in fragile and post-conflict states where such essential institutions are inherently weak. Crime not only causes injustice, inequality and human rights violations, but also hinders an enabling environment necessary for sustainable development.

Those who are deprived of an opportunity for development may choose the path of crime as a way out of poverty without realizing that they are contributing to the cause of their despair and are becoming victims of an endless vicious cycle. As recognized in the Kyoto Declaration adopted by the Fourteenth UN Congress on Crime Prevention and Criminal Justice (CCPCJ) in 2021, sustainable development and the rule of law are interlinked and mutually reinforcing. Crime impedes sustainable development, and at the same time achieving sustainable development is an enabling factor in effective crime prevention and response to crime.<sup>25</sup> Making this a virtuous, instead of vicious, circle involves both challenges and opportunities.

Communities without drugs and crime are sustainable communities that are healthy and resilient, and where all persons, including women, children and members of vulnerable groups are provided an environment that meets basic development indicators.



In adopting Goal 16 as part of the Sustainable Development Goals, the General Assembly of the United Nations recognized that peaceful and inclusive societies, the need to provide access to justice for all, and the need to build effective, accountable and inclusive institutions are all enabling factors for the achievement of the other Goals.

The linkages also go the other way. Progress on the implementation of the other goals will help to prevent and respond to crime, and thus achieve Goal 16.<sup>26</sup>

Poverty, the subject of **Goal 1**, is considered to be a leading contributing factor to crime. According to UN estimates, 10 per cent of the world population live on less than USD 1,25 a day, and thus in extreme poverty. Worldwide, the poverty rate in rural areas is 17.2 per cent—more than three times higher than in urban areas. By decreasing poverty, more and more people will be able to fulfil their needs in legitimate ways, without having to resort to crime.

Poverty is also a leading contributing factor to victimization. Moreover, many forms of crime have a disproportionately severe impact on the poor. The poor generally have less access to justice (and to resources and services) in the event of victimisation, and are therefore more vulnerable.

Among the measures called for in the SDGs are extending social protection systems and measures (*Target 1.3*), ensuring that in particular the poor and the vulnerable have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance (*Target 1.4*), and the creation of policy frameworks at different levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions (*Target 1.b*). Such measures would lessen the dependence of the poor on illicit sources of income, and also lessen their vulnerability to crime.

Improved nutrition (**Goal 2**) contributes to healthy lives and the promotion of physical and mental well-being (**Goal 3**). The importance of a public health approach to crime prevention, and in particular to the prevention of violence and of substance abuse (specifically mentioned in *Target 3.5*), has been well established. For example, poor nutrition and health are correlated with poor success in school, which in turn has been shown to increase the risk of drifting into criminal activity.

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'Gender-specific' services and measures are intended only for one gender (an example would be services for pregnant and breast-feeding women). 'Gender-sensitive' services and measures are designed with awareness of societal and cultural factors involved in gender-based exclusion and discrimination. 'Gender-responsive' services and measures are designed to actively correct gender biases, and in this way promote gender equality and provide equal opportunities for women and men

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See, for example, *Corruption, Accountability and Gender: Understanding the Connections* (2010). UNDP and UNIFEM, New York. Available at: <https://www.undp.org/publications/corruption-accountability-and-gender-understanding-connection-o>

Improving inclusive and equitable quality education and life-long learning opportunities (**Goal 4**) offer people greater opportunities for upward socioeconomic mobility and realizing their ambitions, allowing them not only to escape poverty but also to contribute more fully to society. *Target 4.7* calls among others for the promotion of a culture of peace and non-violence and *Target 4.a* specifically refers to the provision of safe, non-violent, inclusive and effective learning environments.

The achievement of gender equality and the empowerment of all women and girls (**Goal 5**) are clearly related to the prevention of domestic violence, gendered violence, sexual abuse and sexual exploitation (*Targets 5.2 and 5.3*), but they are also integral to the development of a gender-sensitive and gender-responsive criminal justice system.<sup>27</sup>

Goal 5 is also critical to the effectiveness of efforts to prevent trafficking in persons (referred to in *Target 5.2*), and the empowerment of women has been suggested as a factor in the prevention of corruption.<sup>28</sup>

The five Goals are directly related to the environment (water management and sanitation, **Goal 6**; energy for all, **Goal 7**; combating climate change and its impacts, **Goal 13**; protection of oceans, seas and marine resources, **Goal 14**; and protection of terrestrial ecosystems, **Goal 15**) and seek to ensure the sustainability of the earth, allowing societies to progress from a purely survival economy to one where there is no need for conflict over increasingly scarce resources, and where for example wildlife and forestry crime can be effectively prevented.

Sustainable economic growth, full and productive employment, and decent work for all (**Goal 8**) allow all persons to become productive members of society through legitimate needs. The forced labour, slave labour, human trafficking and child labour referred to in **Target 8.7** are directly tied to *Target 16.2* on the exploitation and trafficking of children, and **Target 16.4**, on combatting all forms of organized crime.



Ensuring a resilient infrastructure with inclusive and sustainable industrialization and the fostering of innovation (**Goal 9**) enables societies to progress and flourish even in times of restricted resources, lessening the risk of interpersonal conflict. Progress on this Goal is an illustration of how technical development can open up new possibilities also for crime prevention. With over half of the world's population now online and almost the entire world population living in areas covered by mobile networks, more and more people have access to information and communication technology and thus to real-time information that can help them prevent crime and, if necessary, report offences.

The reduction of inequality within and among countries (**Goal 10**) would reduce one of the major reasons for many forms of crime and terrorism – the sense that one has been dealt with unjustly as a person and as a member of a vulnerable and exploited community. During the summer of 2020, renewed attention has been paid in many countries in particular to racial inequality, and to its impact on law enforcement and access to justice. More broadly, *Target 10.2* on the empowerment and promotion of social, economic and political inclusion of all, is fundamental to justice.

Developing inclusive, safe, resilient and sustainable cities and human settlements (**Goal 11**) ensures that people live in a thriving environment, where crime is prevented.<sup>29</sup> The elements of this include access to adequate, safe and affordable housing and basic services (*Target 11.1*), the safety of transport systems (*Target 11.2*), participatory human settlement planning and management (*Target 11.3*), and the safety of green and public spaces (*Target 11.7*). The protection and safeguarding of cultural and natural heritage (*Target 11.4*) has a direct tie to a special form of crime – trafficking in cultural heritage.

Ensuring sustainable consumption and production patterns (**Goal 12**), in turn, is related to the protection of workers against unsafe and substandard working conditions and the protection of consumers against unsafe or fraudulent products. The importance of corporate social responsibility (*Target 12.6*) is receiving increasing attention in crime prevention, and the sustainable public procurement practices referred to in *Target 12.7* are directly connected to efforts to prevent corruption. Given the economic importance of global tourism, the reference in *Target 12.b* to sustainable tourism that creates jobs and promotes local culture and products can, also in a post-COVID-19 world, create licit livelihoods in underdeveloped communities, as shown for example in the Doi Tung project in Thailand.

Revitalizing the global partnership for sustainable development (**Goal 17**) – bringing stakeholders together around the world – ensures that we

can all work together more effectively and efficiently in making our world and our communities safer.

The above examples show that the connections between crime and development do not go in just one direction. While crime has an adverse impact on sustainable development, such development can help reduce crime itself. The root causes of crime often lie in poverty, lack of education, and unemployment, as well as the other factors referred to above. Problems in development can increase the amount of 'ordinary' crime and organized crime in society in three different ways:<sup>30</sup>

- factors such as poverty and absence of decent employment increase the number of persons who may be predisposed to committing crime. Dysfunctional families and a large number of marginalized young males without work or education serve as a 'seedbed' for offenders. For many offenders, crime may be a rational response to structural factors in society.
- rapid and uncontrolled urbanization and technological developments facilitate the commission of crimes by providing many opportunities to commit them. Examples are the proliferation of new targets of crime (self-service stores, housing that remain empty during working and school hours, drug trafficking, and computer crimes).
- inequality within and among countries (gender inequality, economic inequality, inequality in access for example to health services, education and employment) in particular may create a social climate in which the boundaries between acceptable and unacceptable behaviour becomes blurred, and in particular young persons seeking to find their place in society may come to believe that violent or criminal behaviour is acceptable, or even necessary for survival. Among the more influential criminological theories are the theory of differential association and the theory of the role of subcultures in transmitting criminal values and behaviour patterns.

Addressing these concerns may help to meet individual Sustainable Development Goal targets. At the same time, these efforts help to strengthen the implementation of Goal 16 on justice, security and the rule of law. Human trafficking, for example, often occurs in poverty-stricken areas where girls have low social status and education and girls are trafficked in order to improve their families' economic situation. The same goes for the smuggling of migrant workers and their families. We need to promote social development and recreational activities aimed at engaging groups that are susceptible to crime and trafficking, particularly women, youth and children, and ethnic minorities.

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Javier Segrado (2018), *Prevention and Treatment of Offenders: key conceptual references*, paper presented at the UNODC Regional Colloquium on 'Empowering Vulnerable Communities and Women for Sustainable Development,' Chiang Rai, Thailand, 27 January 2018 (on file with the editor), p. 10.

## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

We also need to improve access to justice in the wider sense. We need to improve access to justice for example for victims of violence against children, women and other vulnerable groups. If the community does not respond to such violence, the 'cycle of violence' tends to be repeated from generation to generation. More widely, we need to improve access to justice for women and vulnerable groups in general so that they can improve their position and that of their family: access to civil justice to obtain their rights under for example family law, inheritance law and the law on employment, and access to administrative law to secure their rights for example to education, health and a recognized official identity as citizens and members of the community.

Crime threatens the attainment of sustainable development. The prevalence of crime leads to instability and insecurity, which would endanger even the most accomplished development efforts. Peace, security, and development are interlinked and mutually reinforcing, and cannot be sustainable if each stand in isolation. Thus, a true integration of crime prevention into sustainable development efforts will be an important step forward. All states and stakeholders should join together to commit sufficient resources to the strengthening of crime prevention and criminal justice systems and the rule of law through enhanced technical cooperation, the sharing of experiences and best practices, and the promotion of other forms of cooperation amongst all stakeholders. Now is the time for us to unite against the threat of crime in order to ensure that development is truly sustainable.



## 2.2 The importance of the rule of law and fostering a culture of lawfulness

His late Majesty's approach identified and provided the local villagers with legitimate options, which they willingly accepted largely because they were becoming aware of how drug trafficking was having a destructive impact on their communities and on their environment. King Bhumirol was trying to deal with the root causes of crime. At the same time, His late Majesty's projects were designed not only to improve the health, education and economic vitality of the ethnic minorities living in remote areas, but also – to use modern parlance – to give them a 'voice,' empowering them to take control of their own communities by improving local governance and citizen security. Before the projects were initiated, community elders in the highlands were becoming aware that they were being exploited by drug traffickers who were encouraging the local population to cultivate opium poppy. The drug traffickers did pay (although not much) for the raw product, but it was the farmers who bore the risk of being arrested and punished for this activity, and of having their fields (and livelihood) destroyed by the authorities. In some cases, the drug traffickers threatened farmers who did not agree to grow the crop. And the elders were seeing clear signs that drug use was spreading among members of the community.

With the support of the authorities, the elders were able to mobilize the communities and establish effective local government. In many cases, it was the women of the villages who took the first steps and spoke out against drug trafficking. What was emerging was the rule of law, supported by a 'culture of lawfulness.'<sup>31</sup>

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An analysis of the rule in the context of the SDGs, in particular in relation to marginalized population groups is provided in Danielle Watson, Ariel Yap, Nathan W. Pino and Jarrett Blaustein, *Problematising the Rule of Law Agenda in the SDG Context*, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 131-152.

The Secretary-General of the United Nations has described the rule of law as

‘a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.’<sup>32</sup>

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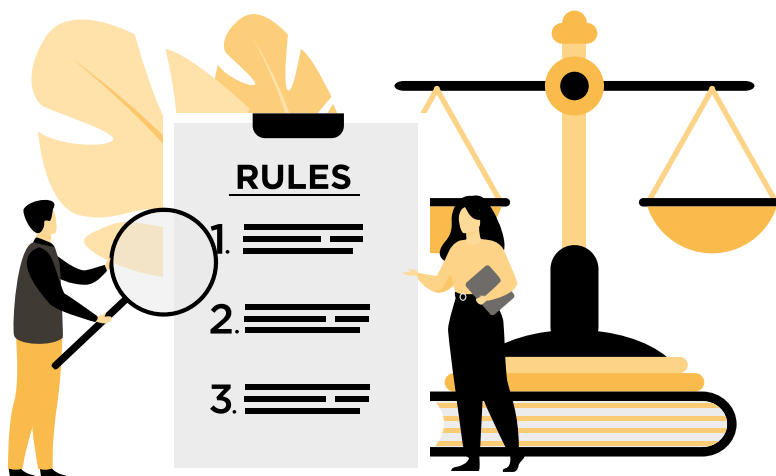
*Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies, S/2004/616.* Available at: <https://www.un.org/ruleoflaw/blog/document/the-rule-of-law-and-transitional-justice-in-conflict-and-post-conflict-societies-report-of-the-secretary-general/>

33

Roy Godson (2000), *Guide to Developing a Culture of Lawfulness*, paper presented at the 2000 Symposium on the Role of Civil Society in Countering Organized Crime, Palermo, Sicily; updated 2009. The author cites examples from, e.g., Colombia, Guatemala and Sicily of how the promotion of a culture of lawfulness can be used to respond to wide-spread violence and organized crime.

For many, the concept of the rule of law is a familiar one. The concept of a culture of lawfulness is perhaps less familiar. However, the experience of ethnic minorities in northern Thailand before the intervention of His late Majesty serves as an illustration of the antithesis, a culture of unlawfulness. The members of these vulnerable communities had no real choice in how to survive. The strong – the drug traffickers – prevailed, and the members of the community had no recourse to justice. The state was not able to provide the community members with protection and with effective and timely remedies. Instead, the community members had to agree to engage in criminal activities, even though they would have wanted to act differently.

The concept of a culture of lawfulness refers to a general set of attitudes and form of conduct in society. A culture of lawfulness, as a culture, is sympathetic to or supportive of the rule of law.<sup>33</sup> As has been noted by one expert,



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Roy Godson (2018), Teaching a Culture of Lawfulness, UNAFEI, Fuchu.

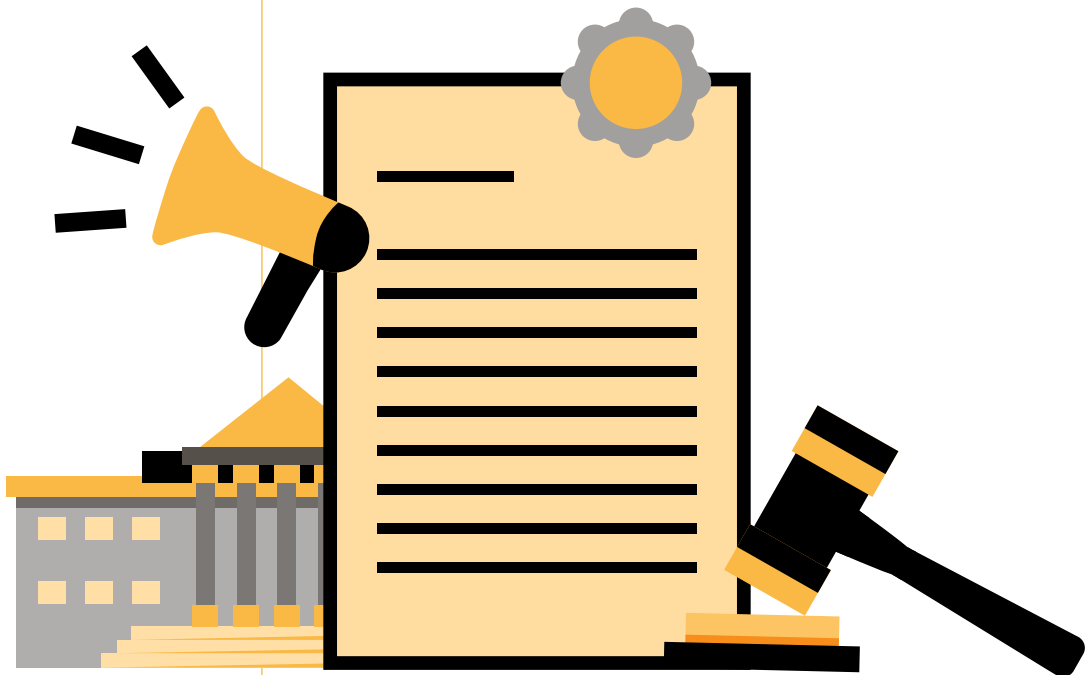
An analysis of the concept of 'culture of lawfulness' is provided in Promoting the rule of law by fostering a culture of lawfulness (2019). Conference room paper submitted by the Institutes belonging to the United Nations Crime Prevention and Criminal Justice Programme Network, A/CONF.234/RPM.1/CRP.1. Available at: [https://www.unodc.org/documents/commissions/Congress/regional/regional\\_preparatory\\_meetings/asia\\_pacific/A\\_CONF234\\_RPM1\\_CRP1.pdf](https://www.unodc.org/documents/commissions/Congress/regional/regional_preparatory_meetings/asia_pacific/A_CONF234_RPM1_CRP1.pdf)

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These concepts can be referred to more simply as development-led crime prevention and development-led criminal justice.

'State institutions alone cannot secure the rule of law. Also required is a culture of lawfulness – a culture in which the overwhelming majority is convinced that the rule of law offers the best, long-term chance of securing their rights and attaining their goals. They believe that the rule of law is achievable and are committed to upholding it. In a culture of lawfulness, most people believe that living according to the rule of law (respecting the rights protected by law, fulfilling the duties codified by law) is the best way to serve both the public interest and their personal interest in the long term. They also strive to make the government itself follow the rule of law.'<sup>34</sup>

The example of Huai Pla Lod village in northern Thailand described above in subsection 1.1. illustrates not only the importance of a culture of lawfulness for sustainable development, but also the relevance of a sustainable development-led approach to crime prevention and criminal justice. The SDGs emphasize that sustainable development and the rule of law are strongly interrelated and mutually reinforcing. The prevention of crime and the fair, rational, humane and effective operation of the criminal justice<sup>35</sup> system requires that progress is made in achieving other goals of the SDGs, including those related to health, climate change, gender equality and community development.





## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

As already noted above, there are inherent linkages between the rule of law and crime prevention within the context of the Sustainable Development Goals. The rule of law can help strengthen the capacity of communities to develop legitimate means of income and end their dependency on illicit opium poppy, coca bush and in some cases, cannabis cultivation. Here, the rule of law should not be considered only as a principle. Consideration should be given to how it can actually be applied on the ground as a tool for crime prevention within the context of the SDGs.

Within the United Nations Drug Programme, alternative development is accepted as a development-led approach to address the root causes of illicit crop cultivation as laid out in the outcome document of the 2016 United Nations General Assembly Special Session and in the 2009 Plan of Action. However, the success of alternative development must not be measured solely by the level of reduction in illicit cultivation. In the wider sense, the success of crime prevention within the context of the SDGs should not be measured solely by the reduction of various forms of crime. Human development indicators are the most important on the assessment of success, because the key drivers of many forms of crime, including organized crime, is almost always human insecurity that stems from poverty, lack of development and marginalization.

Crime prevention within the context of the SDGs aims to address the motivating factors that drive crime. These motivating factors include poverty, unemployment, lack of access to markets, violence and the dominance of drug networks as well as weak governance, including ineffective policing and judicial systems and lack of infrastructure and social services. It is usually members of vulnerable populations, such as small-scale farmers who belong to ethnic minorities and who are socially and geographically isolated who are the victims in this vicious cycle, and are trapped in the criminal activity.

Crime prevention programmes within the context of the SDGs can be successful only if communities are integrated into the economic and social mainstream. Flexible law enforcement is fundamental to such crime prevention: until the basic conditions for acceptable alternative living standards have been achieved, law enforcement should be used sparingly in communities engaged in criminal activities, and primarily in order to prevent such criminality from victimizing others. (The role of law enforcement remains a central one in crime prevention within the context of the SDGs, and is dealt with below in section 3.6.)

Taking these aspects of crime prevention within the context of SDGs into consideration, the challenge for all of us is to transform the rule of law into a meaningful tool for crime prevention in order to improve the lives of affected communities. Foremost, we need to recognize that the purpose of the rule of law for crime prevention is to reduce inequality, including inequalities between urban and remote communities. Within the rule of law context, such socio-economic disparities may be tackled through the active promotion of equal access in securing fundamental rights. We must ensure that human dignity is always at the heart of our conscious efforts to adhere to the principle of equality before the law, regardless of race, gender, and religion. The rule of law will then provide an effective safeguard against arbitrary use of power and promote responsible policymaking. In this way, the rule of law can become an important tool for remote communities suffering from poverty and lack of opportunity and where livelihoods are dependent on growing illicit opium poppy and coca bush, as well as on other criminal activities. Communities cannot be mainstreamed into national development plans and lifted out of poverty without the synergy created by the rule of law and crime prevention within the context of the SDGs.

The rule of law can be used as an effective tool to promote key elements of crime prevention, particularly those that rely on inclusiveness, accountability and justice for all. In more operational terms, the focus should be on strengthening the following aspects of the rule of law: legal frameworks, institutional capacity, and legal empowerment, including access to justice. We can strengthen the laws and improve the implementation of policies in ways that support equal access to justice, advance gender equality, create legal identity, promote land rights, and provide greater access to water, sanitation, electricity, and economic opportunities. Strengthening laws and legal frameworks can bring about clarity and predictability, reduce corruption, and enhance economic development by providing equal access to markets and financial services.

Enhancing institutional capacity is not just about the State's willingness to allow provision of alternative livelihoods prior to shifting towards more punitive measures to intervene in illicit activities. It is also about the ability of the State to provide equitable access to social services such as health and education as a pre-condition for the use of law enforcement. Crime prevention programmes within the context of the SDGs can also devise mechanisms to collaborate with the State and other stakeholders, including communities and implementing partners, to strengthen land registries, social welfare systems, local government entities, and small businesses with the goal of improving the lives of rural and marginalized small-scale farmers.

Legal empowerment could also be utilized to help resolve disputes peacefully and increase trust between the people and state institutions. Legal assistance and access to information laws can be powerful tools for individuals and the communities. To this end, we must promote legal literacy, provide legal aid, strengthen informal justice mechanisms and raise awareness of rights.

The rule of law and sustainable development go hand in hand in our efforts to create better and more prosperous societies. The application of the rule of law is also fundamental for poverty reduction and building peace. The rule of law is not the only outcome we wish to achieve. It is an important enabler for sustainable development.



## 2.3 Major Thai alternative development projects<sup>36</sup>

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Further information on royal alternative development projects is provided at <http://www.rdpb.go.th/en/Projects/background-of-the-royal-development-projects-c50>

### THE ROYAL PROJECT

The first integrated crime prevention project in Thailand was instituted in 1969 in Chiang Mai (referred to as ‘the Royal Project’), to be followed in 1988 in the Chiang Rai province (the Doi Tung Development Project). Both projects were located in mountainous areas in northern Thailand. These two projects have sought to apply a holistic and balanced approach to sustainable development by addressing the root causes of illicit crop cultivation. This approach has from the outset been designed to address poverty, assist people in earning legitimate means of income, and perhaps most importantly, assist community members in living a life with dignity.

The Royal Project was formed after His late Majesty visited an ethnic minority village in Thailand’s remote northern region. At the time, there was limited state presence, no roads, schools, health centres, or social services in project areas. Opium was used as medicine and as a cash crop, often traded for rice and basic necessities.

As a start, His late Majesty had learned of a variety of peach tree that could provide a better income for the local community than cultivation of the opium poppy. Since its initiation, the Royal Project has expanded beyond crop substitution to holistically address the needs of local communities by combating poverty and the deforestation that results from slash-and-burn cultivation.

The implementation area of the Royal Project benefits almost 45,000 households (over 180,000 persons) from fifteen ethnic groups. The

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In 1988, the average annual income of persons within the ambit of the Doi Tung Development Project was USD 124, well below the poverty line of USD 1,5 a day. By 2018, the average income had increased to USD 3,522. Data provided by the Doi Tung Project, 2019.

Project also manages four experimental stations that conducts research on suitable crops as well as 39 Royal Project Development Centres in six northern provinces to assist project beneficiaries with new varieties of cash crops, fisheries and livestock, and to advance their agriculture systems, promote self-reliance and improve the well-being of the highland communities. In the Royal Project's implementation area, the households now have access to roads, electricity, water, schools and health care.

Cooperative canning and food processing factories were established to process the farmer's produces and products under the Royal Project brand. Products include canned and preserved vegetables and fruits, jams, juices, herbal teas and coffee as well as frozen fish and meats.

Since 2002, vegetables produced in Royal Project areas have been certified with production standards. Subsequently, the entire process from farm to table has been upgraded and certified according to the standards of the Ministry of Agriculture and Cooperatives, in line with international standards (Global G.A.P.) and organic standards. Food safety and quality are inspected internationally and accredited according to the Hazard Analysis Critical Control Point management system.

Additional income for villagers is generated from handicrafts and ecotourism. Through the introduction of 240 temperate and semi-temperate zone crops, fishery and livestock as well as integrated rural development, the Royal Project has brought farmers an average income that compares with, and in many cases exceeds, the average for the north of Thailand.<sup>37</sup>



## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

In 1988, The Royal Project was awarded the Ramon Magsaysay Award and in 2003 won an award from the Drug Advisory Program of the Colombo Plan, Sri Lanka.

In 1992, His late Majesty graciously raised the status of the Royal Project to become the Royal Project Foundation, which serves as a permanent public entity to carry on the work of the Royal Project.

The Royal Project Foundation provides training and cooperation to improve the livelihoods of populations in remote mountainous areas. The Royal Project Foundation cooperates with the Government of Bhutan on agriculture, fishery, landscaping, water and soil improvement and also assists the Governments of Laos PDR and of Myanmar in partnership with the UNODC to reduce the dependence of communities on illicit opium poppy cultivation in northern Laos and in Myanmar's southern Shan State.

## THE DOI TUNG DEVELOPMENT PROJECT

The Mae Fah Luang Foundation (MFLF) was established by Her Royal Highness Princess Somdet Phra Srinakarindra Boromrajajonani (the 'Princess Mother') to assist vulnerable ethnic minorities in the highlands of Chiang Rai in Northern Thailand to improve their well-being through sustainable social, economic, environmental and cultural development.

In 1988, the MFLF began the Doi Tung Development Project to tackle illicit opium poppy cultivation, drug trafficking and deforestation. The Doi Tung Project addresses poverty and lack of opportunity and follows the approach of His late Majesty the King and the Princess Mother's sustainable development model. The Project continues to foster co-existence between nature and humans within 15,000 hectares of land and benefits six ethnic groups, reaching some two thousand households (11,000 people) from 29 villages. The Project supports viable alternatives to opium poppy cultivation through social enterprises from value-added goods, predominately coffee, macadamia and high-end handicrafts. The Project is also a centre for tourism and learning, as shown by the fact that in 1993 it received the Pacific Asia Tourism Associations Gold Award for tourism development.

The Doi Tung Development Project in Chiang Rai is known for its distinctive approach to ending opium poppy cultivation in the Doi Tung mountains by alleviating poverty and improving the well-being of marginalized ethnic minorities. This project is one of several that rests on the





sufficiency economy philosophy developed by His Majesty, the late King Bhumibol Adulyadej. As noted above, His Majesty took a personal interest in why, for example, poor farmers here in northern Thailand would choose to grow opium poppies for use in the illicit production of heroin. Instead of condemning them and regarding this as a criminal matter that should be punished, he encouraged them and supported them in developing alternative livelihoods. The approach seeks to address the social, economic, and environmental vulnerabilities in the area and empowers communities in moving towards a resilient and sustainable future.

Between 1988 to 1993, in Doi Tung, roads were built to all 29 villages, and six health centres as well as eight schools were constructed. Access to electricity was extended to the area.

Since 2000, the Project has been financially self-sustainable with profits from the social enterprises used to cover operational costs and social development programmes. In 2003, the UNODC recognized the Project as one of the world's best examples of alternative development. In 2009, the Foundation's Secretary-General was given the Social Entrepreneur of the Year award by the Schwab Foundation.

The Mae Fah Luang Foundation has assisted in spreading His late Majesty's and the Princess Mother's alternative development model to Afghanistan, Myanmar and Indonesia.

## 2.4 Application of crime prevention within the context of the Sustainable Development Goals: Some examples

Criminal justice practitioners are in general aware of the importance of bringing experts and stakeholders from different fields together in order to prevent crime. However, when going about their day-to-day work, they understandably tend to focus on their own sector and their own immediate priorities. When this happens, agencies may be working at cross-purposes; their decisions may inadvertently hamper the work of other agencies.

It is difficult to motivate agencies to work together unless and until they understand how they themselves would benefit from the cooperation. For this reason, this section adopts a SDG framework approach to crime prevention in order to show how different sectors affect the possibility of preventing crime and how each sector benefits. The 'mix' of measures will vary, depending for example on the type and nature of the crime and the persons involved, the degree of development, as well as on the societal context.

This section provides as examples drug trafficking, trafficking in persons, the smuggling of migrants, trafficking in endangered species, and violence against women. Given the severe impact of the COVID-19 pandemic which has spread throughout the region and the world at the time of writing, this section also provides some tentative observations



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For a detailed assessment of the situation in Southeast Asia, see *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019). UNODC, Bangkok, pp. 25-61. Available at: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOC-TA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOC-TA_2019_web.pdf)

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AIPA. *Thailand Country Report* (2019). Available at: <https://www.parliament.go.th/ewtadmin/ewt/aipa2019/download/article/AIPACODD/Annex%20Q%20-%20Country%20Report%20of%20Thailand.pdf>

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*Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013), UNODC, Bangkok, p. 23. Available at: [https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment.html/TOCTA\\_EAP\\_web.pdf](https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment.html/TOCTA_EAP_web.pdf)

*Patterns and Trends of Amphetamine-Type Stimulants: Asia and the Pacific 2013*. UNODC, Bangkok. Available at: <https://www.unodc.org/unodc/en/scientists/patterns-and-trends-of-amphetamine-type-stimulants-and-other-drugs---asia-and-the-pacific.html>

regarding how it has changed the situation. Within the first few months of the pandemic, about one-half of the global population had been affected by some mobility restrictions and numerous borders were closed. At the time of the finalization of this book (August 2021), over 200 million confirmed cases of COVID-19 had been reported around the world, and over 4,250,000 deaths officially attributed to the pandemic. The pandemic has, furthermore, pushed over 100 million persons into extreme poverty, generally as a result of the loss of their job due to the extended ‘shutting down’ of the economy in many sectors. This has occurred in particular in the tourism, travel, hospitality and restaurant sectors, but to a varying extent also in other sectors, such as construction. Such fundamental and rapid economic and social changes inevitably worsen the prospects for sustainable development for hundreds of millions of persons around the world.

## DRUG TRAFFICKING

### *Description of the issue*

The United Nations estimates that each year, some 3 per cent of the world’s population – roughly 270 million persons – use illicit drugs. Of them, 150 million persons use cannabis, 30 million use amphetamines, 13 million use cocaine, and 15 million use opiates. The value of the global trade has been estimated at as much as USD 300 billion per year.<sup>38</sup>

Drug trafficking is perhaps the archetypal transborder crime. The major source areas of drugs continue to be the Andes region (cocaine), the Golden Triangle (Southeast Asia; opium / heroin, i.e. opiates), the Golden Crescent (Central Asia; for opium / heroin), and north-west Africa (cannabis). Laboratory-produced drugs, which can be produced in any region, include amphetamines, methamphetamines, LSD, ketamine, PCP and MDMA (such as ecstasy).

Thailand has traditionally been regarded as part of the Golden Triangle, which encompasses the mountainous areas of northern Thailand, Laos PDR and Myanmar, and is one of the major producers of the opium poppy. Despite the successful eradication in Thailand of the cultivation of the opium poppy described above, drug trafficking continues to be a problem. Heroin and several synthetic drugs, in particular methamphetamine in tablet form (the street name of this drug in Southeast Asia is *yaba*) and in the form of crystalline methamphetamine (‘crystal meth’, ‘ice’), but also for example ketamine, continue to be produced in neighbouring countries to the north and west, and Thailand is a country of transit and





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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 57.

42

*World Drug Report 2021. Part 5: Covid-19 and Drugs. Impact outlook.* UNODC, Vienna 2021. Available at: [https://www.unodc.org/res/wdr2021/field/WDR21\\_Booklet\\_5.pdf](https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_5.pdf).

The UNODC notes that different drug markets were affected by the initial disruptions in different ways, but the overall effect was essentially small.

See also *COVID-19 and the drug supply chain: from production and trafficking to use* (2020). UNODC Research Brief. UNODC, Vienna. Available at: <https://www.unodc.org/documents/data-and-analysis/covid/Covid-19-and-drug-supply-chain-Mai2020.pdf>

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*World Drug Report 2021. Part 5: Covid-19 and Drugs. Impact outlook.* UNODC, Vienna, pp. 11, 38-39, 54-55 and passim. Available at: [https://www.unodc.org/res/wdr2021/field/WDR21\\_Booklet\\_5.pdf](https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_5.pdf)

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*World Drug Report 2021. Part 5: Covid-19 and Drugs. Impact outlook.* UNODC, Vienna, pp. 11 and 13, and passim. Available at: [https://www.unodc.org/res/wdr2021/field/WDR21\\_Booklet\\_5.pdf](https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_5.pdf)

destination in their trade.<sup>39</sup> Thailand has also become a country of transit for precursor chemicals.<sup>40</sup>

Drug trafficking generally requires a large and well-organized network to produce, transport and market the drugs. Nonetheless, a TIJ – UNICRI study on how transnational organized crime impacts on Thailand reports that in Thailand and neighbouring regions, drug trafficking continues at times to be a 'family business', involving members of one's own family or other community members. For example, members of highlander tribes in north-eastern Myanmar and Thai smugglers jointly manage trafficking operations along the Thai-Myanmar border.<sup>41</sup>

At the time of writing, the COVID-19 pandemic has had an enormous impact on persons and communities around the world. The UNODC, in its annual World Drug Report for the year 2021, has assembled extensive preliminary information on the impact that the pandemic has had on the demand for and supply of illicit drugs.<sup>42</sup> Despite optimistic early assessments that for example the closing of borders would block the flow of precursors and the supply of illicit drugs, the UNODC concluded that following initial disruptions that lasted only a few months, drug traffickers quickly adapted in particular by changing their routes and methods of concealment.<sup>43</sup> Perhaps more alarmingly, the protracted pandemic-caused economic crisis brings with it increasing inequality, poverty, adverse mental health conditions, and lack of opportunities for socioeconomic development, which may intensify illicit drug cultivation and production. At the same time, the crisis may accelerate progression of drug use disorders.<sup>44</sup>

## ***SDG connections specific to drug trafficking***

Throughout the world, the cultivation of the opium poppy, coca bush and other illicit crops is largely undertaken by farmers who do not see that they have any economically viable, licit alternative livelihood. For them, however, becoming involved in the cultivation of plants used to produce illicit drugs is not a money-maker since most of the profits arise later on in the supply chain and are taken by traffickers and those selling the drugs wholesale and retail.

As noted above, the concept of 'alternative development' was introduced into drug policy to describe an approach designed to deal with the root causes of drug trafficking, namely poverty and the absence of any alternative licit livelihoods. The approach recognizes that it is not enough to respond to drug trafficking with repression alone. Law enforcement



measures have in general not succeeded in significantly curtailing the production of drugs.<sup>45</sup> However, it is also not enough merely to offer alternative livelihoods without ensuring that members of the local community are able and willing to accept them and without ensuring that the resulting products can be successfully marketed at a reasonable price.

This cannot be achieved by technical assistance and financial support alone, by identifying what suitable alternative livelihoods would be, teaching these to community members, and offering them the necessary funding. Also the other needs of the community have to be addressed – health, education, basic infrastructure (potable water, electricity, roads), protection of the environment, and the members of the community have access to justice in order to protect their basic rights.

*Goal 2, Nutrition.* Farmers involved in the cultivation of illicit crops generally engage in subsistence farming on the side, producing barely enough food for themselves and their family. If illicit crops can be replaced by licit crops, this would provide farmers with economically viable and sustainable means to secure a better standard of living, including an improved standard of nutrition.

Involvement in the cultivation and production of illicit drugs generally also leads to degradation of the environment, which in turn endangers food production on land and sea.

*Goal 3, Health.* The prevention and treatment of substance abuse is specifically referred to in *Target 3.5*.

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For an analysis of the tension between development and security considerations in responses to organized crime, see Sasha Jespersen (2021), *Responding to Organised Crime through Sustainable Development: Tensions and Prospects*, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 43-62.

*Goal 5, Gender equality.* For example, the Doi Tung project has demonstrated the importance of empowering women and girls in the community, and the importance of their role in changing the perception in local communities regarding the dangers of drug trafficking.

*Goal 6, Sustainable management of water and sanitation; Goal 12, sustainable consumption and production patterns; Goal 13, Climate change: and Goal 15, Terrestrial ecosystems.* The cultivation of the opium poppy and the coca bush, and the production of drugs, harms the environment. *Target 6.3* refers to the reduction of pollution, the elimination of dumping, and the minimizing of the release of hazardous chemicals and materials, *Target 15.2* and *15.b* refer to sustainable forest management, *Target 15.3* refers to land degradation and *Target 15.5* refers to the degradation of natural habitats.

## **Thai law / innovations**

According to a 2019 report published by the National Economic and Social Development Board, the number of narcotics cases reported to the police has recently decreased, although narcotics offences are still the most commonly reported crimes in Thailand.<sup>46</sup> Although Thailand has successfully almost eradicated the cultivation of the opium poppy, it continues to have a serious drug problem. Sentences in Thailand for drug offences tend to be very long, and the large majority of prisoners are serving time for drug offences. This is the case, for example, for roughly 80 % of women prisoners in Thailand. Illicit drugs together with the response to illicit drugs remains a major legal, social, development and above all, human problem in the country.

For many years, Thailand's basic legislation on drugs, which also defined drug trafficking and other drug offences, was the 1979 Narcotics Act. This Act had been amended several times, most recently in 2019, in which connection some of the penalties related to narcotics offences were reduced<sup>47</sup> and provisions were inserted to allow some illicit drugs such as cannabis to be used for medicinal and research purposes.<sup>48</sup>

On 24 August 2021, the Thai Parliament passed a new Narcotics Code which seeks to emphasize the prevention and treatment of drug addicts and provide courts with a broader range of options as well as more discretion in deciding on punishment. At the time of the finalization of this publication, the legislation is awaiting royal endorsement, which would allow it to enter into force by the end of 2021.<sup>49</sup>

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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 35, citing Social Situation and Outlook Quarter 1, p. 14.

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The Narcotics Act of 2017 (No. 6).

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The Narcotics Act of 2019 (No. 22).

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<https://www.reuters.com/world/middle-east/thai-parliament-passes-new-narcotics-bill-that-could-ease-overcrowded-prisons-2021-08-24/>



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See *Alternative Development: A Global Thematic Evaluation* (2005). UNODC, Vienna 2005. Available at: <https://www.unodc.org/documents/evaluation/ProjEvals-2005/2005-alternative-development.pdf>

The new Narcotics Code replaces the 1979 Narcotics Act as well as several other pieces of legislation on narcotics. Among the key changes are the following:

- in general, less severe sentences would apply to basic forms of drug offences;
- the minimum sentence in some circumstances has been eliminated;
- a new offence, 'possession for consumption,' has been created;
- mandatory rehabilitation of drug abusers is abolished; and
- a person who is suspected of drug use or of possession for the purpose of consumption and who voluntarily undergoes treatment shall not be sentenced for the offence.

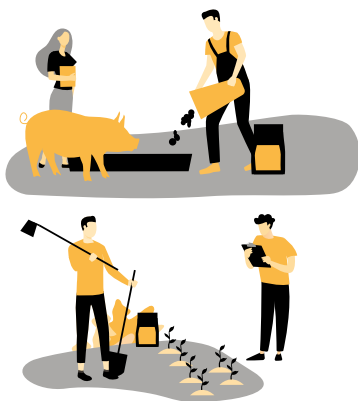
Section 161 of the Narcotics Code provides the courts with sentencing guidelines. The court has been explicitly given discretion to prioritize treatment over punishment, and should punishment be imposed, to consider socio-economic factors related to the offender, such as age, background, conduct, habits, intelligence, education, caretaking responsibility, therapeutic drug use, physical and mental state, environment, being forced or deceived into taking drugs, any other mitigating reasons, and the necessity to use drugs to perform certain tasks.

### ***Recommended measures***<sup>50</sup>

Thailand's greatest contribution to our understanding of the role of sustainable development in the prevention of drug trafficking – generally referred to as 'alternative development in narcotics policy' – lies in how the country has succeeded in eradicating the cultivation of the opium poppy. The lessons learned include the following.

*Need for flexibility.* Individual alternative development projects need to be adapted to particular regions and situations and build on local knowledge, skills and culture. In line with sequencing (noted separately below), flexibility may also be needed in respect of the application of law; punitive, criminal justice measures may need to be withheld while giving community members the opportunity to shift over to legitimate livelihoods.

*Sustained political commitment.* The commitment of the local and national government, the funding agency, and all other stakeholders needs to be sustained and directed at human development. The local and national government should ensure that the legal and organizational framework is in place to ensure that the project can continue for the intended lifetime of the project.



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Based largely on experiences in Thailand, the UNODC has produced the *A Manual on Monitoring and Evaluation for Alternative Development Projects* (2002), UNODC, Bangkok. Available at: [https://www.unodc.org/documents/alternative-development/Manual\\_MonitoringEval.pdf](https://www.unodc.org/documents/alternative-development/Manual_MonitoringEval.pdf)

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*Global Report on Trafficking in Persons 2018*, UNODC, Vienna. Available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf)

53

Natalia Ollus – Matti Joutsen (2019), *International Policies to Combat Human Trafficking*, in Rochelle L. Dalla and Donna Sabella, *Routledge International Handbook of Human Trafficking. A Multi-Disciplinary and Applied Approach*, Routledge, Oxon and New York.

54

For a detailed assessment of the situation in Southeast Asia, see *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019). UNODC, Bangkok, pp. 65-83. Available at: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOC-TA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOC-TA_2019_web.pdf)

*Consensus.* All the stakeholders – community members, the respective government agencies, the donors, non-governmental agencies and private sector entities – should be agreed on the project outline and its goals.

*Community participation.* Throughout the project cycle, the community should be actively involved in assessing the feasibility of the project, outlining the project, implementation, monitoring and evaluation. Decisions should be done in an open and participatory manner, seeking community empowerment. The community should achieve a sense of ‘ownership’ in the project.

*Sequencing.* The project outline should allow for proper sequencing between the achievement by individual farmer households of viable and sustainable legitimate livelihoods (something which often cannot be achieved in a single crop cycle) and eradication of illicit crops.

*Monitoring and evaluation.* Alternative development requires time and the input of many individuals. Monitoring and evaluation of progress in projects is needed in order to ensure that they are on schedule and that the inputs, activities, and outputs, as well as external factors are proceeding as planned, and in order to identify what possible adjustments might be needed.<sup>51</sup>

## TRAFFICKING IN PERSONS

### *Description of the issue*

The trafficking in persons protocol to the United Nations Convention against Transnational Organised Crime defines trafficking in persons as acts of recruiting, transporting, transferring, harbouring or receiving a person through the use of force, deception or other means for the purpose of exploiting them. It takes different forms, with trafficking for sexual exploitation and for labour exploitation being the most common globally.<sup>52</sup> Other forms include trafficking for the purpose of begging, benefit fraud and criminal activities, forced and sham marriages, illicit adoptions, and the extracting of human organs or tissues.<sup>53</sup> Trafficking in persons can be both domestic and international; Thailand is an example of a country where many victims of trafficking come from within the country although a very sizeable number of persons are also trafficked into Thailand, largely from neighbouring countries.<sup>54</sup>

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See *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017). UNODC and the Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/42#book/>

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The TIJ, together with ECPAT International, has conducted a study designed to capture the vulnerabilities facing boys and youth in Thailand identifying as having a diverse sexual orientation or gender identity and expression. *Global Initiative to Explore the Sexual Exploitation of Boys*. Thailand Report (2021), Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/global-boys-initiative-thailand#book/>



Trafficking in persons, as is the case with the smuggling of migrants, is fuelled by strong push and pull factors. Although persons today continue to be forced into trafficking, it is more common that they are at first willingly involved, not understanding that they will be exploited, and believing that they can find better employment prospects and a better standard of living elsewhere. The push factors (factors that 'push' people away from certain areas and countries, such as economic inequality, poverty, lack of education and employment opportunities, disappearance of traditional livelihoods, ethnic or gender discrimination, political and ethnic conflicts, disasters and war) cause people to seek to escape economically or socially difficult, or dangerous circumstances. The pull factors (factors that attract people to certain areas and countries) include the demand for cheap labour ('DDD jobs': dangerous, dirty and demeaning) and the demand for sex workers. The victims often have an idealised view of an easier life in the destination area or country.

World-wide, the total number of persons being trafficked at any one time may be between two and three million. (For a variety of reasons, all estimates are rather rough.) The key source areas include Southeast Asia, West Africa, Latin America, and Eastern Europe. The key destination areas include the European Union, the U.S. and many countries in the Middle East. Trafficking also takes place within countries or regions. For example, Thailand is largely a destination country, with the victims of trafficking coming primarily from countries within the Mekong region, and in particular, as noted above, the neighbouring countries of Cambodia, Laos PDR and Myanmar.<sup>55</sup>

Trafficking in persons is one of the major sources of illicit profits for organized crime, and it is prevalent around the world, from the least to the most developed countries. The victims of sexual exploitation are primarily women and girls, although the victims often include young boys.<sup>56</sup> The victims of labour exploitation can be men and women, boys and girls of



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ILO. *What's forced labour, modern slavery and human trafficking*. 2019. Available at: <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>

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UN-ACT. 'Thailand'. 29 October 2019. Available at: <http://un-act.org/thailand/>

all ages. In both types of exploitation, the victims generally suffer physical and mental abuse, psychological manipulation and economic exploitation. Victims of sexual exploitation often are subjected to the forced or coerced use of drugs and alcohol to keep them passive and docile and are at increased risk of exposure to sexually transmitted diseases such as HIV, and to septic abortion and sexual trauma. Victims of labour exploitation are kept in involuntary servitude for example at home (as domestic workers), in sweatshops, in primary industries (such as fishing, quarries and mines, crop picking), in restaurants and in construction work, often in abusive circumstances. In both types of exploitation, traffickers control their victims with a broad range of measures – violence (coercion, assault, rape, homicide; threats against relatives at home), forced addiction to hard drugs, debt bondage (charging the victims exorbitant sums for various 'services', such as transportation, accommodation and meals, and imposing 'fines' on them for often perceived infractions), confiscation of travel documents, cutting off of contact with friends and relatives and threats of deportation. In particular in labour exploitation, there is often no clear point at which minor exploitation (paying an undocumented immigrant worker less than local workers) becomes severe exploitation, and at which it would be recognized as constituting the offence of trafficking in persons. This is referred to as the 'continuum of exploitation.'



**5,600**

**Persons in Thailand**

may be victims of just one form of trafficking, which is for sexual exploitation.



**200,000**

**Male workers from Myanmar and Cambodia**

have been victims of trafficking in the commercial fishing sector alone in Thailand.



For the traffickers, trafficking is almost an ideal high-profit, low-risk crime: it does not require special equipment or distribution networks and the trafficked persons themselves often pay large amounts in advance in the belief that they are paying for the opportunity to achieve a better standard of living for themselves, and often for their family, unaware that on reaching the destination, they will be exploited. The global trade in women and children is estimated to earn traffickers USD 3 to 5 billion per year. It is assessed as being the third leading money earner for organized crime networks, following the trade in drugs and arms.

Thailand is a country of origin, a country of transit and apparently most commonly a country of destination, where women and children are subjected to sexual exploitation, and men and women, boys and girls are subjected to labour exploitation, at times in dangerous and horrific circumstances, generally in agriculture, commercial fishing, construction and domestic work.<sup>57</sup> As noted, the victims primarily come from the neighbouring countries (such as Cambodia, Laos PDR and Myanmar), often willingly as smuggled migrants, only to find after having crossed the border that they have been caught up in this modern form of slavery.<sup>58</sup>

In Thailand as well as elsewhere, most cases of trafficking in persons remain unreported largely because the victims fear their exploiters, but also fear contact with the authorities, worried that if they do so, they will



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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, pp. 43-47.

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*Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013). UNODC, Bangkok, p. 23. Available at: [https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment.html/TOCTA\\_EAP\\_web.pdf](https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment.html/TOCTA_EAP_web.pdf)

61

World Vision International, cited in Napatrat Kranrattansuit (2014), *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Viet Nam*, p. 102.

See also, Kate Bollinger & Kim McQuay (2012), 'Human Trafficking Rampant in Thailand's Deep-Sea Fishing Industry', The Asia Foundation, 8 February 2012. Available at: <https://asiafoundation.org/2012/02/08/human-trafficking-rampant-in-thailands-deep-sea-fishing-industry/>

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These measures were instituted and then relaxed in Thailand at somewhat different dates, but in general they were in force from March to May 2020, and then again were partially re-instituted with the resurgence of the pandemic during the summer of 2021. The restrictions on international travel have lasted the longest, from the end of February 2020, and largely remain in place at the time of the completion of the editing of this book (August 2021).

be charged with immigration offences and either imprisoned or deported to their home country. For this reason, the low number of reported cases in Thailand can be regarded as only the 'tip of the iceberg' – only a few hundred cases are investigated, prosecuted and brought to the courts each year.<sup>59</sup> These figures can be compared with UNODC estimates, according to which 5,600 persons in Thailand may be victims of just one form of trafficking, which is for sexual exploitation.<sup>60</sup> Furthermore, non-governmental organizations have estimated that around 200,000 male workers from Myanmar and Cambodia have been victims of trafficking in the commercial fishing sector alone in Thailand.<sup>61</sup> Determining even on a general level the actual number of victims of trafficking is difficult, since reported figures and estimates vary significantly and often do not distinguish between regular and irregular (i.e. undocumented) workers.

At the time of the finalization of this publication, the COVID-19 pandemic had lasted for well over a year and a half. In Thailand and elsewhere, there has been a radical curtailment of international air traffic, stringent controls on points of entry on land and at ports, and restrictions on domestic travel. These have made travel more difficult, for documented and undocumented travellers alike.<sup>62</sup> The preliminary assessment is that, globally, for example the closing of borders has not particularly decreased the amount of trafficking of persons as the traffickers have adjusted their 'business models.' Indeed, the pandemic has worsened the deep economic and





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Impact of the COVID-19 Pandemic on Trafficking in Persons. Preliminary findings and messaging based on rapid stocktaking (2020), UNODC, Vienna, p. 1. Available at: [https://www.unodc.org/documents/Advocacy-Section/HTMSS\\_Thematic\\_Brief\\_on\\_COVID-19.pdf](https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf)

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*Ibid.*

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*Ibid.*, p. 2.

social inequalities that affect both the push and the pull factors that are the root causes of trafficking. At the same time, the pandemic has weakened the capacity of both state authorities and non-governmental organizations to identify the victims of trafficking and provide them with essential services, assistance and support.<sup>63</sup>

Tens of millions of persons working in subsistence conditions for example in the tourism and entertainment sectors, but also in agriculture, construction, manufacturing, and domestic work, have lost their jobs. Those who continue to work may be exploited even more because of the need for lower production costs and the weakening of control by the authorities. With the loss of income, many fall victim to loan sharks promising low-interest loans and in the way may end up in debt-bondage. Victims in the sex industry and in domestic work may be at greater risk of violence, as well as COVID-19 exposure.<sup>64</sup>

The UNODC also notes that, along with school closures and the need for also children to seek employment in order to survive, children are at heightened risk of exploitation by traffickers – and also of becoming infected with COVID-19.<sup>65</sup>

### ***SDG connections specific to trafficking in persons***

Goal 16, which deals with justice issues, contains a specific reference to trafficking in *Target 16.2*, which calls for the ending of abuse, exploitation, trafficking and all forms of violence against and torture of children. Many of the other Targets in Goal 16, however, are relevant to the prevention of trafficking in persons:

- the rule of law and the ensuring of access to justice for all referred to in *Target 16.3* would provide the victims of trafficking greater protection against their victimizers, making them, in turn, more likely to cooperate with the authorities in bringing the traffickers to justice;
- *Target 16.4* emphasizes the importance of focusing on illicit financial flows, strengthening the recovery and return of stolen assets, and combating all forms of organized crime;
- widespread trafficking would not be possible without the corrupt complicity of many officials, and so *Target 16.5*, on substantially reducing corruption and bribery in all their forms, is a necessary component;
- the measures against corruption are closely linked with *Target 16.6* on developing effective, accountable and transparent institutions at all levels;

- many trafficked persons lack legal identity in their home communities, heightening the importance of *Target 16.9*, providing legal identity for all by 2030, including birth registration;
- victims of trafficking generally lack information on their rights and on how to enforce them. For this reason, work is needed on *Target 16.10*, ensuring public access to information and protecting fundamental freedoms; and
- national capacity and rule of law are dealt with in *Target 16.a* (strengthening relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime) and *Target 6.b* (promoting and enforcing non-discriminatory laws and policies for sustainable development).

Trafficking in persons is fed by a combination of push and pull factors. The push factors (the supply side of trafficking) are the negative conditions that 'push' the victims of trafficking away from their homes and communities – poverty (the subject of Goal 1), hunger and malnutrition, which may result also from drought and other natural disasters (Goal 2), lack of access to universal health coverage, quality essential health care services and essential medicines (Goal 3), lack of education, which may be linked to gender disparities (Goal 4), gender discrimination, including economic inequality (Goal 5), lack of viable employment opportunities and the disappearance of traditional livelihoods (Goal 8), as well as political and ethnic conflicts. The pull factors are essentially the demand for sexual or labour services that trafficked persons can provide.

For these reasons, the prevention of trafficking in persons should build on the work taking place within the framework of several other Sustainable Development Goals.

Under Goal 1, *Target 1.4* stands out with respect to trafficking: 'By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.'

The issue of ownership and control of land also comes up under *Target 2.3*, which deals with the contribution of sustainable agriculture to preventing hunger and malnutrition: 'By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment.'

Since the risk of trafficking in persons is increased when persons are not able to obtain a good education that would enable them to find legitimate job opportunities in their home community, and can be easily misled by the empty promises of the traffickers. Goal 4 on ensuring inclusive and equitable quality education and the promotion of lifelong learning opportunities is important. This includes in particular equal access for all girls and boys to quality early childhood development, care and pre-primary education referred to in *Target 4.2*, equal access for all women and men to education referred to in *Target 4.3*, and equal access for the vulnerable to education referred to in *Target 4.5*.

Goal 5, on the achievement of gender equality and the empowerment of all women and girls, is relevant for the prevention of trafficking for the purposes of sexual exploitation, but equally for the prevention of trafficking for the purposes of labour exploitation. Where women and girls are regarded as second-class citizens, they have

## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS



difficulties in finding suitable employment opportunities in their home community, and when trafficked are often forced to work in poorly paid positions or in veritable slavery for example as domestic help, in cleaning, or in for example in the garment industry. *Target 5.2* specifically calls for the elimination of all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.

Noting that trafficked persons almost inevitably work under poor or even dangerous conditions of employment, without benefit of contract, progress is needed on Goal 8, the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. This includes access to financial services referred to in *Targets 8.3* and *8.10*, which would allow in particular the poor and members of ethnic minorities to obtain funding needed to establish their own employment opportunities. Equally, it includes full and productive employment and decent work, and equal pay, referred to in *Target 8.5*, and the protection of labour rights and the promotion of safe and secure working environments referred to in *Target 8.8*. *Target 8.7* of the SDGs specifically calls for the taking of immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labour, and by 2025 end child labour in all its forms.



Related issues are taken up under Goal 9, the building of resilient infrastructure, the promotion of inclusive and sustainable industrialization and the fostering of innovation. This includes the securing of ‘affordable and equitable access for all’ in respect to infrastructure referred to in *Target 9.1*, the promotion of ‘inclusive and sustainable industrialization,’ the expansion of the industry’s share of employment and gross domestic product referred to in *Target 9.2*, and the access of small-scale enterprises to financial services and their integration into value chains and markets referred to in *Target 9.3*.

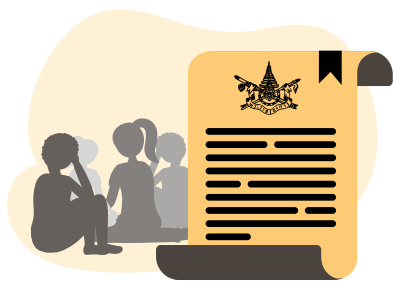
Finally, Goal 10, on the reduction of inequality within and among countries, calls in *Target 10.2* for the non-discriminatory empowerment and promotion of the social, economic and political inclusion of all, in *Target 10.3* for the ensuring of equal opportunity and the reduction of inequalities of outcome, and in *Target 10.4* for the adoption of policies, especially fiscal, wage and social protection policies, and progressive achievement of greater equality.

### ***Thai law / innovations***

Thailand ratified the United Nations Convention against Transnational Organized Crime and its protocol on trafficking in persons on 17 October 2013. Already before ratification, Thailand adopted the 2008 ‘Prevention and Suppression of Human Trafficking Act,’ amended most recently in 2019.<sup>66</sup> The Act clearly defines various forms of trafficking in persons in line with the UN Trafficking Protocol. The Act also provides, for example, that victims shall be provided with shelter and other necessities including physical, psycho-social, legal, educational, and health care assistance, and that a fund be established to support the suppression and prevention of human trafficking, and the provision of welfare to trafficked victims.

In 2016, the Government enacted the Trafficking in Persons Criminal Procedure Act, which changed the criminal procedure applicable to cases of trafficking in persons from an adversarial system to an inquisitorial system. When considering whether to release an alleged human trafficker on bail, the court must consider whether the alleged offence was committed within the framework of a criminal network or as part of organized crime. Most importantly, the government seeks to ensure that all victims are considered and treated as victims, and not as offenders.

The sale of sexual services is closely linked to trafficking in persons for the purpose of sexual exploitation. The Thai legal regime addressing this form of trafficking is based on three laws:



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The Royal Decree on the Amendment of the Anti-Trafficking in Persons Act of 2019.

- the Prevention and Suppression of Prostitution Act of 1996,
- the Criminal Code, art. 286 of which criminalizes pimping (subsisting on the earnings of prostitution), and
- the Entertainment Place Act of 1966, which regulates massage parlours, karaoke bars, go-go bars and similar establishments that are deemed to influence public morals.

Thailand has established 96 temporary shelters and seven welfare homes to provide assistance and protection to both Thai and non-Thai victims of trafficking in persons and to assist them in their recovery. Notable among these is the 'Baan Kredtrakarn Protection and Occupational Development Centre,' located in Nonthaburi province, north of Bangkok, and which is widely recognized in Southeast Asia as a model centre for its holistic approach of assistance to victims.

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*Thailand's Progress Report on Anti-Human Trafficking Efforts*, 31 March 2015. Ministry of Foreign Affairs of Thailand, Bangkok. Available at: <http://www.mfa.go.th/main/contents/files/media-center-20150430-161606-980768.pdf>

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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community (2021)*, Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 44.

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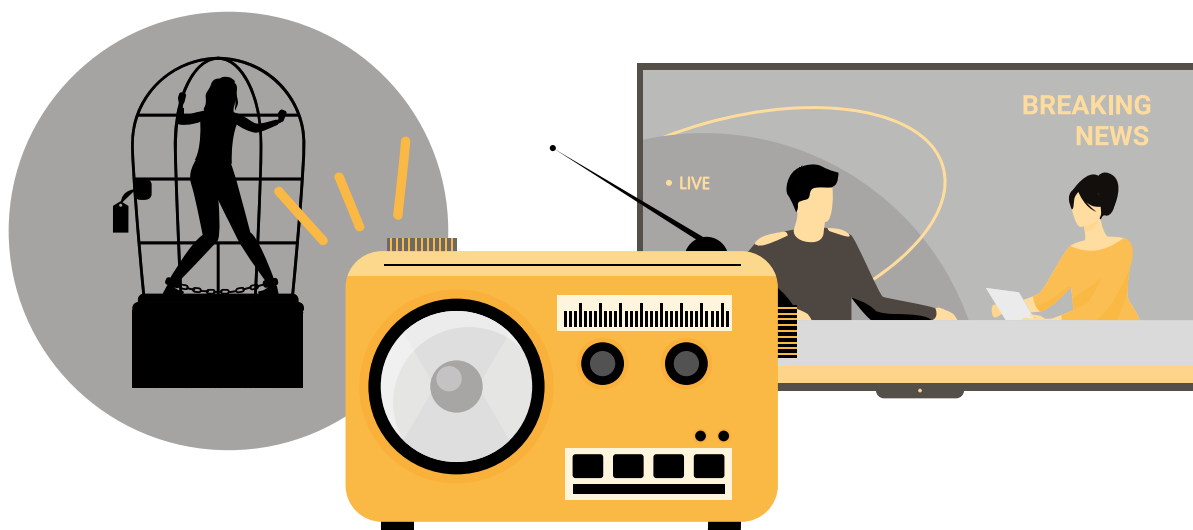
*Thailand's Progress Report on Anti-Human Trafficking Efforts*, 31 March 2015. Ministry of Foreign Affairs of Thailand, Bangkok. Available at: <http://www.mfa.go.th/main/contents/files/media-center-20150430-161606-980768.pdf>

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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community (2021)*, Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 53.

In August 2014, the government of Thailand adopted a policy of 'Zero Tolerance for Trafficking in Persons' to spearhead the nation's efforts and capacity to combat trafficking in persons.<sup>67</sup> Additional domestic and international anti-trafficking mechanisms supplement the domestic laws, such as the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Task Force (2005), for which UN-ACT serves as the secretariat. Operation Centres on Human Trafficking were established to address trafficking at the provincial, national and international levels. Other bodies include the Anti-Trafficking in Persons Committee and the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee. The Ministry of Social Development and Human Security oversees the implementation of Thailand's National Plans of Action against human trafficking, in addition to serving as the focal point for the national network of victim shelters. The Anti-Human Trafficking Division of the Royal Thai Police and Department of Special Investigations under the Ministry of Justice is also involved in this work.<sup>68</sup>

The Thai government has sought to promote public awareness campaigns through radio and television programmes, on social media, on billboards and through the distribution of various leaflets.<sup>69</sup> In several border areas, the local police and immigration authorities have started their own awareness-raising initiatives, including by distributing brochures, displaying information posters in police stations and engaging in a dialogue with members of the communities. These campaigns warn people about the risk of becoming a victim of trafficking in persons, highlight licit migration channels and procedures, and inform tourists of the severe criminal punishment for child sexual exploitation.<sup>70</sup>



## *Recommended measures*

Awareness-raising about the dangers of human trafficking should be conducted both as mass-media campaigns that target the general public or specific groups of professionals and as campaigns focusing on specific communities and groups of people that are considered vulnerable and at risk of becoming victims of trafficking, or of being revictimised. Examples of such communities are those in poverty-stricken rural areas, as well as refugee camps.

Awareness-raising should also be part of a demand reduction policy (below), directed both at individual consumers and businesses.

Many of the root causes of human trafficking, as with drug trafficking, lie in poverty and a lack of equal economic opportunities and economic inequalities. For this reason, many of the lessons from the Doi Tung and other sustainable development projects are applicable to the prevention of trafficking in persons, such as the *provision of education, or vocational and professional training*, in particular for women and girls, who in general are discouraged by their family and community from obtaining an education, or whose family lacks the economic means to fund education. *The creation of employment opportunities* and the provision of micro-loans to establish small businesses are also important measures.

Since many victims of trafficking who are returned to their home community are revictimised by traffickers, *reintegration into the community and rehabilitation* is an important form of prevention. Article 6(3) of the UN Trafficking Protocol requires that states parties consider in particular the provision of appropriate housing, medical, psychological, and material

Surtees, R. (2013). *After Trafficking: Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region*. Bangkok: UNIAP/NEXUS Institute, cited in Natalia Ollus – Matti Joutsen, *International Policies to Combat Human Trafficking*, in Rochelle L. Dalla and Donna Sabella, *Routledge International Handbook of Human Trafficking. A Multi-Disciplinary and Applied Approach*, Routledge, Oxon and New York 2019.

assistance, and employment, educational and training opportunities. An assessment of reintegration programmes in the Greater Mekong sub-region suggests that vocational training courses often do not respond to the needs of labour markets in those areas into which victims are (re) integrated, and victims may not be able to use their newly acquired skills, e.g., due to patriarchal family structures.<sup>71</sup>

Both the UN Trafficking Protocol (art. 9(5)) and the ASEAN Convention against Trafficking in Persons (art. 11(5)) call for a focus on the exploitation that leads to trafficking, and a need to *tackle the demand* that enables such exploitation. Those benefiting from transactions that affect victims of trafficking should be addressed in all preventive efforts. These beneficiaries include the consumers or buyers of services as well as the private sector. Members of the general public should be encouraged to be responsible consumers by not purchasing goods and services that could be linked directly or indirectly to sexual exploitation or labour exploitation.

The *role of the private sector* is addressed for example in the UN Global Compact, which was launched in 2000. This is a voluntary initiative for companies committed to including human rights, labour standards, the environment, and anti-corruption within their business endeavours. The UN Guiding Principles on Business and Human Rights, which were endorsed by the General Assembly in 2011, require businesses to exercise due diligence in identifying, preventing, mitigating and accounting for how they address their impacts on human rights (principle 15). Businesses should seek to be more aware of the use of exploitative practices in their supply chain, so that these can be eliminated. While the Global Compact and the UN Guiding Principles deal with human rights generally, the Athens Ethical Principles against Human Trafficking of 2006 focus in particular on trafficking for sexual exploitation, and the 2014 ILO Protocol on Forced Labour requires states parties to promote due diligence in both the public and private sector in order to prevent and respond to risks of forced or compulsory labour (Article 2e).

Looking separately at the prevention and the operation of the criminal justice system is particularly important in respect to trafficking in persons. From the point of view of the criminal justice system, the priority is generally on detecting and bringing to justice those involved in the trafficking. However, this is often difficult to do if the witnesses who know most about the offences – the victims themselves – have concerns about their safety and well-being, or have real reasons to believe that they themselves will be prosecuted for various offences. The life and health of victims are often in danger, and the priority should be to rescue victims from exploitative situations, protect them from retaliation by the traffickers and help reintegrate them into the community.

Natalia Ollus – Matti Joutsen (2019), *International Policies to Combat Human Trafficking*, Rochelle L. Dalla and Donna Sabella, *Routledge International Handbook of Human Trafficking. A Multi-Disciplinary and Applied Approach*, Routledge, Oxon and New York, citing Anette Brunovskis and Rebecca Surtees (2012). *Leaving the past behind? When victims of trafficking decline assistance*. Fafo-report 2012:31.

Many victims of trafficking do not define themselves as victims. If persons who are the victims of trafficking do not regard themselves as victims, investigation is difficult, because the victims often do not want to cooperate.<sup>72</sup> Trafficked persons (as well as smuggled migrants) are hoping for a better life, and if they have illegally crossed a border, they fear (in many cases, correctly) that if they turn to the authorities, they would be prosecuted for illicit entry into the country, or at the very least they would be deported. They may fear retaliation from the smugglers / traffickers if they do cooperate with the authorities; the threats may be against themselves, but also against family members still living in the country of origin. Also, victims often come from countries where police are regarded as corrupt and violent, and so they may not trust the police.

*Early identification of potential victims.* The primary responsibility for identifying potential victims of trafficking lies with the front-line authorities, in particular law enforcement authorities, border control and immigration authorities, labour inspectors, and medical and social welfare authorities. Some jurisdictions have created specialized units for detecting and investigating trafficking, whether for sexual exploitation or for labour exploitation.

Training in identifying victims can also be given to persons in other sectors who may come into contact with them in their line of work, such as persons in the transportation industry and the hotel industry. In particular, ECPAT International, which is a global network of organizations and individuals seeking to eliminate trafficking of children for sexual exploitation, has been active in this regard. Various hotlines have been established around the world to allow members of the public to provide information on potential cases of trafficking.

*Counselling and information on rights.* Victims are often in unfamiliar environments, lacking even basic information regarding their legal options. Art. 6(2)(a) of the UN Trafficking Protocol requires that states parties ensure that their 'legal or administrative system contains measures that provide victims of trafficking, in appropriate cases, information on relevant court and administrative proceedings,' and Art 6(3)(b) of the UN Trafficking Protocol calls on states parties to consider the 'provision of counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand'. Article 12(1) and art. 15 of the Council of Europe Convention on Action against Trafficking in Human Beings (2005) are broadly similar in scope.

*Protection of the privacy of the victim.* Article 6(1) of the UN Trafficking Protocol requires that 'in appropriate cases and to the extent possible



under its domestic law', states parties are to protect the privacy and identity of victims of trafficking, including by making legal proceedings relating to such trafficking confidential. Art. 11 and 12 of the Council of Europe Convention goes into somewhat greater detail, for example, in referring to data protection, and requires that states parties ensure 'in particular' that the identity of child victims of trafficking are not made publicly known, whether through the media or by any other means 'except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.'

One decision that the victim is often called upon to make is whether or not to cooperate in the investigation of the case and in the prosecution of the offender. The police and the prosecutor may place pressure on the victim to cooperate, since the victim's information and evidence is often the only practical way to build the case. Indeed, many jurisdictions may require that the victim files a complaint against the offender (i.e., report the crime), as a condition for starting the investigation. As already noted above, however, the victim may be reluctant and even fearful to do so.

In many jurisdictions, government assistance to victims is made conditional on their willingness to act as a witness or otherwise participate in the investigation, prosecution or trial.

*Recovery and reflection period; residence permit.* Victims who are rescued from trafficking are often in an unfamiliar environment and are unsure about their rights and status. They may also have conflicting views regarding whether or not to cooperate in the investigation of the traffickers. For this reason, many countries provide for the possibility of a recovery and reflection period, generally a few months, during which the victim is allowed to remain in the country and reflect on whether he or she wants to return to his or her place of origin or seek a residence permit (if possible). During the period, the victim is generally (but not always) entitled to government assistance in finding housing, training or employment. In addition, for example the United States and European Union countries provide a residence permit, allowing the victim to remain in the country and work.



Article 7 of the UN Trafficking Protocol requires that states parties consider allowing victims to remain in their territory, whether permanently or temporarily 'in appropriate cases' and in doing so, 'give appropriate consideration to humanitarian and compassionate factors'.

The way in which reflection periods have been implemented has been criticized. In particular, the reflection periods have often been so brief that many victims feel pressured to cooperate with the authorities (UNODC 2008, 326-334). Jurisdictions very often explicitly tie the granting of a temporary residence (non-immigrant status) to the readiness of the victim to cooperate in the investigation and prosecution of the traffickers. Almost invariably, the suspected trafficking offence will be reported to the police regardless of the victim's decision on whether or not to cooperate, thus placing pressure on the victim to cooperate or risk the possibility of deportation on the grounds of illicit entry into the country.

*Establishment of a national coordination mechanism.* Many countries have established national coordination mechanisms and/or national rapporteurs to monitor the anti-trafficking activities of State institutions and the implementation of national legislation requirements. Any comprehensive anti-trafficking policy relies on cooperation between all relevant actors, both nationally and internationally. This means cooperation not only between states and non-governmental organizations to protect victims, but also between states and the private sector, between states and labour unions / confederations of employers, as well as among various government actors (police, prosecutors, social welfare, health, education, employment, etc.).

One form of multiagency cooperation that has proven to be quite effective is known as a National Referral Mechanism, which promotes formalized cooperation among government agencies and non-governmental groups dealing with trafficked persons. Such mechanisms have been implemented in different parts of the world.<sup>73</sup>

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See, for example, *National Referral Mechanisms for Victims of Human Trafficking: Deficiencies and Future Development* (2017), International Organization for Migration, Geneva. Available at: [https://publications.iom.int/system/files/pdf/national\\_referral\\_mechanisms.pdf](https://publications.iom.int/system/files/pdf/national_referral_mechanisms.pdf)

## THE SMUGGLING OF MIGRANTS

### *Description of the issue*

In a globalizing world, with national and local economies in rapid flux, suitable job opportunities may not be available locally and must be sought elsewhere. Throughout history, people have moved to other countries in

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During 2019, global remittances totalled USD 554 billion, of which for example USD 83 billion went to India, and USD 35 billion to the Philippines, which were sent home by an estimated 12 million 'overseas Filipino workers.' 'Coronavirus shock exposes Asian governments' addiction to remittances,' *Nikkei Asian Review*, 28 May 2010. Available at: [https://asia.nikkei.com/Opinion/Coronavirus-shock-exposes-Asian-governments-addiction-to-remittances?utm\\_campaign=RN%20Subscriber%20newsletter&utm\\_medium=opinion-newsletter&utm\\_source=NAR%20Newsletter&utm\\_content=article%20link&del\\_type=6&pub\\_date=20200530093000&seq\\_num=6&si=%user\\_id%](https://asia.nikkei.com/Opinion/Coronavirus-shock-exposes-Asian-governments-addiction-to-remittances?utm_campaign=RN%20Subscriber%20newsletter&utm_medium=opinion-newsletter&utm_source=NAR%20Newsletter&utm_content=article%20link&del_type=6&pub_date=20200530093000&seq_num=6&si=%user_id%)

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*International Migrant Stock 2019*. United Nations. Available at: [https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/Migration-Stock2019\\_TenKeyFindings.pdf](https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/Migration-Stock2019_TenKeyFindings.pdf)

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*Migrant Smuggling in Asia. Current Trends and Related Challenges* (2015). UNODC Regional Office for East Asia and the Pacific, Bangkok, April 2015, p. 60.

For a detailed assessment of the situation in Southeast Asia, see *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019), pp. 87-105. UNODC, Bangkok. Available at: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOCTA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOCTA_2019_web.pdf)



order to find a better life for themselves and for their families.

They may take their family with them, or – more commonly today – may travel alone and seek to send remittances home from the destination.<sup>74</sup>

The International Labour Organization has estimated that there are about 272 million international migrant workers (documented and undocumented) in the world today, representing more than three percent of the world population.<sup>75</sup>

The opportunities for licit migration have been considerably decreasing in particular during recent decades, as destination countries themselves have been suffering from higher rates of unemployment. In part as a result of this, but also due to xenophobic attitudes, restrictions have been placed on migration. One of the results has been an increase in undocumented migration or people crossing borders illegally. It should also be noted that some undocumented migration is due to limited awareness of regular migration channels and the difficulties that people living in remote areas face in obtaining a legitimate passport.<sup>76</sup>

Another result of the increasing restrictions on licit migration has been the extensive involvement of organized criminal groups in the smuggling of migrants.

The smuggling of migrants is generally associated and confused with trafficking in persons. Trafficking in persons, as described in the previous section, involves the taking of control of a person (for example by force or by misleading the person as to the nature of what is to happen to him or her) and exploiting him or her for material benefit. In the smuggling of persons, the offender takes a fee for facilitating the crossing of a border illegally or residing illegally in another country. The Protocol against the Smuggling of Migrants by Land, Sea and Air of 2000, which supplements the United Nations Convention against Transnational Organized Crime, defines the offence in article 3(a) as follows: 'The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illicit entry of a person into a State Party of which the person is not a national or a permanent resident.'

The main difference between the two lies in the element of exploitation – in trafficking, the victim remains under the control of the offender and is exploited (sexual exploitation, exploitation of labour), while in smuggling, the 'contract' between the offender and the migrant ends once passage has been secured to the destination.

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See, however:

*Impact of the COVID crisis on migrant smuggling (2020)*, UNODC, Vienna. Available at: <https://www.unodc.org/unodc/en/frontpage/2020/September/impact-of-the-covid-crisis-on-the-crime-of-migrant-smuggling.html>

*How COVID-19 restrictions and the economic consequences are likely to impact migrant smuggling and cross-border trafficking in persons to Europe and North America (2020)*. UNODC Research Brief, Vienna. Available at: <https://www.unodc.org/documents/data-and-analysis/covid/Covid-related-impact-on-SoM-TiP-web3.pdf>

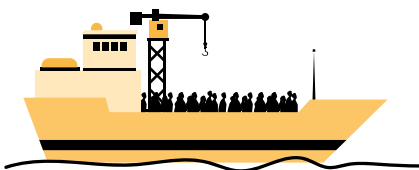
Gabriella Sanchez and Luigi Achilli (2020), *The Impact of Covid-19 on Irregular Migration and Migrant Smuggling*, Florence. Available at: <https://op.europa.eu/en/publication-detail/-/publication/97565e00-e134-11ea-ad25-01aa75ed71a1/language-en>

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*Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact (2019)*, UNODC, Bangkok, p. 90. Available at: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOCTA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOCTA_2019_web.pdf)

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*Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment (2013)*. UNODC, Bangkok, p. 58. Available at: [https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment\\_html/TOCTA\\_EAP\\_web.pdf](https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment_html/TOCTA_EAP_web.pdf)



The reality, however, is generally not so clear-cut. Often also migrants are the victims of crime. While being smuggled, in particular, migrant women and migrant children may be subjected to abuse and violence.

On reaching their destination, many migrants may find that they are not free to work, but are in fact being exploited. The offenders may, for example, withhold their passports or other documentation, or threaten to report the migrants to the authorities unless additional payments are made. For this reason, much of what is said above about the prevention of the trafficking of persons applies also to the prevention of the smuggling of migrants.

*While en route* and on reaching their destination, migrants may also be subjected to racial discrimination, hate crimes and other forms of victimization. Undocumented migrants generally are reluctant to turn to the authorities for protection and access to justice since they fear being taken into custody and deported. Furthermore, they may find that they are further victimized by corrupt officials who demand bribes for allowing them to continue their journey or to continue their stay in the destination country.

At the time of the finalization of this publication, the impact of the COVID-19 pandemic on the smuggling of migrants still needs additional assessment.<sup>77</sup> The extensive internal and international restrictions that have been placed around the world on the movement of persons as well as the increased intensity of the control of travellers have made it more difficult to smuggle migrants. At the same time, however, the economic imperative to find work, even across international borders, has grown tremendously. The pandemic has been estimated to have pushed over 100 million persons around the world into extreme poverty. The impact that the pandemic has had on the local economy (especially in the form of vastly increased unemployment) has presumably led to an increase in the willingness of many persons to turn to smugglers for their services. Since official entry points into countries have been closed, the smugglers have been adapting by using longer, more dangerous routes, exposing migrants to harsher conditions.

Before the pandemic, it had been estimated that there were approximately 3.9 million migrant workers from Cambodia, Laos PDR, Myanmar and Viet Nam in Thailand, including roughly 3.1 million regular (licit) migrants<sup>78</sup> and 800,000 irregular migrants. These undocumented workers are believed to be working primarily in commercial fisheries, manufacturing, agriculture, or as sex workers. The UNODC has estimated that 80 per cent of undocumented migrants from Cambodia, Myanmar and Laos PDR resort to smugglers when moving into Thailand.<sup>79</sup>



### ***SDG connections specific to the smuggling of migrants***

Much as with the trafficking in persons, the smuggling of migrants is fed by a combination of push factors (that ‘push’ migrants away from their homes and communities in search of economic opportunities elsewhere) and pull factors (the demand for the services that the migrants can provide). For this reason, what is noted in the above section on the connection between the SDGs and the prevention of the trafficking in persons, largely applies also to the prevention of the smuggling of migrants.

Nonetheless, more emphasis should be placed on those Goals and targets that are more directly related to economic opportunities. Specific reference can be made to many of the targets related to Goal 8, on the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all: providing access to financial services (*Target 8.3*), achieving full and productive employment and decent work, and equal pay (*Target 8.5*), eliminating forced labour, slave labour, human trafficking and child labour (*Target 8.7*), the protection of labour rights and the promotion of safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment (*Target 8.8*), and expansion of ‘access to banking, insurance and financial services for all’ (*Target 8.10*).

Furthermore, Goal 10, on the reduction of inequality within and among countries, includes *Target 10.7*, which deals specifically with migration policies and calls for the facilitation of orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.

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The Royal Decree on the Amendment of the Immigration Act of 2018

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The Alien Working Act of 2008, articles 51, 52 and 54.

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Supang Chantavanich, Carl Middleton and Michiko Ito (editors) (2013). *On the Move: Critical Migration Themes in ASEAN*. International Organization for Migration and Asian Research Centre for Migration - Chulalongkorn University, Bangkok, p. 158. Available at: [file:///C:/Users/TIJ008/Downloads/OntheMove%20\(1\).pdf](file:///C:/Users/TIJ008/Downloads/OntheMove%20(1).pdf)



## Thai law / innovations

Thailand's immigration policy is based on the Immigration Act of 1979, most recently amended in 2018. Another key statute is the Alien Working Act of 2008,<sup>80</sup> repealed by the Emergency Decree on Management of Alien Working of 2017 which prohibits foreigners from working without a work permit, from engaging in any occupation other than the one stated in the work permit, and from employing a foreigner without a work permit.<sup>81</sup>

Thailand has not ratified the Protocol on the Smuggling of Migrants by Land, Sea and Air, which is the key international instrument to prevent and respond to this form of transnational organized crime. Nonetheless, Thailand has adopted several policies in line with the protocol. For example, article 15 of the protocol, which deals with prevention measures, calls on state parties to take measures to ensure that they provide or strengthen information programmes to increase public awareness that the smuggling of migrants is a criminal activity posing serious risks to the migrants concerned and to cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organized criminal groups. The respective Thai authorities have been active in conducting such information campaigns.

In addition, the Immigration Department, non-governmental organizations and the private sector have increased their efforts to promote regular migration. For instance, groups have travelled to villages in Myanmar to inform people about how they can migrate to Thailand legally.<sup>82</sup>

## Recommended measures

*Dealing with the root causes of the smuggling of migrants.* The same article of the Smuggling of Migrants Protocol (art. 15) also calls on state parties to promote or strengthen development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment – very much crime prevention within the context of sustainable development.

## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

*Awareness-raising.* As noted, article 15 of the Smuggling of Migrants Protocol calls on state parties to take measures to ensure that they provide or strengthen information programmes to increase public awareness that the smuggling of migrants is a criminal activity posing serious risks to the migrants concerned, and to cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organized criminal groups.

An essential part of awareness-raising among potential migrants is the provision of information on licit channels for migration. Governments should work more closely with representatives of the private sector that employ migrants to ensure that migrant workers are provided with transparent and full information on their job description, including working hours and the terms of the contract, and that they are informed of their rights as workers, including complaint procedures.

A separate target of awareness-raising is potential employers of migrant workers, to ensure that they understand the benefits of due diligence and of improving the rights of workers. Among these benefits are less turnover among workers and improved productivity, the lessening of potential damage to the corporate image, improved consumer trust and levelling the playing field vis-à-vis other employers.

*Research and data collection.* As more information about the smuggling of migrants becomes available, efforts to prevent trafficking can be better





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See *Handbook on the Crime Prevention Guidelines* (2010), UNODC Vienna. Available at: [https://www.unodc.org/pdf/criminal\\_justice/Handbook\\_on\\_Crime\\_Prevention\\_Guidelines\\_-\\_Making\\_them\\_work.pdf](https://www.unodc.org/pdf/criminal_justice/Handbook_on_Crime_Prevention_Guidelines_-_Making_them_work.pdf)

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A broader concept, wildlife crime, is defined by the UNODC as the harvesting of and trade in wildlife contrary to national law. It includes, for example, the poaching and over-harvesting of species that are not deemed as endangered. *World Wildlife Crime Report: Trafficking in protected species 2016*, UNODC, Vienna, pp. 15 and 25-27. Available at: [https://www.unodc.org/documents/data-and-analysis/wildlife/World\\_Wildlife\\_Crime\\_Report\\_2016\\_final.pdf](https://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf)

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*Ibid.*, p. 12.

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For a detailed assessment of the situation in Southeast Asia, see *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019). UNODC, Bangkok, pp. 109-135. Available at: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOCTA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOCTA_2019_web.pdf)

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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 66.

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*Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013). UNODC, Vienna, p. 83. Available at: [https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment\\_html/TOCTA\\_EAP\\_web.pdf](https://www.unodc.org/res/cld/bibliography/transnational-organized-crime-in-east-asia-and-the-pacific-a-threat-assessment_html/TOCTA_EAP_web.pdf)

targeted. In line with the notion that 'prevention is better than cure', the United Nations Guidelines for the Prevention of Crime can be an effective tool in this regard.<sup>83</sup> Among other things, the Guidelines provide that governments and civil society should try to analyse and address the links between transnational organized crime and national and local crime problems, including by designing crime prevention strategies to protect socially marginalized groups.

## TRAFFICKING IN ENDANGERED SPECIES

### *Description of the issue*

Trafficking in endangered species<sup>84</sup> (such as wildlife and lumber) has become an increasingly profitable form of organized crime as well as a serious threat to biodiversity around the world, on sea and land, and in the air. As noted by the UNODC, it involves many distinct markets, each with its own drivers and dynamics. Some commodities, such as ivory and pangolins, are trafficked primarily into illicit retail markets, while others, such as rosewood, find their way into licit outlets despite their illicit origin.<sup>85</sup> The demand for the trafficking comes, for example, from collectors (as is often the case for example with ivory and parrots), fashion (reptile skins, and the use of agarwood in perfume and cosmetics), conspicuous consumption (rosewood for furniture; caviar) and traditional medicine (pangolins, rhinoceros horn).<sup>86</sup>

Trafficking involves a variety of persons, from unskilled villagers, professional hunters, and wholesalers to international specialists in storage, transport, processing, packaging, exporting and retailing. Depending on the market in question, the entire supply chain may be under the control of one organized criminal group, or there can be a division of labour, with some organized criminal groups attending to the procuring of the goods, and others to the marketing of the goods in the country of destination. Given the scope of the illicit trade, the involvement of corrupt officials in helping to evade detection and being brought to justice can well be suspected.<sup>87</sup>

Although links between wildlife and timber trafficking and other forms of transnational organized crime are still poorly documented, there is some evidence of connections between organized criminal groups. The Thai authorities have identified links between drug traffickers and organized criminal groups engaged in environmental crime. UNODC research suggests that such convergence is occasional and largely opportunistic, since the wildlife trade requires very specialized skills that are not



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*Environmental crime.* INTERPOL Official Website. Available at: <http://www.INTERPOL.int/Crime-areas/Environmental-crime/Environmental-crime> The UNODC has estimated that between 2009 and 2016, around 50 park rangers have been murdered in confrontations with illegal loggers, and roughly the same number have been seriously injured. UNODC, Bangkok.

See also: *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019), UNODC, Bangkok. Available at: [https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA\\_TOCTA\\_2019\\_web.pdf](https://www.unodc.org/documents/southeastasiaandpacific/Publications/2019/SEA_TOCTA_2019_web.pdf)

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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 60.

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BBC. 'Gang of Eight' on ivory probation (2013). Available at: <https://www.bbc.com/news/science-environment-21788664>

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*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, p. 64.

immediately transferrable to the commission of other types of crime.<sup>88</sup> Nevertheless, it is apparent that wildlife and timber trafficking often occur hand in hand with other offences such as passport fraud, corruption, money laundering and even murder.<sup>89</sup>

Thailand has an abundance of wildlife and its central location makes it an ideal place for major wildlife and timber trafficking routes. Thailand is usually a transit point along wildlife trafficking routes. However, it can also be a country of origin or final destination.<sup>90</sup> In the Thai context, two commodities illustrate some of the difficulties in preventing and responding to the trafficking: Siamese rosewood and ivory.

*Siamese rosewood* is a prized type of wood found only in southwest Asia: in Thailand, Cambodia, Laos PDR and Vietnam. It is used in the furniture industry in these countries, and also for example in China. Exporting Siamese rosewood from Thailand is illegal, but importing it from other countries is not. This has led to the smuggling of rosewood from Thailand to neighbouring countries, where the traffickers then claim that the logging took place locally, as a result of which it may be legally brought back into Thailand with the appropriate (and generally forged) documentation.

*Ivory.* Thailand has earlier been consistently identified as one of the world's top countries for the illicit ivory trade, a trade which is responsible for fuelling the killing of 30,000 African and Asian elephants every year.<sup>91</sup> Thailand apparently remains an origin country for ivory trafficked into and manufactured in Laos PDR. There is a significant quantity of ivory circulating in Laos PDR, but the country does not have a comparable elephant population, leading some to believe that much of the ivory is imported illegally from Thailand. DNA analysis is not yet common in wildlife trafficking investigations in Southeast Asia, which makes it difficult to determine the origin of the ivory.<sup>92</sup>



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See, for example,

*Wildlife trafficking and zoonotic diseases* (2020), UNODC, Vienna. Available at: [https://www.unodc.org/documents/Advocacy-Section/Wildlife\\_trafficking\\_COVID\\_19\\_GP\\_WLFC\\_public.pdf](https://www.unodc.org/documents/Advocacy-Section/Wildlife_trafficking_COVID_19_GP_WLFC_public.pdf)

'What is coronavirus, how did it start and how big could it get?' The Telegraph, 27 May 2020, Available at: <https://www.telegraph.co.uk/news/2020/05/27/what-coronavirus-pandemic-covid-19-uk-virus/>.

94

See:

*Counter Wildlife Trafficking Digest: Southeast Asia and China, 2020 Issue IV*, May 2021. USAID Wildlife Asia, Bangkok. Available at: <https://www.usaidwildlifeasia.org/resources/reports/inbox/cwt-digest-2020/view>

'Wildlife trafficking, like everything else, has gone online during Covid-19' (1921). Mongabay, Menlo Park, California. Available at: <https://news.mongabay.com/2021/06/wildlife-trafficking-like-everything-else-has-gone-online-during-covid-19/>

At the time of the finalization of this publication, the impact of the coronavirus pandemic on trafficking in endangered species remains unclear. Certainly, early theories that the origin of the pandemic may have been related to an infected animal sold in a 'wet market' have drawn attention to the risks of trafficking in endangered species, beyond that of extinction of certain species; zoonotic diseases may cause pandemics.<sup>93</sup> In Southeast Asia, the number of seizures of trafficked wildlife has decreased since the start of the pandemic, but other indicators, such as the amount of advertising and trade on social media suggest that the level of trafficking has not been significantly affected by the pandemic.<sup>94</sup>

The pandemic may have led to tighter controls on both the domestic and international transport and sale of endangered species. Furthermore, interruptions in international transport obviously hamper the supply chains operated by organized criminal groups. However, as long as there is a demand for endangered species, there will be offenders who recognize a business opportunity. Moreover, the pandemic has seriously worsened legitimate employment opportunities available in countries around the world, and it can be conjectured that the focus of the authorities is now on protecting the population against the spreading virus, thus potentially relaxing the patrolling of areas where the endangered wildlife is to be found.

### *SDG connections specific to trafficking in endangered species*

Specific references to issues related to trafficking in endangered species can be found listed under Goals 14 and 15. **Goal 14**, on the conservation and sustainable use of oceans, seas and marine resources, calls under *Target 14.4*, for the regulation of harvesting and overfishing and destructive fishing practices.

**Goal 15** on terrestrial ecosystems contains several relevant points. *Target 15.5* calls for urgent and significant action to reduce the degradation of natural habitats, the protection and the prevention of the extinction of threatened species. *Target 15.7* similarly calls for urgent action to end poaching and trafficking of protected species of flora and fauna and to address both demand and supply of illicit wildlife products.

Most directly related to the prevention of trafficking in endangered species and sustainable development, is *Target 15.c* which calls for the enhancement of 'global support for efforts to combat poaching and



trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities.’

Reference can also be made, under **Goal 12** on ensuring sustainable consumption and production patterns, to *Target 12.2* on the sustainable management and efficient use of natural resources and to the encouragement of sustainable practices on the part of companies.

### *Thai law / innovations*

Thailand is party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). In line with the convention, Thailand enacted the Wild Animal Preservation and Protection Act of 1992, which regulates hunting, propagating, possessing or trading in wild animals, their carcasses, and carcass products.<sup>95</sup> Other key legislation on environmental protection include the Forest Act of 1941 and the National Forest Reserves Act of 1964.

Following increasing evidence that Thailand was becoming a centre in the illicit trade in ivory, in violation of CITES, Thailand adopted the Ivory Act, which entered into force in 2015. The Act designates ivory as a protected product, and prohibits the extraction, import, export and possession of ivory, including non-native products (such as African ivory). The Act also imposed an obligation to register possession of any ivory acquired prior to the entry into force of the Act. Research undertaken in 2016 indicated that there had been a 96 per cent reduction in domestic sales of ivory in comparison to 2012.<sup>96</sup>



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The Wild Animal Reservation and Protection Act of 1992, Section 16.

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'Massive downturn in Bangkok Ivory market as Thailand introduces National Ivory Action Plan' (2016). Available at: <https://www.traffic.org/publications/reports/in-transition-bangkoks-ivory-market/>



97

'Thailand launches elite wildlife ranger team.' Freeland Press Release, 5 September 2013. Available at: <http://www.freeland.org/press-releases/elite-wildlife-ranger-team/>

98

'New anti-poaching rapid response unit leads the fight against Siamese rosewood trafficking.' Freeland Press Release, 14 September 2015. Available at: <http://www.freeland.org/press-releases/anti-poaching-rapid-response-unit/>

99

'Crime fighters recognized for tackling illegal trade in wildlife, chemicals and waste' (2015). UN Environment Programme. Available at: <https://www.unenvironment.org/news-and-stories/press-release/crime-fighters-recognized-tackling-illegal-trade-wildlife-chemicals>

100

'Regional Network to combat wildlife and timber trafficking becoming operational' (2018). UNDOC, Bangkok. Available at: <https://www.unodc.org/southeastasiapacific/en/2018/10/wildlife-timber-trafficking/story.html>

In line with Thailand's Ivory Act of 2015, public awareness campaigns have been conducted, aimed at international travellers and designed to discourage the purchase of ivory souvenirs and the (illegal) export of ivory products. One campaign, conducted in both English and Chinese, included the dissemination of literature, the display of 'stop ivory trading' signs in transit halls at airports and at several border checkpoints, and for example advertisements in Thai Airways in-flight magazines.

Another measure designed to increase awareness of trafficking in endangered species and, more generally, environmental crime, is the 'Green Cop Hotline 1136,' a channel allowing members of the public to contact the police to share information and report environmental crimes.

In 2013, the Department of National Parks launched an elite environmental enforcement unit called the 'King Tigers,' which undertook intensive specialized training.<sup>97</sup> The same Department established a specialized anti-poaching rapid response unit called 'Hasadin' in June 2015.<sup>98</sup>

Investigations conducted in Thailand in 2015 resulted in the seizure of USD 39.4 million in assets that were connected to wildlife and timber trafficking in connection with an anti-money laundering operation, marking the first-ever multi-million-dollar seizure from wildlife and forest offenders in Asia. The United Nations Environment Programme, in cooperation with several other international organizations, gave the Asia Environmental Enforcement Award to the Thai Anti-Money Laundering authority in 2015 in recognition of the significant role it played in targeting organized criminal groups trading in protected wildlife and timber.<sup>99</sup>

The Thai government has given sustained attention to combating environmental crimes and has demonstrated leadership within ASEAN. In 2015, the Royal Thai Police played a pivotal role in promoting the inclusion of wildlife and timber trafficking into the agenda of the ASEAN Ministerial Meeting on Transnational Crime and the Senior Officials Meeting on Transnational Crime. This decision was endorsed by the 27th ASEAN Summit and reflected in the Kuala Lumpur Declaration on Combating Transnational Crime. In 2018, the Royal Thai Police and UNODC convened the first meeting of the Working Group on Illicit Trafficking in Wildlife and Timber.<sup>100</sup>

## Recommended measures

Poverty reduction and promotion of economic opportunities are top priorities. As with drug trafficking, trafficking in persons and migrant

101

Dilys Roe and Francesca Booker (2019), Engaging local communities in tackling illegal wildlife trade: A synthesis of approaches and lessons for best practice, *Conservation Science and Practice*, Wiley Periodicals. Available at: <https://conbio.onlinelibrary.wiley.com/doi/pdf/10.1111/csp2.26>

102

General Assembly Resolution 69/314 on Tackling Illicit Trafficking in Wildlife, 2015.

103

*Countering Emerging Threats and Challenges of Transnational Organized Crime from Thailand's Perspective in the Context of the ASEAN Community* (2021), Thailand Institute of Justice and the United Nations Interregional Crime and Justice Research Institute, Bangkok, pp. 143 and 146.

smuggling, the root causes of trafficking in endangered species on the supply side are related to poverty, a lack of economic opportunities, and economic inequalities. Again, many of the lessons from the Doi Tung Project and other sustainable development projects are applicable to the prevention of trafficking in endangered species, such as provision of education or vocational and professional training to members of vulnerable populations. The creation of employment opportunities and the provision of micro-loans to establish small businesses are also important measures.

At the beginning of the supply chain, one motive for the poaching of endangered species is to protect crops. Incentives should be established to involve the local community in the management of wildlife and to find ways in which not only can wildlife and community residents co-exist, but the community can benefit and even be empowered. One possible option is the development of sustainable tourism.<sup>101</sup> In 2015, the United Nations General Assembly called for support of ‘the development of sustainable and alternative livelihoods for communities affected by illicit trafficking in wildlife and its adverse impacts, with the full engagement of the communities in and adjacent to wildlife habitats as active partners in conservation and sustainable use, enhancing the rights and capacity of the members of such communities to manage and benefit from wildlife and wilderness.’<sup>102</sup>

*Awareness-raising* about the harmful impact of trafficking in endangered species is needed, both as mass-media campaigns that target demand among the general public, as well as supply, especially among villagers who can easily become suppliers of wildlife. Many people may be unaware of how they could be directly affected by environmental crimes, since the damages are largely invisible, especially in urban areas. The social costs of environmental crimes have not been quantified, for example in Thailand. Policymakers should emphasize the ways in which environmental crimes, deforestation, and the reduction of biodiversity negatively impact society. Members of the general public should be encouraged to be responsible consumers by not purchasing goods and services that could be linked directly or indirectly to trafficking in endangered species.

On the demand side, an important target group in Thailand is composed of tourists, who have been the primary buyers of wildlife products. The average person, including the average public official, has limited knowledge of environmental issues since these are poorly addressed in public information and formal education. As a consequence, people do not feel their environmental responsibility and do not adopt preventive behaviours.<sup>103</sup>



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'Domestic violence' generally refers to partner violence, but can also include child or elder abuse or abuse by any member of a household. WHO, *Understanding and addressing violence against women*, Geneva 2012. Available at: [https://www.who.int/reproductive-health/topics/violence/vaw\\_series/en/](https://www.who.int/reproductive-health/topics/violence/vaw_series/en/)

105

According to the Declaration on the Elimination of Violence against Women (General Assembly resolution 48/104, 1993), violence against women consists of the following (the list is not exhaustive):

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

In the ASEAN Regional Plan of Action on the Elimination of Violence against Women, ASEAN Member States recognize that other forms of violence against women exist, such as early and forced marriage, and violence against women committed using information and communications technology, such as online harassment, abuse, bullying, stalking and distribution of denigrating images.

106

*Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence* (2013), WHO, Geneva. Available at: <https://www.who.int/reproductivehealth/publications/violence/9789241564625/en/>



## VIOLENCE AGAINST WOMEN

### *Description of the issue*

One of the most widespread types of crime is violence against women, which is manifested for example as domestic violence,<sup>104</sup> rape and other sexual violence, violence in the workplace, sexual harassment, hate crime, stalking, cyberviolence, trafficking in persons, forced prostitution, female genital mutilation, and so-called 'honour killings'.<sup>105</sup> The World Health Organization has reported that, worldwide, one out of three women experience physical or sexual violence, generally at the hands of an intimate partner, such as the husband, a boyfriend or a close relative.<sup>106</sup> It is also estimated that, worldwide, about 58 per cent of murders of women are by an intimate partner or family member.<sup>107</sup> Violence against women affects women regardless of age, race, culture, wealth and where they live. Nonetheless, the risk is particular high for adolescent girls, young women, women belonging to ethnic or other minorities, transwomen, and women with disabilities.

Violence against women is apparently even more prevalent in Southeast Asia, with roughly four out of every ten women in the region having experienced physical and/or sexual violence at the hands of an intimate partner.<sup>108</sup> A study by the Thailand Institute of Justice together with the University of Cambridge found that in Thailand alone, there is a rape every fifteen minutes, for a total of 30,000 a year. Of these cases, only 4,000 cases are reported to the police. Furthermore, according to a 2007 WHO

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'Home, the most dangerous place for women, with majority of female homicide victims worldwide killed by partners or family, UNODC study says' (2018). UNODC, Vienna. Available at: <https://www.unodc.org/unodc/frontpage/2018/November/home-the-most-dangerous-place-for-women-with-majority-of-female-homicide-victims-worldwide-killed-by-partners-or-family--unodc-study-says.html>

See also, *A Sensitive Mission in Justice* (2018). TIJ Probe. Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/article/detail/tij-probes>, and *The work of UNODC on violence against women*. New York 2019. Available at: [https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_28/Brown-bag-lunches/Brown\\_bag\\_Swen\\_Pfeiffer.pdf](https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_28/Brown-bag-lunches/Brown_bag_Swen_Pfeiffer.pdf)

108

*Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence* (2013). WHO, Geneva, p. 17.

109

*National Report on Violence and Health Thailand* (2007), WHO, Kobe, p. 44. Available at: [http://origin.who.int/violence\\_injury\\_prevention/violence/national\\_activities/report\\_violence\\_and\\_health\\_in\\_thailand.pdf](http://origin.who.int/violence_injury_prevention/violence/national_activities/report_violence_and_health_in_thailand.pdf)

110

*The World's Women 2015: Trends and Statistics*, UN Statistics Division, New York 2015, p. 139.

111

See Eileen Skinnider, Ruth Montgomery and Stephanie Garret (2017), *The Trial of Rape. Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam*, UN Women, UNDP, UNODC and UNiTE to End Violence Against Women, Bangkok, p. 45. Available at: [https://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2019/08/ap-trial-of-rape\\_26aug2019\\_lowres-compressed.pdf?la=en&vs=1916](https://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2019/08/ap-trial-of-rape_26aug2019_lowres-compressed.pdf?la=en&vs=1916)



report, 'about half of women had experienced physical and/or sexual violence (~41 per cent in Bangkok and 47 per cent in other provinces). The estimated number for the whole country was 5.4 million; of those, 500,000 were women who were sexually abused before the age of 15.'<sup>109</sup>

The root causes of violence against women include gender inequality, stereotyping and harmful social norms. Violence against women reflects the pervasive imbalance of power that exists between men and women within societies. It arises from and perpetuates gender inequalities and discrimination against women and girls.<sup>110</sup>

In many countries, men and women believe domestic violence is justified at times, particularly for behaviours that transgress gender role expectations. Furthermore, they regard domestic violence as an internal matter, not to be shared with or interfered in by people from outside the family. This has kept women in silence.<sup>111</sup>

Violence has serious negative consequences for women and girls, ranging from immediate to long-term physical, psychological and mental health effects and sexual and reproductive problems, which can prevent women and girls from completing their education and fully participating in the economic workforce, their communities and society at large. Women who experience violence are generally employed in higher numbers in casual and part-time work and tend to earn less than men. They often experience loss of income and bear the costs for accessing health care, support services and justice. Thus, violence against women significantly



112

Intensification of efforts to eliminate all forms of violence against women and girls: Domestic Violence (2016), General Assembly resolution 71/170.

113

*Gender-Based Violence (Women and Girls)* (2019), World Bank, <https://www.worldbank.org/en/topic/socialdevelopment/brief/violence-against-women-and-girls>

114

*Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women* (2014), UNODC Vienna, pp. 1-2. The guide was developed with the support of the Thailand Institute of Justice. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/Strengthening\\_Crime\\_Prevention\\_and\\_Criminal\\_Justice\\_Responses\\_to\\_Violence\\_against\\_Women.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf)

115

'Report on Gender-based Violence against Women and Girls (VAWG) Indicators' (2011), Office of Women's Affairs and Family Development, Ministry of Social Development and Human Security and UNDP, Thailand. See also *The World's Women 2015: Trends and Statistics*, Chapter 6: Violence against Women, UN Statistics Division, New York 2015.

116

Eileen Skinnider, Ruth Montgomery and Stephanie Garret (2017), *The Trial of Rape. Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam*. UN Women, UNDP, UNODC and UNiTE to End Violence Against Women, Bangkok, p. 39. Available at: [https://www2.unwomen.org/-/media/fieldoffice%20eseasia/docs/publications/2019/08/ap-trial-of-rape\\_26aug2019\\_lowres-compressed.pdf?la=en&vs=1916](https://www2.unwomen.org/-/media/fieldoffice%20eseasia/docs/publications/2019/08/ap-trial-of-rape_26aug2019_lowres-compressed.pdf?la=en&vs=1916)

undermines women and girl's employment opportunities, including income earning capabilities and advancement in the workplace.<sup>112</sup>

Violence against women also has a significant economic impact on the community. The World Bank has estimated that in some countries, violence against women costs up to 3.7 per cent of the GDP – more than double of what most governments spend on education.<sup>113</sup>

Despite its prevalence, it remains one of the most unreported forms of crime. Many cases of violence against women go unreported and unprosecuted, largely because of a profound lack of confidence and trust in criminal justice institutions. Most victims choose to remain silent, either because they regard the matter as a 'private' issue or as something too shameful to report or they fear gender biases in the criminal justice system. At the same time, many of the victims have their needs for assistance, protection and redress unrecognized and unmet.<sup>114</sup>

In Thailand as well as elsewhere, women abused by their spouses are often themselves blamed for having instigated the violence through some kind of misconduct or provoking behaviour.<sup>115</sup> The process of reporting sexual violence is inextricably bound up with the ideas of family honour, kinship, and social belonging. In Thailand, for example, the family plays a critical role in supporting or discouraging a victim in her decision to report her case and proceed through the criminal justice process. As noted by a female inquiry officer from Songkhla province, Thailand: 'We need to educate and empower families that their daughters could be victims of rape and it is not their fault – either of the family or of the victim and they need to report and take things forward to get justice, as a kind of honour for the family. But the reality is that families are too ashamed; they don't want the story to be known. 'Saving face' is more important than justice.'<sup>116</sup>

The barriers for reporting a crime include the legal aspect. Although presumably in all jurisdictions most manifestations of violence against women are recognized in criminal law as offences, the legal institutions are often weak in enforcing the law. Women's rights may not be sufficiently recognized in patriarchal systems, and women may in practice face considerable difficulties in securing access to justice. These legal difficulties may be tied to social and economic barriers. Women victims may lack legal awareness of their rights and may be uninformed of the legal process. They may lack faith in the legal system and do not believe that they can be helped. Many women victims are poor and illiterate and/or come from socially vulnerable communities (such as minority groups and migrants) and thus, are unable to seek legal aid.<sup>117</sup>



117

Scoping Study: Women's Access to Justice: Perspectives from the ASEAN Region (2019), Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/41#book/>

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<https://www.unwomen.org/en/news/stories/2020/4/statement-sg-put-women-and-girls-at-the-centre-of-efforts-to-recover-from-covid19>; and <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>

In respect of the COVID-19 pandemic, the UN Secretary-General, UN Women, and other UN organizations have reported an increase in violence amid the declarations of states of emergency and lockdowns across the region during the pandemic, since women are already at risk by spending more time in their homes with their abusers. As indicated in earlier subsections, also women being trafficked or smuggled have apparently been under greater risk of violence as a result of the pandemic. At the same time, essential services and support for survivors of violence against women (health, social, justice) and emergency shelters have been disrupted in many places as resources have been directed to the COVID-19 response. Sometimes, overstretched health services divert resources away from supporting women and girls who have faced violence. Lack of immediate help can endanger lives, resulting in increased harm and trauma, death and disability.<sup>118</sup>

### SDG connections specific to violence against women



The prevention of violence against women is an essential part of Goal 5, on the achievement of gender equality and the empowerment of all women and girls. *Target 5.2* calls specifically for the elimination of ‘all forms of violence against women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.’ *Target 5.3*, in turn, calls for the elimination of ‘all harmful practices, such as child, early and forced marriage, and female genital mutilation.’

The gender perspective towards violence taken in Goal 5 is backed up by two more general targets under Goal 16, *Target 16.1*, the significant reduction of ‘all forms of violence and related death rates everywhere’, and *Target 16.2*, the ending of ‘abuse, exploitation, trafficking and all forms of violence against and torture of children.’

In addition to these specific references to the prevention of violence, the SDGs contain several specific references for strengthening the protection of women and girls. For example, under Goal 2 (ending hunger and achieving food security), *Target 2.2*, on ending malnutrition, calls for addressing the nutritional needs of adolescent girls, and pregnant and lactating women. *Target 2.3* draws attention to the need to double the agricultural productivity and incomes of small-scale food producers, ‘in particular women’ (among other target groups) ‘... including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment’. Under Goal 3 (healthy lives and



well-being) *Target 3.7* calls for ensuring universal access to sexual and reproductive health care services and the integration of reproductive health into national strategies and programmes.

Gender equality with respect of education and lifelong learning opportunities is dealt with in several targets under Goal 4. *Target 4.1* calls for ensuring that all girls and boys complete free, equitable and quality primary education, and *Target 4.2* calls correspondingly for ensuring that all girls and boys have access to quality early childhood development, care and pre-primary education. *Target 4.3* deals with equal access for women and men to affordable and quality technical, vocational and tertiary education, including university. Finally, *Target 4.5* calls for the elimination of gender disparities in education and the ensuring of equal access to all levels of education and vocational training for the vulnerable.

Asides from the two targets related to violence referred to above, **Goal 5** on achieving gender equality and empowering all women and girls provides as follows:

- 5.1 End all forms of discrimination against all women and girls everywhere
- 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation
- 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
- 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate
- 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life
- 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
- 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources in accordance with national laws
- 5.b Enhance the use of enabling technology, in particular information and communications technology to promote the empowerment of women
- 5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

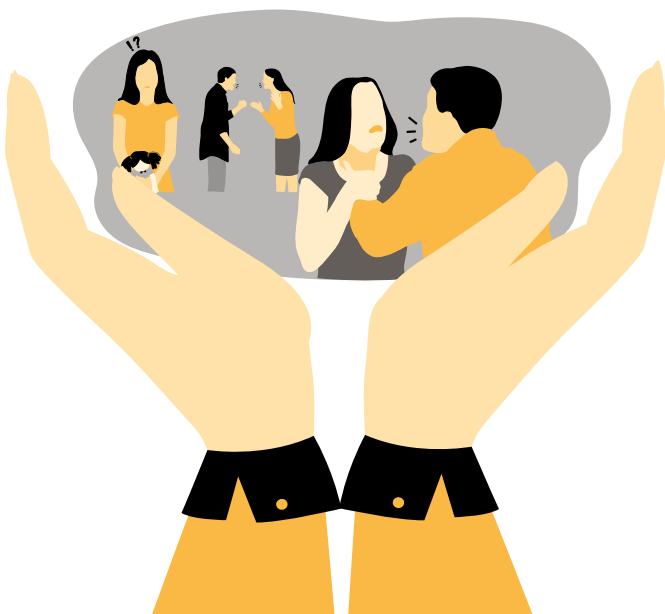
Goal 8, on economic growth, employment and decent work for all, calls under *Target 8.5* for achieving full and productive employment and decent work for all women and men, and as mentioned earlier, under *Target 8.8* calls for protecting labour rights and promoting safe and secure working environments for all workers, including migrant workers, in particular women migrants. Goal 11, on inclusive, safe, resilient and sustainable cities and human settlements, calls under *Target 11.2* for providing 'access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport', with special attention to the needs of, among others, women, and under *Target 11.7* for providing universal access to safe, inclusive and accessible, green and public spaces, in particular for, among others, women.

## *Thai law / innovations*

In general, under Thai criminal law, gender-related motivation is not recognized as an aggravating factor, either for homicide ('femicide') or other violent offences. However, following the adoption of a new Constitution in 1997, a national discussion on the guiding principles on gender equality and the need to safeguard against gender-based discrimination culminated in the passage of the Domestic Violence Victim Protection Act in 2007.

This Act is the first piece of legislation in Thailand to provide for multidisciplinary responses to violence against women. The main goals are to protect victims of domestic violence, rehabilitate perpetrators, maintain family bonds, provide alternatives to criminal punishment, and promote public awareness on domestic violence. Among its measures is the criminalization of a specific offence of 'domestic violence.'

Other innovations brought by the Domestic Violence Victim Protection Act includes a provision that allows the victim, when the police are investigating a case of domestic violence, to request that a psychiatrist, psychologist, social worker or other suitable person indicated by the victim joins in the questioning of the victim in order to give advice. Regarding this question, section 133 of the Criminal Procedure Code provides that in the investigation of cases of rape, any examination of the woman shall be conducted by a female inquiry official, unless the victim consents to another person conducting the examination.





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A general presentation of the use of information communication technology in both the commission of violence against women and in its prevention and the response, is provided in Bridget Harris, Molly Dragiewicz and Delanie Woodlock (2021), *Technology, Domestic Violence Advocacy and the Sustainable Development Goals*, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 295-313. The Thai experience with the chatbot is noted on p. 303.

The Domestic Violence Victim Protection Act provides that the name of the complainant shall not be published or made known to the public in any manner, in relation to a picture, story or any information which may cause damage to the perpetrator of the domestic violence or to the victim.

Following the adoption of the Act, Her Royal Highness Princess Bajrakitiyabha advocated for a United Nations campaign in Thailand, 'Say No to Violence Against Women.' The campaign led to the collection of over three million signatures and helped in raising national awareness of the issue.

A recent amendment of the Criminal Code (2019) provides that sexual offences are not compoundable unless the perpetrator is husband and the survivor requests mediation.

Thailand has set up 24-hour hotlines and crisis centres. A special branch under the Office of Prosecution was established in order to handle cases of violence against women and children more sensitively and specialized juvenile and family courts to provide protection for survivors of domestic violence.

One example from Thailand shows how law enforcement can work together with the private sector and technological experts to improve public awareness and at the same time provide victims of violence against women with a technological tool in the form of mobile applications and chatbots ('police noi' – in English 'little cop'- and 'sis bot'). These tools help educate and raise awareness and in this way help to prevent domestic violence and increase access to justice. The users of these chatbots can instantly obtain directions, guidance, consultations as well as legal information on what to do in the case of domestic violence. Since the chatbots use artificial intelligence, there is no human interface, and so women can use these without feelings of shame to obtain the information they need. The approach can also be adapted to different languages, an important consideration in countries such as Thailand.<sup>119</sup>

In order to raise public awareness of domestic violence in Thailand and to create a network of persons working in the justice system which can promote the prevention of and appropriate response to domestic violence, including assistance to victims, the Thailand Institute of Justice has cooperated with the Foundation for Women, Law, and Rural Development (FORWARD) and Chiangmai University's Department of Women's Studies, Faculty of Social Sciences, to organize, beginning in 2017, a series of practical Paralegal Training Workshops on the theme of: 'Women for Justice; Justice for Women.' The workshops are intended for

officials dealing with issues related to women's access to justice, such as psychologists, social workers, investigators, prosecutors, administrators, as well as local leaders, government volunteers, orphanage workers, correctional officers, lawyers, nurses from the One Stop Crisis Centre, and community developers from the private sector. The workshops have been conducted in different regions of Thailand.

Another example of awareness raising in Thailand was the project conducted jointly by the Thai Ministry of Education and UNIFEM, entitled 'Preventing Violence against Women and Children among Youth.' The project aimed to expand knowledge and understanding as well as sensitize students to ideas, perceptions, values and behaviours that generate gender inequality and violence against women and girls through youth-initiated and school-based activities. In so doing, it undertakes to review existing school curricula and present recommendations for their appropriate revision. The idea is to engage school children to rethink about the norms and values that condone the practice of violence against women.

### **Recommended measures**

At the beginning of 2019, the UNODC launched a three-year global programme on crime prevention and criminal justice responses to violence against women, which is designed to strengthen legal and institutional frameworks, enhance implementation capacity and coordination, and develop global evidence on the scale of the problem and on what works as prevention and response.

*Dealing with the root causes of violence against women.* Violence against women arises from a combination of community, societal and personality factors, all of which are tied to issues covered by various Social Development Goals, such as poverty, unemployment, gender inequality, gender stereotypes, income inequality, lack of educational and economic opportunities, and poor health and mental health. These are driving forces that encourage or seem to excuse individuals in breaking the law, and at the same time make certain members of society more vulnerable to victimization and with less access to justice.<sup>120</sup>

*Awareness raising.* This can be achieved through a dialogue among policymakers and practitioners, other stakeholders, the media, and various public fora. In so doing, we should aim to enhance the synergies among governments, non-governmental organizations, and civil society. The media, the private sector, and public figures should be encouraged to



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General Assembly resolution 55/228, 2010.

deliver the message that violence is unacceptable and unjustified, and that the ending of gender inequality is important for sustainable development.

*Challenging gender stereotypes.* This can be done by working together with ministries, schools, communities, civil societies, and youth groups in mainstreaming gender equality curricula into formal and informal education that will contribute to challenging cultural and social norms.

*Strengthening of international standards and norms.* A comprehensive framework for responding to violence against women is provided by the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the 1993 Declaration on the Elimination of Violence against Women (General Assembly resolution A/Res/48/104). Furthermore, the United Nations General Assembly has adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice.<sup>121</sup> These provide a good basis for action, but the set of international standards and norms should be kept under review and strengthened where necessary.

The updated Model Strategies and Practical Measures benefitted from the input of Thailand. The drafting was initiated by Thailand and Namibia in 2008 and drafting work took place in Bangkok. The updated Model Strategies (the preamble, and para. 13) note the importance of adopting a systematic, comprehensive, coordinated, multisectoral and sustained approach to fighting violence against women and call for the promotion of the involvement and participation of all relevant sectors of government and civil society and other stakeholders in implementation. Although the Model Strategies predated the adoption of the Sustainable Development Goals, the structure of the document shows that the drafters were aware of the links between violence against women and the different sectors that were subsequently covered by the SDGs. Although many of the provisions deal understandably enough with the improvement of criminal law, criminal procedure and the general operation of the criminal justice system, the entire issue of preventing and responding to violence against women is very much a question of gender equality, as dealt with in SDG Goal 5.

Other examples of links between the Model Strategies and Practical Measures, and the SDGs, include the following:

- para. 19 of the Model Strategies contain references to the importance of health and social services, which is related to Goal 3 on good health and well-being;
- para. 22(a) of the Model Strategies refers to public awareness and public education initiatives and school programmes and curricula, and para. 22(g) refer to the development and use of awareness-raising material in educational institutions at all levels; this is related to Goal 4 on quality education;
- para. 22(d) of the Model Strategies refer to environmental design and the management of public space in order to reduce the risk of violence against women, which is related to Goal 11 on sustainable cities and communities; and
- para. 24 of the Model Strategies refer to the production, possession and dissemination of games, images and other materials that depict or glorify acts of violence against women and children, as well as the role of new information technologies, including the Internet; these can be seen to be related to Goal 12 on responsible consumption and production.

*Development of legislation.* The two UN standards and norms referred to above should be used as a benchmark to review, evaluate or develop domestic legislation and strategies to ensure adequate programmatic responses to all forms of violence against women, particularly domestic violence. Concurrently, these should include correctional reform and training of criminal justice officials that are geared towards gender sensitivity.





*A National Action Plan* on ending violence against women and girls, which includes response and prevention, should be established. Evidence now exists that preventing violence against women is possible in much shorter timeframes than previously imagined.

In response to violence against women, UN Women recommends quality and coordinated services for survivors of violence against women through an 'Essential Service Package' which is grounded in a rights-based and survivor-centred approach with culturally and age-appropriate services that advance gender equality and accountability of perpetrators.<sup>122</sup>

*Coordination* between service providers can be improved by developing a national protocol / standard operating procedure (SOP) that guides case management, referrals, and operation of services between agencies.

*Continued building of expertise* on gender responsive criminal justice is necessary in the police force, public prosecutors, and courts, by ensuring sufficient resources and capacity building for personnel and interpreters.

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<https://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>



<https://asiapacific.unwomen.org/en/digital-library/publications/2018/04/asean-regional-guidelines-on-violence-against-women-and-girls>

A discussion of how to use indicators to measure success and progress in achieving Target 5.2 of the SDGs, see Kate Fitz-Gibbon and Sandra Walklate (1921), *Eliminating All Forms of Violence against All Women and Girls: Some Criminological Reflections on the Challenges of Measuring Success and Gauging Progress*, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 315-332.

*A victim/survivor-centred approach* should be adopted that has at its core the safety, protection, support, privacy, and confidentiality of the victim/survivor, her family and relevant others, and perpetrator accountability.

*Gender-responsive* budgeting initiatives should be implemented to understand where resources are being deployed and where they are needed to better bring about gender equality, for example, in work forces and in education. The budgetary profile of programmes on violence against women should be increased, particularly with respect to victim assistance and urban planning for public safety. In respect of programmes on women prisoners, special attention should be paid to the refurbishment of correctional facilities and the provision of health care services, in line with what is envisaged in the Bangkok Rules.

*Improvement of data on violence against women.* The ASEAN Regional Guidelines on Violence against Women and Girls Data Collection and Use provide clear examples.<sup>123</sup>

## 2.5 Conclusions

Although practitioners, policymakers and the general public around the world are familiar with the saying, 'prevention is better than cure,' the focus of much discussion in criminal policy is on the operation of the criminal justice system. It is also politically popular to stress punitive measures, such as increasing the number of law enforcement officers, giving them greater powers, speeding up criminal procedures so that punishment can be meted relatively swiftly, and increasing the level of punishment itself.

It is clear that the criminal justice system has a very important role to play, in Thailand as well as elsewhere in the world. However, we know from long experience and from research carried out in different jurisdictions that the criminal justice system has its limits, and in many cases, punitive responses cannot get at the root causes of crime.

The framework of the Sustainable Development Goals helps all of us, including those working within the criminal justice system, realize how different sectors of life and society fit together and why decreasing poverty, improving nutrition, providing better access to education and employment, strengthening gender equality and the empowerment of women, protecting the environment, investing in sustainable economic growth and a resilient infrastructure, reducing inequality within and among countries, developing inclusive, safe, resilient and sustainable cities and human settlements, and ensuring sustainable consumption and production patterns – all clearly important goals in their own right – makes our world and our communities safer from crime.

For this reason, Thailand's experience with crime prevention within the context of the Sustainable Development Goals – an experience that goes beyond the traditional realm of drug policy as encapsulated in the concept of 'alternative development' – shows the importance of trying to reach out to vulnerable individuals and vulnerable communities, offering them viable options instead of involvement in crime. The Thai experience derives from the 'sufficiency economy' philosophy developed by His Majesty, the late King Bhumibol Adulyadej. Its success has been shown in the fact that Thailand has succeeded in eradicating the illicit cultivation

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of the opium poppy, and in the fact that the members of vulnerable ethnic minorities in remote mountainous areas have been able to improve their standard of living considerably by taking up a wide variety of livelihoods, from the cultivation of coffee and orchids to animal husbandry and even sustainable tourism.

Thailand's success in dismantling the cultivation of the opium poppy in the northern mountainous regions and in strengthening a culture of lawfulness among the ethnic minorities, moreover, should be seen as an inspiration more broadly for crime prevention within the context of sustainable development also in respect of other forms of crime, and also for example in urban environments. Thailand, as is the case with other countries around the world, still has much to do in preventing ordinary crime and organized crime in its cities and in its countryside, but the lessons are being learned.

The success of crime prevention should not be measured solely by the decrease of specific forms of crime, but by human-centric indicators that measure the overall well-being of individuals and communities, including the social and economic aspects as well as the vitality of the community, such as the fostering of a culture of lawfulness, where the rule of law is not regarded solely as something imposed by the authorities, but is accepted and indeed promoted by the members of the community.

There is no one size fits all model; the lessons have to be adapted to the specific geo-socio and economic circumstances as well as to the priorities of the local communities.



**CRIMINAL  
JUSTICE WITHIN  
THE CONTEXT OF  
THE SUSTAINABLE  
DEVELOPMENT  
GOALS**

**03**

## 3.1 Placing criminal justice within the context of the Sustainable Development Goals

The purpose of the criminal justice system is widely understood to be to punish offenders.

That, however, is too narrow a view and does not capture the many functions that the criminal justice system has in our society. A more complete description of the range of its roles would be to say that the purpose of the criminal justice system is to prevent crime, to identify offenders and bring them to justice, to protect and assist the victims of crime, and to ensure safety and the sense of safety in the community.

Although these views would seem to go along the same lines, there is a considerable difference in what follows in theory, in policy and in practice among the two views. For a number of very good reasons, the criminal justice system is not, and should not be, focused solely on 'punishing' offenders.

First of all, the process of identifying offenders and bringing them to justice should be fair. Persons who are suspected of having committed an offence have the fundamental human right to be treated as innocent unless and until proven guilty, as well as a number of other rights. Persons who have been found guilty continue to be protected by internationally recognized human rights.

Second, we know from long experience and from many studies that perhaps the most widespread form of punishment in the world, imprisonment,

does not have a very strong deterrent effect. People continue to commit crimes even though they know that the expected punishment can be many years in prison. Furthermore, we know that people released from prison tend to be more, not less, likely to commit crimes – imprisonment in many cases fails in one of its most important goals, the rehabilitation of offenders.

Third, the protection of and assistance to victims requires much more than the punishment of the offender. The criminal justice system and process should be designed also with the needs and concerns of the victim in mind, such as his or her right to be informed, the right to be heard and the right to be assisted and protected.

If we are to prevent crime, bring offenders to justice, and help the victims of crime, then we should begin by looking at why people commit crimes in the first place and how to stop them from doing so. The previous section in this book looked at the broad question of crime prevention within the context of the Sustainable Development Goals and of how to identify and deal with the root causes of crime. A central theme of this second section on the criminal justice system is that while society has the right and indeed the obligation to protect its members against crime, this should be done in accordance with a fair, rational, humane and effective manner. The offender<sup>124</sup> should be encouraged to take responsibility for his or her actions, the victim should be recognized as having suffered loss and should be restored to the extent possible to the status that he or she had before the offence was committed, and the community should be made to feel safe. In punishing the offender, the criminal justice system should also aim to the extent possible for rehabilitation of the offender and his or her reintegration into the community. All of this requires a considerable balancing act, with many different decisions to be made at several different stages, including the following:

- the decision on whether to use the formal criminal justice system or divert the case to informal systems of justice;
- the decisions on how to deploy the resources of law enforcement (the identification of priorities in law enforcement);
- the decision to intervene in unlawful conduct, including whether or not to make an arrest;
- the decision to provide legal counsel;
- the decision on whether pre-trial detention is necessary;
- the decision on whether or not to prosecute, and if so, on what charges (and perhaps also in what court);
- the various decisions made throughout the possible court proceedings;
- the decision on the possible sentence and other court orders (including on restitution to the victim);

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This section focuses largely on the various stages of the *process* of criminal justice. A separate issue is the *structure* of the criminal justice system, and in particular on how to achieve, in this respect, Target 16.7 of the SDGs, 'ensure responsive, inclusive, participatory and representative decision-making at all levels.'

An integrated discussion of this issue is provided in Eleanor Gordon, Measuring Peace, Justice and Inclusion, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 243-272.

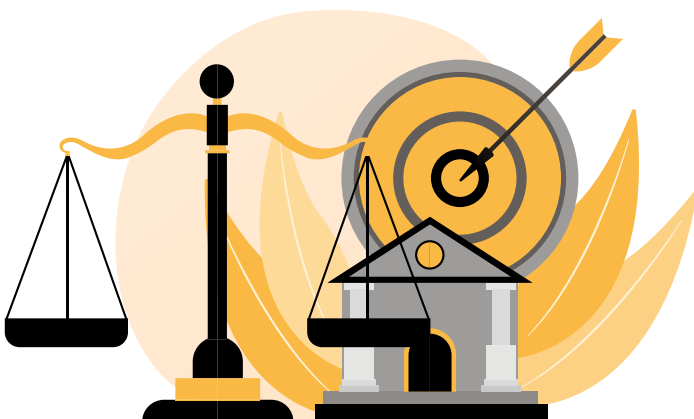
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- the decisions made during correctional treatment;
- the decisions made in preparing the offender for release and reintegration into society; and
- the decisions made after release, for example in response to possible violations of probation or parole.

When criminal justice is placed within the context of the Sustainable Development Goals, it is designed so that, on the level of both policy and practice, it contributes to the overall goal of sustainable development. Those who serve in the criminal justice system should understand that their decisions have an impact on other sectors.

For example, when a police officer decides to arrest a suspect, instead of letting him or her remain at liberty (and perhaps even deciding to close the case with a caution), he or she should be mindful that this may affect the suspect's employment or education. If a judge decides to impose a sentence of imprisonment, he or she should be aware that this decision may remove the only provider from a family, possibly leading to family destitution or even to the break-up of the family, with a knock-down effect on the education and future development of the children.

As already noted, this does not mean that practitioners in the criminal justice system, when making decisions, should give priority to an assessment of the wider impact of the decision on other Sustainable Development Goals. In many cases, the law clearly stipulates that certain action must be taken – an arrest must be made, a sentence of imprisonment must be imposed – even though this may well make it more difficult to achieve other SDGs. What is key is that existing law, policy and practice often provide decision-makers with discretion. This discretion should be used wisely to find the right balance. Examples of how that balance can and has been found in Thailand and in other jurisdictions are provided throughout this section.





## 3.2 Restorative justice and informal justice

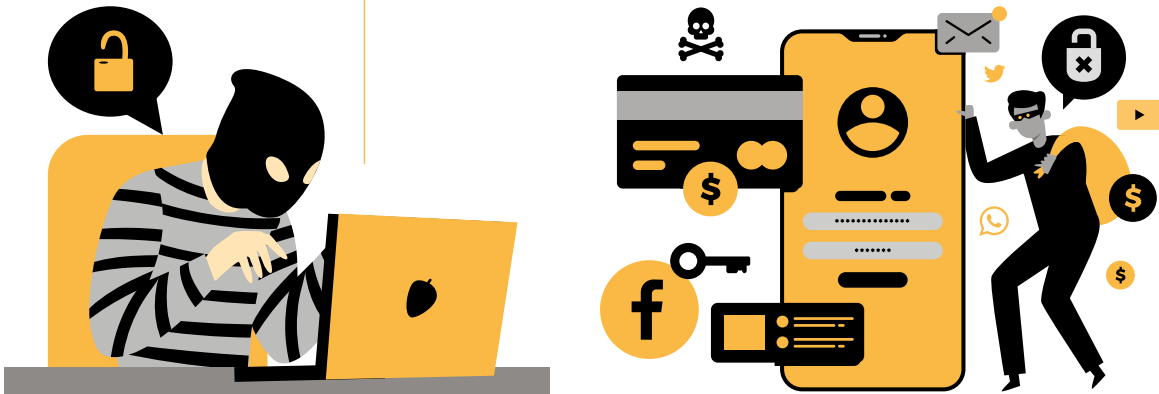
Public discussions on criminal justice tend to focus on the formal criminal justice system and on its four main elements: the police, the prosecutors, the courts and the correctional system. In practice, however, most offences are not dealt with by the authorities that make up the criminal justice system. Indeed, throughout the world, most offences never even come to the attention of the authorities.

Many of these so-called 'hidden' crimes cause harm to victims and society. We need to direct resources towards identifying, apprehending and bringing offenders to justice, and ensuring that victims are heard, assisted and protected. This is also a question of the priorities of our criminal justice system. No one should remain above the law, or beyond the reach of the law. We need to do more to protect vulnerable members in our communities, whether they are women and children who are the victims of domestic violence and feel that they are powerless to report the offender to the authorities or for example victims of trafficking in persons who continue to be exploited in the sex trade or in the labour market.

At the same time, technological and other developments have led to new ways to commit crimes and to new forms of crime, such as environmental crime, industrial property crime and cybercrime. Although they have received less attention than more 'traditional' crime, they can cause extensive damage and injury. They, too, need to be given a higher priority by the criminal justice system. The persons who commit these offences all too often seem to remain beyond the reach of the law.

There remains, however, a large number of offences which are in fact detected, and the offender identified, but which do not enter the criminal justice system, or are diverted from this system, to be dealt with more informally in society.





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In addition to traditional community-based procedures, criminal (and civil) cases can be dealt with by other systems and processes outside of the formal, state-based criminal justice system. For example, in many countries, private security companies may be responsible for the protection and patrolling of much industrial and commercial property, hospitals, airports, ports, parks, and even neighbourhoods. Religious communities and large corporations may have their own justice systems. In the criminological literature, reference is made to “polycentric justice systems” to indicate that several systems may operate in parallel with one another.

The term ‘informal procedures’ may seem odd or even unsettling to some persons. They may associate it with vigilantism, with persons violently taking the law into their own hands. Fortunately, in most countries and situations such vigilantism remains rare, and we need to respond firmly in order to stop people from engaging in such violence.

Many people assume that there has been a strong and consistent trend throughout history and in all countries to replace informal processes with ‘modern’ and ‘civilized’ criminal justice processes. While such a general trend can be seen to have taken place over the course of centuries, the trend has not been a consistent one. During the past few decades, the situation has become more complex. In many countries, traditional community-based informal procedures continue to be in wide use.<sup>125</sup>

In such informal procedures, the offender, the victim and representatives of the local community get together to examine the conflict between the offender and the victim to work out a sustainable solution. Over the past forty years or so, these procedures have been arousing increasing interest. In many countries, governments and communities are making a deliberate effort to encourage their use, generally under the concept of ‘restorative justice.’

When restorative justice programmes have been implemented carefully, the victims tend to be more satisfied with the outcome (and feel safer) than with the outcome of formal criminal justice procedures; the offenders who assume responsibility for their actions have a lower rate of reoffending, and the local community as a whole is strengthened. An additional reason for governments seeking to encourage restorative justice is that such programmes can be implemented at a lower cost than formal criminal justice, reduces the caseload in the formal criminal procedures, and ultimately, can also reduce prison populations.

As noted in the UN Handbook on Restorative Justice Programmes, '[R]estorative justice is a flexible, participatory and problem-solving response to criminal behaviour, which can provide a complementary or an alternative path to justice. It can improve access to justice, particularly for victims of crime and vulnerable and marginalized populations, including in transitional justice contexts. Restorative justice has a great potential to contribute to the achievement of Sustainable Development Goal (SDG) 16 on providing access to justice for all and building effective, accountable, and inclusive institutions at all levels.'<sup>126</sup>

Although the UN Handbook singles out SDG 16, restorative justice processes provide an opportunity more broadly to support implementation of a number of SDGs when responding to individual cases. The flexibility of restorative justice allows the participants (subject, of course, to informed consent) to seek a resolution that can come to grips for example with underlying poverty (Goal 1), health (Goal 3), education (Goal 4), gender equality (Goal 5), employment (Goal 8), and community development (Goal 11) issues.

In Thailand, the concept of 'restorative justice' has roots in tradition and culture and retains an element of community justice in some rural areas. Restorative justice commits the offender to assuming greater accountability for his or her conduct as well as greater sensitivity to the victim. The process is also seen to restore social harmony and healing to the community.

In 2004, the Department of Probation of the Ministry of Justice of Thailand launched restorative justice pilot projects in which probation officers serve as mediators. This process occurred at the pre-sentence investigation stage. Only cases with identified victims were selected and a wide range of offences including domestic violence, offences against life and body, and offences against property were eligible for the process. The mediator from the Department of Probation would invite the victims and the offenders, including their respective supporters, to a meeting. The agreement made during the meeting would be included in the pre-sentence report and considered by the court. In some cases, the court may agree with the agreement and use it as an alternative sanction. All in all, most of the participating victims and offenders reported satisfaction and experienced positive feelings, such as an apology, forgiveness, and sympathy, which may rarely happen in the conventional criminal justice system.

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*Handbook on Restorative Justice Programmes* (2020). Second edition. UNODC, in collaboration with the Thailand Institute of Justice, Vienna, p. 9. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/20-01146\\_Handbook\\_on\\_Restorative\\_Justice\\_Programmes.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf)

Despite the wide understanding of restorative justice in Thailand, however, criminal justice conservatives also here tend to regard major shifts away from the mainstream operation of the criminal justice system as undesirable or 'foreign.' Routinely, criminal cases are processed mostly through the formal police-to-prosecutor channel; almost all cases with sufficient evidence except for minor offences for which a fine is the maximum penalty, will be prosecuted in the courts. What restorative justice offers is an alternative to prosecution, an alternative in which crime and justice problems are solved through mediation between victims and offenders at the community level.

There is thus a reason to keep the viability of restorative justice programmes under review, including ensuring that they operate in an appropriate manner. We need to consider expanding their present use by promoting the training of practitioners and volunteers (including by addressing the possible concerns of the more conservative practitioners and policymakers), and by allocating more resources for restorative justice programmes. Furthermore, we need to consider expanding the existing scope of restorative justice programmes (which in many countries so far have been limited to young offenders) to take in wider groups of offenders and different types of offences that seem suitable for such programmes.

Regardless of whether we are speaking of Thailand or other countries, when we address the concerns of the more conservative practitioners and policymakers, and thereby seeking to secure their support, we need to overcome some of their preconceptions about restorative justice. Broadly speaking, there are three types of preconceptions regarding restorative justice:

- (1) 'crime should be dealt with by the formal criminal justice system';
- (2) 'there is no suitable structure in the community for dealing with these matters;' and
- (3) 'restorative justice is too lenient on the offenders.'

We need to get those conservative practitioners and policymakers to understand that these preconceptions of theirs are, quite often, misconceptions.

The first preconception, according to which crime should be dealt with only by the criminal justice system, may also appear in the form of a somewhat reluctant acknowledgement that restorative justice may indeed be suitable in some cases, but at the most for young offenders and for

very petty offences. This preconception is at times fed by a need that some criminal justice practitioners have to protect their 'turf.' They may, somewhat understandably, see themselves as the professional experts in responding to offences and in dealing with both victims and offenders.

However, what this preconception overlooks is that a large number of cases simply do not come to the attention of the criminal justice system, often for the reason that the victim for a variety of reasons does not want to report the offence to the police. The victim often would, however, want to utilize some more informal procedure for responding to the offence. Community-based restorative justice provides such an option.

Moreover, the preconception ignores the fact that formal criminal justice systems already include an extensive amount of discretion. If there is no 'other' process to which the case may be diverted, the risk remains that the underlying concerns of the victim (for protection, for assistance, for compensation, and for recognition of having been the victim of an injustice at the hands of the offender) are not addressed. There also remains the risk that the structural, societal or behavioural reasons for which the offender committed the offence in the first place are not identified and addressed, and therefore he or she may reoffend.

The second preconception is that there is no suitable structure in the community (or in the society in question) to deal with these matters. This is a misreading of centuries of development. Local communities in practice deal with offences and anti-social conduct on a day-to-day basis, often quite successfully. The informal mechanisms and institutions that exist in different communities and cultures may vary, but it is important to strengthen the community's resilience and capacity to deal with problems on its own. These mechanisms and institutions may be indigenous structures and processes (such as meetings of the community's elders), religious communities, civil society organizations or for example schools and local employers (when the conduct in question is related to the operation of these schools and places of work).

The third preconception is that restorative justice is too 'lenient.' This preconception is misleading for a number of reasons. Whether or not something is lenient should be considered on a case-by-case basis, taking into account all the facts and circumstances, not examined on the abstract level. It should also be seen in line with the overall goals of the criminal justice system, which involve a balance between the protection of the victim and society from crime, rehabilitation and reintegration of the offender, and general prevention. Restorative justice has been shown to promote all of these goals in a wide range of cases.

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The preconception that restorative justice is 'lenient' also shows a lack of familiarity with how such programmes work. Effective restorative justice processes and the outcomes can be quite demanding on the offender.

And finally, the idea of restorative justice as lenient is often based on the erroneous assumption that the public 'demands' harsh punishment (an assumption that often leads to criminal justice policies being driven by penal populism). Experience has shown that when the community becomes involved in restorative justice programmes, or at least becomes more familiar with how they operate and how effective they are, there is extensive popular support for such community-based processes that lead to reparation and active participation.

Community support can be further strengthened by making the public and the authorities of the criminal justice system more aware of emerging evidence that diverting cases away from the criminal justice system can in fact lead to safer communities by maintaining the offender's ties to the community, dealing with the underlying problems facing the offender, and offering him or her real options for rehabilitation and reintegration.<sup>127</sup> Although the impact depends on a number of factors, including the present punitive level of the system and the availability of alternative



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For example, a 2019 study examined diversion in the state of Victoria, Australia over a ten-year period and tracked over one million criminal cases brought against both juveniles and adults. The study concludes that had diversion been used more extensively, a considerable number of offences could have been prevented. The study is available at: <https://link.springer.com/article/10.1007/s41887-019-00040-0>

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*Handbook on Restorative Justice Programmes*. Second edition (2020). UNODC, in collaboration with the Thailand Institute of Justice. Vienna. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/20-01146\\_Handbook\\_on\\_Restorative\\_Justice\\_Programmes.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf)

The first edition was published by UNODC in 2006.

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ECOSOC Res. 2000/14.

processes and services, such evidence should lead to a reexamination of the viability of diversion practices.

In June 2019, the Thailand Institute of Justice hosted a United Nations interregional expert group meeting that reviewed a revised draft handbook on restorative justice programmes, which was subsequently published in June 2020.<sup>128</sup> The meeting brought together experts from around the world who have been directly involved in promoting restorative justice programmes in countries as diverse as Iran and Brazil, Colombia and South Africa, New Zealand and Nepal, in both rural and urban areas.

The participants noted the importance of the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, adopted by the Economic and Social Council in 2000.<sup>129</sup> Since the adoption of the Basic Principles and the publication of the first edition of the Handbook, considerable evidence has been gathered from around the world showing that restorative justice programmes that have been properly designed and implemented have been shown to be quite effective. Some such programmes can work as an alternative to the criminal justice system; cases can be brought directly to them. Most restorative justice programmes, however, work as a complement to different stages of the formal criminal justice process, from the earliest involvement of law enforcement through to the different prosecutorial and adjudicatory stages, and reaching even into the correctional process, as an alternative to imprisonment, as part or in addition to a non-custodial sentence during imprisonment and after release from prison as part of the reintegration of the offender into the community. The participants at the UN meeting in Bangkok noted that restorative justice can, by dealing with individual conflicts, encourage more widely the peaceful expression of conflict, promote tolerance and inclusiveness, build respect for diversity, and promote responsible community practices.

Restorative justice processes have the potential for empowering victims and increasing victim satisfaction in the outcome. They have the potential for changing the conduct of the offender and reintegrating him or her back into the local community as a full and productive member. And they have the potential for strengthening the local community's capacity to deal with problems and for improving the sense of safety in the community. In this way, they can contribute to the implementation of the Sustainable Development Goals.

## 3.3 Victim-sensitive justice

Beginning since the 1960s, there has been increasing recognition that criminal justice systems often fall short of meeting the needs and concerns of victims. For many, this has come as a surprise: after all, the purpose of the entire criminal justice system is to prevent and control crime and thus serve the interests of everyone in society, victims included. However, and regardless of the criminal justice system in question, victims often feel that they have been ignored or even mistreated by police, prosecutors, judges or others working in criminal justice. For example, international victimisation surveys show that in all global regions, including in Southeast Asia, large proportions of victims who reported an offence are dissatisfied with police response, for example because the police did not appear to be interested in the case, did not keep the victim informed, or did not treat the victim properly.

Even if the police do respond, and a suspect is identified, victims may continue to have difficulties or concerns that they feel are not adequately addressed. Decisions on whether or not to prosecute the offence may be made without consulting or even informing the victim. The victim may be called time and again to court, requiring that he or she take time off from work or find someone to take care of the children only to spend extended periods of time in the court waiting room without knowing what is happening and perhaps facing the distress of coming face to face with the defendant. If the case is called, the victim may find that he or she is basically a spectator to a formalized dialogue between the defence counsel and the prosecutor without knowing what role he or she is supposed to play.

At different stages in this process, moreover, the case may be dropped, shunted aside or postponed indefinitely without the victim knowing why and what this would mean to him or her. Only a very small proportion of cases entering the criminal justice system ultimately lead to a decision

by the court on the merits of the case. And even if a final decision is made in the case and the offender is found guilty, the decision may not provide what the victim had been hoping for, such as compensation for any losses caused by the crime and assurance of continued protection against new offences by the same offender.

To take an example, in earlier times, restitution was widely used in the traditional systems of many Asian countries, including Thailand. Today, these traditional justice systems have to a considerable extent been supplanted by common law or civil law systems which provide victims a lesser role and which have in addition a more punitive orientation. Imprisonment has become the predominant sanction. In many Asian countries, the only alternative to imprisonment in practice is a fine, but since many offenders are poor, also this is often converted into imprisonment. Compensation orders or other sanctions that benefit the victim are rarely possible. Finally, few Asian countries have schemes for State compensation to victims of crime to be used when the offender cannot be brought to justice or is found to be unable to pay restitution.

If the victim has concerns about the operation of the criminal justice system, this could well lead to him or her to decide not to involve the police and other authorities in the matter, or, if they are already involved, not to cooperate with them. Should this happen, the case will not even enter into the criminal justice system or its processing may become difficult or even impossible. With the exception of such offences as traffic offences, drug offences and offences against the authorities, which are largely detected directly by the authorities themselves, most offences come to the attention of the criminal justice system through reports from victims (or other members of the public). The police themselves detect only a small minority of offences. Lack of cooperation by victims may seriously hamper the work of the police and the broader work of the criminal justice system.

Victim dissatisfaction is an indication that justice in society is not being served. Victim dissatisfaction may also indicate the existence of problems with human rights, such as with equality before the law and access to justice. Certainly, from the point of view of the Sustainable Development Goals and Goal 16 in particular, it is important to identify what concerns victims have and what would be the best way to respond to these concerns.

In 1985, the United Nations General Assembly adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.<sup>130</sup> It singled out certain issues of particular importance that states need to address. These include:

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General Assembly resolution 40/34, annex.



- the victim's right to be informed of the process;
- the victim's right to have his or her views and concerns presented;
- the victim's right to obtain proper assistance in the proceedings;
- the possibilities of minimizing inconvenience to, and maximizing the protection of, the victim;
- the avoiding of unnecessary delay; and
- the sensitization of criminal justice practitioners to the needs of the victim.

The UN Victim Declaration is not the only guidance provided by the international community in promoting victim-sensitive justice. As noted in section 2.4., Thailand was active in drafting the United Nations Updated Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, which were adopted by the United Nations General Assembly in 2010.<sup>131</sup>

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General Assembly resolution 65/228, annex.

The Victim Declaration has been hailed as a 'Magna Carta' for victims, as a landmark in the work of the United Nations, and, in particular, in the development of national and international victim policy. However, the United Nations Victim Declaration as well as the Model Strategies are not legally binding on the Member States of the United Nations. Their adoption in itself has not changed the legal or practical status of victims anywhere.



The Victim Declaration and the Model Strategies can be implemented only if countries incorporate at least some of their provisions into their domestic legislation and develop mechanisms in order to ensure that the provisions are turned into reality. Some examples of what is being done in different jurisdictions in Southeast Asia and elsewhere in the world include the following.<sup>132</sup>

*The provision of information.* Many jurisdictions are seeking to simplify procedures in the administration of justice and to promote general awareness of the availability of various mechanisms for obtaining justice and redress. Several jurisdictions have experimented with the designation of particular police officers as having responsibility for victim issues in general or for matters relating to particular victims. Some jurisdictions have even established separate victims' affairs offices at police stations, including 'One Stop Crisis Centres' and 'women's desks' intended specifically for women victims of crime.

*The promotion of redress.* Several jurisdictions have established or strengthened restorative justice procedures (dealt with in the previous subsection), in which the two parties immediately concerned, and in some cases, also representatives of the local community take an active part in deciding on the proper outcome. Increasing international attention has been paid to the benefits of this approach to the parties concerned, the community and the State. In this connection, the value has been shown of drawing on indigenous practices and traditions which have often been discarded in efforts at 'modernization' that rely on alien prototypes to the detriment of victim oriented approaches. Returning to, or adapting, indigenous restorative justice approaches can make it easier for the victim to obtain compensation from the offender. Such compensation can include not only financial reparation, but also the public or formal acknowledgement of the wrong done by the offender to the victim and an apology by the offender to the victim.

*Minimizing inconvenience.* A great number of jurisdictions have developed guidelines for judicial and administrative personnel, in which due consideration is given to the balancing of the priorities and needs of the State and the accused against the inconvenience to, and interference with, the personal interests of the victim, for example in connection with arrangements for police questioning.

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For more on UN work on children, victims and gender in the criminal justice system, see <https://www.unodc.org/unodc/en/justice-and-prison-reform/childrensvictimswomensissues.html>

Various jurisdictions have taken different measures in order to minimize inconvenience in connection with the police investigation. For example, if the property of the victim (such as stolen property or soiled clothing)

is required as evidence, photographs can be taken or sworn statements prepared by the investigating officer. The property itself can then be restored to the victim unless a formal objection is made to this. Another example is that the state immediately reimburses the victim for direct expenses involved in assisting the police, -pending the determination of guilt and the final allocation of responsibility for the costs.

One particular source of 'secondary victimization' is the unwarranted negative consequences that publicity may have on the victim. Special attention is being paid in many jurisdictions to the interest that victims may have in avoiding publication of their names and addresses, intimate details of the offence, or their relation to the offender. For example, some jurisdictions have prohibited the publication of details that may lead to the identification of a rape victim.

Several jurisdictions have reviewed their laws and practices in order to ensure that threatening, intimidating or harassing victims and witnesses is regarded as an offence. Many jurisdictions grant certain victims and witnesses special protection by the police under criminal law. Examples are 'anti-stalking' legislation that criminalize the intrusive following or harassment of a person, or the possibility of court injunctions ordering that certain persons refrain from contacting the person in question.

*The provision of support.* In international crime victimisation surveys, victims have been asked whether they had received assistance from a specialised agency. In most countries very few victims report having received any such help. Among the countries covered in the surveys, there was none in which more than ten percent of the victims had received help.<sup>133</sup>

Victims who had not received help from a specialised agency were asked whether they would have appreciated help in getting information, or practical or emotional support. The findings indicate that on average over 40 percent of the victims would have welcomed more help than they actually received. The demand for such services is the highest in urban areas in Asia, and also in urban areas in Latin America and Africa. In these parts of the world, such services are the least developed.

In order to meet this need for support, many jurisdictions are considering the establishment of special victim support programmes. Such programmes have often been established in close cooperation with law enforcement agencies, who as noted are often the victim's first contact with persons of authority. The programmes might provide such services

as crisis centres, shelters for battered women, or more general services for victims of crime and their families. Some jurisdictions have arranged for a social worker or a specially trained volunteer to accompany the police officer when responding, for example, to domestic disturbance calls and when informing family members of a violent crime.

In the experience of these jurisdictions, certain principles should be followed when such programmes are designed. What is first needed is an assessment of whether there is a shortfall between the availability of services and the need. Assessing the incidence and prevalence of victimization cannot be done on the basis solely of data on the number of offences reported to the police; as noted, many offences remain unreported. Police data must be supplemented with, for example, victimization surveys as well as special studies of seldom-reported incidents such as abuse of power, domestic violence and sexual assault.

Once the general need for victim service programmes has been identified, the next step is to define the goals of such a programme more clearly, ensure that it is well organized and appropriately staffed, and is supported by host agencies or governmental authorities. The programme should have the capacity to provide a comprehensive range of services to victims, or if it offers more limited services, such services should be coordinated with other services to ensure continuity of support for victims.

The planning of the programme should ideally take into consideration the views and experiences of representatives from various professions and sectors of society. At a minimum, this should include representatives from law enforcement, prosecution, the medical profession, local government and the mental health profession. The programme should also seek to represent the diversity to be found in the jurisdiction in question – both males and females of varying ages and representatives from the different races, religions, cultures, geographic areas, and economic status groups of the jurisdiction.

The general goal should be the development of a victim service programme that provides the following nine types of services to all victims:

- crisis intervention,
- counselling,
- advocacy,
- support during investigation of an offence,
- support during criminal prosecution and trial,
- support after case disposition,
- training for criminal justice practitioners on victim issues,
- violence prevention and other prevention services, and
- public education (including awareness raising campaigns) on victim issues.

Based upon resources, the expertise of programme staff, existing services institutions, and an analysis of the needs of a jurisdiction, programmes are urged to prioritize the implementation of services and to phase in full services to victims over a period of time. In setting priorities, a systematic approach should be used to take into account the severity of the victimizing event and its impact on the victim.

Twenty-four-hour crisis services should be available to all victims of serious crimes where appropriate and attainable. Such services should be provided by telephone, through on-scene responses, home visits or walk-in services.

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For victims of domestic violence, special provisions must be made available for their protection where necessary, such as safe houses or shelter homes and specialized legal advice.

For a number of offences, including domestic violence, the prevention of repeat victimization can be a powerful way to reduce overall victimization. Research shows that victims of many types of crimes are at greater risk than non-victims of subsequently being a victim of that or another type of crime. Those developing victim assistance programmes should therefore consider their mission as having two parts – restoring the victim to wholeness in the aftermath of the current victimization and providing guidelines for the reduction of the risk of victimization.

Several jurisdictions have focused attention on the role of the police in dealing with victims, since the police are generally the first point of contact that the victim has with the criminal justice system. Among the points stressed in police training in many jurisdictions is that the victim should be treated with respect as a human being, not as just a source of evidence. Assurance should be given to the victim (with due respect to the fundamental importance of the presumption of innocence in respect to the suspect) that what occurred to them is condemned by society and that the community sympathizes with the victim. The responding police officer should reassure the victim that he or she is safe now, that the officer regrets that this happened to the victim, and (when applicable) that what occurred was not the fault of the victim.



Experience has also shown that in addition to on-site crisis intervention and securing emergency medical assistance, police should provide victims with information regarding their rights as well as provide referrals to services and resources that can help the victim. Essential services should include, but are not limited to:

- explanation of police procedures and the investigation,
- information for victims on how to protect evidence,
- accompaniment to emergency medical services where needed,
- providing information to crime victims about their rights, as well as the availability of crime victim compensation and restitution,
- immediate referrals (verbally and in writing) to crises intervention services and community agencies that offer emergency services to victims, as well as information about financial assistance,
- ensuring that the victim is personally contacted by telephone or in person 24 to 48 hours following the initial response to see if assistance has been sought and/or received,
- ensuring that the property of the victim is secured so that personal safety is not compromised as a result of crime,
- establishing procedures to ensure that at least the victims of violent crime are periodically informed of the status and closing of investigations,
- contacting a victim service professional to provide on-site assistance where needed, and
- establishing and enforcing strict property return protocol and procedures (in coordination with prosecutorial offices and the courts).

Some jurisdictions have developed protocols that specify how various professionals should balance their other responsibilities with those of responding to the needs of victims. In addition, an increasing number of governmental agencies and professional organizations are assisting in the development of training programmes that focus on the initial response to victims, as well as responding to their long-term needs. Several professional organizations have organized seminars for example for public prosecutors, judges, senior police personnel and prison and parole officials for a discussion of these issues in order to inform them of the benefits offered by the many victim-specific services. Peer review systems can be used for the sensitization of the police.

Several jurisdictions have established special programmes for more vulnerable groups of victims. Examples are sexual assault crisis centres, shelters for battered women and hot lines to assist victims of hate crime. In some jurisdictions, agencies and organizations dealing with the elderly have been developing special programmes for their focus group.

## 3.4 Gender-sensitive justice

The principle of equality before the law, that all persons are entitled to the equal protection of the law, is a basic tenet of justice. Although it has been enshrined in laws and constitutions around the world, it does not guarantee equality in practice. Persons with a lower status in society, for example those who are members of a vulnerable group such as migrants and members of ethnic minorities, can face particularly difficult problems in accessing justice and recovering from offences.

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<https://www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-gender.html>

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This subsection focuses on the challenges faced by women as victims in dealing with the criminal justice system. More broadly, as is made clear by para. 44 of the Kyoto Declaration, the need for 'gender-sensitive justice' extends also to dealing with women as suspects and offenders. On this, see section 3.9.

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Eileen Skinnider (2018), *Towards Gender-Responsive Criminal Justice. Good practices from Southeast Asia in responding to violence against women*, TIJ, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/49#book/>

Sustainable Development Goal 5 deals with the achievement of gender equality and the empowerment of all women and girls. Women often encounter gender-based discrimination in seeking justice, whether they are victims, witnesses, alleged offenders or prisoners.<sup>134</sup> A typical example of gender-based discrimination is the difficulties faced by women who have been subjected to violence, often at the hands of their partner or family member. The majority of such cases do not come to the attention of the authorities, or if reported, seldom lead to the offender being brought to justice (see subsection 2.4).<sup>135</sup> In 2019, the Thailand Institute of Justice published a report examining the situation in the ten countries belonging to the Association of Southeast Asian Nations (ASEAN), and of good practices in these countries for developing a better response for women who were the victims of violence.<sup>136</sup> The report noted that violence against women is highly prevalent, socially tolerated, and largely unpunished through the Southeast Asian region. This violence against women takes the form not only of physical and sexual violence between partners, but also human trafficking and other forms of violence. The report further notes that when women do report the violence to the police or other authorities, many victims feel that the response of the criminal justice system is like a 'second assault,' in that indifferent or insensitive criminal justice practitioners may seem to minimize or dismiss the violence or even blame it on the victim, a phenomenon referred to as 'secondary victimisation'.

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*Ibid.*, pp. 14-26 and *passim*.

The TIJ study found, for example, that women victims face the following challenges in seeking justice:

- social stigma and cultural views; for example, sexual violence often raises questions of morality and honour, and victim blaming is common. Domestic violence is also widely regarded as a 'private matter' and women victims may be ashamed to turn to the authorities. In some cultures, violence in a relationship is even widely regarded as 'normal' and thus acceptable;
- lack of trust in or fear of the police and the criminal justice system. This is in particular often the case for example among ethnic minority women, sex workers and migrants;
- lack of adequate information about victim rights and remedies. In some countries in Southeast Asia and elsewhere in the world, the law may lack provisions on the rights of victims to assistance and protection; and
- fear of retaliation by the perpetrator and lack of protection and support measures.

The TIJ study referred to above, which examined good practices in Southeast Asia in strengthening gender-responsive justice, outlined a strategy for gender-responsive justice that extended from the formulation of legislation, throughout the criminal justice process, and on to rehabilitation and reintegration.<sup>137</sup> Although the focus was on victims of violence against women, many of the conclusions and recommendations can be seen to have wider application. Among the key elements are the following:





*Crime prevention and early detection.* Violence against women should be effectively criminalised and prohibited by law and the provisions in criminal law as well as civil protection law should be carefully drafted to ensure that victims are in law and in practice eligible for protection and criminal justice. Strategies should be developed to encourage women to report offences, in particular in respect of offences for which there is chronic underreporting. Early detection strategies should ensure that frontline criminal justice providers are able to identify and deal with victims of violence against women.

*The initial contact and reporting stage is critical.* How the victim is treated at the first point of contact (in particular by the police) has an impact on her willingness to be further involved and on the development of a case. This involves, for example, how the privacy and dignity of the victim is ensured. Strategies should be developed to encourage and assist women in submitting and following through with formal complaints. Such strategies may involve, for example, the establishment of dedicated police units, specialized desks and multi-disciplinary police units.

*Safety and protection.* Not only are the privacy and dignity of the victim important factors in her willingness to be involved in the case, but so is her safety and well-being. A number of measures are applied for this purpose in Southeast Asia and elsewhere. Examples include such criminal justice protection measures such as peace bonds, pro-arrest and even mandatory arrest policies, civil protection measures, and the inclusion of various conditions in protection orders. The police officer responding to the report should seek to obtain as much information as possible regarding the situation and the individuals involved.

*Victim support and assistance.*<sup>138</sup> Victims and witnesses may require a wide range of support, including psychological support, counselling, advocacy, medical and legal help as well as shelters, child support, education and job training. Legal assistance, in turn, can be provided through legal aid programmes, lawyer pro bono programmes, or paralegals or non-lawyer advocates.

*Investigations* in particular involving violence against women should be victim-centred, comprehensive and gender-sensitive. The questioning, the collection of the evidence and other investigative procedures should be confidential and gender-sensitive, in particular where consent or identity is at issue. Medico-legal examinations should be arranged only

Over 80 per cent of women prisoners in Thailand are 'doing time' for drug offences. *Women's Pathways Into, Through and Out of Prison. Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Returning to Communities in Thailand*. Thailand Institute of Justice, Bangkok 2021, p. 8. Available at: <https://knowledge.tijthailand.org/en/publication/detail/women-s-pathways-into-through-and-out-of-prison#book/>

Pp. 47-51 of this publication provide examples of the manipulation of women to commit drug offences – or even of 'taking the rap' for their male partner.

when appropriate, and when they are conducted, they should be done in a timely and gender-sensitive manner.

*The pre-trial stage and decisions on prosecution.* Since the participation of the victim is often crucial in successful prosecution, decisions to prosecute and the way the prosecution is handled should consider their impact on the confidence that victims have in the criminal justice system. The primary responsibility for initiating prosecution should be placed on the prosecutor and not rest with the victim.

*The trial stage* can be an intimidating experience to the victim. Consideration should be given to how to create an enabling and friendly court environment. Although legal reasons may require live testimony from, and cross-examination of, the victim and witness, strategies can be developed for reducing the trauma for victims of being interviewed or having to testify in criminal court and addressing the challenges of requiring live testimony and cross-examination. Examples include allowing the victim to testify without having to directly see the accused, allowing video-recorded testimony as the evidence in chief, limiting the frequency, manner and length of questioning, and allowing the victim to be accompanied by a support person. Special measures may be needed to protect the privacy, identity and dignity of the victim.

*Sentencing and corrections.* All relevant information should be made available to the court in sentencing, and the sentence should be commensurate with the serious nature of violence against women. Rehabilitation treatment centre programmes should be considered and delivered only as part of an integrated response to violence against women, and appropriate risk assessments should be conducted in order to ensure that, on release of the offender, there will be no risk to the safety of the victim.

It is not only the perspective of the victim that should be seen through a 'gender lens' in the criminal justice system; the same is true of the perspective of suspects and offenders entering the criminal justice system. The need for such an approach applies already to decisions in society on what conduct should be criminalized. In practice, certain criminalizations are targeted exclusively or disproportionately at disadvantaged women. For example, in Thailand as well as a number of other countries, a high percentage of women offenders are convicted of drug-related offences, often because they have been tricked or coerced into hiding or transporting drugs by a male partner or acquaintance.<sup>139</sup> In some societies where strong patriarchal norms prevail, women and girls may be convicted of

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*Community Service and Probation for Women. Lessons and Recommendations Based on a Study in Kenya* (2016). Penal Reform International, Kenya Probation and Aftercare Service, and the Thailand Institute of Justice, London, Nairobi and Bangkok, p. 2. Available at: <https://knowledge.tijthailand.org/en/publication/detail/34#book/>

See also *Women's Pathways to Prison in Kenya. Life Circumstances, Offending and Criminal Justice Experiences of Incarcerated Women* (2018). Thailand Institute of Justice, Griffith Criminology Institute and Kenya Prisons Service, Bangkok, pp. 6-10 and passim. Available at: <https://knowledge.tijthailand.org/en/publication/detail/45#book/>

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General Assembly resolution 65/229, annex.

'running away' after they have left their homes without permission, often to escape violence by a family member. Furthermore, disadvantaged women often seek to find an income in sex work, which may result in a conviction for prostitution.

Offences by women is often closely related to economic and social disadvantages and to the role of women as caretaker. For example, women surveyed in Kenya serving community service or probation were disproportionately convicted compared to men for offences linked to economic survival and supporting their families. These included income-generating activities such as the brewing and selling of alcoholic drinks without a licence and collecting firewood from forests for cooking. Conviction for these minor offences has a huge impact on women's lives, often perpetuating poverty for them and their families.<sup>140</sup>

As is noted below in section 3.8., Thailand has been active in initiating and drafting the United Nations Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), which were adopted by the United Nations General Assembly in 2010.<sup>141</sup> The offences the women commit tend to be petty, non-violent offences that do not pose a threat to society. Those women who commit violent offences have often done so as a direct or indirect response to violence



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*Women in Detention: Putting the UN Bangkok Rules into Practice. Toolbox on the Bangkok Rules (2017).* Workbook. Penal Reform International in cooperation with the Thailand Institute of Justice, London, p. 26. Available at: <https://knowledge.tijthailand.org/en/publication/detail/16#book/>.

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*Toolkit on Gender-Responsive Non-Custodial Measures (2020).* UNODC in collaboration with the Thailand Institute of Justice, Vienna. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/20-01528\\_Gender\\_Toolkit\\_complete.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01528_Gender_Toolkit_complete.pdf)

as well as of the trauma they have experienced.<sup>142</sup> These are among the reasons why the Bangkok Rules, in line with the gender perspective, encourage the use of non-custodial sentences, in particular for pregnant women and women with dependent children (Rule 64), and provide that when sentencing women offenders, courts should take into consideration as a mitigating factor the woman's caretaking responsibilities, alongside lack of criminal history and the relative non-severity and nature of the criminal conduct (Rule 65).

The UNODC, in cooperation with the Thailand Institute of Justice, has prepared a toolkit on gender-responsive non-custodial measures. While a shift from imprisonment to non-custodial sanctions should be encouraged on grounds of justice, humanity, effectiveness and cost (see section 3.8 below), it would be a misapprehension to regard non-custodial sanctions as gender-neutral. Even such common non-custodial measures as fines, community service and electronic monitoring may have a differential impact on men and women and can be implemented in a way that causes further harm to women offenders or may more easily lead to women offenders being returned to imprisonment for violation of the conditions of the non-custodial sanction or measure.<sup>143</sup>

For this reason, the Toolkit provides guidance on implementing non-custodial measures, and gives examples of best practices at the pretrial, trial and sentencing stage, as well as the post-sentencing stage. The Toolkit also covers the use of non-custodial measures for such special categories of women who are survivors of gender-based violence, foreign national women who are survivors of trafficking and exploitation, and women arrested for drug offences.



## 3.5 Child-sensitive justice

The previous subsection dealt with gender-sensitive justice. Fundamentally, there is a simple reason why this has been increasingly identified throughout the world as an area of concern: the justice system (criminal, civil, administrative and indigenous, i.e. traditional) has largely been created and developed by men, and is largely operated by men, on the implicit – and paternalistic – assumption that their values, perspectives and experiences are shared by all, women included. Now that there is wide awareness of gender-based discrimination in the legal system, the importance of gender-sensitive justice has become established.

Much of the same reasoning lies behind another area of concern, child-sensitive justice, which has been defined as ‘an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views’.<sup>144</sup> Legal systems around the world tend to treat children as lacking capacity, as being too immature to make their own decisions and needing the support and guidance of adults, generally their parents or other legal guardians. Paternalistic decisions are made in cases involving children based on assumptions of what actually is in the ‘best interests of the child.’

Several of the Goals and targets in the Sustainable Development Goals relate to the well-being of children; examples are Goal 1 (poverty); Goal 2 (hunger); Goal 3 (health); Goal 4 (education); and Goal 5 (gender equality).

One of the targets that refer specifically to children is Target 16.2, on ending abuse, exploitation, trafficking and all forms of violence against and torture of children. In parallel to how interest in gender-sensitive justice has been sparked in particular by growing awareness of the prevalence and seriousness of violence against women, interest in child-sensitive justice has increased in particular along with awareness of how children around the world are being abused and mistreated in the family, but also for example in schools, at places of employment, and even in juvenile

Art. 9(d) of the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime; ECOSOC resolution 2005/20.

The concept of child-sensitive justice should be distinguished from the concept of juvenile justice, which deals with children suspected of, accused of, or found to have committed an offence (including a status offence). *Access to justice for children* (2013), Report of the United Nations High Commissioner for Human Rights, A/HRC/25/35, paras. 6 and 7. Available at: <https://digitallibrary.un.org/record/766759>.



facilities that have ostensibly been set up for their protection. Child abuse is a major problem. It can also lead in time to the child engaging in criminal behaviour; there is often an overlap between the roles of victim and offender.<sup>145</sup>

Children come into contact with the criminal justice system as victims, witnesses or suspects. Even for adults, this can be a bewildering experience. For children, it is even more so. They are in general not aware of their rights or how to access justice. Even if they are, they are not prepared to assert these rights and secure access if their parents or other figure of authority tell them (often wrongly) that this cannot or should not be done. They may reasonably fear that they would be subjected to violence or intimidation if they seek their rights. If they have been a victim of an offence committed by their parent or guardian, they may lack the practical capacity to act, since they would not know to whom to turn to serve as their legal representative in such a case of conflict. If the offender is a schoolmate or otherwise belongs to the same immediate social environment, the child may fear being harassed or ostracized by the other children for being a ‘snitch.’

These problems may be aggravated if the victimized child has additional vulnerabilities, such as belonging to a stigmatized minority, is a migrant or lives on the street.

The United Nations has been expanding the international framework that addresses the rights of the child. The primary instrument is the Convention on the Rights of the Child, which entered into force in 1990.<sup>146</sup> Other instruments related to crime prevention and the criminal justice system include the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules; GA resolution 40/33 1985),

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Evidence from Thailand of this global phenomenon is provided in Yodsawadi Thipphayamongkol-udom, Veenunkarn Rujipak and Wanwisa Peng-udom (2019), *Troubled Childhood II: Pathways of Victims of Violence Into the Juvenile Justice System, A Study of Young Persons in Juvenile Vocational Training Centres in Thailand*, Thailand Institute of Justice, available at: <https://knowledge.tijthailand.org/en/publication/detail/troubled-childhood-2#book/>

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GA resolution 44/25, 1989. Available at: <https://www.unicef.org/child-rights-convention>

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These UN standards and norms are available at: [https://www.unodc.org/documents/justice-and-prison-reform/English\\_book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/English_book.pdf)

The TIJ has published a pocket guide on implementation of the Model Strategies and Practical Measures, available at: <https://knowledge.tijthailand.org/en/publication/detail/pocket-guide-on-vac#book/>

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Convention on the Rights of the Child, General Comment No. 5, para. 24.

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See, more generally, *Access to justice for children* (2013), Report of the United Nations High Commissioner for Human Rights, A/HRC/25/35, which not only identifies specific measures that should be taken, but also cites examples of good practice from different countries. Available at: <https://digitallibrary.un.org/record/766759>

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The TIJ has published a report on training organized for Thai law enforcement officials on providing an appropriate, victim-centric and coordinated response to crimes against children along the entirety of the criminal justice process, as well as the mental well-being of the professionals involved. See Jan Kliem (2019), *Child Rights, Ethical Standards and Psychological Analysis for Law Enforcement Training*. Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/crespa#book/>

the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines; GA resolution 45/112, 1990), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (GA resolution 45/113, 1990), the Guidelines for Action on Children in the Criminal Justice System (ECOSOC resolution 1997/30, 1997), the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (ECOSOC resolution 2005/20, 2005), and the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (GA resolution 69/194, 2014).<sup>147</sup>

This growing body of international instruments has succeeded in bringing more attention in different jurisdictions to the development of child-sensitive procedures, including the provision of child-sensitive information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance.<sup>148</sup> Among the key elements in child-sensitive justice are the following:<sup>149</sup>

*Provision of information regarding the rights of children.* The relevant authorities, civil society organizations and the media should seek to provide children, in language they can understand, with information on their rights and how to secure these rights. This can be done through the 'traditional' channels of the publication and dissemination of brochures and other materials as well as presentations in schools, as well as through websites and online. In many countries, help-lines have been established to provide free and confidential counselling. Information should also be provided to parents and legal guardians, as well as to community leaders, mediators and justice practitioners.

*Provision of training.* Persons working with and for children who have come into contact with the justice system, such as police officers, prosecutors, judges, prison staff, lawyers, social workers and health professionals should be provided not only with the information referred to immediately above regarding the rights of children, but also training in how to communicate with children and how to provide them safe environments.<sup>150</sup>

*Establishment of special mechanisms and structures to assist children in obtaining access to justice.* The Committee on the Rights of the Child has sought to encourage Member States to establish an office of a children's ombudsman, a special public authority charged with the protection of the rights of children. Child advocacy or legal clinics, where multiple services for children are available in one location, have been established in many

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Access to justice for children (2013), Report of the United Nations High Commissioner for Human Rights, A/HRC/25/35, paras 27 and 28.

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*Ibid.*, paras 40 - 43.

jurisdictions, often by civil society organizations. Given the special risk faced by children placed in closed institutions of suffering unacceptable deprivation of rights, the UN High Commissioner for Human Rights has emphasized the importance of having in place independent, safe, effective, easily accessible and child-sensitive mechanisms to enable such children to file a complaint regarding their treatment.<sup>151</sup>

*Representing the child in cases of conflict of interest.* The interests of the nominal representative of a child, his or her parent or other legal representative may not be in line with those of the child. The parent or legal representative may even be responsible, directly or indirectly, for violating the rights of the child. In such cases, arrangements need to be made to have an ad hoc legal guardian appointed to represent the child's interest.

*Legal and other appropriate assistance for children.* The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems provide that '[l]egal aid provided to children should be prioritized, in the best interests of the child, and be accessible, age-appropriate, multidisciplinary, effective and responsive to the specific legal and social needs of children.'<sup>152</sup>

*The right to be heard.* Article 12 of the Convention on the Rights of the Child provides for the child's right to be heard and to be taken seriously. Art. 12(1) provides that every child capable of forming his or her own views has the right to express those views freely in all matters affecting him or her.





See Kate Williams and Heddwyn Daniels, Youth Justice as Justice for Children, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 273-294, at pp. 281-282.

At what stage is a child 'capable of forming his or her own views?'

The assumption that apparently continues to prevail is that as long as the child is a minor, his or her parents or legal guardian should be the child's representative in the justice system. However, if a child is to be 'taken seriously,' he or she should have the right to be heard in person. Children deserve the same respect and dignity that is accorded to adults. Also their 'agency,' their right to choose, should be respected. Children may need more support than do adults to develop their capacity to choose and to act. However, children are individuals. Some children mature more rapidly than others, often as a result of the challenges that they must face in their living environment. A case in point would be a child who has had to assume responsibility at a very early age for being the 'breadwinner' for their family due to the absence or incapacity of one or both parents.<sup>153</sup>

*Treatment of children during proceedings.* As already noted, legal proceedings can be an intimidating experience for children and special arrangements may have to be made for the hearing and questioning of them.

In order to respond to the needs of child victims and witnesses, several jurisdictions have assigned the police investigation and prosecution of such cases to special units and allow the use of videotaped testimony or the use of closed-circuit television for the presentation of testimony by such victims in court. Particular care may be needed in protecting the privacy, identity and dignity of the victim.



## 3.6 Law enforcement within the context of the Sustainable Development Goals

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Several examples of how the police approach crime prevention in several developing countries are provided in Heath Grant (2015), *Social Crime Prevention in the Developing World. Exploring the Role of Police in Crime Prevention*, Springer Publishers.

Law enforcement – the police – is almost always the first point of contact for suspects, victims and witnesses in entering the formal criminal justice system. In Thailand as well as elsewhere, the police are entrusted with the broad responsibility for maintaining peace and order in society. In order to fulfil these functions, the police have the authority and the duty to investigate and gather necessary evidence to determine if an offence has been committed and whether a criminal case should be initiated against a suspect alleged to have committed the offence in accordance with criminal procedure. That provides them not only with a vast field of activity, but also the challenge of balancing a wide range of factors in making their decisions within the mandate assigned them under law, established police priorities, and police practice.<sup>154</sup>

The police's priorities include substantive priorities (for example a focus on drug trafficking or other illicit markets, street crime, juvenile delinquency, hate crimes or cybercrime) and geographical priorities (for example, high-crime areas). Whether the police takes a community-oriented (service-oriented) or a problem-oriented approach to policing also determines priorities.

*Community-oriented policing* seeks to improve the accessibility and visibility of the police in the community and to develop closer and more responsive relationships between the police and the public. It involves strategies such as decentralization of policing, team policing, random police patrols, sector policing, the use of community constables, and the establishment of mini police stations (e.g., Japanese 'kobans') or storefront police stations. To be successful, community-oriented policing



Some of the limitations of the 'broken windows' approach, especially in areas populated by marginalized populations, are noted in Diana Rodriguez-Spahia and Rosemary Barberet, *Inclusive and Safe Cities for the Future; A Criminological Analysis*, in Jarrett Blaustein, Kate Fitz-Gibbon, Nathan W. Pino and Rob White (eds.) (2021), *The Emerald Handbook of Crime, Justice and Social Development*, Emerald Publishing, pp. 228-235.

requires a relatively stable society and basic trust between the public and the police.

*Problem-oriented policing*, in turn, seeks to identify problems more specifically, develop an appropriate response and assess the results in a strategic manner. The problems may be related to high-crime areas (in which case they can be identified for example by 'hot spot' mapping) or to high-crime individuals, or the problems may be on the fringes of crime, such as general incivility in public places. Problem-oriented policing is often associated with the 'broken windows' theory of crime prevention: signs of crime (e.g., vandalized property) send subconscious messages that crime can be committed with impunity.<sup>155</sup>

From the point of view of criminal justice within the context of the Sustainable Development Goals, what is important in both community-oriented policing and problem-oriented policing is that police officers are often called upon to help respond to the underlying problems that generate criminal incidents.

Regardless of what priorities the police are assigned, the extensive demands on law enforcement lead inevitably to a situation in which the police will never have sufficient resources or ability to intervene everywhere where there is the risk of crime or civil disorder, nor can the police take primary responsibility for crime prevention in general. As a result, some law enforcement responsibilities have devolved to others in a variety of ways, further affecting police priorities. For example, the responsibility for the 'policing' of extensive areas has shifted in many countries to the private sector; private security companies or 'in-house' security units that operate in factories, educational institutions, shopping malls, hospitals, airports and harbour areas.

Within their remaining mandate, individual police officers are constantly called upon to weigh different factors in deciding when and how to intervene. It is the individual police officer who has to decide whether to stop an individual who he or she believes may be engaged in, or has committed, an offence; this may include decisions (where this is possible under police procedure) to 'stop and frisk' a person. Making such decisions in an appropriate manner requires considerable training and experience. Such decisions also raise the risk of being perceived by members of the community as being biased, in the sense that the decisions may be based on unwarranted assumptions that members of certain ethnic or racial groups or other vulnerable groups are more likely to be involved in crime.

## THE DECISION TO ARREST

With the obvious exception of the decision of an individual police officer to use deadly force, it is the decision on whether or not to arrest a suspect that has the greatest impact on the subsequent operation of the criminal justice system, and on the individual suspect.

In many cases, discretion over whether or not to arrest is narrowed by law or by police guidelines on arrest. In cases of domestic violence, for example, an increasing number of jurisdictions are adopting a policy of pro-arrest or even mandatory arrest. Historically, police officers have tended to be reluctant to intervene in domestic violence, due in part to its sensitive nature and the fact that it generally occurs within the privacy of the home. Studies for example by the Thailand Institute of Justice have also shown that patriarchal attitudes increase the reluctance of male



police officers to arrest a male suspect, often leading to a situation where the victim remains in immediate danger from the suspect. Under a policy of pro-arrest, the presumption is that the police will arrest the suspect when there is evidence of a domestic assault, but room is left for discretion. Under a stricter policy of mandatory arrest, the police is required to arrest the suspect if there is probable cause to believe that violence has occurred.

In other cases, and despite what may be commonly assumed, the decision to arrest is often not an easy one that can be made solely on the basis of the seriousness of the suspected offence as well as the immediate danger that the suspect is seen to present to the victim and to others. The decision generally offers a considerable amount of discretion. Studies around the world have shown that the decision to arrest is influenced by situational and environmental factors, such as the demeanour of the suspect (how he or she interacts with the police), the request of the victim, the race of the suspect and the victim as well as their perceived relationship, and even the composition of the neighbourhood in which the incident occurs.

The decision is also a consequential one. Formally, it initiates the criminal justice process. The suspect is taken into police custody and is thus deprived of his or her freedom. This will lead to a sequence of other decisions such as where to hold the suspect, whether or not to release the suspect pending further investigations, the decision on whether to grant the suspect access to a lawyer, and whether to charge the suspect with an offence.

Informally, the decision to arrest is consequential in that it is seen to lead to the implicit assumption that the suspect is guilty of an offence and deserving of being convicted and sentenced. Simply put, arrested suspects are more likely to be charged, and charged defendants are more likely to be convicted and sentenced.

For these reasons, the training of police officers should emphasize the importance of considering all the relevant circumstances, including what impact the arrest itself may have on the suspect, the victim and their immediate environment and whether other alternatives, such as mediation, restorative justice, or a simple informal caution, would be more appropriate.



## THE DECISION TO DIVERT TO MEDIATION OR RESTORATIVE JUSTICE

Because the police are figures of authority in the community and in most countries are readily accessible, they are often called upon not only to deal with straightforward cases of (suspected) crime, but also in situations where two or more people have a conflict or dispute, for example, over noisy parties, barking dogs, drunken behaviour, or encroaching on someone's property. In Thai society, we often hear persons expressing a demand or a warning which makes reference to the police or the possibility of their involvement, for example in the form of 'Stop doing [whatever the activity is that the person regards as annoying or disturbing], or I will report you to the police ...'

As a result, much of policing involves conflict management. Civil conflicts and minor criminal cases can be dealt with through informal cautions or advice given on the spot by a police officer or at the police station. The police also have an important role as an entry point into mediation or restorative justice processes.

In principle, the police's role in the restorative justice process depends on the type and model of restorative justice programmes as well as on the legal framework governing criminal procedures. The police may be involved in restorative justice programmes by serving as a referral source to restorative programmes – explaining the restorative justice process to victims, offenders, and other participants, participating among many others in a community-based process, facilitating restorative justice processes, conducting restorative justice sessions and conferences, using restorative justice approaches for resolving disputes and conflict at the street level, or playing a role in monitoring the execution of restorative agreements and in reporting breaches.

## **ROLE OF POLICE IN THE NEW MEDIATION SCHEME IN THAILAND**

In Thailand, the enactment of the law on dispute settling mediation in May 2019, with certain provisions on settling the dispute of civil and criminal nature coming into force in November 2019, provides a legal basis for the police in Thailand to play an increased role in restorative justice. The new law introduces a formal arbitration process where a registered mediator can be appointed by the parties to a dispute to facilitate a dialogue or other peaceful means to reach an agreement that is binding on the parties, in lieu of formal adjudication by the justice system.

The new law provides the legal basis for referring eligible criminal cases to a form of victim-offender mediation. The criminal cases that are eligible for the mediation at the investigation stage are those cases involving compoundable offences and some petty offences (usually those that carry a penalty of imprisonment for at most one month, as specified by Criminal Code sections 390-395 and 397) such as causing bodily or mental harm (section 390), an act of violence not amounting to bodily or mental harm (section 391), threatening a person (section 392), insulting a person in his or her presence (section 393) and other petty offences of a predominantly private nature as to be prescribed by the government. The eligible offences also include those which carry a maximum penalty of imprisonment of at most three years as provided by law, which include offences involving causing of death as a result of group fighting, some violent offences and some property offences.



The law mandates that the police notifies the victims and offenders of their rights to request the mediation service as provided by the law. Both the victims and the offenders must freely consent to participation in the process. The decision to refer the cases to arbitration rests upon the senior police officers. Once the facilitator or the mediator is appointed with the consent of the concerned parties, the police is to cooperate with the mediator in order to ensure that he or she has access to the necessary information about the offence for the benefit of conducting his or her duty as the mediator. The law also provides legal safeguards to ensure the confidentiality of the proceedings. Participation of the parties in the arbitration cannot be used as evidence of admission of guilt in a subsequent legal proceeding.

While there is a limit to the type of offences eligible for this new alternative under the law, there is a wide sense of optimism and expectation among criminal justice practitioners and the general public that Thailand is moving in the right direction in addressing the issue of over-criminalization.

## **CURRENT ORGANIZATION OF THE THAI POLICE**

In the Thai context, the police often work closely or in parallel with other state authorities responsible for maintaining peace and order in the community villages, districts or provinces, such as the village heads, the district chiefs or the provincial governors under the Ministry of Interior. In this sense, the police can play a supporting role in identifying problems in the community and in resolving them or making referrals, often (but not solely) to the formal criminal justice process.

The National Police Agency of Thailand can be regarded as a highly centralized agency. The central command headquarters includes the Police Commissioner Office (with divisions and units in charge of providing administrative support such as human resources, finance, research and internal audit), a broad range of central offices charged with specific responsibilities (such as the Office of Inspector-Generals, the Office of the Royal Household Police, the Forensics Office, the Police General Hospital and the Police Cadet Academy) and five specialized operational headquarters (the Central Bureau of Investigation, the Secret Service, the Anti-Narcotics Bureau, the Border Patrol and Immigration). These central headquarters, which is located in Bangkok, sets priorities and deals with personnel management. The organization of the area-based operational headquarters is centralized, and is divided into the Metropolitan Police



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Headquarters and the Provincial Police Headquarters, which oversees the work and performance of the majority of the police personnel in all police stations across the country.

The priorities of the police thus tend to reflect the agenda of the top police officials and that of the government with limited inputs from the communities.

The existing process for overseeing police performance and compliance with the law is therefore embedded within the hierarchical structure where the police supervisors and top police officials can exert significant influence over the process and there is no independent mechanism to handle any complaints of abuse.

There have been some incidents where complaints regarding the conduct of the police have been lodged at the Office of the Ombudsman. The Office has the power to call for concerned government agencies to submit the information required for the Office to ascertain the facts. Where it deems that an abuse of power has occurred, the Office may recommend that the responsible agency takes appropriate action within its mandate.

## 3.7 Prosecution within the context of the Sustainable Development Goals

The role of the prosecutor is often overlooked in discussions on the operation of the criminal justice system. The common assumption is that the prosecutor simply takes a case from the police and presents it in court. In practice, however, the prosecutor has considerable discretion over whether or not to prosecute the charges recommended by the police, whether to return the case to the police for additional investigations, whether to pursue less serious or more serious charges, and what sentence to seek. The prosecutor may have the possibility of choosing in what court to bring the charges, which may affect the possible sentence. Furthermore, in many jurisdictions, the prosecutor has extensive powers to drop charges and stay an ongoing prosecution. In some jurisdictions, the prosecutor may take over a private prosecution.

Some jurisdictions allow the prosecutor to enter into a so-called plea bargain with the suspect on what charges to bring, possibly with the offer to the suspect of a recommendation to the court for a lower or deferred sentence. Such plea bargains are considered to expedite the criminal procedure. However, they have also been criticized for opening the possibility that some prosecutors may deliberately use their powers to charge a suspect with a more serious offence, and then use this charge as leverage to pressure the suspect to plead guilty to a lesser charge.

In making decisions, the prosecutor may consider a variety of factors affecting fairness and justice, such as the seriousness of the offence,

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the strength of the evidence, the culpability of the defendant (moral blameworthiness), the likelihood of conviction, the interest of the victim in having the suspect prosecuted, the defendant's criminal record, the defendant's willingness to cooperate with the investigation or prosecution of others, and the complexity and time required in prosecution and the criminal proceedings. This last factor includes the size of the prosecutor's (and the court's) caseload, the possible need to conserve prosecutorial resources for more serious cases, and the availability of alternatives to formal prosecution.

Because of the importance of the decision on whether or not to prosecute, many jurisdictions specifically require that the prosecutor also take into consideration the circumstances of the suspect and the victim, which allows the prosecutor to consider how prosecution and the possible conviction and sentence would affect, for example, the suspect's education or employment, or the well-being of the family. Several countries in Southeast Asia and elsewhere, for example, allow the prosecutor to consider as an alternative to prosecution the placement of the suspect in treatment for the misuse of drugs or alcohol. To an increasing extent, prosecutors are also being given the possibility to divert suitable cases to restorative justice programmes.





## THE ROLE OF THE PROSECUTOR IN THAILAND

The public prosecutors in Thailand usually do not have the authority to supervise, control or initiate the investigation process. The role of public prosecutors in the investigation of alleged criminal offences is limited to a largely passive one – if and when they deem that the investigation file prepared by the police does not contain sufficient evidence for them to make a decision to prosecute the alleged offender, they can request that the police undertake further investigations; joint investigation is permissible only in criminal cases that fall under the laws on special cases under the responsibility of the Department of Special Investigation (DSI) under the Ministry of Justice, where joint investigation by the DSI officers in charge of the case and the public prosecutors are encouraged.

Lack of direct involvement in the criminal investigation by prosecutors in Thailand may be regarded as a necessary mechanism for checks and balances between the exercise of power between the police and the prosecutors, but it arguably may affect how the public prosecutors exercise their discretion. The general trend is that the public prosecutors are very reluctant to use the power in a way that results in dropping the charge or pursuing alternative options to criminal proceedings.

Some prosecutors in Thailand claim that since they do not have the opportunity to meet or conduct an interview with the suspects, they have limited access to first-hand information about the suspect. The prosecutors have very little information, for instance, about the motivation of the suspects or other circumstances in their lives, since the information contained in the investigation file tends to be gathered with the single purpose of ascertaining that there is a probable cause to believe that the suspect has committed the alleged crime.

This means that any use in Thailand of discretion that results in non-prosecution is considered ‘out of the norm’ and thus risks being subject to complaints by the victims or even allegations of suspected involvement in bribery on the part of the prosecutors. As a result, the role of the prosecutors in Thailand as the ‘gate-keeper’ remains limited. The use of discretionary power by public prosecutors is guided more strongly by the principle of legality than the principle of opportunity which holds that charges for an offence should be brought to court only where this is deemed opportune, for example, in the public interest. Therefore, it is no surprise that the number of non-prosecution orders issued by public prosecutors in Thailand is very limited.



## ROLE OF PROSECUTORS IN RESTORATIVE JUSTICE IN THAILAND

As mentioned earlier, unlike most jurisdictions, prosecutors in Thailand do not play a key role in the operation of restorative justice programmes, since they tend not to exercise any discretion in determining which cases are suitable for diversion to an alternative to formal criminal proceedings.

There is one exception to this. As regards juvenile justice, the introduction of restorative justice programmes is provided for in the 'Act for the Establishment of and Procedure for Juvenile and Family Court' of 1991. The Act allows the prosecutor to drop charges against a young person suspected of an offence if the director of the juvenile training centre recommends such a measure on the condition that this person can change his or her behaviour and become a good person. Moreover, the Department of Juvenile Observation also developed a project called 'Family and Community Group Conferencing' or FCGC in 2003 so as to involve the community in playing a more active role. In conjunction with the provision of the 1991 Act, the FCGC has proved to be an effective restorative process to protect and rehabilitate juvenile delinquents and youth in conflict with the law.

While the recent enactment of the law on mediation allows for civil and criminal cases that meet the requirements to be referred to the mediation process, there is no clear role specified by the law with respect to public prosecutors except that they may decide to postpone the criminal proceedings under their responsibility when they have been notified by the mediation service providers that the mediation process has been formally begun, until and unless it becomes clear that the mediation is unsuccessful.

It seems that information-sharing and training for public prosecutors on the principle of restorative justice is necessary in Thailand if we are to encourage the public prosecutor to play a more active role in promoting restorative justice. In addition, suitable guidelines and measures will be needed to ensure proper mechanism to oversee the use of discretion by public prosecutors and to prevent the abuse of power.

Despite some progress with respect to the new legislation that allows the police to take a more active role in promoting mediation among conflicting parties as an alternative to formal criminal proceedings, more needs to be done in order to raise the awareness and enhance the capacity of the responsible practitioners in the criminal justice system in Thailand to mainstream the concept of prosecution within the context of the Sustainable Development Goals into their work.

## 3.8 Adjudication within the context of the Sustainable Development Goals

Throughout the criminal process, courts take a number of decisions that affect the outcome of the case, and the life of the defendant, the victim and the witnesses. These include:

- decisions on pre-trial detention / bail (and more generally decisions on risk assessment, and criteria used in the preparation of risk assessments),
- decisions on the provision of legal counsel,
- decisions to grant continuances / decisions to expedite the case,
- decisions to seek a social inquiry report regarding the defendant,
- decisions on how to determine the nature and gravity of the offence,
- decisions on ensuring that the interests, concerns and views of the victim are taken as appropriate into consideration,
- decisions on diversion to restorative justice programmes,
- sentencing decisions, including the selection among such options as imprisonment, suspended imprisonment, a community-based sanction, a community treatment order, a financial penalty and a caution, and
- decisions on restitution / compensation.

All of these decision points involve, to different degrees, the exercise of discretion within the framework of law, court practice and policy. In many cases, the judge will have only a very narrow scope of discretion. However,



in a great number of cases judges do have the discretion to take into consideration such factors as the circumstances of the defendant and of the victim. In this way judges have the possibility to consider more widely the implications of individual decisions.

This can be shown by looking more closely at two decision points: the decision on whether or not to release a suspect while awaiting trial, and the sentencing decision.

### ***Decisions on pre-trial detention***

Over one-fourth of the world's prison population, an estimated 3.3 million persons, have not been convicted. They are awaiting trial in remand imprisonment. This proportion varies from jurisdiction to jurisdiction, and in several countries over two-thirds of the total prison population are in pre-trial detention. Globally, the proportion and absolute number of persons in pre-trial detention has been increasing rapidly since the turn of the century.<sup>156</sup>

There are justifiable grounds for using pre-trial detention. The general grounds are the 'flight risk' (the risk that the suspect will not appear for trial), the risk that the suspect will try to tamper with evidence or influence witnesses (in particular the victim of the offence), and the risk that the suspect will continue his or her criminal activity (usually assessed on the basis of the suspect's criminal record and the nature of the offence). These grounds are generally laid down in law, and in many cases the judge does not have very much discretion on these points.

However, in many other cases, there is considerable scope for discretion – and considerable reason to seek to use this scope in a judicious manner. Because of overburdened court dockets, pre-trial detention can last many months, and in some cases years. Some of those held in

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Catherine Heard and Helen Fair (2019), *Pre-Trial Detention and Its Over-Use. Evidence from Ten Countries*, Institute for Crime and Justice Policy Research, London, p. vii. Available at: [https://prisonstudies.org/sites/default/files/resources/downloads/pre-trial\\_detention\\_final.pdf](https://prisonstudies.org/sites/default/files/resources/downloads/pre-trial_detention_final.pdf)

pre-trial detention will be acquitted, and in some cases, the case will be dropped before trial. Should the defendant be found guilty, he or she may receive a non-custodial sentence or a custodial sentence that is shorter than the time already spent in pre-trial detention. In all of these cases, being deprived of liberty while awaiting trial can have major consequences for the individual – interruption (and perhaps even loss) of employment, accommodation, family and community ties, and deterioration in physical and/or mental health.<sup>157</sup> If the suspect has family responsibilities, there can also be major consequences for family members.

Another reason to be concerned about the increasing pre-trial detention population is that it is one of the major causes of overcrowding in prisons. Moreover, in many jurisdictions, pre-trial prisoners do not have access to work, education or training in the institution in which they are being held; their contacts with family members are often limited and they have fewer opportunities for health care.

International human rights standards emphasize the presumption of innocence and that the use of pre-trial custody should be considered only as a last resort. The laws of different jurisdiction do recognize options, such as release on recognizance, release on money bail, or release with conditions such as regular reporting to the police or probation agency, or electronic monitoring.

Studies of how these options are used indicate that there are often systemic factors involved in how the laws on such release options are applied. A sizeable proportion of suspects come from disadvantaged





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The Sustainable Development Goals and Criminal Justice, *Global Prison Trends Special Focus* (2017). Penal Reform International and the Thailand Institute of Justice, p. 3. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>

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Catherine Heard and Helen Fair, *Pre-Trial Detention and Its Over-Use. Evidence from Ten Countries* (2019). Institute for Crime and Justice Policy Research, London, p. vii and 17-22. Available at: [https://prisonstudies.org/sites/default/files/resources/downloads/pre-trial\\_detention\\_final.pdf](https://prisonstudies.org/sites/default/files/resources/downloads/pre-trial_detention_final.pdf)

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*Ibid.*, pp. 23-25.

161

*Ibid.*, pp. 3-4.

162

Nontarat Phaicharoen (2017), *Thailand Weighs Program to Ease Bail Process for the Poor*, 12 August 2017, Benar News. Available at: <https://www.benarnews.org/english/news/thai/bail-change-12082017114658.html#:~:text=In%20Thailand%2C%20the%20saying%20that,as%20criteria%20to%20deny%20bail.>

backgrounds involving poverty, unemployment, homelessness and substance misuse, and/or they are non-nationals or members of certain ethnic or racial minorities, or indigenous people. Studies have shown that persons with such backgrounds are more likely to be arrested and more likely to be ordered into pre-trial detention. A major reason for this is that they are less likely to be able to afford bail<sup>158</sup> and they are less likely to be able to afford competent legal representation. Moreover, suspects with such backgrounds are more likely to be regarded as flight risks.<sup>159</sup>

There are also political and social reasons that have increased the use of pre-trial detention. An important one is what can be termed a 'punitive political culture' which places pressure on prosecutors and judges to show that they are 'tough on crime.' In particular in the wake of widely reported particularly horrific crimes, there is often media pressure in respect of specific cases or specific patterns of offending.

Structural reasons for the wide use of pretrial detention include the lack of time in court to consider all the arguments for and against release, the inadequacy of legal aid, and a simple lack of alternatives to remand while awaiting trial; in many jurisdictions, the main alternative is the posting of a bail bond, but this may be impossible for most indigent suspects.<sup>160</sup>

One of the indicators of progress towards implementation of Goal 16 is the proportion of unsentenced prisoners.

In Thailand, some 17 per cent of the prison population is in pre-trial detention. There has been a significant reduction in this rate since 2000 and Thailand has introduced significant reforms to pre-trial procedures and has adopted (although not to a very wide extent) the use of electronic monitoring as a condition of release while awaiting trial.<sup>161</sup> In 2017, a pilot programme was introduced that seeks to replace very high bail with risk assessments that take into consideration the suspect's age, occupation, and whether he or she has a history of substance abuse, weapon use, as well as any attempts to escape from custody. The pilot programme further includes the monitoring of high-risk defendants using cell-phone GPS systems and ankle bracelets. In addition, the Ministry of Justice set up a 'justice fund' in 2006 to provide loans to low-income people to cover bail and legal costs.<sup>162</sup>

The Thai example shows that measures can be taken to decrease the use of pre-trial detention. Among the measures that could be considered are the imposing of legal constraints on the use of pre-trial detention. The law could specify that pre-trial detention may not be used for certain offences

(those for which the expected sentence would be below a certain level), a limit could be imposed on the length of detention, or the judge could be required to consider alternatives to pre-trial detention and, if pre-trial detention is imposed, provide case-specific justification.

Further measures include providing further training to members of the judiciary, prosecutors and defence counsel on ways to decrease the use of pre-trial detention, and the granting of greater discretion to prosecutors to divert cases away from the criminal justice system, and to judges to impose alternatives to pre-trial detention.

## *The sentencing decision*

The avowed functions of sentencing and of punishment vary from one criminal justice system to the next, from one historical period to the next, and even from one judge (or other judicial decision-maker) to the next.

General attitudes towards the purpose of punishment have evolved considerably over the course of centuries. We know that criminal justice systems around the world have evolved from community-based systems which were based on principles that today would largely be referred to as restorative justice, to state-based systems, which are largely based on monetary sanctions and the use of imprisonment. To varying degrees, early state-based systems also used corporal and capital punishment, often in the spirit of harsh retributive justice ('an eye for an eye').

Philosophers during the so-called Age of Enlightenment in the 1700s assumed that offenders were rational persons. Influential thinkers such as Cesare Beccaria, Jeremy Bentham and John Locke argued that such rational offenders could be deterred by the threat of even modest punishment, measured out in an equal manner, in proportion to the seriousness of the offence. Their ideas emerged at the same time as imprisonment became the bedrock of criminal justice systems, at first in European and North American countries, and gradually around the world.



During the late 1800s and the early 1900s, a variety of factors contributed to a shift in thinking on punishment. Classical criminal justice philosophy had undoubted merits in its attempt to replace corporal and capital punishment with more humane punishments, but criticism was directed at the assumption of classical criminal justice that offenders were, indeed, rational persons. A new science, criminology, started studying what causes crime. The first criminologists (many of them with medical training) suggested such causes of crime such as inherited characteristics, mental illness or traumatic childhood experiences. Beginning during the early 1900s, criminologists with a more sociological orientation joined in the search for causes of crime, and society-based factors such as bad companions, poor living conditions, dropping out of school and inability to find work were added to the mix. The fundamental assumption, however, remained in line with medical thinking: once the cause of crime has been identified, we can do a proper diagnosis and apply the proper treatment. We can rehabilitate offenders, and in particular young offenders. The 'punishment' – which many preferred to refer to as 'treatment' – should fit the offender (and not, as under classical criminal justice, fit the offence). Rehabilitation became a central goal of criminal justice.

During the 1960s and the 1970s, confidence in rehabilitation as a basis for sentencing began to erode in some countries, where new sentencing principles were adopted with a stress on 'just deserts'<sup>163</sup> and general prevention, and new types of sentences or combinations of sentences were introduced.

None of these different waves in the approach to criminal justice totally replaced earlier ones. Retribution remained a strong, almost visceral response, supported by large segments of the public. Also the idea that the punishment should be in proportion to the seriousness of the offence has wide support – but so does the idea that offenders can and should be rehabilitated.

If we try to analyse these different purposes, we can distinguish between two utilitarian purposes (general and special prevention), one absolute purpose ('just deserts'), and restorative justice.

The general preventive function of punishment is to deter people in general from committing offences and to increase awareness and acceptance of norms in society. By punishing one person for theft, for example, the criminal justice system is 'sending out a message' to the entire population that theft is wrong, and persons who commit this wrong will be punished.

The 'just deserts' approach (see immediately below) argues, essentially, that the punishment should be more or less mechanically commensurate with the seriousness of the crime.

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In 118 countries and territories, prison occupancy levels are higher than capacity (100%), and in 11 countries, the levels are higher than 250%. *Global Prison Trends 2021*. Penal Reform International and Thailand Institute of Justice, London and Bangkok, pp. 9-10. Available at: <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>



The special (individual) preventive function of punishment, in turn, focuses on the person being punished. It is seen to work in three ways: through deterrence, rehabilitation or incapacitation, or a combination of these.

The absolute purpose of punishment, 'just deserts' (sometimes referred to as 'retribution') has no forward-looking, utilitarian purpose. Instead, it focuses on the offence itself, and seeks proportionality between the offence and the punishment. Quite simply, according to this approach, the purpose of punishment is not to make the offender a better person, or to serve as an example to others, but simply to punish him or her for having committed the offence.

Throughout the world, imprisonment has solidified its position as the main punishment imposed for medium level and more serious offences, and as the 'default option' against which other sanctions are compared. (It is for this reason that community-based sanctions are commonly referred to as 'alternatives to imprisonment'.) Imprisonment would seem to fulfil essentially almost all of the above purposes of punishment (with the exception of restorative justice) – it is widely believed to deter both the person sentenced from repeating his or her offence and to deter other members of the community; its use is presumed to have an educational function (by increasing awareness and acceptance of norms); the time spent in prison can be used to rehabilitate the offender, and it incapacitates the offender, by placing him or her behind locks and bars, thus presumably keeping the rest of the community safe. As for just deserts, the calculation of sentences of imprisonment in months and years makes proportionality relatively easy to allocate – at least in theory.

This assumption that imprisonment fulfils the various functions of punishment and thus is suitable for medium level and more serious offences has resulted in a general growth in the number of prisoners. However, societies around the world are becoming increasingly aware that the use of imprisonment has significant social and economic costs. With the increase in the number of prisoners, prisons are becoming overcrowded.<sup>164</sup> Since the prisons themselves are often outdated, hundreds of thousands of prisoners around the world are being 'warehoused' in poor conditions that impair their physical and mental health, and make rehabilitation programmes difficult. As noted by the UNODC,

'The majority of prisoners worldwide come from economically and socially disadvantaged backgrounds. Poverty, unemployment, lack of housing, broken families, histories of psychological problems and mental illness, drug and alcohol abuse, domestic violence are realities that are likely to be found in most offenders' lives.

Many are in prison for non-violent or minor offences. By using prison as an answer to all offences committed by such individuals, not only is the issue of safety in the community not addressed in any sustainable manner, the cycle of impoverishment, loss of jobs, weakening of employment chances, damage to relationships, worsening of psychological and mental illnesses and continued or increased drug use is perpetuated. There are also many health risks associated with overcrowded prisons, including the spread of infectious disease, such as tuberculosis and HIV. In many countries violence is a common element of prison life, especially where there is overcrowding.<sup>165</sup>

The growing realization of the high costs of imprisonment has been particularly evident in recent years, and the overcrowding of prisons has become a serious problem around the world, including in Thailand, which has one of the highest per capita rates of prisoners in the world – the absolute number of prisoners in July 2021 was about 310,000, which corresponds to 445 prisoners per 100,000 in population.<sup>166</sup>

Many criminal justice practitioners and academics have for years called attention to the general failure of prisons to rehabilitate, and to the fact that imprisonment on the contrary appears to increase the risk that the offender will commit new offences. The present interest in ‘decarceration’ appears to have been driven by a change in argumentation: the focus is turning to a cost-benefits calculation, to the fact that the money being invested in prisons can be used more effectively in prevention or in other aspects of criminal justice. This is an argument that policymakers (especially in an era of financial austerity) apparently find much more persuasive than arguments focused on the negative impact that imprisonment may have on offenders.

It can be argued that the position of imprisonment as the main punishment for medium-level, and even for more serious, offences is not and should not be self-evident. Other forms of punishment could just as well be used, as long as they can be regarded as credible and as fulfilling whatever the function of punishment is seen to be in society. Imprisonment is not the only type of punishment, nor necessarily the best type of punishment, especially (but not only) in the case of juveniles and disadvantaged groups such as drug users and the mentally ill. Imprisonment should be reserved for the most serious offences and the most dangerous offenders. In other cases, deterrence, education, rehabilitation, just deserts and even incapacitation can be promoted by other types of punishment, at a significantly lower social, human and economic cost. It is for this reason

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Custodial and Non-Custodial Measures. *Alternatives to Incarceration Criminal Justice Assessment Toolkit* (2006), UNODC, New York, p. 7. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/cjat\\_eng/3\\_Alternatives\\_Incarceration.pdf](https://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/3_Alternatives_Incarceration.pdf)

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Due largely to two royal pardons issued at the end of 2020, this is a decrease from September 2018, when there were 360,000 prisoners, which gave a rate of 526 prisoners per 100,000 in population. Roy Walmsley, *World Prison Population List, Twelfth Edition* (2019), World Prison Brief and Institute for Criminal Policy Research, London. Available at: [https://www.prisonstudies.org/sites/default/files/resources/downloads/wppl\\_12.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_12.pdf)

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General Assembly resolution 45/110, annex.

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National reports on the use of non-custodial sanctions in the member states of the Association of Southeast Asian Nations (ASEAN) are provided in the following:

*The Seminar on Promoting Community-Based Treatment in the ASEAN Region. Seminar Report* (2015). Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/2#book/>.

*Report on the Second Seminar on Promoting Community-Based Treatment in the ASEAN Region. Seminar Report* (2016). Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/3#book/>; and

*Report of the Seminar on Developing Standards for Community-Based Treatment in ASEAN: Focusing on Treatment for Drug Use / Dependence Offenders* (2017). Thailand Institute of Justice, Bangkok. Available at: <https://knowledge.tijthailand.org/en/publication/detail/4#book/>

that the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)<sup>167</sup> were drafted.

The Tokyo Rules were adopted in 1990 in the growing conviction that non-custodial (community-based) sanctions and measures should in many cases be preferred over imprisonment, since they are more proportionate to the offence committed by the offender and offer better possibilities for the rehabilitation and reintegration of the offender into society. Following the adoption of the Sustainable Development Goals, we need to be mindful that decisions in the criminal justice system do have consequences in different sectors of life and society, and that the decision-maker could and should consider whether the decisions could be made differently in a way that promotes sustainable development more broadly, while still ensuring that the purposes of criminal justice are met. Judges and judicial decision-makers should exercise what discretion they have in making their decision, to weigh whether or not to opt for a custodial or a community-based sentence.<sup>168</sup>

Although sentencing should be based on legally defined and rational grounds that focus on the seriousness of the offence and the dangerousness of the offender, the reality in countries around the world has been that the most serious sanction, imprisonment, tends to be imposed more often on members of vulnerable populations, such as racial and ethnic minorities and migrants. Because of our over-reliance on prison, in many communities, a considerable number in particular of young men belonging to such vulnerable groups are in prison or have been in prison and have to deal with the stigma of being ex-prisoners (a particular difficulty in seeking employment) and possibly also the deprivation of certain rights, such as the right to use public housing.

Having served time in prison deepens their problems and contributes to their marginalization. This in turn, breeds poverty (hampering progress on **Goal 1** of the SDGs), which is one of the major root causes of crime and violence. Marginalization also often results in poor nutrition (**Goal 2**), ill health (**Goal 3**), illiteracy (**Goal 4**), and other challenges to sustainable development.

Because non-custodial sentences and measures do not restrict the liberty of offenders as much as imprisonment, they allow offenders to continue their responsibilities as a family member and a member of the community, and to continue their education (**Goal 4**) or employment (**Goal 8**) without interruption. Moreover, offenders can continue to utilize various social welfare and health services (including substance abuse programmes)

For example, a major study in the United Kingdom published in 2019 concluded that replacing short sentences of imprisonment (less than six months) with community-based sanctions reduced reoffending by 13%. See <https://www.gov.uk/government/news/justice-secretary-urges-evidence-led-approach-to-cut-crime>

which are easier to provide in the community than in custodial environments (**Goals 1 and 2**).

Further reasons for the promotion of non-custodial sentences and measures are that they help to reduce inequality (**Goal 10**) and strengthen the inclusiveness, safety, resilience and sustainability of the community (**Goal 11**).

Although it may seem counterintuitive to say that greater use of non-custodial sanctions and measures increases the safety of the community, recent research has shown this to be the case. The UNODC has noted that

... in many countries, offenders in prison learn more about how to commit further crimes than they do anything else. Often on release they have no more skills than they had when they were incarcerated and therefore often go back to offending. This leads to a cycle of release and imprisonment, which does nothing to reduce overcrowding in prisons or to build safer communities.

Studies that examined data on how imprisonment increases the rate of re-offending have concluded that using community-based sanctions instead of short-term sentences of imprisonment can indeed reduce the number of future offences, and in this way increase public safety.<sup>169</sup> It is clear that this effect depends on a number of variables, in particular the sentencing practice in the jurisdiction in question. In jurisdictions which already make extensive and effective use of community-based sentences, the effect of such a shift would presumably be less than in a jurisdiction which makes heavy use of imprisonment. However, the results of the study do at least draw attention to the periodic need to reassess the prevailing approach to sentencing.



At the same time, allowing the offender to remain in the community provides greater opportunities to enter into substance-abuse programmes, seek employment and find suitable housing, all of which could further contribute to a decrease in the rate of re-offending.

There is a strong interest throughout the world in replacing imprisonment with community-based sentences. The repeated resolutions and declarations of the United Nations Congresses on this subject, adopted by consensus, show that all Member States are agreed – at least in principle – on the need to reduce imprisonment and to expand the use of effective community-based sentences. Even so, when the United Nations moved to adoption of the Tokyo Rules in 1990, and asked Member States to provide data on the status of community-based sentences, many replied that appropriate community-based sentences are simply not available, or that the available community-based sentences are used far less than they might be or, when used, are used as substitutes for other community-based sentences and not for imprisonment (the so-called net-widening effect).

The main reasons for the inconsistency between stated goals and actual practices are to be found in law, sentencing constraints, policy, resources and attitudes. These problems cannot be dealt with in isolation from one another. The use of community-based sentences can be expanded effectively only if all problems are recognized and dealt with. The steps that should be taken on different levels and by different stakeholders involved include the following.





*The law should clearly provide an adequate range of community-based sentences.* In most jurisdictions, the courts can impose only those sentences that are expressly provided in statutory law. In these systems, the first step must be to ensure that statutory law provides for an adequate range of community-based sentences and outlines the procedures and conditions for their imposition and implementation. Another statutory measure would be a requirement that the court justify why it imposes a sentence of imprisonment rather than a community-based sentence. Such a measure would compel the court to consider why none of the available community-based sentences are appropriate in the case at hand.

*Substantive criminal law should be reviewed in order to ensure that it is in line with the fundamental values of society.* Changes in society are often reflected in changed attitudes towards certain behaviours. A review of criminal law may show that existing penal provisions on certain offences were passed at a time when these offences were deemed particularly reprehensible; in the light of present attitudes, a community-based sentence may well be deemed more acceptable and appropriate than imprisonment. The public attitude towards the use of imprisonment may have changed; in many countries, its 'penal value' has increased. Where imprisonment at one time was imposed in decades, it may now be imposed in years; where it was once imposed in years, it may now be imposed in months or even in weeks. At the lower end of the scale of offence seriousness, the possibility of imprisonment could be eliminated entirely through decriminalization and depenalization.

*Key stakeholder groups should be provided with information and training on the functions and use of community-based sentences.* Even if the law provides for a wide range of community-based sentences, and even if the courts have clear guidelines on how these sentences should be imposed, community-based sentences will not be used as long as the courts - and other influential groups of stakeholders - do not consider them effective and appropriate in dealing with offenders. The preamble to the Tokyo Rules lists as such key groups law enforcement officials, prosecutors, judges, probation officers, lawyers, victims, offenders, social services and non-governmental organizations involved in the application of community-based measures.

*Criminal justice decision-makers and representatives of community-based service agencies should work in closer cooperation in order to identify and respond to the needs of offenders, in particular members of vulnerable populations, such as racial and ethnic minorities, alcohol and drug users, the homeless, and foreigners.* Merely sentencing an offender to a community-based sentence (unless the sentence itself addresses underlying needs, such as with a community-based substance treatment order) will do little to help the offender in responding to challenges ranging from health and mental health issues, lack of education and vocational training, lack of a permanent home, to difficulties in forming stable relationships. For this reason, the various agencies as well as appropriate non-governmental organizations (including peer-support groups) and even the private sector should find ways of working in closer cooperation with criminal justice agencies, and of doing outreach work towards offenders.

*Secure a steady resource base for personnel, training and facilities.* The success of community-based sentences in practice depends on the availability of resources for their implementation. Just as imprisonment requires the prison facilities, personnel and a prison programme, for example probation requires a suitable infrastructure for the arrangement of supervision and community service requires not only a suitable organization but also designated places of work.

The most efficient route to increase the credibility of community-based sentences and thus promote their use is that the state and local community provide the necessary resources and financial support for the development, enforcement and monitoring of such sentences. Particular attention should also be paid to the training of practitioners responsible for the implementation of the sentences and for the coordination between criminal justice agencies and other agencies involved in the implementation of these sentences in the community.

*Ensure a continuous research component in planning.* One area of concern relates to the possible dysfunction of wider use of community-based sentences, in particular the so-called net-widening effect. Statistical evidence from various countries clearly suggest that community-based sentences are either used far less than they might be or, when used, are often used as substitutes for other community-based sentences and not for imprisonment. In addition, when suspended sentences are pronounced, the period of imprisonment imposed may be longer than if an unconditional sentence to imprisonment were to be imposed. In the event of activation of the original sentence, the offender can therefore go to prison for longer than would otherwise have been the case.

Such dysfunctions of the greater use of community-based sentences may detract from the benefits, or even prove to be so serious that rational criminal policy is endangered. Research has an important role in identifying and suggesting ways to overcome these challenges.

In regard to sentencing, research is needed on the factors considered by the sentencing judge or tribunal. Unexpected factors may have a decisive influence on the sentencing process. The little research that is available has suggested, for example, that some judges will not consider community-based sentences that require a social enquiry report. Further in regard to sentencing, it is possible that the imposition of community-based sentences can be made on discriminatory grounds, as has been argued to be the case with sentencing to imprisonment.

One area of research that is related to is research on sentencing concerning attitudes. Certainly, the attitudes of the sentencing judge affects his or her decisions on which of the available options should be selected. As important as the attitudes of the sentencing judge are the attitudes of other persons involved in the implementation of community-based sentences. In particular, the degree to which a community-based sentence is accepted by professionals as well as by the community influences the probability that this sentence will actually be applied.

Research on changes in attitudes (showing the causes and extent of such changes) might be of assistance in the planning of the introduction or expansion of community-based sentences. A key factor in the success achieved with the use of any community-based sentence is the extent to which the policymakers, courts, other practitioners and agencies and the community are provided with evidence-based data on the effectiveness of this sentence.

## 3.9 Corrections within the context of the SDGs

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Roy Walmsley, *World Prison Population List*, Twelfth Edition (2019), World Prison Brief and Institute for Criminal Policy Research, London. Available at: [https://www.prisonstudies.org/sites/default/files/resources/downloads/wppi\\_12.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/wppi_12.pdf)

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Royal pardons granted in August and December 2020 led to a significant decrease in the Thai prison population, from some 360,000.

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[https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field\\_region\\_taxonomy\\_tid=All](https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All) and <https://worldpopulationreview.com/country-rankings/incarceration-rates-by-country>

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*State of crime and criminal justice worldwide. Report of the Secretary-General* (2015), A/CONF.222/4, para. 38. Available at: [https://www.unodc.org/documents/congress/Documentation/A-CONF.222-4/ACONF222\\_4\\_e\\_V1500369.pdf](https://www.unodc.org/documents/congress/Documentation/A-CONF.222-4/ACONF222_4_e_V1500369.pdf)

According to the most recent data, the world's prisons hold some 11,000,000 persons, either as pre-trial detainees (remand prisoners) or as convicted and sentenced offenders.<sup>170</sup> The largest prison populations are to be found in the United States (some 2,100,000 prisoners), China (1,650,000 prisoners) and Brazil (690,000 prisoners). Thailand currently (1 July 2021) has the sixth highest prison population in the world, at 310,000. When calculated as a prisoner rate, in other words how many prisoners there are per 100,000 people in the population, Thailand is in the fourth place, with 445 prisoners per 100,000.<sup>171</sup> The global average is 155 prisoners per 100,000.<sup>172</sup>

The report of the Secretary-General to the Thirteenth United Nations Congress notes that

'At the global level, prison population rates have been stable over the past decade. The size of the prison population increased approximately 10 per cent since 2004, reaching more than 10.2 million people in the period 2011-2013. However, that growth was offset by the equally steep growth of the world population over the same period, thus resulting in stable average rates at the global level (148 per 100,000 in population in the period 2011-2013).'<sup>173</sup>

There are diverging trends at the regional level. While prison population rates are declining in all African subregions, North America and Western and Eastern Europe, they are increasing in Central and South America and the Caribbean, in South-East and West Asia and in Northern and Southern Europe. There continue to be large differences between subregions and individual countries in terms of prison population rates,

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Ibid., para. 39.

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International Centre for Prison Studies. Available at: <http://www.prisonstudies.org/about-wpb>

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This essential aim of prisons as being the reformation and social rehabilitation of prisoners is also enshrined in art. 10(3) of the International Convention on Civil and Political Rights.

which varied from under 100 prisoners to more than 600 prisoners per 100,000 in population in the period 2011–2013.<sup>174</sup>

These patterns may hide some considerable shifts over time. For example, Thailand had a prison population of 250,000 in 2002 (400 per 100,000 in population), but through greater use of pre-trial diversion and early release for drug addicts, this amount has been dramatically reduced to 160,000 by August 2005 (250 per 100,000). More recently, however, the trend has reversed, with an increase to 210,000 prisoners in 2010, 315,000 in 2014, and the 310,000 referred to above (320, 470 and 445 per 100,000 in population, respectively).<sup>175</sup>

The bottom line is that a significant part of the world's population is being held in prison.

Prisons have many functions. Their operation is intended as a general deterrent to offending. Offenders deemed as dangerous to the community may be sentenced to lengthy terms, up to life imprisonment, in order to incapacitate them. The fundamental function of prison, however, is rehabilitation: the individual offenders are sentenced to prison so that they can be educated, prepared for employment, provided with health and mental health services, rehabilitated and returned to society.<sup>176</sup> After all, the large majority of persons who enter prison will leave and return to their community in a few months or a few years, and it is in everyone's interest that they can do so as law-abiding, self-supporting and productive members of society.



There, however, lies the key problem. Prisons around the world are overcrowded, over-burdened, and lack resources. In many countries, their role has in effect become to 'warehouse' prisoners, keep them in line and (relatively) out of trouble until it is time to release them. When prisons are overburdened, it becomes difficult to offer prisoners the individualized programme that they would need to become rehabilitated and, in time, fully reintegrated into society. Furthermore, when prison staff is over-stretched, prisoners are heavily influenced by the criminogenic impact of other prisoners, learning new criminal skills, hearing about new criminal opportunities, and adopting a criminal ethos and way of life.

With the decreasing ability of prison staff members to engage constructively with prisoners, there is the risk that prison regimes may become more punitive, with an emphasis on discipline and severe punishments for transgressions. An even worse development is that in some jurisdictions, control of many prisons has been in practice relinquished to the prisoners themselves, leading to a situation where criminal gangs lay down the rules, often exploiting disadvantaged and vulnerable prisoners.

The international community has sought to distil good penitentiary practice and internationally recognized human rights into standards and norms that should guide corrections in all countries around the world. The first United Nations standard and norm on criminal justice was the Standard Minimum Rules on the Treatment of Prisoners (the SMRs), adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, formally approved by the Economic and Social Council in 1957. The SMRs have become an important set of guidelines for the treatment of prisoners and is a key point of reference in designing and evaluating corrections laws and policies all over the world.

Building on many decades of experience in implementing the SMRs in different jurisdictions around the world, the set of rules were revised from 2012 to 2015, and the updated version of the SMRs was adopted by the UN General Assembly in December 2015. The Rules are now known as the 'Revised United Nations Standard Minimum Rules for the Treatment of Prisoners' or the 'Nelson Mandela Rules' in honour of the legacy of the late President Nelson Mandela of South Africa.

After the adoption of the original SMRs in 1957, they have been supplemented by additional standards and norms:

- Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners (ECOSOC resolution 1984/47, 1984)
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (GA resolution 43/173, 1988)
- Basic Principles for the Treatment of Prisoners (GA resolution 45/111, 1990)
- Kampala Declaration on Prison Conditions in Africa (ECOSOC resolution 1997/36, 1997)
- Status of foreign citizens in criminal proceedings (ECOSOC resolution 1998/22, 1998)
- Arusha Declaration on Good Prison Practice (ECOSOC resolution 1999/27, 1999)
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (GA resolution 65/229, 2010)

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*The Sustainable Development Goals and Criminal Justice, Global Prison Trends. Special Focus (2017)*, Penal Reform International and the Thailand Institute of Justice. London and Bangkok, p. 2. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>

See also *Global Prison Trends 2021*. Penal Reform International and Thailand Institute of Justice, London and Bangkok, pp. 10-11. Available at: <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

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*The Sustainable Development Goals and Criminal Justice, Global Prison Trends. Special Focus (2017)*, Penal Reform International and the Thailand Institute of Justice. London and Bangkok, pp. 2-3. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>

In addition, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty contain provisions related to juveniles in custody.

By implementing the United Nations standards and norms and responding to special needs within prisons, we can uphold not only the principle of equal access to justice, but correctional administrations can, through their own efforts, promote other elements of the 2030 Sustainable Development Goals. Examples can be taken from Goal 1 (poverty), Goal 2 (hunger), Goal 3 (health), Goal 4 (education) Goal 5 (gender equality), and Goal 8 (full and productive employment).

## CONNECTIONS BETWEEN POVERTY (GOAL 1) AND IMPRISONMENT

Throughout the world, prisoners come overwhelmingly from poor socio-economic backgrounds. Many prisoners were homeless at the time that they were arrested for their offence; many have even said that they had committed their offence in order to get shelter. Persons may also end up in prison more or less as a direct consequence of their homelessness – being a ‘vagabond,’ ‘loitering,’ being ‘idle and disorderly’ or being guilty of ‘public intoxication’ are arrestable offences in some jurisdictions. The offence in question may also be related to an attempt to earn a living, for example, by vending.<sup>177</sup>

Poverty may lead not only to prison in the ways noted above; it may also increase the likelihood that a suspect will be held in pre-trial detention. Many jurisdictions require that persons awaiting trial post a cash bail as a condition for being released from custody, as a guarantee that they will appear at future court hearings. The judge generally has considerable discretion in setting the size of the bond. In many African countries, this bail may be less than USD 100; for example in the United States, in turn (depending on the jurisdiction, the individual case and the defendant’s record) it may be USD 500 for a non-violent petty misdemeanour (such as public intoxication) and tens of thousands of dollars – or more - in the case of a felony.

Poverty may also lead indirectly to prison. This occurs in particular when poor people are fined for a (minor) offence, and should they fail to pay the fine (or the related court costs), this may be converted into a sentence of imprisonment.<sup>178</sup> A second example is failure to pay child support, which in many jurisdictions is a criminal offence. Yet another

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Ibid, p. 3. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>

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*Women's Pathways Into, Through and Out of Prison. Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Returning to Communities in Thailand.* Thailand Institute of Justice, Bangkok 2021, pp. 52-57. Available at: <https://knowledge.tijthailand.org/en/publication/detail/women-s-pathways-into-through-and-out-of-prison#book/>

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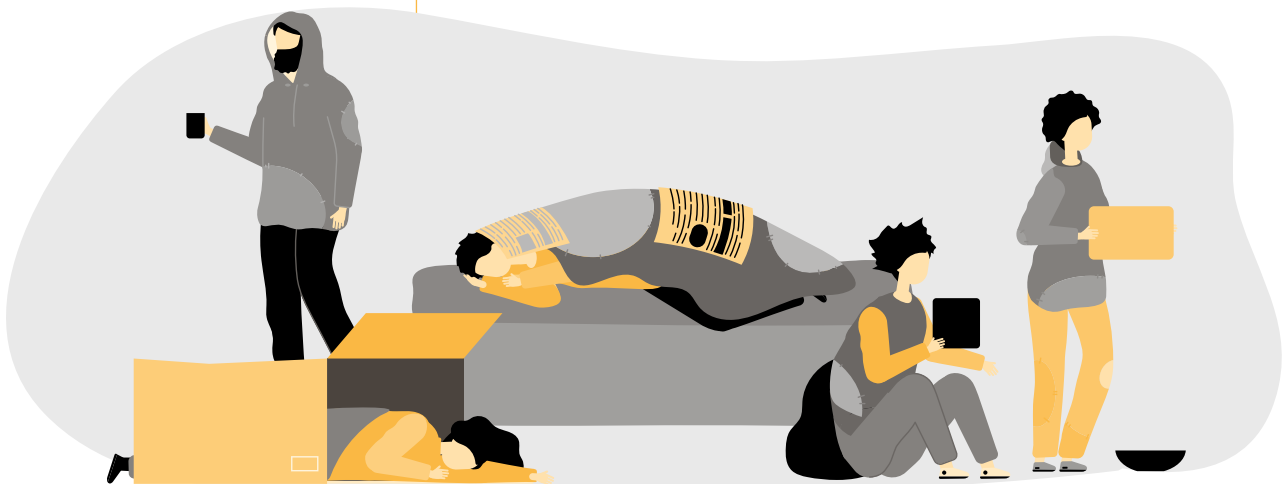
Tara O'Neill Hayes and Margaret Barnhors (2020), *Incarceration and Poverty in the United States*, American Action Forum. Available at: <https://www.americanactionforum.org/research/incarceration-and-poverty-in-the-united-states/#ixzz739hxiyFT>

example comes from those jurisdictions in which there are non-custodial sanctions available, but at a price – in the case of electronic monitoring, for example, it is relatively common that the offender is required to pay a fee for home monitoring equipment, such as an electronic bracelet or ankle. If the offender is unable to pay such a fee, then they are generally be sentenced to prison.

The problem of poverty may well continue once the offender enters prison. Many jurisdictions charge prisoners for room and board. Even if they do not, the prisoner would generally have to pay their own expenses related to visits, phone calls, and even necessities such as medication.<sup>179</sup>

And finally, the pool of persons in poverty may be expanded and transferred to the following generation by imprisonment. If the offender is the primary provider for his or her family, imprisonment will result in a financial strain on the family. In Thailand, this has been shown to be a particular problem among the many women prisoners.<sup>180</sup>

To summarize, although poverty itself is not a crime, poverty 'does make a person more susceptible to being arrested and more likely to be charged with a harsher crime and to receive a longer sentence.'<sup>181</sup> The criteria for the use of pre-trial detention and the imposition of bail should allow the decision-maker more flexibility in cases where the suspect is poor. Non-custodial sanctions should be designed so that they do not place an undue burden on the poor. And should the offender be sentenced to prison, the costs of providing for their basic needs should be borne by the state, and not by the individual offender.



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*The Sustainable Development Goals and Criminal Justice, Global Prison Trends. Special Focus (2017), Penal Reform International and the Thailand Institute of Justice. London and Bangkok, p. 2. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>*

## CONNECTIONS BETWEEN HUNGER (GOAL 2) AND IMPRISONMENT

As noted above, in many jurisdictions, the prison charges the offender for room and board. Even if food is provided, it may not meet food safety standards and its nutritional quality may be poor. HIV-patients, pregnant and breastfeeding women, the ill and the elderly may have their own specific nutritional needs which are often not met in overcrowded and under-resourced prisons.<sup>182</sup> Furthermore, for example various religions may require their adherents to follow specific dietary rules.



Rule 22 of the Nelson Mandela Rules is clear on the responsibility of the prison administration to provide nutritious food:

### Rule 22

1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well-prepared and served.
2. Drinking water shall be available to every prisoner whenever he or she needs it.

## CONNECTIONS BETWEEN HEALTH (GOAL 3) AND IMPRISONMENT

The health of prisoners is a concern not only for the prisoners themselves, but also for their family, for prison personnel, and for the community.



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*The Sustainable Development Goals and Criminal Justice, Global Prison Trends. Special Focus* (2017), Penal Reform International and the Thailand Institute of Justice. London and Bangkok, pp. 3-4. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>

184

*Ibid.*

185

COVID-19 Preparedness and Responses in Prisons (2020). UNODC Position Paper, Vienna, 31 March 2020. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/COVID-19/20-02110\\_Position\\_paper\\_EN.pdf](https://www.unodc.org/documents/justice-and-prison-reform/COVID-19/20-02110_Position_paper_EN.pdf)

186

'UNODC supports Thai prisons to respond to COVID-19 outbreak' (2021), UNODC, Bangkok. Available at: <https://www.unodc.org/southeastasiaandpacific/en/2021/06/thai-prison-covid-19-story.html>

See also *Report on the Covid-19 Situation in Prisons and Policy Recommendations for Thailand* (2020), Thailand Institute of Justice, pp. 8-10. Available at: <https://knowledge.tijthailand.org/en/publication/detail/-situation-report-and-policy-recommendations-for-covid-in-prison#book/>

187

*Global Prison Trends 2021*. Penal Reform International and Thailand Institute of Justice, London and Bangkok, p. 4. Available at: <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

188

COVID-19 HIV Prevention, Treatment, Care and Support for People Who Use Drugs and People in Prison (2021), UNODC, Vienna. Available at: <https://www.unodc.org/unodc/en/hiv-aids/new/covid-19-and-hiv.html>

Given the large number of prisoners in the world – some 11 million – prison health is very much a public health issue. As noted in a report by Penal Reform International and the TIJ,

'There is a higher prevalence of disease, substance dependency and mental illness among prisoners – both as a cause and consequence of imprisonment.'

'Prisoners have complex health needs, often due to untreated conditions and unhealthy lifestyles, both regularly linked to poverty. While in prison, it is common for their health to deteriorate due to inadequate health services, unhealthy conditions and overcrowding.'

'... However, the provision of health care for prisoners is routinely underfunded, understaffed and lacks the full spectrum of treatment available in the community, even more so in overcrowded facilities.'<sup>183</sup>

The report goes on to note the concern with communicable diseases, such as HIV, tuberculosis and hepatitis C as well as the specific health care needs of prison sub-populations such as children, the elderly and women prisoners.<sup>184</sup> The concerns with communicable diseases have become all the greater with the COVID-19 pandemic, as pointed out by the UNODC already in March 2020, shortly after the pandemic was detected.<sup>185</sup>

In Thailand alone, thousands of prisoners have been found to have been infected with COVID-19.<sup>186</sup> World-wide, by the summer of 2021, over 530,000 confirmed cases and some 4,000 deaths due to COVID-19 have been reported in prisons.<sup>187</sup> The standard preventive and response measures, in particular social distancing and isolation of suspected or confirmed COVID-19 cases are difficult if not impossible to implement in overcrowded prisons with cramped accommodation areas, and poor hygiene, ventilation and nutrition.

As has been pointed out by the UNODC, given the large proportion of prisoners who have been sentenced for drug use, 'People who use drugs can be particularly vulnerable to COVID-19 due to underlying health issues, stigma, social marginalization and higher economic and social vulnerabilities, including a lack of access to housing and health care.'<sup>188</sup>

Many jurisdictions have taken measures to ease the COVID-19 crisis in prisons, such as reducing the use of pre-trial detention, postponing the enforcement of sentences of imprisonment, granting early release, and granting large-scale amnesties. However, in some countries, the impact of such measures has been offset by the number of persons arrested and convicted for violating COVID-19 restrictions. In addition, in some other



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*Global Prison Trends 2021*. Penal Reform International and Thailand Institute of Justice, London and Bangkok, pp. 12-13. Available at: <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

190

Nasrul Ismail, Audrey Lazaris, Éamonn O'Moore, Emma Plugge and Sunita Stürup-Tof (2021), *Leaving No One Behind in Prison: Improving the Health of People in Prison as a Key Contributor to Meeting the Sustainable Development Goals of 2030* (2021), *BMJ Global Health*, vol. 6, issue 3. Available at: <https://gh.bmj.com/content/6/3/e004252>

191

The Sustainable Development Goals and Criminal Justice, *Global Prison Trends Special Focus* (2017). Penal Reform International and the Thailand Institute of Justice, p. 4. Available at: <https://cdn.penalreform.org/wp-content/uploads/2017/05/Global-Prison-Trends-2017-Special-Focus-1.pdf>

192

*The right to education of persons in detention* (2009). Report of the Special Rapporteur on the right to education. A/HRC/11/8, Geneva. Available at: <https://undocs.org/A/HRC/11/8>

countries the release of a large number of offenders from prison without adequately preparing them for release led to the return of many to prison on a variety of grounds.<sup>189</sup>

Given that people held in prison are more likely to suffer from physical and mental illnesses and yet often come from an impoverished environment, 'prisons provide an opportunity to address those health needs, reduce inequalities and improve the population health overall.' Furthermore, research shows that since the majority of prisoners will eventually be returned to the community, improving their physical and mental health has positive impacts also for their family and their wider social network.<sup>190</sup>

## CONNECTIONS BETWEEN EDUCATION (GOAL 4) AND IMPRISONMENT

As noted in a report by Penal Reform International (PRI) and the Thailand Institute of Justice, '[a] high proportion of people who come in contact with criminal justice systems have been excluded from "equitable quality education" and life opportunities – factors playing a significant role in their pathways to offending.'<sup>191</sup> According to a popular saying, 'Education is a ticket to success' – but conversely, for many persons, lack of education has been a contributing factor to failure in life and to ending up in prison.

The UN Special Rapporteur on the Right to Education has stressed that the right to education is a fundamental human right and encompasses the provision of an education that is available, accessible, adaptable and acceptable – also in prison. A person who is incarcerated does not forfeit this right.<sup>192</sup> The Special Rapporteur continues:

‘As education is uniquely and pre-eminently concerned with learning, fulfilling potential and development, it should be a fundamental concern of education in detention, not simply a utilitarian add-on should resources allow it. It should be aimed at the full development of the whole person requiring, among other things, prisoner access to formal and informal education, literacy programmes, basic education, vocational training, creative, religious and cultural activities, physical education and sport, social education, higher education and library facilities.’<sup>193</sup>

The right to education in prison is formulated as follows in the Nelson Mandela Rules:

Rule 104

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Providing education in prison, however, has encountered considerable barriers. Some of these have to do with the unwillingness and incapacity of the individual inmate to learn, due, for example, to the effects of a disadvantaged childhood, previous educational failure and low self-esteem, drug and alcohol abuse, and communication, learning and mental-health disabilities. Some barriers are due to difficulties in tailoring education to the individual needs of the prisoner. There is also a built-in disincentive on the individual prisoner to participate in education in prison. Although many courses in prison are provided at no cost to the prisoner, in practice, the course is an alternative to employment, which may provide a financial remuneration (although minimal). In such a case, many prisoners may prefer to work than to study.<sup>194</sup>

193

*Ibid.*, para. 18, citing ECOSOC resolution E/1990/69, art. 3(b).

194

*Ibid.*, paras. 30 and 62.

Other barriers are due to institutional and situational factors, such as decisions by prison personnel to interrupt or terminate a course (at times as a disciplinary punishment), the absence or confiscation of educational material, frequent lockdowns, and abrupt transfers between institutions. There may also be an institutional barrier connected with the



transition back to the community once the inmate is released from prison. The Special Rapporteur notes that over two-thirds of children released from incarceration do not return to school in the community for a variety of reasons. For instance, 'schools simply would prefer their continued exclusion; they may be released from detention in the middle of the academic year; custodial records and records of credits earned are not transferred to the school and/or schools refuse to accept custodial credit.'<sup>195</sup>

In his report, the Special Rapporteur on the Right to Education concludes with a number of recommendations for all correctional administrations. The core recommendations are the first two. First, education for persons in detention should be guaranteed and entrenched in Constitutional and/or other legislative instruments, adequate resourcing for the provision of such education should come from public funds, and compliance with the standards set forth in international law and guidance pertaining to education in detention should be ensured. Second, the authorities in charge of public education should make available to both remand and sentenced detainees at least the compulsory education curriculum, and if possible, also secondary education. Furthermore, these authorities, together with the institutions of detention, should 'arrange comprehensive education programmes aimed at the development of the full potential of each detainee. These should aim also to minimize the negative impact of incarceration, improve prospects of reintegration, rehabilitation, self-esteem and morale.'<sup>196</sup>

195

*Ibid.*, paras. 30-32 and 41.

196

*Ibid.*, paras. 90-102, at 90-91.

## **CONNECTIONS BETWEEN FULL AND PRODUCTIVE EMPLOYMENT (GOAL 8) AND IMPRISONMENT**

**Goal 8** on full and productive employment and decent work for all can be fulfilled by developing skills for prisoners and preparing them for employment after release in order to reduce stigma and discrimination when they return to society.

The link between unemployment and crime has been heavily studied on both the macro level (with findings such as that when the amount of unemployment increases in a country, the amount of reported crime tends to increase) and the individual level (for example, an unemployed person is more likely than an employed person to commit an offence, to be arrested, and to be sentenced to imprisonment).

Various explanations have been given for this connection. For example, younger persons are more likely than older ones to commit many types of crime (including property and violent crime), and younger persons, just entering the job market, are more likely to be unemployed, underemployed, or employed in precarious (poorly paid, unprotected and insecure) jobs. Living in an area with high unemployment where legitimate livelihoods are scarce may lead persons to think that life has treated them unfairly, and so, they turn to crime. Along somewhat the same lines, people with no steady income may commit crime in order to feed themselves and their family.

Having a steady and rewarding job, in turn, provides people with a sense of identity, personal dignity and self-sufficiency. They are more likely to feel that they are a member of the community and thus have a stake in law-abiding behaviour. According to the 'social control' theory of crime, they are less likely to commit an offence, because they have more to lose.

For all of these reasons, prison administrations around the world stress the importance of work in prison. But there are also penological reasons to emphasize prison work. It is a way to structure time and maintain order by involving the prisoner in a daily routine and instilling what is referred to as 'good work habits.' Engaging prisoners in work also reduces misconduct in prison. Furthermore, earnings from work (although they are generally minimal) motivate prisoners to work and provides them with some income that they can use on personal items while in prison or as savings in preparation for release.

The Nelson Mandela Rules contain a number of rules related to work (Rules 96-103). The fundamental rule is 96, which provides that sentenced prisoners (as opposed to pre-trial detainees) shall have the opportunity to work and/or to actively participate in their rehabilitation and that 'sufficient work of a useful nature shall be provided to keep prisoners actively employed on a normal working day.'

Other rules stress, for example, that prison labour should not cause pain or suffering (Rule 97(1)), as far as possible the work provided should be designed to maintain or increase the ability of the prisoner to 'earn an honest living after release' (Rule 98(1)), vocational training shall be provided (Rule 98(2)), and prisoners should receive equitable remuneration, part of which they can use for personal items or send to their family, and part of which will be set aside to be given to the prisoner on release (Rule 103(1)-(3)).

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Reference should be made here to the attempt of Thailand's women's prisons to offer a broader range of vocational training and prison work in line with the Bangkok Rules. These include beautician; massage therapy; barista; arts and crafts; cooking; information technology; business management; tiling; call centre; jewellery making; rubber making; packaging production; paper bag folding; and the manufacture of spare parts for cars. See *Women's Pathways Into, Through and Out of Prison. Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Returning to Communities in Thailand*. Thailand Institute of Justice, Bangkok 2021, p. 79. (The study contains a discussion of the utility of the work options offered; see pp. 78-83.) Available at: <https://knowledge.tijthailand.org/en/publication/detail/women-s-pathways-into-through-and-out-of-prison#book/>

The above list can be compared to the shorter list of the main options available to male prisoners in Thailand: making paper bags, shoes, dish detergent and clothes hangers. (A prisoner folding paper bags at one prison was reported to earn 60 – 70 baht, or about two U.S. dollars in an entire month.) See *Research on the Causes of Recidivism in Thailand*. UNODC and the Thailand Institute of Justice, Bangkok, p. 44. Available at: <https://knowledge.tijthailand.org/en/publication/detail/research-on-the-causes-of-recidivism-in-thailand#book/>

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For a comprehensive study on the challenges faced by women prisoners in Thailand, see *Women's Pathways Into, Through and Out of Prison. Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Returning to Communities in Thailand*. Thailand Institute of Justice, Bangkok 2021, pp. 52-57. Available at: <https://knowledge.tijthailand.org/en/publication/detail/women-s-pathways-into-through-and-out-of-prison#book/>



The reality in many prisons around the world, however, is that there are few or no opportunities to work, let alone the opportunity to select among alternatives. Often, the labour is of little vocational value which does not provide the prisoner with marketable skills. (A related issue is that in women's prisons, the work is often gendered, conforming to gender stereotypes about what is 'proper women's work').<sup>197</sup> In many prisons, furthermore, prisoners may be working in exploitative and/or unsafe conditions.

A number of promising projects have been launched in different jurisdictions to provide prisoners with vocational training, motivating them to develop their skills and assisting them in making the transition back into the community. Many of these projects are being done in cooperation with 'social entrepreneur' companies in the private sector, which assists in teaching and supervising prisoners while in prison and may also assist in placing released prisoners in suitable jobs on their return to the community.

## THE BANGKOK RULES AND CONNECTIONS BETWEEN POVERTY (GOAL 5) AND IMPRISONMENT

**Goal 5** on gender equality can be achieved by addressing the specific needs of female inmates and understanding their pathways to prison. This is a Goal to which the correctional administration in Thailand has devoted a considerable amount of attention.

199

Chontit Chuenurah, Implementation of the Bangkok Rules and Their Link to the Development-Led Approach, in *Development-led Crime Prevention and Criminal Justice within the TIJ Programme of Work* (2018), Thailand Institute of Justice, Bangkok, pp. 9-11, at p. 11. Available at: <https://knowledge.tijthailand.org/en/publication/detail/25#book/>

200

*Training Modules for the Training of Trainers on the Management of Women Prisoners in the ASEAN Region* (2016). Thailand Institute of Justice, Bangkok, p. 12. Available at: <https://knowledge.tijthailand.org/en/publication/detail/10#book/>

See also: *Guide to the Rehabilitation and Social Reintegration of Women Prisoners* (2019). Thailand Institute of Justice, Bangkok, pp. 11-13. Available at: <https://knowledge.tijthailand.org/en/publication/detail/bangkok-rules#book/>

*Women's Pathways Into, Through and Out of Prison. Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Returning to Communities in Thailand*. Thailand Institute of Justice, Bangkok 2021, pp. 36-41. Available at: <https://knowledge.tijthailand.org/en/publication/detail/women-s-pathways-into-through-and-out-of-prison#book/>

201

Cited in *Women in Detention: Putting the UN Bangkok Rules into Practice. Toolbox on the Bangkok Rules. Workbook* (2017). Penal Reform International in cooperation with the Thailand Institute of Justice, London, p. 11. Available at: <https://knowledge.tijthailand.org/en/publication/detail/16#book/>

Within the prison population, there are particular categories of prisoners who require additional support and are more vulnerable than others due to their age, mental and physical conditions, and their backgrounds. These include, for instance, juvenile offenders, elderly prisoners and foreign national prisoners. Knowledge and awareness of the specific needs of these prisoners can be a powerful tool for prison regimes to develop adequate treatment programmes. Therefore, prisoners' specific needs should be understood by prison staff and taken into account when developing criminal justice policies, sentencing guidelines, and prison rules and regulations.<sup>198</sup>

One specific category is women prisoners. Throughout the history of the use of prisons, the overwhelming part of the prison population has been male. Correctional facilities in most places were originally designed and built primarily for male prisoners. However, the last few decades have seen a sharp increase in the number of women in prisons worldwide. Although smaller in absolute number, the growth rate of women prisoners is rising faster than that of their male counterparts.

Women prisoners, often referred to as the 'forgotten population,' require specific attention. Studies have indicated that worldwide, women prisoners have had pathways to prison that are, in general, very similar. Although all over the world, most prisoners represent disadvantaged and marginalized populations (such as the poor, members of ethnic minorities, and migrants), women commonly have the added disadvantage of holding a subservient position in society, facing discrimination in the workplace. Gender inequality tends to begin at an early age for girls and is reflected, for example, in the de-prioritization of education for girls, which leads in general to economic, social and cultural marginalization, and on the individual level to female vulnerability, poverty, job insecurity and domestic abuse – all of which can be part of the pathway to the commission of offences.<sup>199</sup>

Many women in prison have suffered sexual or physical abuse prior to imprisonment, a large proportion have mental health care issues that have been caused by domestic violence or sexual abuse, and there is a high level of substance or alcohol dependency among women prisoners.<sup>200</sup> For example, a study conducted in a correctional facility in the United States showed that 75 per cent of the women prisoners had suffered serious physical violence by an intimate partner in adulthood, 82 per cent had been severely physically or sexually abused as children, and 94 per cent had experienced physical or sexual abuse in their lifetime.<sup>201</sup>



There are a number of factors that make it likely that women will experience imprisonment differently than men and suffer greater mental distress:

- separation from families and communities;
- many women have caring responsibilities, and imprisonment will generate high levels of anguish in them;
- all women, but especially those who have been physically or sexually abused in the past, feel vulnerable and experience fear of abuse in prison settings, especially if the staff are male;
- women offenders will often be stigmatised by their families and communities and their spouses will often abandon them, leaving them with little or no outside support both during their imprisonment and upon release;
- a large majority of women who are imprisoned are mothers, and their children are highly likely to experience trauma and acute emotional and developmental problems as a result of separation from their mothers;<sup>202</sup> and
- if there is no father to look after the child or if he abandons the mother, the children will be at risk of being brought up in under-resourced state institutions, sometimes resulting in their own eventual criminalisation.<sup>203</sup>

As can be seen already from the name by which they are commonly known, Thailand has had a key role in developing the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, the 'Bangkok Rules.' A leading role in their development was played by Her Royal Highness Princess Bajrakityabha who, in 2006, launched a charitable project called 'Kamlangjai' (in English, 'Inspire'). The project was motivated by her understanding of the need to raise more awareness about mainstreaming gender sensitivity into Thailand's prison management policy. As she explained in 2010:

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Currently, some 80 % of women prisoners in Thailand are mothers with child-caring responsibilities.

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*Training Modules for the Training of Trainers on the Management of Women Prisoners in the ASEAN Region* (2016). Thailand Institute of Justice, Bangkok, p. 12. Available at: <https://knowledge.tijthailand.org/en/publication/detail/10#book/>

'Since the experience of Thailand is not so much about physical violence, the project aimed primarily to provide moral support, basic health care, health education, and opportunities for women prisoners, both while serving sentence and after release. With a second chance to return to society as good citizens, these women can be 'inspired' by positive thinking, strengthening their inner selves to live a meaningful life. Among the project's special features are the provision of assistance to pregnant and nursing inmates and children living with their mother in prison, vocational training, and employment skills development. This advocacy work has continued to galvanize support from various sectors of the Thai society, including NGOs, charitable organizations, the private sector, and the media.'



'The moral support approach can help lessen the risk of violence that stems from the psychological distress and despair of women prisoners. Aware that this condition is largely due to issues concerning the bonds between mother and child, the Kamlangjai project emphasizes the provision of assistance to pregnant and nursing inmates and children living with mothers in prison. It also seeks to promote career opportunities for women prisoners upon their release so as to minimize the chance of recidivism.'

'In addition to the vertical and horizontal programmes to build a better and more responsive system to provide adequate services to female inmates, we also need to look for ways to address the root cause of the problem, the so-called 'determinants' of justice and human rights; we need criminal justice within the context of the Sustainable Development Goals.'<sup>204</sup>

Building on the experience gained in the 'Inspire' project, in 2008, Thailand's Ministry of Justice initiated a project called 'Enhancing Lives of Female Inmates,' or ELFI, with the specific purpose of advancing Thailand's proposal to develop new supplementary rules to the SMRs, concentrating on women prisoners. Two meetings were held in Bangkok, an Expert Roundtable Meeting in February 2009, and an open-ended intergovernmental expert group meeting in Bangkok in November of the same year to negotiate the draft rules. The resulting draft rules were presented to and supported by the 12th UN Crime Congress held in Salvador, Brazil in 2010.

At the 2010 session of the United Nations Commission on Crime Prevention and Criminal Justice (CCPCJ) shortly after the Congress, Thailand presented a follow-up resolution to the Bangkok Rules. This resulted in the General Assembly adopting the new 'United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders,' to be known as the 'Bangkok Rules' in December that same year.

Many women in prison today are there for petty offences or as a result of their inability to pay fines. In many such cases, non-custodial measures and sentences could have been used instead of incarceration. The imprisonment of women should be a punishment of last resort. However, when imprisonment of women is warranted because of the seriousness of the offence or the danger posed by the offender to society, a rights-based approach should be followed.

The Bangkok Rules represent a significant achievement of the international community in addressing the specific needs of women in the criminal justice system. The Rules take into account existing standards and norms such as the SMRs and the Tokyo Rules while incorporating elements of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. With the mainstreaming of gender sensitivity as the underlying principle, the Bangkok Rules are applicable to all categories of women deprived of their liberty, including untried and convicted women as well as to women subjected to non-custodial measures.

The Bangkok Rules were modelled on the SMRs but with the primary aim of addressing the special needs of female offenders in a way that did not exist before, both for adult and juvenile female offenders. Some examples of this:

- the Rules begin with a declaration of the principle of non-discrimination and the need to account for the distinctive, gender-based needs of women offenders in the pursuit of gender equality;
- there is a Rule on the allocation of women prisoners to institutions near their home and the need to consider child-care responsibilities, taking into account preference and the availability of programmes and services;
- in respect of health care services, the Bangkok Rules provide detailed guidance on addressing gender-specific health care issues. These include hygiene needs, particularly those related to personal care and an adequate supply of water, medical confidentiality requirements, and the provision for 'gender-specific health care services' equivalent to that available in the community. There are rules calling for preventative health care education, including on HIV/AIDS, sexually-transmitted diseases and other blood-borne diseases;
- the rules related to mental health call, for example, call for the provision of individualized, gender-sensitive and trauma-informed mental health programmes for women prisoners, taking into account the prior history of abuse and violence of women offenders;
- the Rules discuss the humane treatment of pregnant women and their unborn children under criminal justice supervision. The need for special accommodations for pregnant women are noted throughout the Rules. Prohibitions on instruments of restraints and the limitations on disciplinary confinement for pregnant prisoners are also addressed;
- separate rules deal with the specifics of programming for children, including the standard for creating a normalized environment for those children living with incarcerated mothers;
- rules on women prisoners with children deal for example with family ties and their impact on sentencing and the possibility of alternatives to incarceration;
- rules on social relations and aftercare cover activities that foster reintegration and rehabilitation, including those related to treating women prisoners who have experienced sexual and other forms of violence and abuse;
- part III of the Rules, which deals with non-custodial measures (and which thus supplements the Tokyo Rules) include rules on, amongst other things, diversionary and other pre-trial measures, the role of independent bodies in providing protective measures for women under these forms of supervision, the need to avoid custodial and institutional placement of female children, and the need to protect victims of trafficking.



Furthermore, the Bangkok Rules recognize that although women are sentenced to prison as offenders, the pathway to prison for many women has involved victimization. The Rules contain several provisions that are related to the issue of violence against women in the prison setting. For instance, there are provisions that highlight a gender-sensitive way of caring for them. These include a comprehensive health screening that determines prior sexual abuse and other forms of violence, proper consultation with women prisoners as to who are allowed to visit them and prison staff training on the prohibition of discrimination and sexual harassment.

In respect to sexual abuse or other forms of violence, there is a provision that covers informing woman prisoners of their right to seek recourse from judicial authorities upon detection of the existence of such violence before or during detention. If the woman wishes to take legal action, prison authorities must refer her case immediately to the competent authority for investigation while providing access to legal and psychological support or counselling.

Furthermore, the new rules also address the subtler forms of violence exacerbated by the psychological trauma and stress felt by women prisoners. These include avoiding the use of punishment by close confinement or disciplinary segregation for pregnant women, breast-feeding mothers and women with infants in prison; avoiding the use as a disciplinary sanction of a prohibition of family contact, especially with children; and non-use of instruments of restraint on women who are in labour, during birth and immediately after birth.

Given the history of the development of the Bangkok Rules, Thailand has a special interest in promoting their implementation. At the time the General Assembly adopted the Bangkok Rules, the Ministry of Justice of Thailand was planning to develop an arm's-length institute for criminological research. This became a basis for the establishment of the 'Thailand Institute of Justice' (TIJ) the following year, in 2011. While the TIJ deals with a broad spectrum of justice and rule of law issues, its priority area is geared precisely towards promoting the implementation of the Bangkok Rules, both nationally and internationally.

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These documents are available at:  
<https://knowledge.tijthailand.org/en/publication>

The Thailand Institute of Justice has produced an extensive body of training and guidance materials that have been used in many countries around the world in the implementation of the Bangkok Rules. Special mention can be made of the following:<sup>205</sup>

- The Considerations for Environmental and Correctional Facility Design in Compliance with the UN Bangkok Rules. Thailand Institute of Justice, Bangkok 2015;
- Guidance Document on the United Nations Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules). Penal Reform International and the Thailand Institute of Justice, London and Bangkok 2013;
- Guide to the Rehabilitation and Social Reintegration of Women Prisoners. Penal Reform International and the Thailand Institute of Justice, London and Bangkok 2019;
- Health Care in Prison, Bangkok 2020;
- The Model Prison Project for the Implementation of the UN Bangkok Rules. Thailand Institute of Justice, Bangkok 2019;
- Toolkit on Gender-Responsive Non-Custodial Measures. UNODC in collaboration with the Thailand Institute of Justice. Vienna 2020;
- Towards Gender-Responsive Criminal Justice: Good practices from Southeast Asia. Thailand Institute of Justice, Bangkok 2017;
- Training Modules for the Training of Trainers on the Management of Women Prisoners in the ASEAN Region. Thailand Institute of Justice, Bangkok 2016;
- The Training on the Management of Management of Women Prisoners for Senior Correctional Staff in the ASEAN Region. Thailand Institute of Justice, Bangkok 2016;
- Women in Detention: Putting the UN Bangkok Rules into Practice. Toolbox on the Bangkok Rules. Workbook. Penal Reform International in cooperation with the Thailand Institute of Justice, London 2017; and
- Women Prisoners and the Implementation of the Bangkok Rules in Thailand. Thailand Institute of Justice, Bangkok 2014.

## 3.10 Reintegration of offenders into society

In Thailand, an oft-quoted saying of Her Royal Highness Princess Somdet Phra Srinakarindra Boromarajonani, who launched the Doi Tung Project, is 'No one wants to be bad but they do not have the opportunity to do good.'

This saying should guide our efforts to return offenders to the community with the skills and attitudes they need to desist from crime and become full and productive members of society. As noted in a report prepared by Penal Reform International and the Thailand Institute of Justice,

'Prisoners are part of society – the vast majority will eventually be released from prison and it is therefore of benefit to the broader community, and in the interest of public safety, that they are able to play a positive role in society. If they leave prison with greater problems, and without the knowledge and skills to cope, there will inevitably be ongoing consequences for them, their families and their communities and further costs for the state.'<sup>206</sup>

Along the same lines, the UNODC has noted that investments in rehabilitation programmes for prisoners 'are one of the best and most cost-effective ways of preventing their re-offending, with significant benefits not only for the individuals concerned, but also for public safety more broadly.'

Rule 4(1) of the Standard Minimum Rules on the Treatment of Prisoners states that 'The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.'

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*Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders* (2018), UNODC, Vienna, p. 11. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/18-02303\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/18-02303_ebook.pdf)

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*Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders* (2018), UNODC, Vienna, p. 11. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/18-02303\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/18-02303_ebook.pdf)

The UNODC has produced a handbook on the social reintegration of offenders.<sup>207</sup> It deals with prison-based rehabilitation programmes, services and supervision provided after release from prison as well as the use of non-custodial sanctions in social reintegration. It also deals with the social reintegration of three special categories of offenders: children in conflict with the law, women offenders, and other offenders with special needs or posing special risks (e.g. prisoners with mental or physical disabilities, elderly prisoners, prisoners with drug use disorders, members of ethnic or racial minorities and indigenous people, and prisoners who have undergone extended pre-trial detention).

The handbook sets out a number of key strategies:<sup>208</sup>

- identification of key stakeholders and the encouragement of collaboration among them in focusing their attention on the social reintegration of offenders;
- understanding the nature and scope of local re-entry issues such as the resources and social contexts to which the offender is returning;
- incorporating a social reintegration mandate into the mandate, mission and workplans of the various agencies;
- reviewing and, if necessary, amending existing laws and policies that hamper reintegration;
- identifying and mobilizing resources to fund the implementation of the strategy and securing additional resources as necessary;
- developing inter-agency agreements and protocols on the promotion of reintegration
- promoting system integration and ensuring continuity of care;
- educating the public about the risks posed and the needs of offenders whose reintegration must be supported;
- carefully monitoring the implementation of the strategy; and
- measuring outcomes and evaluating the impact of the strategy



The handbook also seeks to identify elements of more successful social reintegration strategies for offenders:<sup>209</sup>

- (a) Reflect the public safety priorities of the community for which they are developed, including by engaging the community in the planning and delivery of interventions in order to foster community ownership;
- (b) Differentiate between special categories of offenders, including sound methods for assessing their risks and needs as well as specific social reintegration issues that they may face;
- (c) Begin, if the offender is in custody, as early as possible and continue throughout the offender's transition to the community ('throughcare');
- (d) Hold offenders accountable and responsible for their own choices and actions, but strike a balance between surveillance and control on the one hand and support and assistance on the other;
- (e) Offer assistance in an integrated and comprehensive manner in the form of a coordinated effort among all agencies involved and based on strong inter-agency cooperation;
- (f) Support the work with evidence-based case management practices and adequate information management systems; and offer offenders, whenever possible, a single point of contact in accessing support and services;
- (g) Include a well-thought-out communications and community relations strategy to foster and maintain community support and engagement;
- (h) Have a robust monitoring and evaluation component that allows the interventions to evolve, self-improve and remain accountable to the community for crime reduction results;
- (i) Ensure that the work is gender- and age-sensitive.

As long as prisoners receive adequate support, assistance and supervision, parole or early conditional release can significantly assist with their social reintegration by enabling their gradual, planned resettlement.

Among the key considerations are accommodation, employment, health care (including mental health care), and a social support network.

Accommodation. In many jurisdictions, the release plan clearly identifies where the prisoner being released shall be accommodated at least for the foreseeable future. In cases where the former prisoner no longer has a home, 'half-way houses' have been established by the national or local government or by non-governmental or other organizations. The goal should be to find the former offender stable and secure housing.



Having a home is not simply a question of having a place to rest in privacy and to keep one's belongings. An address is a requirement for obtaining various services that can be key to reintegration. For example, applications for a bank account and a credit card generally require an indication of the applicant's address. If he or she has no place to stay, the former offender may not be able to open a bank account or seek a loan.

Employment and financial security. In addition to accommodation, the release plan should seek to identify how the former prisoner will earn their living for the foreseeable future.

Potential employers are less likely to hire former offenders than they are to hire persons without a criminal record.<sup>210</sup> This raises the question of who should have the right to request extracts from the criminal record regarding potential employees and for which positions. The question has many aspects, including what offences and sentences should be entered into the criminal record and for how long.

Similar concerns are behind legislation or regulation absolutely prohibiting former offenders from working in certain sectors or in certain positions. Such legislation or regulation seeks to find a balance between the need to protect the public against certain security risks and the interest of the former offender in finding suitable employment.

Health care and mental health care. Standard Minimum Rule 24(2) recognises the need for treatment and care to be continued as 'through-care' when prisoners are released and emphasises the importance of a close relationship between prison and community health services. This includes any treatment for substance dependency. Prison health care staff should provide community health services with all the necessary medical information and should inform the prisoner about this transfer of information.

Social support network. Serving time in prison often severs the social support network that is important for reintegration: one's intimate partner and family, friends, neighbours, former colleagues at work, as well other

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For a study on the experience of Thai prisoners, see *Research on the Causes of Recidivism in Thailand*. UNODC and the Thailand Institute of Justice, Bangkok, pp. 33-35. Available at: <https://knowledge.tijthailand.org/en/publication/detail/research-on-the-causes-of-recidivism-in-thailand#book/>



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*Women's Pathways Into, Through and Out of Prison. Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Returning to Communities in Thailand.* Thailand Institute of Justice, Bangkok 2021, pp. 14, 16 and 94-109. The study emphasizes that these problems are acute among returning women prisoners. Available at: <https://knowledge.tijthailand.org/en/publication/detail/women-s-pathways-into-through-and-out-of-prison#book/>

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*Ibid.*, p. 17.

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On Japanese volunteer parole officers, see Fumiko Akashi (2018), *The role of volunteer probation officers in Japan - Recent challenges and responses.* International Journal of Law, Crime and Justice, March 2018, vol. 54, pp. 121-132.

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In assessing caseloads, attention should also be paid to how work-intensive each case is; high-risk parolees, for example, require more time. See: *Caseloads, workloads and staffing levels in probation services* (2021), HM Inspectorate of Probation Research & Analysis Bulletin 2021/02, London. Available at: <https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/03/Caseloads-and-Workloads-RAB-LL-designed-RM-amends-Mar-21.pdf>

people in the community. Being able to return 'home' and be accepted back into the community is crucial for newly released inmates. The return, however, is often not easy. Former prisoners may feel a strong sense of shame and the community may treat them as outcasts, as persons who are untrustworthy, deviant and criminal. Once branded a 'criminal,' this image may be difficult to escape.<sup>211</sup>

The role of parole. In many jurisdictions, prisoners who have been 'on good behaviour' and are deemed not to present a significant danger to society may be released on parole before the end of their sentence, subject to conditions. In theory, they are assisted in their transition by parole officers.<sup>212</sup> The extent to which parolees are actually provided with assistance and support varies. In Japan, volunteer parole officers provide highly individualized support to parolees.<sup>213</sup> In several Western countries, however, parole officers (also referred to as community corrections officers) tend to have a high caseload, even as many as one hundred or more per parole officer.<sup>214</sup> This may lead to a situation where the parolee simply reports to his or her parole officer at predetermined intervals and may be subject to electronic monitoring and random drug testing. Criticism has been directed against parole agencies that do not have the resources to provide support and have focused more on surveillance to the extent that they are said to follow a very punitive policy of 'tail 'em, nail 'em and jail 'em,' sending parolees back to prison for even minor violations of the conditions.



## 3.11 Conclusions

The purpose of criminal justice has been stated to be to prevent crime, to identify offenders and bring them to justice, to protect and assist the victims of crime, and to ensure the safety of (and the sense of safety in) the community.

Achieving all of these purposes involves finding a balance among many factors. Each jurisdiction had sought to guide how decision-makers are to find that balance, through a combination of law, established practice, policy, training, the assignment of various functions to different agencies, and the allocation of resources. Each jurisdiction has also defined what forms of conduct it deems criminal, and thus deserving of moral reproach, condemnation and the threat of punishment.

Society has an obligation to prevent and respond to crime as effectively as possible. This, however, does not mean that all offences should be brought to the attention of the authorities that comprise the criminal justice system and that all persons found to have committed offences should be punished. 'Penal populist' approaches advocating vigorous detection of as many offences as possible, even petty ones, followed by expedited criminal processes and harsh punishment are not the solution. The resources of the criminal justice system will always be too limited to achieve that aim. Part of the balancing act will therefore be to determine what offences are so serious that they should be dealt with formally and which offenders are so dangerous to others, to themselves and to society that they should be sentenced to punishment.

An effective criminal justice system (and more broadly an effective justice system, which includes civil justice and administrative justice) is needed for sustainable development. Victims, in particular vulnerable victims who have limited means to defend themselves should have access to the protection provided by the police and the courts and to the assurance that their victimization will be recognized and condemned by society. They also should have the right to assistance in recovering from their victimization. Persons suspected of offences have the right to a fair, rational, humane and effective process.

## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

Throughout the criminal justice process, from the decision of the victim or witness to turn to the formal criminal justice system or to other means of responding to the offence and the offender, through the investigation, prosecution and adjudication of the case, and on to community-based or institutional corrections and the reintegration of the offender into society, there are a number of decision points where the decision-maker is empowered to exercise discretion.

In an increasing number of jurisdictions, the discretion extends to the possibility of the diversion of the case to restorative justice programmes or to informal justice systems which allow for a balancing of the interests of the victim, the suspect and the community. Such systems are open in their possibilities of considering how the process for dealing with the case and the resolution of the case will impact the different parties. They can thus allow for consideration even of how the process and the resolution affects, within the microcosmic framework of the case, the implementation of various Sustainable Development Goals.

Regardless of whether restorative, informal or formal systems of justice are used, our increasing awareness of the importance of victim-sensitive justice has led to the identification of how the process can affect, both negatively and positively, the position of the victim and his or her possibilities of healing and recovering from the victimization. Similarly, what we have learned about the need for gender-sensitive justice shows that the precepts of gender equality should be integrated into the process.

When cases do enter into the criminal justice system, from law enforcement through prosecution and adjudication to corrections and finally to the reintegration of the offender into the community, criminal justice practitioners have an obligation to apply the law appropriately. In many cases, their discretion is curtailed. However, there will continue to be many decision points where law, practice and policy specifically requires the decision-maker to take into consideration the impact that the decision will have on the individual victim and offender as well as on the community. An overly punitive approach to criminal justice will ultimately weaken the ability of communities, especially vulnerable communities, to function.

It is for this reason that we need to stress the value of seeing the entire criminal justice system and the criminal justice process within the broader framework of the Sustainable Development Goals.





# CONCLUDING COMMENTS

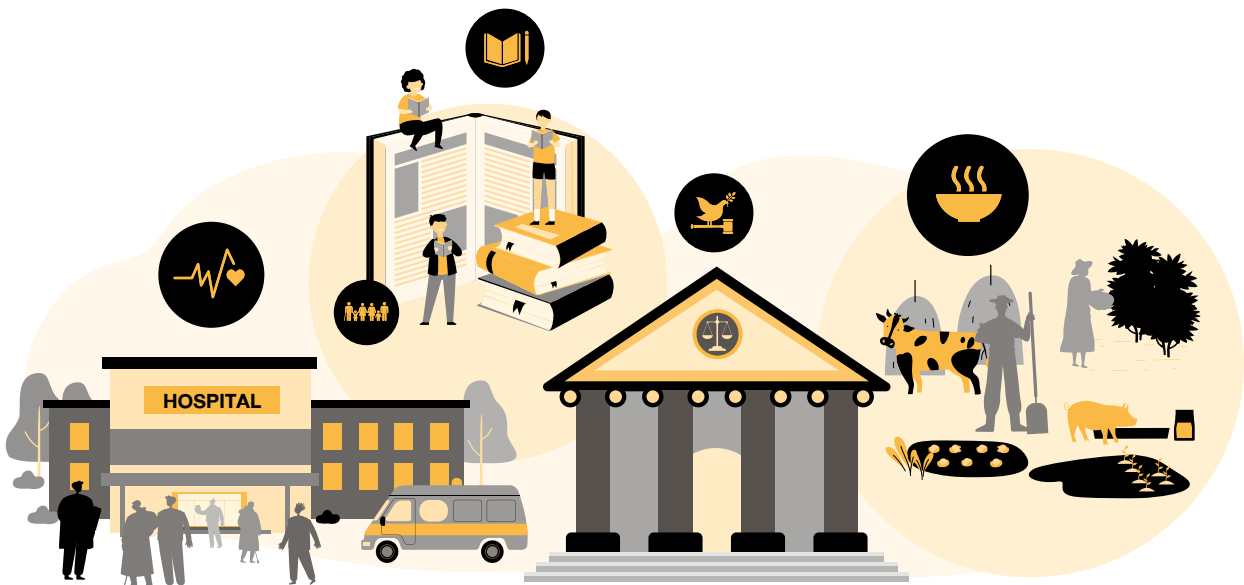
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## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

In Thailand, we have learned about crime prevention and criminal justice within the context of the Sustainable Development Goals from people on the ground level. In the mountains of northern Thailand, we have heard their voices and we have felt their pride carried on from generation to generation in their decisions to choose a development-led approach and to do away with cultivation of the opium poppy. In women's prisons in Thailand, we have heard the anguish of women separated from their children, their partners and their family, and their determination to turn their life around and return to the community as law-abiding members. Such experience reinforces our conviction that seeing crime prevention and criminal justice within the context of the Sustainable Development Goals is crucial. The work in which we as criminal justice practitioners and policymakers are engaged is not just about making statements or debating, but is about touching lives and having real impact on-ground.

Crime prevention and criminal justice within the context of the Sustainable Development Goals must be seen through a holistic and long-term perspective. This approach to crime prevention and criminal justice is not simply about, for example, the reduction of areas covered by opium cultivation, or processing cases through the courts as efficiently as possible, or ensuring that a prison sentence is served appropriately. Instead, it is about helping people to help themselves to have access to health, education, basic services, to earn their livelihoods and most importantly, to live with dignity.

We have seen common conditions besetting vulnerable communities before crime prevention and criminal justice projects have been introduced within the context of sustainable development, common conditions such as poverty, illnesses, lack of education, and insecurity surmounted by unsustainable environment and under-developed infrastructure. Given such circumstances, villagers felt that they had no other option but to resort to illicit activities, young persons allowed themselves to be trafficked, and young women had felt themselves forced to steal or sell drugs for their family to have food. Crime prevention and criminal justice within the context of the



Sustainable Development Goals would provide these people with opportunities to engage in licit activities and give them options in life.

Yet we need to take a long-term perspective. We have observed the implementation of crime prevention and criminal justice within the context of the Sustainable Development Goals in different settings. Projects such as the Doi Tung Development Project improves livelihoods through agriculture, food security, health care, education, irrigation and livestock. Such projects help diversify off-farm income-generating activities, add value to the production process to maximize limited resources and introduces market and supply chains. We can see that, depending on different contexts, crime prevention and criminal justice within the context of the Sustainable Development Goals can mean different things in different contexts. It can be about survival, subsistence, sufficiency, or prosperity. This work is certainly not easy. It takes time and patience. This approach to crime prevention and criminal justice requires sustained long-term commitment all the way from the highest political level to the persons living in communities.

To ensure that crime prevention and criminal justice is sustained, such development must be community-driven. On this point, while the role of the state as provider is important, the role of the villagers and communities are even more important. They must be the ones to design their own lives. In the sites where crime prevention projects within the context of sustainable development are underway in Thailand, we can feel a common sense purpose and ownership shared by the villagers in their community's development. The younger generation is taking an even bolder step in adapting to modern changes, addressing issues such as waste management



## CRIME PREVENTION AND CRIMINAL JUSTICE WITHIN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS

and preserving cultural identity. Women can also play a role as game changers. In food security preparedness programmes, mothers of village students are provided vegetable seeds from demonstration plots along with materials and equipment so that they can grow vegetables back at home.

The villagers in the Doi Tung Project themselves promote the culture of lawfulness. They do not wait for laws to be enforced, but instead instill among themselves a sense of communal responsibility and respect for public order. They find their own ways to keep community members in check to ensure that law and order is maintained. Empowering the community is the best immunity against illicit activities.

Her Royal Highness Princess Bajrakitiyabha has drawn inspiration from His late Majesty the King and the Princess Mother. In 1969, His Majesty said 'If we are able to help the hill tribe people grow useful crops, they will stop growing opium.' His late Majesty the King's long-term commitment to improving the well-being of hill tribe people took time and patience – more than half of His Majesty's lifetime. The Princess Mother's initiative of 'Cultivating Land, Cultivating People' resulted decades later in improved quality of life for the ethnic minority living in Doi Tung and in the protection of watersheds.

Crime prevention and criminal justice within the context of the Sustainable Development Goals should not be seen as a segmented approach to tackling various forms of crime, such as illicit crop cultivation. Development-led crime prevention and criminal justice should be seen as part of a broader picture, as a fundamental element that is integrated into broader national development strategies in rural as well as urban areas. Development-led crime prevention and criminal justice is in fact integral to the UN Sustainable Development Goals. Today, our world is faced with problems far too complex for us to work in a silo, in a compartmentalized manner. We need to put all the pieces of the puzzle together to see the big picture and address all issues in a holistic manner. We cannot solve one problem just to find out later that we have left another end loose or allowed another problem to emerge. We need to change our mind-set in order for us to succeed in implementing the full range of goals, including the essence of Goal 16, achieving the rule of law, promoting peaceful and inclusive societies for sustainable development, providing access to justice for all, and building effective, accountable and inclusive institutions at all levels.





## ANNEX 1

### Links between SDG 16 and the other Sustainable Development Goals

#### Goal 1. End poverty in all its forms everywhere

##### Linkage to Goal 16:

- *the poor generally have less access to justice (and to resources and services) and are more vulnerable*
- *poverty is considered to be a leading contributing factor to crime*
- *many forms of crime, in turn, have a disproportionately severe impact on the poor*
- *released prisoners often have considerable financial difficulties which hamper reintegration into the community*
- *the 'equal rights' and 'access' referred to in Target 1.4 is largely a question of justice and thus is connected to Target 16.3, on the promotion of the rule of law at the national and international levels and the assurance of equal access to justice for all*

- 1.1 By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day
- 1.2 By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions
- 1.3 Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable
- 1.4 By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and

control over land and other forms of property, inheritance, natural resources and appropriate new technology and financial services, including microfinance

- 1.5 By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters
- 1.a Ensure significant mobilization of resources from a variety of sources, including through enhanced development cooperation, in order to provide adequate and predictable means for developing countries, in particular least developed countries, to implement programmes and policies to end poverty in all its dimensions
- 1.b Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies to support accelerated investment in poverty eradication actions

#### Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture

##### Linkage to Goal 16:

- *poor nutrition is correlated with poor success in school, which in turn increases the risk of crime*
- *environmental crime endangers food production on land and sea*
- *the 'secure and equal access' to land et al on the part of small-scale food producers referred to in Target 2.3 is largely a question of justice and thus is connected to Target 16.3, on the promotion of the rule of law at the national and international*



*levels and on the assurance of equal access to justice for all*

- *Target 2.3 in particular is closely linked to 'alternative development' and provides small-scale farmers viable alternatives to the cultivation of sources of illicit drugs, and thus is closely linked to Target 16.4 on combatting all forms of organized crime*
- *the 'access to and fair and equitable sharing of benefits' related to genetic resources referred to in Target 2.5 is subject to international law and thus has a link to Target 16.3 on the promotion of the rule of law at the national and international levels and the assurance of equal access to justice for all*
- *the 'trade restrictions' referred to in Target 2.b are subject to international trade law*

- 2.1 By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round
- 2.2 By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons
- 2.3 By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment
- 2.4 By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production that help maintain ecosystems that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that helps progressively improve land and soil quality

2.5 By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge as internationally agreed

- 2.a Increase investment, including through enhanced international cooperation, in rural infrastructure, agricultural research and extension services, technology development and plant and livestock gene banks in order to enhance agricultural productive capacity in developing countries, in particular least developed countries
- 2.b Correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect in accordance with the mandate of the Doha Development Round
- 2.c Adopt measures to ensure proper functioning of food commodity markets and their derivatives and facilitate timely access to market information, including on food reserves, in order to help limit extreme food price volatility

### **Goal 3. Ensure healthy lives and promote well-being for all ages**

*Linkage to Goal 16:*

- *the prevention and treatment of substance abuse referred to in Target 3.5 is closely linked to Target 16.4, on combatting all forms of organized crime*
- *the improvement of road safety referred to in Target 3.6 requires the development of national and local legislation and regulations*
- *the universal access to sexual and reproductive health care services referred to in Target 3.7*

- is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the universal health coverage, access to quality essential health care services and access for all to essential medicines referred to in Target 3.8 is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
  - *the substantial reduction of the number of deaths and illnesses from hazardous chemicals, pollution and contamination referred to in Target 3.9 requires the development of national legislation and regulations, including criminal law*
  - *the implementation of the WHO Framework Convention on Tobacco Control referred to in Target 3.a is a question of international law and thus is connected to Target 16.3 on the promotion of the rule of law at the national and international levels*
  - *the access for all to medicines referred to in Target 3.b is a question of intellectual property rights and of international law and is thus linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- 3.1 By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births
- 3.2 By 2030, end preventable deaths of newborns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1,000 live births and under-5 mortality to at least as low as 25 per 1,000 live births
- 3.3 By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases
- 3.4 By 2030, reduce by one-third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being
- 3.5 Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol
- 3.6 By 2020, halve the number of global deaths and injuries from road traffic accidents
- 3.7 By 2030, ensure universal access to sexual and reproductive health care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes
- 3.8 Achieve universal health coverage, including financial risk protection, access to quality essential health care services and access to safe, effective, quality and affordable essential medicines and vaccines for all
- 3.9 By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination
- 3.a Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries as appropriate
- 3.b Support the research and development of vaccines and medicines for communicable and non-communicable diseases that primarily affect developing countries, provide access to affordable essential medicines and vaccines in accordance with the Doha Declaration on the TRIPS Agreement and Public Health which affirms the right of developing countries to use to the full the provisions in the Agreement on Trade-Related Aspects of Intellectual Property Rights regarding flexibilities to protect public health, and, in particular, to provide access to medicines for all
- 3.c Substantially increase health financing and improve the recruitment, development, training and retention of the health workforce in developing countries, especially in the least developed countries and small island developing States
- 3.d Strengthen the capacity of all countries, in

particular developing countries, for early warning, risk reduction and management of national and global health risks

#### **Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all**

*Linkage to Goal 16:*

- *the equal access for all girls and boys to quality early childhood development, care and pre-primary education referred to in Target 4.2 is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the equal access for all women and men to education referred to in Target 4.3 and equal access for the vulnerable to education referred to in Target 4.5, are linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the provision of safe, non-violent, inclusive and effective learning environments referred to in Target 4.a requires national legislation and regulation and is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*

- 4.1 By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes
- 4.2 By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education
- 4.3 By 2030, ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university
- 4.4 By 2030, substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship

- 4.5 By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations
- 4.6 By 2030, ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy
- 4.7 By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development
- 4.a Build and upgrade education facilities that are child-, disability- and gender-sensitive and provide safe, non-violent, inclusive and effective learning environments for all
- 4.b By 2020, substantially expand globally the number of scholarships available to developing countries, in particular least developed countries, small island developing States and African countries, for enrolment in higher education, including vocational training and information and communications technology, technical, engineering and scientific programmes, in developed countries and other developing countries
- 4.c By 2030, substantially increase the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially the least developed countries and small island developing States

#### **Goal 5. Achieve gender equality and empower all women and girls**

*Linkage to Goal 16:*

- *all of the targets under Goal 5 are linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
  - *the violence against all women and girls, and the trafficking and exploitation referred to in Target 5.2 are linked to Target 16.1, on the reduction of all forms of violence and related death rates everywhere, Target 16.2, on the end of abuse, exploitation, trafficking and all forms of violence against and torture of children, and Target 16.4, on the combat against all forms of organized crime*
  - *ensuring women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life, referred to in Target 5.5. is linked to Target 16.6 on the development of effective, accountable and transparent institutions at all levels, and Target 16.7, on ensuring responsive, inclusive, participatory and representative decision-making at all levels*
  - *reforms to give women equal rights and access, as referred to in Target 5.a is linked to Target 16.3 on the promotion of the rule of law at the national and international levels and the assurance of equal access to justice for all*
  - *the promotion of gender equality and the empowerment of all women and girls at all levels referred to in Target 5.c is linked to Target 16.3 on the promotion of the rule of law at the national and international levels and the assurance of equal access to justice for all, and Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- 5.1 End all forms of discrimination against all women and girls everywhere
  - 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation
  - 5.3 Eliminate all harmful practices, such as child,

- early and forced marriages and female genital mutilation
- 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate
  - 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life
  - 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
  - 5.a Undertake reforms to give women equal rights to economic resources as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources in accordance with national laws
  - 5.b Enhance the use of enabling technology, in particular information and communications technologies to promote the empowerment of women
  - 5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

## **Goal 6. Ensure availability and sustainable management of water and sanitation for all**

### *Linkage to Goal 16:*

- *the universal and equitable access to safe and affordable drinking water for all referred to in Target 6.1 is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the achievement of access for all to adequate*

*and equitable sanitation and hygiene referred to in Target 6.2 and is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*

- *the reduction of pollution, the elimination of dumping and the minimizing of the release of hazardous chemicals and materials referred to in Target 6.3 requires the development of environmental law and, to the extent that organized crime is involved, is linked to Target 16.4 on the fight against all forms of organized crime*
- *the protection and restoration of water-related ecosystems referred to in Target 6.a requires the development of environmental law*
- *the support and strengthening of the 'participation of local communities' referred to in Target 6.b is linked to Target 16.6 on the development of effective, accountable and transparent institutions at all levels and Target 16.7 on ensuring responsive, inclusive, participatory and representative decision-making at all levels*

- 6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all
- 6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations
- 6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing the release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally
- 6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity as well as substantially reduce the number of people suffering from water scarcity
- 6.5 By 2030, implement integrated water resource management at all levels, including through

- transboundary cooperation as appropriate
- 6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes
- 6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies
- 6.b Support and strengthen the participation of local communities in improving water and sanitation management

### **Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all**

*Linkage to Goal 16:*

*- the 'universal access' referred to in Target 7.1 is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*

- 7.1 By 2030, ensure universal access to affordable, reliable and modern energy services
- 7.2 By 2030, increase substantially the share of renewable energy in the global energy mix
- 7.3 By 2030, double the global rate of improvement in energy efficiency
- 7.a By 2030, enhance international cooperation to facilitate access to clean energy research and technology, including renewable energy, energy efficiency and advanced and cleaner fossil fuel technology, and investment in energy infrastructure and clean energy technology
- 7.b By 2030, expand infrastructure and upgrade technology for supplying modern and sustainable energy services for all in developing



countries, in particular the least developed countries, small island developing States and landlocked developing countries in accordance with their respective programmes of support

## **Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all**

### *Linkage to Goal 16:*

- *the access to financial services referred to in Target 8.3 is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the full and productive employment and decent work and equal pay referred to in Target 8.5 requires the development of legislation and regulations*
- *the forced labour, slave labour, human trafficking and child labour referred to in Target 8.7 are directly tied to Target 16.2 on the exploitation and trafficking of children and Target 16.4 on the fight against all forms of organized crime*
- *the protection of labour rights and the promotion of safe, secure working environments referred to in Target 8.8 requires the development of legislation and regulations, and thus has a link to Target 16.3 on the promotion of the rule of law at the national and international levels*
- *expansion of the 'access to banking, insurance and financial services for all' referred to in Target 8.10 is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*

- 8.1 Sustain per capita economic growth in accordance with national circumstances and in particular, at least 7 per cent gross domestic product growth per annum in the least developed countries
- 8.2 Achieve higher levels of economic productivity through diversification, technological upgrading and innovation through a focus on high

value-added and labour-intensive sectors

- 8.3 Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services
- 8.4 Improve progressively, through 2030, global resource efficiency in consumption and production and endeavour to decouple economic growth from environmental degradation in accordance with the 10-Year Framework of Programmes on Sustainable Consumption and Production with developed countries taking the lead
- 8.5 By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities and equal pay for work of equal value
- 8.6 By 2020, substantially reduce the proportion of youth not in employment, education or training
- 8.7 Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms
- 8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants and those in precarious employment
- 8.9 By 2030, devise and implement policies to promote sustainable tourism that creates jobs and promotes local culture and products
- 8.10 Strengthen the capacity of domestic financial institutions to encourage and expand access to banking, insurance and financial services for all
- 8.a Increase Aid for Trade support for developing countries, in particular the least developed countries, including through the Enhanced Integrated Framework for Trade-related Technical Assistance to Least Developed Countries

8.b By 2020, develop and operationalize a global strategy for youth employment and implement the Global Jobs Pact of the International Labour Organization

## **Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation**

*Linkage to Goal 16:*

- *securing 'affordable and equitable access for all' with respect to infrastructure referred to in Target 9.1 requires national and local legislation and policy development and is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the promotion of 'inclusive and sustainable industrialization' and the expansion of industry's share of employment and gross domestic product referred to in Target 9.2 requires national and local legislation and policy development*
- *the access of small-scale enterprises to financial services and their integration into value chains and markets referred to in Target 9.3 requires national and local legislation and policy development and is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*

- 9.1 Develop quality, reliable, sustainable and resilient infrastructure, including regional and transborder infrastructure, to support economic development and human well-being with a focus on affordable and equitable access for all
- 9.2 Promote inclusive and sustainable industrialization and, by 2030, significantly raise the industry's share of employment and gross domestic product in line with national circumstances and double its share in least developed countries
- 9.3 Increase the access of small-scale industrial and other enterprises, in particular in developing countries, to financial services, including

affordable credit and their integration into value chains and markets

9.4 By 2030, upgrade infrastructure and retrofit industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes, with all countries taking action in accordance with their respective capabilities

9.5 Enhance scientific research, upgrade the technological capabilities of industrial sectors in all countries, in particular developing countries, including, by 2030, encouraging innovation and substantially increasing the number of research and development workers per 1 million people and public and private research and development spending

9.a Facilitate sustainable and resilient infrastructure development in developing countries through enhanced financial, technological and technical support to African and least developed countries, landlocked developing countries and small island developing States

9.b Support domestic technology development, research and innovation in developing countries, and help ensure a conducive policy environment for, inter alia, industrial diversification and value addition to commodities

9.c Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in the least developed countries by 2020

## **Goal 10. Reduce inequality within and among countries**

*Linkage to Goal 16:*

- *the non-discriminatory 'inclusion' of all referred to in Target 10.2 is a fundamental concern of justice and (as also with Targets 10.3, 10.4 and 10.5 referred to immediately below) is linked to Target 16.6 on the development of effective, account-*

- able and transparent institutions at all levels, Target 16.7, on ensuring responsive, inclusive, participatory and representative decision-making at all levels, and Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the elimination of discriminatory laws, policies and practices, and the promotion of appropriate legislation, policies and action referred to in Target 10.3 is directly linked to Target 16.b on the promotion and enforcement of non-discriminatory law and policies for sustainable development*
  - *the progressive achievement of greater equality called for in Target 10.4 requires the development of national and local legislation, regulation and policies and is linked to Target 16.b on the promotion and enforcement of non-discriminatory law and policies for sustainable development*
  - *the regulation of global financial markets and institutions referred to in Target 10.5 is a question of national and international law of finance*
  - *the representation and voice for developing countries in global economic and financial institutions referred to in Target 10.6 is linked to Target 16.8 on broadening and strengthening the participation of developing countries in the institutions of global governance*
  - *the migration policies referred to in Target 10.7 are closely tied to national policies, including justice and criminal justice policies*
  - *implementation of WTO agreements referred to in Target 10.a is largely a question of international law and thus is linked to Target 16.3 on the promotion of the rule of law at the national and international levels*
- 10.1 By 2030, progressively achieve and sustain income growth of the bottom 40 per cent of the population at a rate higher than the national average
- 10.2 By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion, economic or other status
- 10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard
- 10.4 Adopt policies, especially fiscal, wage and social protection policies and progressively achieve greater equality
- 10.5 Improve the regulation and monitoring of global financial markets and institutions and strengthen the implementation of such regulations
- 10.6 Ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate institutions
- 10.7 Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies
- 10.a Implement the principle of special and differential treatment for developing countries, in particular the least developed countries, in accordance with World Trade Organization agreements
- 10.b Encourage official development assistance and financial flows, including foreign direct investment to States where the need is greatest, in particular for the least developed countries, African countries, small island developing States and landlocked developing countries in accordance with their national plans and programmes
- 10.c By 2030, reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent
- Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable**



*Linkage to Goal 16:*

- *the access to adequate, safe and affordable housing and basic services referred to in Target 11.1 is in part a question of justice, and is linked to Target 16.b, promotion and enforcement of non-discriminatory laws and policies for sustainable development*
  - *the safety of transport systems referred to in Target 11.2 is in part an issue of crime prevention*
  - *the improvement of road safety referred to in Target 11.2 'with special attention to the needs of those in vulnerable situations' requires the development of legislation and regulation*
  - *the participatory human settlement planning and management referred to in Target 11.3 requires the development of appropriate administrative procedures and is linked to Target 16.6 on the development of effective, accountable and transparent institutions at all levels, and Target 16.7, on ensuring responsive, inclusive, participatory and representative decision-making at all levels*
  - *the protection and safeguarding of cultural and natural heritage referred to in Target 11.4 requires legal measures, including criminal justice measures and, to the extent that organized crime is involved, has a link to Target 16.4, on combatting all forms of organized crime*
  - *the measures for the prevention of and response to disasters referred to in Target 11.5 require administrative measures backed by criminal law*
  - *the measures related to air quality and waste management referred to in Target 11.6 require administrative measures backed by criminal law*
  - *the safety of green and public spaces referred to in Target 11.7 is in part an issue of crime prevention*
- 11.1 By 2030, ensure access for all to adequate, safe and affordable housing, basic services and upgraded slums
- 11.2 By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport with special attention

to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons

- 11.3 By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries
- 11.4 Strengthen efforts to protect and safeguard the world's cultural and natural heritage
- 11.5 By 2030, significantly reduce the number of deaths and the number of people affected and substantially decrease direct economic losses related to global gross domestic product caused by disasters, including water-related disasters, with a focus on protecting the poor and people in vulnerable situations
- 11.6 By 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management
- 11.7 By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities
- 11.a Support positive economic, social and environmental links between urban, peri-urban and rural areas by strengthening national and regional development planning
- 11.b By 2020, substantially increase the number of cities and human settlements adopting and implementing integrated policies and plans towards inclusion, resource efficiency, mitigation and adaptation to climate change, resilience to disasters, and develop and implement, in line with the Sendai Framework for Disaster Risk Reduction 2015–2030, holistic disaster risk management at all levels

- 11.c Support least developed countries, including through financial and technical assistance, in building sustainable and resilient buildings utilizing local materials

## Goal 12. Ensure sustainable consumption and production patterns

### *Linkage to Goal 16:*

- the 'sustainable management and efficient use of natural resources' referred to in Target 12.2 can be promoted through environmental law
- the 'environmentally sound management of chemicals and all wastes' referred to in Target 12.4 can be promoted through environmental law
- the substantial reduction of waste generation referred to in Target 12.5 can be promoted through environmental law
- the encouragement of corporate social responsibility suggested by Target 12.6 can involve issues of company law
- the 'public procurement practices' referred to in Target 12.7 touch upon administrative law
- the 'inefficient fossil fuel subsidies' and restructuring of taxation referred to in Target 12.c raise justice-related questions that concern tax law, administrative law and government subsidies

- 12.1 Implement the 10-Year Framework of Programmes on Sustainable Consumption and Production Patterns with all countries taking action and developed countries taking the lead, taking into account the development and capabilities of developing countries
- 12.2 By 2030, achieve the sustainable management and efficient use of natural resources
- 12.3 By 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses
- 12.4 By 2020, achieve environmentally sound management of chemicals and all wastes throughout their life cycle in accordance with agreed international frameworks, and

significantly reduce their release to air, water and soil in order to minimize adverse impacts on human health and the environment

- 12.5 By 2030, substantially reduce waste generation through prevention, reduction, recycling and reuse
- 12.6 Encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle
- 12.7 Promote public procurement practices that are sustainable in accordance with national policies and priorities
- 12.8 By 2030, ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature
- 12.a Support developing countries to strengthen their scientific and technological capacity to move towards more sustainable patterns of consumption and production
- 12.b Develop and implement tools to monitor sustainable development impacts for sustainable tourism that creates jobs and promotes local culture and products
- 12.c Rationalize inefficient fossil fuel subsidies that encourage wasteful consumption by removing market distortions in accordance with national circumstances including by restructuring taxation and phasing out harmful subsidies to reflect their environmental impacts, taking fully into account the specific needs and conditions of developing countries and minimizing possible adverse impacts on their development in a manner that protects the poor and affected communities

## Goal 13. Take urgent action to combat climate change and its impact

### *Linkage to Goal 16:*

- environmental crime can hasten climate change and, to the extent that organized crime is

*involved, has a link to Target 16.4 on combatting all forms of organized crime*

*- climate change can exacerbate conflict over scarce resources*

- 13.1 Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries
- 13.2 Integrate climate change measures into national policies, strategies and planning
- 13.3 Improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning
- 13.a Implement the commitment undertaken by developed countries party to the United Nations Framework Convention on Climate Change to a goal of mobilizing jointly \$100 billion annually by 2020 from all sources to address the needs of developing countries within the context of meaningful mitigation actions and transparency on implementation and fully operationalize the Green Climate Fund through its capitalization as soon as possible
- 13.b Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities

## **Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development**

*Linkage to Goal 16:*

*- the 'marine pollution' referred to in Target 14.1 is exacerbated by environmental crime*  
*- the regulation of harvesting and the ending of various forms of undesirable fishing referred to in Target 14.4 requires the development of national legislation and policy and, to the extent that organized crime is involved, has a link to Target 16.4 on combatting all forms of organized crime*

*- the reference to national and international law in Target 14.5. has a direct link to Target 16.3 on the promotion of the rule of law at the national and international levels*  
*- the prohibition and elimination of certain forms of subsidies referred to in Target 14.6 is largely a question of administrative law and, in respect to the World Trade Organization, of international law and thus is linked to Target 16.3 on the promotion of the rule of law at the national and international levels*  
*- the question of access to marine resources and markets referred to in Target 14.b is largely a matter of justice and is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*  
*- the implementation of international law referred to in Target 14.c is by definition a question of national and international law and is thus linked to Target 16.3 on the promotion of the rule of law at the national and international levels*

- 14.1 By 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution
- 14.2 By 2020, sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience and taking action for their restoration in order to achieve healthy and productive oceans
- 14.3 Minimize and address the impact of ocean acidification, including through enhanced scientific cooperation at all levels
- 14.4 By 2020, effectively regulate harvesting and end overfishing as well as illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable

yields as determined by their biological characteristics

- 14.5 By 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information
- 14.6 By 2020, prohibit certain forms of fishing subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and the least developed countries should be an integral part of the World Trade Organization's fishing subsidy negotiation<sup>215</sup>
- 14.7 By 2030, increase the economic benefits to small island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism
- 14.a Increase scientific knowledge, develop research capacity and transfer marine technology, taking into account the Intergovernmental Oceanographic Commission Criteria and Guidelines on the Transfer of Marine Technology, in order to improve ocean health and to enhance the contribution of marine biodiversity to the development of developing countries, in particular small island developing States and least developed countries
- 14.b Provide access for small-scale artisanal fishers to marine resources and markets
- 14.c Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United

Nations Convention on the Law of the Sea, which provides the legal framework for the conservation and sustainable use of oceans and their resources as recalled in paragraph 158 of 'The future we want'

### **Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss**

*Linkage to Goal 16:*

- *the implementation of international agreements referred to in Target 15.1 is largely a question of national and international law, and thus has a link to Target 16.3 on the promotion of the rule of law at the national and international levels*
- *the sustainable forest management referred to in Target 15.2 is hampered by environmental crime (see also Target 15.b) and, to the extent that organized crime is involved, has a link to Target 16.4, on combatting all forms of organized crime*
- *the 'land degradation' referred to in Target 15.3 may result from environmental crime*
- *the 'degradation of natural habitats' and the threat of extinction of species referred to in Target 15.5 may result from environmental crime and, to the extent that organized crime is involved, has a link to Target 16.4, on combatting all forms of organized crime*
- *the 'fair and equitable sharing of benefits' referred to in Target 15.6 is largely a question of justice and is linked to Target 16.b on the promotion and enforcement of non-discriminatory laws and policies for sustainable development*
- *the 'poaching and trafficking' referred to in Target 15.7 are environmental crimes (see also Target 15.c) and, to the extent that organized crime is involved, has a link to Target 16.4, on combatting all forms of organized crime*
- *the 'invasive alien species' referred to in Target 15.8 may be introduced as a result of environmental crime*

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Taking into account ongoing World Trade Organization negotiations, the Doha Development Agenda and the Hong Kong ministerial mandate.

- *the sustainable forest management referred to in Target 15.b is hampered by environmental crime (see also Target 15.2)*
- *the poaching and trafficking referred to in Target 15.c are environmental crimes (see also Target 15.7) and, to the extent that organized crime is involved, has a link to Target 16.4, on combatting all forms of organized crime*

- 15.1 By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands in line with obligations under international agreements
- 15.2 By 2020, promote the implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally
- 15.3 By 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world
- 15.4 By 2030, ensure the conservation of mountain ecosystems, including their biodiversity, in order to enhance their capacity to provide benefits that are essential for sustainable development
- 15.5 Take urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species
- 15.6 Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources as internationally agreed
- 15.7 Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illicit wildlife products
- 15.8 By 2020, introduce measures to prevent the introduction and significantly reduce the

impact of invasive alien species on land and water ecosystems and control or eradicate the priority species

- 15.9 By 2020, integrate ecosystem and biodiversity values into national and local planning, development processes, poverty reduction strategies and accounts
- 15.a Mobilize and significantly increase financial resources from all sources to conserve and sustainably use biodiversity and ecosystems
- 15.b Mobilize significant resources from all sources and at all levels to finance sustainable forest management and provide adequate incentives to developing countries to advance such management, including for conservation and reforestation
- 15.c Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities

## **Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels**

- 16.1 Significantly reduce all forms of violence and related death rates everywhere
- 16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children
- 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.4 By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- 16.5 Substantially reduce corruption and bribery in all their forms
- 16.6 Develop effective, accountable and transparent institutions at all levels
- 16.7 Ensure responsive, inclusive, participatory and

- representative decision-making at all levels
- 16.8 Broaden and strengthen the participation of developing countries in the institutions of global governance
- 16.9 By 2030, provide legal identity for all, including birth registration
- 16.10 Ensure public access to information and protect fundamental freedoms in accordance with national legislation and international agreements
- 16.a Strengthen relevant national institutions, including through international cooperation for building capacity at all levels, in particular in developing countries to prevent violence and combat terrorism and crime
- 16.b Promote and enforce non-discriminatory laws and policies for sustainable development

### **Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development Finance**

#### *Linkage to Goal 16:*

- *the debt-related measures referred to in Target 17.4 are largely a question of international financial law and is thus linked to Target 16.3 on the promotion of the rule of law at the national and international levels*
- *the 'favourable terms' referred to in Target 17.7 is largely a question of international commercial law and justice and thus has a link to Target 16.3 on the promotion of the rule of law at the national and international levels*
- *the respect for the decisions of the World Trade Organization referred to in Targets 17.10 and 17.12 is largely a question of international law and thus has a link to Target 16.3 on the promotion of the rule of law at the national and international levels*
- *the 'respect for each country's policy space and leadership' referred to in Target 17.15 is largely a question of the principle of sovereignty in international law and thus has a link to Target*

#### *16.3 on the promotion of the rule of law at the national*

- 17.1 Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection
- 17.2 Developed countries to implement fully their official development assistance commitments, including the commitment by many developed countries to achieve the target of 0.7 per cent of gross national income for official development assistance (ODA/GNI) to developing countries and 0.15 to 0.20 per cent of ODA/GNI to least developed countries; ODA providers are encouraged to consider setting a target to provide at least 0.20 per cent of ODA/GNI to least developed countries
- 17.3 Mobilize additional financial resources for developing countries from multiple sources
- 17.4 Assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and address the external debt of highly indebted poor countries to reduce debt distress
- 17.5 Adopt and implement investment promotion regimes for least developed countries

#### *Technology*

- 17.6 Enhance North-South, South-South and triangular regional and international cooperation on and access to science, technology and innovation and enhance knowledge-sharing on mutually agreed terms, including through improved coordination among existing mechanisms, in particular at the United Nations level and through a global technology facilitation mechanism
- 17.7 Promote the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional



- and preferential terms as mutually agreed
- 17.8 Fully operationalize the technology bank and science, technology and innovation capacity-building mechanism for least developed countries by 2017 and enhance the use of enabling technology, in particular information and communications technology

*Capacity-building*

- 17.9 Enhance international support for implementing effective and targeted capacity-building in developing countries to support national plans to implement all Sustainable Development Goals, including through North-South, South-South and triangular cooperation

*Trade*

- 17.10 Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the World Trade Organization, including through the conclusion of negotiations under its Doha Development Agenda
- 17.11 Significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries' share of global exports by 2020
- 17.12 Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries consistent with World Trade Organization decisions, including by ensuring that preferential rules of origin applicable to imports from least developed countries are transparent, simple and contribute to facilitating market access

*Systemic policy issues and institutional coherence*

- 17.13 Enhance global macroeconomic stability, including through policy coordination and coherence
- 17.14 Enhance policy coherence for sustainable development
- 17.15 Respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development

*Multi-stakeholder partnerships*

- 17.16 Enhance the Global Partnership for Sustainable Development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources to support the achievement of the Sustainable Development Goals in all countries, in particular developing countries
- 17.17 Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships

*Data monitoring and accountability*

- 17.18 By 2020, enhance capacity-building support to developing countries, including for the least developed countries and small island developing States to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts
- 17.19 By 2030, build on existing initiatives to develop measurements of progress on sustainable development that complement gross domestic product and support statistical capacity-building in developing countries

## ANNEX 2

### *Thailand Institute of Justice publications related to the Sustainable Development Goals*

NB: these publications are available at <https://knowledge.tijthailand.org/en/publication>

Bangkok Dialogue on the Rule of Law. Investing in the Rule of Law, Justice and Security for the Post-2015 Development Agenda. Final Report. Bangkok 2014

Child Rights, Ethical Standards and Psychological Analysis for Law Enforcement Training. Executive Summary. Thailand Institute of Justice, Bangkok 2019

Collaborative and Innovative Justice for All: Towards the 2030 Justice. Justice is Everyone's Matter. Thailand Institute of Justice, Bangkok 2019

A Collection of Speeches by Her Royal Highness Princess Bajrakitiyabha Narendradebyavati Krom-luang Rajasarinisiribajra Mahavajrarajadhita. Given on various occasions from 2009 to 2018. Thailand Institute of Justice, Bangkok 2020

Community Service and Probation for Women: A Study in Kenya. Penal Reform International, Kenya Probation and Aftercare Service, and the Thailand Institute of Justice, London, Nairobi and Bangkok 2016

Community Service and Probation for Women. Lessons and Recommendations Based on a Study in Kenya. Penal Reform International, Kenya Probation and Aftercare Service, and the Thailand Institute of Justice, London, Nairobi and Bangkok 2016

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The vision of the TIJ is to be a promoter of change to enhance the justice system and foster a culture of lawfulness in Thailand and the wider international communities through research, capacity-building and policy advocacy activities in crime prevention, criminal justice and the rule of law.

Building on Thailand's engagement in the UN Commission on Crime Prevention and Criminal Justice and the UN Crime Congresses, the TIJ serves as a bridge that transports global ideas to local practices, focusing on cross-cutting issues including the interconnection between the rule of law and sustainable development, peace and security.