

Disrupting Harm

Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Detailed Analysis of Access to Justice and Legal Remedies in Thailand
Interviews with Children and Caregivers

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Fund to End Violence Against Children does not constitute endorsement.

Introduction

Disrupting Harm: evidence to understand online child sexual exploitation and abuse (OCSEA), is a unique and collaborative research partnership between ECPAT International, INTERPOL, and UNICEF Office of Research – Innocenti. Leveraging their specific expertise, each partner sheds light on separate but interconnected areas: context, threats and children’s perspectives on online child sexual exploitation.

- Context by ECPAT International through portraying laws & policies in action;
- Threat by INTERPOL through the collection of crime and other data;
- Children’s voices by UNICEF Office of Research - Innocenti through surveys with children and their caregivers.

The countries of focus in Southern and Eastern Africa region are: Ethiopia, Kenya, Mozambique, Namibia, South Africa, Tanzania, and Uganda. The countries of focus in the Southeast Asian region are: Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

Research took place between 2019 and 2021. Up to nine separate research activities were undertaken in each country by the three project partners. Preliminary analysis for each activity was first conducted before the results across all the nine activities were consolidated into each national country report. These can be found here.

The aim of this report is to assess the views of children and caregivers on the efficacy of justice mechanisms in responding to victims of OCSEA in Thailand, in particular in terms of access to the formal criminal justice system. The report was drawn from semi-structured interviews with six children and three caregivers.

All six children were female. One girl is from Bangkok, while the other five girls were living in other provinces (one in Ayutthaya, two in Chiang Mai and two in Chiang Rai). All study participants were located in urban areas. In addition, all participant children were studying in schools/colleges, and all of them used social media (Facebook and Line (a chat application similar to Whatsapp)). They all established contact with abusers via these applications through a grooming process. Four of the participants had physical encounters with their abusers while the other two did not.

Although there was an effort to contact male children for interviews through network organisations, these attempts were not successful.

Access to the Justice System and Reporting the Crime

Children's decisions on reporting abuse

Among the six OCSEA child victims interviewed, half decided to report their cases to the police while the other three did not want to do so. Two children who decided to report to the police were supported by their parents and guardian, while one child was not but continued to seek for justice on her own behalf.

"I decided to file a case on my own. I only thought that I should file the case because I was harmed when it [the clip] was posted online. I filed a report by myself. I contacted the police via TICAC-Thailand Internet Crimes Against Children. After that they quickly contacted me. At that time, I was sceptical if they would respond to my message" (RA4-TH-04-A).

The children who decided to report their involvement in OCSEA cases said that they wanted to be compensated for the harm that the incident caused them, and they did not want the offenders to do it again with other children. As one participant said: *"because he did not only do this to me alone. In the future he might keep doing this"* (RA4-TH-03-A,B).

Some children are lucky enough to have support from parents or guardians, therefore having the confidence to report the case. As one child said: *"My mother was the one who decided to file a complaint"* (RA4-TH-02-A,B).

While there are a number of reasons why the children did not report, not being supported by parents is one major factor, as one child stated:

"I was not the one who made the decision. In the beginning, I called a friend asking for help. My friend brought her older sister to see me. And the sister said come with me and we will make a report. So, she took me to the police station. I was not ok; I was afraid that my parents would scold me because I went out to enjoy myself" (RA-TH-01-A).

There were mixed feelings among the participants towards the police, which explains why children and parents decide on reporting the case. One child said: *"I felt that it would be safer. Because there are police. I think they will protect us"* (RA4-TH-02-A,B).

On the other hand, some children did not trust that the police could help them:

"First, they were male. Second, I felt that they could do nothing despite recording and filing my report. When we became a female injured person, I did not feel like telling my story to male police. Some guys might look down at us and said that it is all our fault. They probably could not help me. It is better not to file a case because it is wasting time" (RA4-TH-04-A).

This negative perception of local police was also felt by one guardian, who decided to report the case to specialised police rather than at the local police station:

“We did not file a report at Sarapee¹ Police Station. We directly contacted Chiang Mai Provincial Police and the Children Women Family Protection Centre, Anti Human Trafficking of Provincial Police Region 5. It is because the Chiang Mai Provincial Police and the Provincial Police Region 5 are specialised about child abuse cases. If we go to the local police station, the police there may not understand the nature of this case. The Provincial Police Region 5 and the Chiang Mai Provincial Police have officers who are specialised in online technology” (RA4-TH-06-A,B, Caregiver).

According to another parent, local police discouraged her from reporting the case:

“When we went to the local police station in Bang Pa-in, they said that this kind of incident will fade away after some time. Even celebrities could not hide their story. It was like they asked us to take our time to consider. In my opinion, I feel that the police were rather reluctant to accept the case. They explained to us that it was difficult to track (the offenders). It would not be possible to arrest the offenders” (RA4-TH-03-A-B, Parent).

Children’s feelings about first encounters with the police

The interviewed OCSEA child victims and their guardians had both positive and negative experiences in their first encounters with the police. The children’s and their caregivers’ views were aligned with regards to the experiences of encountering the police.

One child said that the judicial process was explained quite well by the police.

“The police told me that he would give (the evidence/the report) to the public prosecutors and they would record my voice. After that I had to be in the court to hear the verdict” (RA4-TH-05-A).

One child said that the interrogation was rather smooth, and the officials were friendly.

“I think questions were clear and were not difficult to answer. During the interrogation, they asked me if I wanted my mother to be with me or I preferred to ask my mother to sit in a separate room. After the interrogation, they told us that they might set a few more appointments and asked the convenience of my mother. They told me that there might be some touching like this and this. They ask if it would be ok for me. I like the way the police work together to make me feel that they can protect me. I feel secured and relieved” (RA4-TH-02-A,B).

Another child said that the interview was held in a private setting, which made her feel more comfortable to share the experience.

¹ The district that the child and guardian are living in.

Some children had experienced rather negative encounters with police – especially at local police stations. For example, the judicial process was not explained in detail:

“The police would tell us this appointment would be for this purpose. We just followed what they told us” (RA4-TH-03-A-B, Parent).

“I don’t know about the whole process. They only told me that the next step might be in the court” (RA4-TH-05-A).

During the interview with the police, some children felt that the room was not private, and the atmosphere was too tense and serious.

“The interview took place in the police station at the front desk to receive reports. There were around 10 people there, two male police officers and five of my friends” (RA-TH-01-A).

One child reflected that the police were insensitive about her traumatising experience while investigating the case:

“After the incident, I faint and was sent to the hospital. I have not yet recovered. It was only 2-3 days after the incident that they called me for an interview (interrogation). In my opinion I think it was too soon. For people who have faced very serious incidents. I told myself to talk despite not wanting to. It was because the police had to process the case” (RA4-TH-05-A).

Another child talked about an unfriendly experience during the investigation by police at the local police station. The incident happened very late at night and reflected the negative attitude of the police towards children:

“At the beginning, the police thought I was just a teenager who had joined a fight with another teenage group, something like that. The way they spoke was not that nice at the beginning. I did not feel okay about that. The police said it was late, and why we were not at home. I explained to them what happened. Then they said, why did you go out at night? They seemed to want to blame me for what had happened” (RA4-TH-01-A).

According to the same child, some questions asked by the police included: Where was the location? How many people committed the crime? How many people were at that place? Are they still at that place or have they run away? What did they do? Although the questions were clear, the tone was not friendly. The questions made the child feel uncomfortable.

“I was frightened, and I cried. At that time, I was about to lose consciousness and I was still depressed, I did not want to say much. There were two police officers, one officer was kind and the other one was quite tough. He bashed the table and shouted at me, saying ‘Mueng, speak clearly!’ He could not understand

[what I was saying]. He said that we had disturbed their working hours. They were sleeping. We went to the police station while they were sleeping” (RA-TH-01-A).

The interview lasted for about 10 minutes. Then the police took the child to identify the location of the crime. The girl was asked to identify the perpetrators. After that the police arrested the offenders immediately before the child was taken to the hospital.

Testimonies of interviewed OCSEA child victims reflect a common attitude among law enforcement officials and the general public that a child is responsible for their wrong-doing and should not be considered a victim of sexual exploitation, including OCSEA.

Testimonies of the interviewed OCSEA child victims also reflect that the enforcement of child friendly interview methods was not consistently applied by police. According to the Criminal Procedure Code, in case of sexual offences under the Thai Penal Code or any other law, if the victim is a child, the inquirer shall, upon the request of such a child, interrogate him or her separately at a suitable place and in the presence of a psychologist or social worker, a person sought by the child and a public prosecutor.² However, at least one child respondent was not interviewed separately in a suitable place nor in with the presence of a psychologist or social worker.

Although there have been some efforts by government and civil society partners to conduct sensitisation for law enforcement officers on gender related crimes and a victim-centred approach, including OCSEA related crimes, this awareness raising and capacity building sessions should be on-going and more systematic. It is also important to make sure that sufficient resources are allocated to ensure that all local police stations have good facilities including separated rooms for private interviews.

All six interviewed OCSEA child victims were female, and they had strong opinions on the importance of having a female police official to speak to.

“During the interrogation, I felt a little uneasy and asked myself why it had to be a male (police officer), not a female officer. I did not know that we could select the gender of the police who would interrogate us. I had no idea at all. I only realised that when the process was over, and I searched information from websites” (RA4-TH-06-A,B).

“Because I am a girl. When I had to tell the story that I got abused by men, the police officers are also men. It was kind of repeating my trauma and I felt bad about it. If it is a woman, I feel that I can trust a woman who is like my mother who will listen to me” (RA4-TH-06-A,B).

“If I could choose, I would choose female police officers. I feel that she has the same sex, so she will understand me more than male police officers” (RA4-TH-02-A,B).

² Government of Thailand. (2008). [Criminal Procedure Code, 1934 \(as amended by Act No. 28 of 2008\)](#), Section 133 bis.

Although not required by any law, the Royal Thai Police issued a policy for female investigators to be responsible for interrogating sexual assault cases including those under the Domestic Violence Act and the Human Trafficking Act. Female investigators are also in charge when a child under 10 years old has committed an act that constitutes a criminal offence.^{3,4} Child respondents confirmed that female police officers play a crucial role in providing comfort and support to victims of OCSEA during the interrogation stage. However, as reflected by the children’s own experience, the number of female police officials is still not enough.

³ According to section 73 of the Thai Penal Code, “a child not yet over ten years of age shall not be punished for committing what is provided by the law to be an offence.

⁴ Roles and responsibility of female investigators were specified under Royal Thai Police Order No. 514/2537

Participation in the Justice Process

Children's feelings about interactions with lawyers and judges

Similar to the reporting process, the interviewed OCSEA child victims had a wide range of opinions on how well lawyers and prosecutors handled their cases. First of all, some children said that the language used was quite easy to understand.

"It was easy to understand, and it was clear. They did not rush me to talk. They let me talk slowly and gradually" (RA4-TH-05-A).

"They used language that we usually talked about, so I understood" (RA4-TH-05-A).

"The language was not difficult. I understood what the police and the public prosecutors talked to me" (RA4-TH-06-A,B).

On the other hand, one child said that the language was difficult: *"I did not understand much at that time, they did not use language that was easy to understand. I was sometimes confused but I was afraid to ask them"* (RA-TH-01-A).

The explanation of the judicial process provided by legal professionals was not thorough enough.

"They did not tell us all the process. They told us what will happen in the next meeting. So, we just prepared ourselves for each appointment" (RA4-TH-03-A,B, Parent).

"They did not inform me about the whole process. They said "today I am going to ask you about..." (RA4-TH-06-A,B).

Although the children did not understand the process, they did not have the courage to ask questions to adults.

"I did not ask anything, although I might have doubts in my mind. But I was scared to talk to anybody at that time. At that time, I had no idea at all about the process to be in the court. 'Do I have to meet them (the offenders)?', 'What to do, will they ask me questions?'" (RA4-TH-06-A,B).

This reflects that legal professionals and/or social workers need to work more proactively to provide information about the judicial process to OCSEA child victims to put them at ease and relieve some of their worries and stress.

Again, the OCSEA child victims reflected that having female prosecutors and/or social workers provided a better experience during the judicial process. As two child respondents noted:

“The female officer is more relaxed. They told me not to be stressed and I could talk slowly. Anything that I felt it was not ok to talk, I could skip and did not have to answer it” (RA4-TH-06-A,B).

“It would be better if officials are female. They would understand me more because we are female, and I would have told more details to them” (RA4-TH-04-A).

Not all interviewed OCSEA child victims had to go to court. Some of them had their cases judged without doing so. For those who went to the court, they had a rather short encounter with the judge because the questioning was very short. One parent said that she was surprised that the court session lasted only 30 minutes.

One child said that she only had to answer “yes” or “no” to the judge. Another child said that questions asked by the court were factual, such as: “This person does this, right?”, “Who do you remember?” and “Did this person really do this to you?”

Even so, most of the children were quite worried and stressed with the prospect of having to go to court. Some of the children stated:

“I was tense when I had to talk about what happened. Because I couldn’t remember everything so I was afraid when I had to talk in the courtroom, I couldn’t recall everything that happened. I was afraid they would believe that I was lying. It was quite a while since it happened, I had forgotten some parts of it. There wasn’t any problem and it wasn’t as bad as I thought it would be” (RA-TH-01-A).

“I might be thinking too much as he [the judge] just worked on his duty. But I think he was rather scary. Probably it was because of his personality. He was old with a hoarse voice. He only asked yes-no questions. I did not have to repeat my story” (RA-TH-03-A).

One child reported that she was interviewed by a social worker at the court session in a separate room in the same building before entering the court room to listen to the judgment. This was in accordance with the Criminal Procedure Code which requires the presence of a psychologist or a social worker with the child even at subsequent stages of legal proceedings. It allows the court to hold a trial in a closed room either on its own motion or upon the request of either party, provided that it is in the interest of public order or good morals.⁵ However, this provision applies generally to all criminal trials, not only trials involving child victims or witnesses.

This process helped release worries and stresses of the children and, therefore, it should be applied more actively. In addition, preparation session for children prior to going to court, or entering the judicial process as a whole, proves to be very helpful.

⁵ Government of Thailand. (2008). [Criminal Procedure Code, 1934 \(as amended by Act No. 28 of 2008\)](#), Section 177.

Three of the interviewed OCSEA child victims reported that they had to confront their offenders while they were in court. This was a very traumatising experience for them.

“I felt so worried because the offenders were sitting behind me and I was in the middle of the courtroom. They were looking at me, so I felt pressured. I was afraid of them. I was afraid of the offenders because they could hear what I was saying. I was afraid that they would hate it. I was afraid they would hate me and one day...they would take revenge because I had ruined their futures” (RA-TH-01-A).

“There was a time I had to meet the offender. It was a kind of mental trauma to me, yet I tried to stay firm and listened to the court’s verdict. We sat on a separate side in the court. I felt that I did not want to see him. It was not OK and I did not want to see his face. He sat still. I still thought about that incident. There was my sister who tried to cover me from facing him” (RA4-TH-05-A).

The other three children who were interviewed did not experience this type of confrontation. They said that they did not have to go to the court because public prosecutors represented them in the proceedings. One of these children also reported that she had to go to the court for the compensation case, but not for the criminal case.

The interviews showed that different practices seem to exist in deciding whether children who are victims of OCSEA need to appear in court or not. One interviewed caregiver thought that if the case is not complicated and the offenders confessed the crime, sentencing will be straight forward, and children need not be there.

The Criminal Procedure Code does not have a specific section to clarify whether OCSEA child victims should attend the court session or not. The Code’s principle is that of the best interest of the child. According to social workers, if there is sufficient evidence and a confession from offenders in the report of the public prosecutor, the judge can go on and convict offenders without the child being present. This is considered good for children based on the principle of the best interest of the child, given that they do not have to encounter the stressful and formal environment of the court, nor repeat their stories or be confronted with the offenders.

Four out of six OCSEA child victims said that they were informed about their offenders’ convictions but could not identify which law was invoked.

Two cases for which information about the court convictions could be tracked are those of RA4-TH-03-A and RA4-TH-04-A. In both cases the offenders were convicted under the Penal Code and Anti-Human Trafficking Act.

The Thai Penal Code criminalises certain acts associated with CSAM. It criminalises possession of CSAM by anyone, either for sexual benefit of oneself or another person. Forwarding CSAM to another person is also an offence under the Code. Further, the Code criminalises producing,

importing, exporting, selling, possessing or circulating in any way CSAM for commercial purposes or for trade, distribution or public display.

The Anti-Trafficking in Persons Act partially covers CSAM. Under the Act, the term “exploitation” means, *inter alia*, seeking benefits from the production or distribution of pornographic materials. It criminalises the acts of “procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receipt of a child for sexual exploitation.”

According to the information received from the NGO providing support to both children, both cases were considered as crimes under the Anti-Human Trafficking Act as well as under the Criminal Code (Section 287/2) for the purposes of conviction of offenders and the victims’ seeking compensation.

For the case of RA4-TH-03-A, the Criminal Court gave a jail term of 27 years to the offender, but, as he confessed, the conviction was reduced to 13 years and 6 months. In the case of RA4-TH-04-A, three offenders were given a jail term of 11 years.

Children and caregivers were asked about how they felt about the sentence imposed on offenders. Three of them felt strongly that the justice system is not fair and that the punishment for offenders was too low and could not adequately compensate for what happened to them. The guardians expressed similar views to the children.

According to two interviewed OCSEA child victims, there were two OCSEA court cases in which both offenders received a reduction of their penalties by half because they confessed. In one case, an offender originally received a 26-year jail sentence, while, in another case, an offender received a 22-year jail sentence.

“I remember that he got approximately 22 years jail sentence. His sentence was reduced to half that time when he confessed. So, it was an 11-year jail sentence, which I don’t think is fair at all. You cannot compare his 11 years in jail with my life from now on. It is not worth it [interviewee is crying]. He will be in jail for 11 years and after that he could prey on more victims. It is not ok” (RA4-TH-04-A).

“In my opinion, the court helped us very little. I noticed that the court rendered the lowest possible judgment in all cases. My daughter’s case is one of the 3 child victims. The court rendered the most lenient punishment in all 3 cases. I think that the offender had an intention (to commit the crime). He had no remorse. This is my personal opinion” (RA4-TH-02-A,B, Parent).

In some cases, especially those in which children did not appear in court in person, the children were not informed about the judgment.

“I do not know what happened. Nobody told me if this guy received the death sentence, jail sentence, or fines. There was a call asking me when I had to be in the court. At that time, I was surprised to be called

to court. After that I was informed that I did not have to go there because the court had already rendered its judgment” (RA4-TH-06-A,B).

Hardest part of talking with criminal justice actors for children

The interviewed OCSEA child victims and caregivers stated that their general experience with officials during the judicial procedure was good and that the officials they met with were professional and did their jobs quite well. As one child said: *“I think all officers are nice. I did not see anybody who was unfriendly to me. They worked the best on their duty when they were with me”* (RA4-TH-06-A,B).

However, there were still parts that the children felt were difficult to deal with during the process, and which identified serious gaps in the way child victims of OCSEA are handled. These gaps should be filled to make the judicial process more child-sensitive and better adapted to handle OCSEA offences.

Some of the interviewed children reflected that their trauma, which was an impact of the OCSEA incident, was not properly handled during the interviews. Meetings with police and public prosecutors re-traumatised children. Some children said:

“I felt stressed because the incident had just occurred. I did not want to tell the story and I did not want to talk much” (RA4-TH-04-A).

“I didn’t feel okay. Because it reminded me of what happened, and it made me feel bad. It reminded me of that event. I feel regret; I should not have gone out of the house that evening to meet with strangers just for fun” (RA-TH-01-A).

This is a major concern, and it shows the importance of social workers and psychologists playing a greater role in these processes, in order to ensure that they are child-friendly and do not cause further harm to child victims of OCSEA.

According to the Criminal Procedure Code, in case of sexual offences where the victim is a child, the inquirer shall, upon the request of such a child, interrogate him or her separately at a suitable place and in presence of a psychologist, social worker or a person sought by the child and a public prosecutor. If the psychologist or social worker is of the opinion that such a questioning would be detrimental to the child’s mental condition, the inquirer is required to question the child only through the psychologist or social worker, in a way that prevents the child from hearing such questions.

It was evident that it was very difficult for children to talk about what happened in detail:

“I understood that they had to do the job, but they were male police, so they were kind of teasing me. It makes me feel embarrassed and I did not want to tell a story in detail. I felt it was not OK to tell such story to male officers.”

“They wanted me to tell the in-depth story, but sometimes I did not want to. I thought that they should know what happened and how, but they should not ask me to tell in-depth story and asked me to narrate more. If I was reluctant, they would ask more questions. I understood that it was their job to ask; but for some questions I did not think it was necessary to narrate to see such clear pictures” (RA4-TH-04-A).

It was also highlighted that it was traumatising to repeat the story too many times:

“I had to repeat my story many times. Every time I told a story I felt that it was re-traumatising. They kept asking the story I wanted to forget. They kept asking me to think back on that incident” (RA4-TH-06-A,B).

“I think I had to say it around 4-5-6 times. It was almost the same in each meeting. I think the difference is that each meeting, people came from different agencies. It was when I told them the whole story and they asked me questions like “What did he say?” Sometimes I felt uneasy to repeat the offender’s word speak, but it was necessary to tell them. But I told them because it was necessary” (RA4-TH-02-A,B).

“It was 5 times in total. Every time I went to each place, I had to tell the same story. The first time was to file a report; the second time was in the investigation process; the third time was another investigation process with a female officer. They asked me to tell a story and asked how I felt at each detail of the incident. The other time with the justice office for the purpose of applying for compensation. I try to forget it already. When I had to repeat the story, it was a kind of repeating my trauma that I made a mistake on this. I was not ok with this negative feeling” (RA4-TH-06-A,B).

The Criminal Procedure Code also states that, unless there are justifiable reasons, a child shall not be questioned repeatedly. The inquirer shall arrange to have the interrogation of the child recorded audiovisually as evidence that can be reproduced continuously. According to the children, this method was not used in all their cases. In fact, only one child mentioned the use of video recording during the interrogation. However, as this method was specified by the Criminal Procedure Code, a social worker who provided support to one of the interviewed children confirmed that video recording methods should be applied in all cases but children might have forgotten, did not notice or were not informed.

The negative experiences of the OCSEA child victims who were interviewed show that, despite the existing child friendly methods in the Criminal Procedure Code, the practice of accessing justice is still very hard for child victims of OCSEA. Despite the video recording methods, the children still had to repeat their stories many times throughout the process. They often feel ashamed and have a hard time sharing what happened to them. This may lead to a risk that many OCSEA victims choose not to take their cases forward, because the process in itself is so traumatising.

As already mentioned in the previous section, children’s experiences in confronting offenders in court was traumatising, according to three children.

There were other minor difficulties that children faced during the judicial process that are worth mentioning. One child said that she had to miss a lot of class during the process. The children and parents also have to bear travel costs to attend each session during the procedure.

“For me it was quite long. We had meetings very often and I did not go to school, and teachers asked why I missed classes” (RA4-TH-06-A,B).

What the children feel was done by different criminal justice professionals (police, judges, prosecutors, lawyers, or other relevant staff) to make the process easier for them and to help them participate in the process.

One of the good practices reflected by the interviewed children and caregivers is that they were well-informed about the legal procedure, which is rather complicated.

“They told me that if they could arrest an offender, I would have to be in the court. They would set an appointment with my mother. They asked the convenience of my mother and to get the inquiry report. They also told us that we had to negotiate if we wanted to file a Civil case [for compensation]. They told us that there were 3 Court levels, Civil Court and so on. If we were not satisfied with the result, we could proceed to file another complaint, but it would take time” (RA4-TH-02-A,B).

In at least one case, the multidisciplinary approach to handle children’s cases was applied very well, especially the involvement of social workers or a psychologist in the interrogation session, according to two caregivers of child victims involved in the same case.

“In Chiang Mai, we are quite aware of the legal process of all entities. For example, when our child joined the interrogation, there would be a psychologist to talk to her with a public prosecutor in a separate room, yet we were not there in the room” (RA4-TH-06-A,B, Caregiver).

“After we reported the case to the Provincial Police Region 5, the police coordinated with social workers and we could meet and talk to them at the Provincial Police Region 5” (RA4-TH-02-A,B, Parent).

In all OCSEA cases concerned by the interviews, the offenders were arrested and prosecuted within a short period of time. The court issued sentences against them within months to one year. In one case, both the child and her parent were very impressed with the operation of the specialised unit under the Provincial Police Region 5 that conducted the investigation and arrested the offender in a timely manner.

“I think one of the most helpful party in this case was the police team who arrested the offender. They are so brave. I had a chance to talk to them. They asked for my Line account to lure the culprit to click on their links” (RA4-TH-02-A,B).

According to the child’s mother, after they reported the case to the Provincial Police Region 5, the police started the operation on the same night. The police asked for the Line ID of the child and started talking to the offender.

“They knew their way how to talk as well as to find an IP address to locate the offender’s area and narrowed down to find his location. [...] In my opinion, the police worked very fast. They arrested the offender in approximately a month [...]” (RA4-TH-02-A,B, Parent).

According to one child, she did not have to be in the court because *“they said that they did not want me to meet the offender”* (RA4-TH-02-A,B).

Another child said that she was asked questions and recorded a video during the interrogation to open in the court. For such cases, the police can represent children in court and they had already prepared reports and evidence for that. This was performed in accordance with trauma informed care to avoid children’s trauma. Social workers wrote in the assessment form that the incident had given mental trauma to the child.

As already mentioned above, OCSEA child victims were stressed and worried with the prospect that they had to go to court for testifying their cases – no matter what. Therefore, according to some interviewed children, they felt much more confident and relaxed when a preparation session was held for them prior to going to court. As one child stated:

“The social worker told me I would have to talk about what happened, because they interviewed the offenders and they wanted to interview me to prove that the information was in line and true in order that justice would be upheld. She suggested me to recall what happened and tell the truth. She also suggested the wordings that I should use in the courtroom. It made me feel more confident and relaxed. And after entering the court session, I found that it was not as scary as I thought” (RA-TH-01-A).

One key success factor for a lengthy and complicated judicial procedure is that all OCSEA child victims have been supported throughout the process by a social worker and/or lawyers from one of the NGOs. Although legal professionals somehow support the children and their caregivers by informing the process, making questions simple, and providing legal support on each of the process, they may not be sensitive enough or have time to address stress, worries, depression and trauma that the children have had since the incident. This is why many children and caregivers feel that support from social workers – on informing them about the legal procedure, providing psychosocial counselling, and addressing wellbeing issues in general – makes it easier for children and caregivers to get through the process.

“A21 [the NGO] supported us the most. If they did not approach us at the beginning, we would not have been here at this point. We would have kept everything with ourselves, suffering and would not get anything. I think we were fortunate that the organisation offered us help. They encouraged us and they coordinated for us. Anything that I did not understand, I would ask the social worker” (RA4-TH-03-A,B, Parent).

“The best person may be the social worker from A21 [an NGO]. It is because she took care) of me in everything when I felt down, when I had problem with my study, and when I was bullied by friends. She is always there to support me” (RA4-TH-04-A).

“I think the most helpful person is a social worker from ECPAT Thailand. She consoled me when I was stressed and worried. She told me what kind of questions they would ask me. It made me feel relaxed. Legal officials did not support me this way. They only told me the process and let me face it” (RA4-TH-05-A).

Compensation

Children's awareness on their right to compensation

None of the interviewed children were aware of the right to compensation for OCSEA victims prior to the incident. They have come to know about this right because they were informed by either police, public prosecutors or social development workers.

"When we met the public prosecutor, they explained to us about things we should get and should not get" (RA4-TH-03-A-B, Parent).

"I learned from the police who told me that I could apply for compensation from the court" (RA4-TH-05-A).

Experiences of children seeking compensation

According to the interviews, OCSEA child victims have gone through more than one process to seek compensation. Their memory and understanding of these processes were quite scattered. In summary, there are two steps to receiving compensation: 1) at the local police station, police arrange for offenders or their family to pay an amount to the children; and 2) children had to issue an application to file for compensation from the court.

The process of receiving compensation at the police station right after reporting the case is quite simple. This process is not part of the law but rather done informally by police. In many cases of domestic violence, and some cases of minor sexual assaults, law enforcement officials tend to choose the mediation process and request that abusers give some money to the victims to compensate for the damage. This also means that the victims do not have to bring the case to the court. However, this is not the case for OCSEA as it is considered a criminal case that could not be conciliated. The interviewed children received some compensation from offenders' families and still continued to pursue the court case.

As the OCSEA child victims reflected:

"The offenders' family gave me 25,000 Baht as compensation through the arrangement of police. The police officer said as an injured person I should demand compensation. The process was simple" (RA-TH-01-A).

"We (the child and family) received this money after filing a report to the police. The police told (the offender) that he had to compensate the children" (RA4-TH-05-A).

There are a number of laws under which victims of OCSEA can seek compensation for their cases. The Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act

entitles victims to seek damages resulting from offences mentioned in the list annexed to the Act.⁶ This covers offences relating to sexual offences under the Thai Penal Code. Therefore, they are applicable to OCSEA offences to the extent that they are covered by the Thai Penal Code. Damages can be sought for, *inter alia*, covering expenses for medical treatment.

Victims of OCSEA can also seek compensation under the Civil and Commercial Code, which provides that a person who “wilfully or negligently unlawfully injures the life, body, health, liberty, property or any right of another person” must provide compensation for the harms caused.⁷ Compensation can also be sought for pain and suffering incurred by the victim as a consequence of the acts of the offender. In addition, child victims of OCSEA can seek compensation through the Anti-trafficking Fund established under the Anti-Trafficking in Persons Act.⁸ For several OCSEA related cases in Thailand, child victims have received compensation from this Fund if the court ruled that particular case as trafficking, according to one of the social workers who provided support to the children during the legal procedure.

The interviewed children and their caregivers who went through the process of seeking compensation generally could not specify which law they invoked in pursuing compensation. However, they reflected that requesting compensation through the courts was far more complicated. A child said that she was well-informed about the process:

“When we were at the City Hall, the social worker who took care of us during the whole process brought us to meet a person who explained to me that I could request for compensation. The officer explained in detail and gave me a handbook. The officer told me that first I should consider the amount to request for compensation and look into categories, then they would bring the request to consider in a meeting. The officer told me that I should request the highest amount; whether it would be approved or not, they would try the best. At first, I requested for 1,500,000 Baht. Later, they increased the compensation amount for me, which I do not remember how much” (RA4-TH-02-A,B).

Those who decided to pursue the process reflected that the process is lengthy and complicated:

“We had to go back to the court many times to bring and sign some documents. The court is rather far from where I lived. It should not take so long. We have to wait for the investigation and the court judgment. There was no update yet since we requested for compensation” (RA-TH-04-A).

The lengthy and complicated process to seek compensation also discouraged at least one child and her parent to continue. The child had already received an amount from the offenders’ family as negotiated by police prior to the court case. As they pursue the criminal procedure, they are entitled to apply/request for compensation as per the law.

⁶ Government of Thailand. (2001). [Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act of 2001](#), Section 17.

⁷ Government of Thailand. (1925). [Thai Civil and Commercial Code of 1925](#), Section 420.

⁸ Government of Thailand. (2008). [Anti-Trafficking in Persons Act of 2008](#), Section 42.

“After the court case, the police officer indicated that there is another process that we could request for further compensation. One day we went to the social development and human security office, but we did not bring all required documents with us. My family thought the process is too complicated. It requires a lot of documents to prove the case, such as the police report, my personal documents and documents from other relevant people. So, we did not pursue the compensation further” (RA-TH-01-A).

Another child said that she could not go through this process because she belonged to a minority group and had no Thai ID card, which was required for the process.

Main barriers to seeking / obtaining compensation

As already mentioned above, the OCSEA child victims and caregivers involved in the process thought that it was lengthy and complicated. In one case, it had been almost 2 years and the court had still not issued the decision yet. According to the child:

“It is complicated as we had to get a copy of the first report that I made on the first day from the police station and it is far from Mae Sai district; it was not convenient. The report document and document from the hospital where we got treated” (RA-TH-01-A).

In addition, the compensation process excluded those without Thai ID cards.

“I did not have an ID card and birth certificate, so I could not request for it. They also required the ID card of my parents. Nobody in my family has received the “number zero” card” (RA4-TH-05-A).

In two OCSEA cases, the court issued an order for the offender to pay compensation to the child victims. However, to get the amount is another issue. As one child said, *“they told me it would take quite a long time” (RA4-TH-03-A,B).*

For this case, the amount was approximately 100,000 Thai Baht (US\$ 3,188 as of April 2021). The compensation was claimed for mental trauma and others. The next step would be that the Ministry of Social Development and Human Security is responsible for the legal execution of the court order, which is, according to one interviewed caregiver, *“the process to force him to pay us” (RA4-TH-03-A-B, Parent).*

The caregiver did not actively follow up with the responsible agency. She noted:

“They told me I have not received the actual money yet. It will be under process. Even though we do not receive anything, I may have to accept it” (RA4-TH-03-A,B, Parent).

According to one child, an amount of 20,000 Baht (US\$ 638 as of April 2021) was the promise of compensation on the day she went to the court. At that time, the offender could only pay this amount and the rest would have to follow up from his assets. The child was not optimistic about getting the compensation.

“I think that he must have transferred all of his assets when he was granted bail. He has a family; wife, children and relatives. If I were him, I would also transfer my assets. Although we can estimate the amount, we do not receive the actual money, but I only receive the amount on paper, which they asked me to sign and acknowledge. In court, the judge told me that the compensation amount was just a paper, but you may not receive the money as stated on the paper” (RA4-TH-04-A).

At the end of the day, the interviewed children also thought that monetary compensation does not equal the damage, no matter the amount.

“When I looked back, however, I learned that what he had done to me was not worth the money. He only faced problems a bit, but I faced with people at the whole school and my classmates. What if he publishes my clip, how will school friends look at me? Therefore, I decided to request for compensation” (RA4-TH-06-A,B).

In conclusion, four out of the six OCSEA child victims went through the process of seeking compensation via the court. Two children did not go for this process because one child did not have support from her guardian, and the other one said that they did not have Thai nationality and therefore is not entitled to it.

According to the information received from the NGO providing support to both children, the court ordered the offender to pay compensation amounting to 2.094 million Baht (US\$ 66,746 as of April 2021) to the child RA4-TH-04-A. However, as the child said, the money was not yet received as the victims’ families, with the support of Ministry of Social Development and Human Security, are responsible for the legal execution of the court order, which is not very optimistic according to both children and caregivers.

This clearly shows that access to compensation remains complicated for victims of OCSEA, and that only a minority of the child victims manage to claim compensation. The process also appears discriminatory, since only child victims with Thai ID cards are allowed to apply. However, it was not clear in the Anti-Human Trafficking Act that Section 35 on compensation only applies to Thai nationals. Indeed, it should not only cover Thai nationals as the Act also covers victims who are migrants too.

Successes

This section highlights some promising practices during the judicial procedure, where (some) things were done well and where the child got proper access to justice as told by the children and their guardians.

In at least one case, the multidisciplinary approach to handle OCSEA cases was applied very well, especially the involvement of social workers/psychologist in the interrogation session, according to the caregivers of two children involved in the same case.

“In Chiang Mai, we are quite aware of the legal process of all entities. For example, when our child joined the interrogation, there would be a psychologist to talk to her with a public prosecutor in a separate room, yet we were not there in the room” (RA4-TH-06-A,B, Caregiver).

“After we reported the case to the Provincial Police Region 5, the police coordinated with social workers and we could meet and talk to them at the Provincial Police Region 5” (RA4-TH-02-A,B, Parent).

The interviews showed that, in some OCSEA cases, the judicial procedure was child-sensitive and appropriate mechanisms, as provided by the Criminal Procedure Code, were put in place and implemented.

However, as reflected in the previous sections, some of the respondents also felt that the judicial process was traumatising, showing that there is still no systematic child-sensitive approach in place for all cases involving OCSEA victims. In particular, there is room for improvement with regard to the use of video-taped testimony to avoid victims having to repeatedly state what happened to them. While this is provided for by the Criminal Procedure Code, it is not yet implemented in all cases.

As mentioned, OCSEA child victims were stressed and worried with the prospect that they had to go to court for testifying their cases – no matter what. Therefore, according to some interviewed children, they felt much more confident and relaxed when a preparation session was held for them prior to commencing court proceedings. As one child stated:

“The social worker told me I would have to talk about what happened, because they interviewed the offenders and they wanted to interview me to prove that the information was in line and true in order that justice would be upheld. She suggested me to recall what happened and tell the truth. She also suggested the wordings that I should use in the courtroom. It made me feel more confident and relaxed. And after entering the court session, I found that it was not as scary as I thought” (RA-TH-01-A).

One key success factor for a lengthy and complicated judicial procedure is that all OCSEA child victims had been supported throughout the process by a social worker and/or lawyers from one of the NGOs.

It is worth noting that the Thai legislation does not provide for free legal aid and representation to child victims of OCSEA. Therefore, support provided by NGOs is considered as proactive and added value to the standard system.

Recommendations

This section presents recommendations from the interviewed OCSEA child victims and their guardians on how the government can improve to make it easier/better for children to participate in criminal cases against their abusers and seek compensation.

Main changes suggested by children to make it easier/better for children to participate in criminal cases against their abusers

Recommendations from the interviewed children were strongly aligned with each other. Key areas that children suggested are:

It was noted that children should be able to choose officials that they want to talk to, especially female officials.

“As a child, we should be able to select officers that we want to talk to” (RA4-TH-06-A,B).

“I would prefer to have female police officers to interview us. I do not know if other children feel nervous or not, but they should create a relaxed environment during the interrogation” (RA4-TH-02-A,B).

It was also recommended that the judicial procedure should be better explained.

“Officers should explain to children about the legal process; what will happen, what will be next steps, and what kind of questions they will ask. These kinds of information should be informed to children, so they understand the process thoroughly” (RA4-TH-05-A).

As the interviewed OCSEA child victims who went to court reflected in earlier section, they felt stress and worry about going to court, therefore recommending that better preparation should be provided to the children before participating in court.

“I think it is necessary. If we are not well prepared, we will be sitting there and get a lot of questions without having time to ask any question back to them” (RA4-TH-06-A,B).

It was also noted that child friendly procedures should be more effectively applied during the judicial procedure and in particular that interviews and interrogation with children should be held in privacy.

“I think it should be more private during the interview and there should be only two people like me and an official. And the conversations should be in a way that are easy to understand” (RA-TH-01-A).

Further, it was recommended that the process be shortened and that the number of visits during the process be minimised.

“I think it would be good to reduce the process; make it concise without visiting legal enforcement officials several times. For example, starting from filing a report, to the investigation and then going to the court, a total of 3 times for the overall process” (RA4-TH-02-A,B, Parent).

One child stated that the process should avoid children having to repeat their stories as much as possible.

“I do not think they should ask in-depth details during the interrogation. We should not have to tell the story many times, each time it repeats our trauma. Nowadays I still cry when I think about the incident. I was not feeling sorry like in the first day, but I still repeat my trauma” (RA4-TH-04-A).

Lastly, it was recommended that children should not have to confront the offenders when in court.

“We should not see the offenders when we go [to the court], there should be partitions or something to separate [us and the offenders.]” (RA-TH-01-A).

Main changes suggested by children to make it easier for children to seek compensation

One child suggested that the process should be less complicated.

“It needs to be improved to make it more convenient for us. For example, police station and hospital should give us the documents so that we could present them for pursuing the compensation more easily” (RA-TH-01-A).

In addition, children and guardians should be informed about the process for seeking compensation thoroughly.

“The court did not inform us clearly about the compensation. They just told us briefly, so we did not know what to do. I would have preferred that they had given us more details. For example, they should have told us about the process and documents required to demand compensation such as the medical certification, the transportation costs to travel to the court and so on” (RA-TH-01-A).

It was also suggested that the access to the process of seeking compensation should be inclusive for all children, including those who aren't Thai.

“The main problem is that I have no ID card. It deprives me from access to any service, not only compensation application. It relates to many issues. When I grow up and finish my study, I do not know if I can apply for any good job” (RA4-TH-05-A).

In conclusion, these recommendations from the children emphasised the importance of child-friendly legal procedures in comforting children throughout the process. A key recommendation for the government is to increase institutional capacity and resources to ensure that the child-friendly procedure as stated in Criminal Procedure Code Act is effectively and consistently applied in OCSEA cases, as well as other cases involving children.

The children's experiences reflected that when this is done, it makes a difference for OCSEA victims and they appreciated it. On the contrary, those children who went through the procedure without child-friendly components had bad experiences of the process.

Support to prepare children before going to court and attending different hearings by police and public prosecutors can largely reduce the stress and worries of children, as showed by the OCSEA victims' testimonies of good practice that should be replicated wider. Here, the role of social workers and staff members of civil society organisations has become crucial.

In addition to the preparation of children for the court, general psychosocial support provided to children from the beginning to the end of the process proved to be invaluablely comforting to the children.

Lastly, children and caregivers need to understand the overview of the legal procedure that they have to go through. According to both adults and children who were interviewed, the level of information that they got was varied and came from different officials.