

Salt in the Wound

**Justice Outcomes and SGBV Cases
in Karen Refugee Camps
2011-13**

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**A Report by
the Karen Women's Organisation (KWO)**



Acknowledgements

We are grateful to all the many camp residents and others who provided information and logistical support for us to write this report. Although this report presents concerns about how the justice system is failing to support victims of sexual and gender based violence, we note that in general there is an impressive degree of civil order in camps. Considering the size, tensions and isolation of the communities in camps, with so many challenges to the administration of justice, it is notable and admirable to see such good civil order. This is a community achievement that should be recognized and valued. We are confident that as a community we can move together to create a system that provides justice and protection of human rights for all Karen people.

The Karen people are very grateful to the Royal Thai Government for allowing us to take refuge in Thailand from the fighting in our own country. We recognize that the presence of large numbers of refugees in camps, who are not citizens of Thailand, creates many challenges for the Thai national justice system. KWO respects and acknowledges there is only one law in Thailand and is under the jurisdiction of the Royal Thai Government. When we write about justice issues related to our refugee situation, we intend no disrespect to the Kingdom of Thailand. Our report does not seek to criticize the Thai Justice system but rather to review refugee women's access to justice, especially at the community level. However in order to make the text of this report readable and understandable we have had to use legal vocabulary (words like "justice", or "judge", or "security") to refer to people and structures and procedures both in the camps and in Thailand. When we use these words in reference to the camp-based system, readers must be aware that the terms do not hold the same authority as Thai national legal structures. This report is intended in no way to disparage the Royal Thai Government or any of its institutions or representatives.

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1. Introduction

Sexual and Gender Based Violence (SGBV) is a problem all over the world. It is also a problem in the seven Karen-majority refugee camps along the Thai-Burma border. Many international and local groups, including the Karen Women's Organisation (KWO), have been working hard for many years to respond to and prevent SGBV in these camps.

In many countries in the world, one way of reducing SGBV that has been effective is for the community to show that SGBV is unacceptable. The justice system is one of the most important mechanisms a community can use to do that. KWO decided to conduct a study to measure how well the justice system available to victims of SGBV in the refugee camps is working and how effective it might be, or not be, in reducing SGBV.

The study aimed to provide a comprehensive picture of SGBV outcomes in all the camps, not only in one section or in one camp. Now we want to share what we found, so that we can all approach our fight against SGBV, against all violence in the refugee camps, in new, more effective ways.

This study shows that the justice system accessible to refugee victims of SGBV is failing to provide adequate responses that stop or reduce violence. There is not enough guidance, not enough support, not enough resources, and not enough training for the community leaders who have power in the justice system to adequately respond to cases of violence in the camps. Too often, victims of SGBV are failed by the justice system. The perpetrators of SGBV frequently do not receive punishment that is commensurate with their crimes. In most cases, the community leaders are not sure what to do or how to do it.

We believe that no one wants to tolerate inadequate justice outcomes for SGBV in our community. But this is what we have uncovered in our study: persistently weak justice outcomes in cases of SGBV, a lack of consequences for perpetrators, and the absence of fair and uniform processes. These conditions serve to increase SGBV in the community, not reduce it.

The most common victims of serious violence in refugee camps are women. Men who behave violently in these communities typically target women and girls rather than other men or boys. Even though KWO's mandate and primary concern is for women, we see that the whole community suffers as a result of SGBV and of the weaknesses of the justice system as it tries to respond. This study of justice outcomes reveals on a case-by-case basis how victims and perpetrators in SGBV cases were treated by the justice system.

We believe the quality of the justice outcomes we have found in SGBV cases may be similar for other crimes in the refugee camps. KWO has concerns for both victims and perpetrators of all crimes in these communities. A justice system must protect all community members, and make clear to everyone that violence is unacceptable. If a justice system is not doing that effectively, we must all work together to improve it.

KWO wants to place this study and violence against women in a human rights framework. Women's basic human rights are being violated every day not only in Burma, but also in the refugee camps. For more than 60 years, Karen people have struggled for democracy in Burma, and for more than 25 years have been forced to seek safety in refugee camps. It is time for change in both places.

For many years, KWO has raised women's concerns about the inadequate justice system in the refugee camps, but our concerns have been met only by excuses. We have been told to wait or that our demands are excessive. We have been told there is nothing wrong with the system, and we have been told that justice is not women's business. We have been reminded that we are not trained lawyers, advised that we should not get involved, and cautioned that we would not be capable of understanding the issue. We have been informed we are interfering, and that these

matters supposedly exceed our mandate as a women's organisation. We have been instructed to leave justice issues for the experts, or for the men. We have been told that, as refugees, we must simply endure the status quo. These are the same messages that women have heard in all cultures throughout history whenever we speak out against, protest, or demand an end to the violence perpetrated against us.

The ceasefire process begun in 2011 has increased hope that refugees may be able to return to Burma in safety and dignity. Progress is slow, but the situation is evolving and refugees should be as prepared as possible to return to our homeland. Returning refugee women and men should be familiar with functioning justice systems and with fair rules and laws, so that we are more able to contribute to building a free and democratic Burma.

2. Executive Summary

All women and girls, no matter where they live, have the fundamental right to be free from violence. This Report examined the extent to which women and girls who live in the seven Karen-majority camps along the Thai-Burma border enjoy, and can exercise, this fundamental human right. Specifically, this study examined 289 cases of Sexual and Gender-Based Violence (SGBV) against women in Mae Ra Ma Luang, Mae La Oon, Mae La, Umpiem Mai, Noh Poe, Ban Don Yang and Htam Hin refugee camps from 2011 to 2013 to determine the factors contributing to official reporting of crimes as well as the justice system's response to such crimes. We conclude that the justice system provided an inadequate outcome for victims of violence in 80% of cases in 6 of the 7 camps. This stunning figure suggests that the justice system available to women and girls completely fails to protect them or ensure their basic human rights.

Who should read this report?

We urge anyone with an interest in governance, justice or SGBV in the refugee camps to read the whole report – not just the Executive Summary. We urge readers who hold the power to make change in the current justice system in the refugee camps to use our findings to make real and effective improvements. This includes the Karen Refugee Committee (KRC), the United Nations High Commissioner for Refugees (UNHCR), the Co-ordinating Committee for Services to Displaced People in Thailand (CCSDPT), the International Rescue Committee and its Legal Assistance Centre (LAC) project staff, which are the agencies that bear the main responsibility for justice in the camps. But our findings are also of concern to our community leadership, donors who contribute funds to any of these groups, and any INGOs who provide or support services to victims of violence. Finally, our findings should also speak to camp committees which have some power and ability to take immediate steps to improve justice responses so that the use of violence against women is penalized and controlled more effectively. The understanding and application of good justice practices will allow our whole community to live better lives, and should be a component of preparing refugees to return to their own land and help build a fair, just, and peaceful society.

What did we find?

Evidence presented in this report shows that the justice system which refugees accessed did not protect victims of SGBV or reduce SGBV. In most SGBV cases, **women received inappropriate, inadequate and inconsistent Justice Outcomes**. The current justice system is failing the community by not protecting and giving redress to women victims of SGBV, nor intervening adequately to control violent men, hold them accountable, and find ways to support them with behavior change. Instead, our study shows that violence against women is too often being treated as a minor and unimportant offense.

The inadequate Justice Outcomes for SGBV cases are **caused by the lack of a set of clear and comprehensive** camp rules and penalties, and procedures, and a **lack of resources** and support for implementers of camp justice and camp security.

Since the Camp Justice system lacks a comprehensive set of rules and penalties, as well as systematic and standardized procedures, camp justice implementers are without proper instructions on how to respond to and manage cases. The scope of justice outcomes is far too narrow, and allows for little more than agreements by perpetrators not to reoffend, since power holders in most camps seem to be hesitant to use even temporary detention as a punishment. The camp committees have their hands tied by various authorities on what forms of Justice Outcomes they are permitted to use, yet the current system means that they often have to handle perpetrators of very serious violence who are a danger to the community. They do not have proper security equipment or proper training on how to carry out justice.

Very little of the huge **amounts of money** provided to improve access to justice for refugees, including to UNHCR and the IRC/LAC project, has trickled down to the main implementers of the

justice system: the camp committees, section committees and camp security. These camp governance structures have not been given the necessary resources to do the work of justice properly and so we see the poor actual outcomes presented in this report. We suggest there is an urgent need for a thorough review of the current justice framework.

What Does the Data Show?

Overview of All Cases

- ◇ **Breakdown of types of violence in this study**
 - Sexual Violence = 21%
 - Physical Violence = 72%
 - Other SGBV = 7%
- ◇ **Of 289 cases:**
 - 84% reported to either Camp Justice or Thai Justice (242 cases)
 - 16% did not report (47 cases)
- ◇ **Of 242 cases reported to a justice system:**
 - 87% were handled by Camp Justice
 - 13% were handled by Thai Justice

The Camp Justice system, not the Thai Justice system, handled the vast majority (87%) of SGBV cases, which we have categorized as including sexual violence, physical violence (including domestic violence) and other (e.g. trafficking). This number indicates that improving Camp Justice mechanisms will have the greatest impact on reducing SGBV in this community. It makes sense to increase the amount and quality of resources available to Camp Justice and thereby address many of the failings identified in this study.

The **Thai Justice system** handled the remaining **13% of cases**, an impressive **increase** from 20 years ago when it was rare for any cases from refugee camps to be handled in the Thai Justice system. As a direct result of the UNHCR and IRC/LAC projects, we now see more serious cases from refugee camps accepted in the Thai Justice system.

In the **vast majority (80%)** of all the **SGBV cases in six camps**, women received **inadequate justice responses**. We consider inadequate Justice Outcomes to include: the perpetrator signing a promise not to reoffend; or fleeing; paying a fine (not to the victim); or inaction by justice system; no filing of charges; removal from public office; or granting a divorce to the victim. These kinds of inadequate Justice Outcomes do not help heal the wounds caused by violence, but rather are like **salt in the wound**, and prolong the pain experienced by the victim.

Weak justice systems teach sexual offenders that they can rape without consequence which can encourage repetition of the crime. We found inadequate Justice Outcomes in more than half (58%) of the 60 cases of **sexual violence**, which were handled in almost equal numbers by Camp Justice and Thai Justice. It is well documented that this type of failure to ensure effective justice outcomes can give perpetrators a sense of impunity.

The **largest number of SGBV cases in the seven camps** was cases of **physical violence**; among those, 92% were domestic violence cases. Camp Justice handled almost all cases of physical violence (97%) and in most cases in most camps, the Justice Outcome did not protect the woman from further violence and did not attempt to support behavior change in the male perpetrator. Mae La and Umpiem Mai camps had much higher numbers of reports of physical violence than the other five camps. Mae La is the largest refugee camp which may explain the high number of cases there. The Umpiem Mai justice system handled physical violence cases more effectively than the other six camps and this may encourage women to report violence.

The Umpiem Mai justice system sentenced 93% of perpetrators in physical violence cases to a period of detention, which we classify as an adequate Justice Outcome. Though detention does not completely satisfy the justice needs of a victim of violence, at a minimum Umpiem Mai has made it clear to perpetrators and the wider community **that violence against women is a serious crime** and not acceptable, that women will be protected from violence, and that the perpetrator will be penalized. As a result, the incidence of violence has been reduced and the rate of reporting by women has increased. Only 20% of perpetrators in all six other camps received detention as a penalty.

We suggest that improved justice systems in all camps will increase reporting rates by women, reduce the actual number of incidents of SGBV, and demonstrate clearly to perpetrators that there is no impunity for them. Among the 289 cases included in this report, 47 women chose not to report to any justice system, which presents a **16% non-reporting rate to justice overall**. Mae La and Mae Ra Ma Luang were the two camps with the highest individual rates of non-reporting with **29% and 40%** respectively. Umpiem Mai camp, however, showed 0% of non-reporting to justice which indicates that victims there have a high degree of confidence in the justice system. Therefore, improved Justice Outcomes will benefit victims and the community at large.

What needs to change?

Our vision is for a **community that is free from violence**. We need an effective justice system which sends a clear message that violence in our community is unacceptable. We want to see real protection of women's human rights. Based on our findings in this study we have developed recommendations for all stakeholders to suggest how to take action and what changes should be made.

The Karen refugee camps were established more than 25 years ago, and adequate justice systems should be in place by now. Substantial funds have been made available to support the development of the justice system. Therefore, it is not the lack of time or money but rather the way in which resources have been spent.

In responding to the findings in this report, the **focus should be on empowering and strengthening the Camp Justice system**. Camp Justice implementers handle the vast majority of cases and yet have the fewest resources available. Camp governance structures have demonstrated they have the ability to develop and implement highly complex systems with large numbers of people. We see this in the food distribution and education sectors. It is hard to explain why this has **not happened in the Justice sector**. Therefore, the main agencies and donors who bear the responsibility for Justice in the camps should focus greater resources on building capacity and providing resources **directly to the Camp Justice system**.

Finally, we need **men to take on the issue of violence against women**. For too long it has been labeled a women's issue, when it is men who commit the crimes and hold most of the power. It is only a handful of men who commit these crimes, so the remaining men must speak out, not stay silent or joke about these crimes. All men have the responsibility to stand up and let it be known that **violence against their mothers, daughters, sisters, wives, and aunties is never acceptable**.

Key Recommendations:

1. Improve and expand the KRC Rules so that a “comprehensive legal code” will be available for use across all seven camps within 6 months. This process can be effectively and efficiently conducted by KRC in close collaboration with a team of representatives of all Camp Committees, Camp Justice Implementers, KWO, other CBOs, community members, and victims, with technical support as requested.
2. Conduct an independent review of the current justice framework (KRC Rules, MDRG, Absolute Jurisdiction, Detention Guidelines) to identify gaps, inconsistencies and contradictions; establish a Camp Justice Working Group to consider the findings and initiate action to address the problems within 6 months.
3. Ensure that all rules and guidelines are reviewed and amended to provide adequate protection for women victims of SGBV.
4. Develop and implement adequate justice outcomes that punish perpetrators, keep victims and communities safe from violent offenders, and demonstrate that serious criminal behaviour will not be tolerated.
5. Clarify the nature and scope of the power and authority of justice “Power Holders” and “Implementers”; ensure transparency with respect to each group’s mandates, role and jurisdiction; make this information public.
6. Provide greatly increased and standardized resources to the Camp Justice system (eg. funds, equipment, staff, guidelines, procedures, forms, training).
7. Institute systematic and standardized record-keeping for all cases, as well as standardized and gender-sensitive evidence-gathering protocols.

3. Defining Terms

All systems of substantive law define terms so that it is clear what, how and who can be judged. For example, detailed descriptions are developed so that we can know what kind of behavior can be called “Trafficking” or “Rape” or “Adultery”. Definitions are needed for many aspects of the justice system. After an incident has been reported, many of the follow-up steps in the justice process depend on what kind of offense was committed. When there is a lack of definitions then mistakes can be made more easily about what offense was committed and how it should be handled. While conducting our study, we observed that in the refugee camps, there is no clear set of guidelines to determine what substantive law applies in each set of circumstances, which causes confusion and leads to inconsistent justice outcomes. Moreover, there is a serious **lack of clear definitions** available to those who administer justice. For example, there are no definitions included in the important justice document “KRC 39 Rules”, discussed below.

We observed also that the problem of a lack of definitions was related to the bigger problem of **language**, which has posed a considerable obstacle to the development and implementation of the justice system. Most refugees speak Karen or Burmese. International documents and non-governmental organisations (NGOs) in the field of justice use English. The language of the national justice system in Thailand is, of course, Thai. Each of these **four languages** has a distinct alphabet. Meantime, vocabulary and grammar pertaining to justice systems is often very formal and complex and can be seen almost as **a fifth language**. Without specific and continuous action to overcome challenges related to reconciling these languages, we find laws, rules and procedures are neither properly defined nor understood, and more broadly, genuine access to justice for refugees, including women impacted by violence, remains very limited.

3.1 Definitions of Terms in This Study

To assist in understanding this report, we have included here some guidance on how we have used certain terms. We do not attempt to offer legal definitions. These are definitions based on the common usage of the words in our context.

Accused	The person who is blamed for committing violence in the case. The trial or justice process has not been completed, so no judgement has been made yet about guilt. We have not used this word often in this report, although we recognize that at times, in a legal sense a person cannot be called a perpetrator because a legal process has not yet been completed.
Camp Justice	The set of procedures, rules and regulations applicable in camp as well as the staff (section leaders, camp committee members, security, judges) who have responsibilities and authority in the camps.
Domestic Violence	Physical violence perpetrated by a close member of the family. It may also include sexual abuse or violence. It is most commonly a husband using violence against his wife.
Fine	The money paid by the perpetrator to the representatives of the government or authorities (i.e. to the police or security staff). A fine is not paid to the victim. If money is paid to the victim, it is called “Compensation”.
Justice	The term is used in two ways: 1) to describe the set of rules, procedures and staff that are responsible to deal with civil or criminal cases; and 2) to refer to the <u>concept</u> of justice in which the victim of a criminal or civil offense receives some kind of official recognition that wrong was done to her, and the perpetrator of that wrong is identified and held accountable in a way that is proportionate to the crime committed. Unfortunately, we were not able to use this meaning frequently in this report.
Justice System	The whole set of procedures, staff, laws, rules, security, punishments, courts, in camp and in Thailand. These all have duties or play a role in responding when an incident occurs that breaks the civil or criminal rules or laws.
Other SGBV Cases	In this report, it includes trafficking, attempted trafficking, and adultery.

Outcome	The result or response to a case from the Justice System, either Camp or Thai. The decision made by authorized personnel in a civil or criminal case.
Perpetrator or Offender	The person who has committed violence in the case. Our study deals with Justice Outcomes, at the end of a process, so we refer to the person who has committed the offense as the perpetrator.
Physical Assault	Physical violence perpetrated by a non-family member.
Physical Violence	In this report, it includes physical assault, threats of assault, killing, and domestic violence.
Sexual Violence	In this report, it includes rape, attempted rape, and sexual assault (touching and acting in a sexual way with force or violence, but not trying to rape.)
SGBV	This stands for “Sexual and Gender Based Violence”. It is an expression which has become popular internationally in the past decade. In this report we use it to mean “violence against women”. SGBV in fact has a broader meaning, in that it includes men and boys as possible victims of sexual violence or gender violence. SGBV can therefore take many forms, but in this study we focus on physical violence, and sexual violence perpetrated against women by men. The actual English term “SGBV” does not translate directly into the Karen language.
Thai Justice	The national legal system of the Royal Thai Government (RTG).
Threatening	Serious threats of physical assault, that instill in their target a strong belief that actual violence will take place, and create a high level of fear.
Victim	The person who has suffered violence in the case. (Note: In many English-speaking places a victim of SGBV who has not died, may be called a “survivor”. As this word does not exist in Karen, we do not use it in our report.)

4. Context

People from Burma who reside in the nine refugee camps along the Thai-Burma border are entitled to **access justice** within their camps, or in the national Thai Justice system. The nine camps are on Thai soil, which means the Royal Thai Government (RTG) has sovereignty over the refugees and the camps, as it does over all of Thailand. There is only **one system of laws in Thailand** and that is the Thai legal system. Each sovereign state in the world has the power to make and enforce laws to govern its land. Nevertheless, refugee camps are subject to multiple sources of law and regulation, including international law. Moreover, the RTG has determined certain circumstances in which it does not seek to assert jurisdiction.

Justice is a sensitive and **complex issue** everywhere, and particularly as it relates to refugees. The presence of large numbers of refugees in camps, who are not citizens of Thailand, creates many challenges for the justice system, its resources, and how we speak about them.

This report focuses on **SGBV cases** and their **Justice Outcomes** in the seven Karen-majority camps. We did not study cases in the two Karenni-majority camps. When we use terms like “police,” “judges,” “investigation,” “prison,” and “law,” we should refer to entities within the Thai legal system and only to those people and places authorized by the RTG. However for readers’ ease of understanding, this report uses some terms (words like “justice,” and “case”) to refer to people, structures and procedures both in the camps and in Thailand. When these words refer to the camp-based system, readers should recognize that these entities do not hold the same authority as Thai national legal structures.

An important element of the current context of refugees in Thailand is the **possibility of refugee return**, which has emerged since the ceasefire process in Burma began in 2011. Even though real progress has been slow, there have been some significant changes, and as a result there is a lot of discussion about when and how refugees might be able to return to Burma. At the time of writing, refugees, representatives from the United Nations High Commissioner for Refugees (UNHCR), government officials, and international non-governmental organisations (INGOs) are engaged in a stage termed “preparedness for return”. Within this stage and the current atmosphere, we feel there is an additional urgency to act on the findings of this study.

4.1 Overview of the Seven Karen Camps

The total population of the seven Karen camps, according to The Border Consortium’s (TBC) Verified Caseload in December 2013 was 104,199. Numbers of male and female refugees are approximately even.

TBC Verified Caseload December 2013	
Camp	Population
Mae La Oon	11,957
Mae Ra Moe	13,450
Mae La	43,255
Umpiem Mai	13,154
Noe Poh	12,572
Ban Don Yang	3,251
Htam Hin	6,560
Total	104,199

The **Karen Refugee Committee (KRC)** is the community body overseeing the seven Karen camps. Thai officials consider the KRC to be the direct representatives of refugees and work directly with this organization. Each camp has an elected committee (Camp Committee) which manages the affairs of the camp. The KRC supervises the Camp Committees, provides them with resources for camp governance, and is the main link to the Thai authorities relating to refugee affairs. One of the KRC's many roles is to support, develop and oversee the justice affairs of refugees in all the Karen camps.

UNHCR and numerous INGOs work with the community governance structures to provide humanitarian assistance and basic services to people in the camps. The UNHCR's role is to monitor and advocate for the protection of refugees. As a UN agency it is required to uphold and promote international standards. As such it plays a key role in access to justice for refugees. In other refugee situations in the world, the UNHCR also often provides services and implements projects directly in refugee camps, but in the Karen camps in Thailand it does this much less. In the Karen camps, usually INGOs directly implement projects, although UNHCR does provide funding to some INGO partners to implement some projects in camps (e.g. UNHCR funding to the International Rescue Committee (IRC) for its Legal Assistance Centre (LAC) project, discussed below, and to the American Refugee Committee (ARC) for its SGBV program).

Most of the INGOs are members of a coordinating body based in Bangkok, called the Coordinating Committee for Services to Displaced People in Thailand (CCSDPT). Each INGO member of CCSDPT specializes in a sector (e.g. Health, Education, Food Security) and each tries not to duplicate another group's programs. Apart from UNHCR, there are some INGOs which conduct programs that are directly connected to the issues of this study into SGBV and Justice Outcomes. They are: the IRC, a New York-based humanitarian INGO, which implements the important access to justice project to establish LACs in partnership with KRC as well as a smaller SGBV program; the TBC which works in close partnership with KRC on food ration and camp governance; and the ARC which has an SGBV program. Finally, the CCSDPT itself, as an umbrella group, and its various sub-committees and working groups, has also influenced how SGBV and justice mechanisms function in the camps through such projects as the "Prevention of Sexual Abuse and Exploitation".

The RTG has authority over and monitors the work of the UNHCR, the CCSDPT and its members, the refugee committees, and the camps.

4.2 The Camp Justice System

4.2.1 Historical Background

In the early years of the Karen camps, dating back to 1995, refugees had little or no access to the Thai Justice system. All cases were handled in each camp using a mix of customary law, laws used by the Karen National Union (KNU), and rules set by the KRC. In these early years, there was little UNHCR or INGO presence in the camps. The main exception was TBC which has been working closely with Karen refugees since camps were established.

In May 2003, after lobbying by UNHCR, the RTG agreed to prosecute serious crimes perpetrated in the refugee camps. UNHCR established a project called "Administration of Justice", which sought to involve refugee leadership and Thai Justice officials towards building capacity, furthering mutual understanding, and increasing refugee access to the Thai Justice system.

Among its key outcomes, this project produced a list of eleven so-called "Absolute Jurisdiction" offenses, "serious" crimes that would no longer be addressed by punishment systems within the camps. Following an RTG directive, the Thai Justice system would have exclusive jurisdiction over these eleven criminal acts. For the Thai Justice system to address these offenses, Thai police would be required to investigate these crimes in camps, and Thai courts would serve as the venue to prosecute alleged perpetrators of these offenses. See Appendix 1 for the full list of Absolute Jurisdiction cases. The RTG authorized the refugee committees and camp committees to handle all other civil and criminal offenses.

In 2005, IRC established the LAC project (IRC/LAC). From 2005 to present, this project has received very substantial funding from the international community, via AUSAID, DFID, and UNHCR. (According to its website, DFID alone has provided at least 35 million Euros to the LAC project). Under the terms of this project, IRC/LAC would work in partnership with the two community Refugee Committees (KRC and KnRC: Karen and Karenni Refugee Committees) to improve access to justice of refugees in the nine camps by building legal capacity of the Refugee Committees and camp leadership, providing legal advice to refugees, and supporting refugee cases under consideration by the Thai Justice system. To date, LACs have a physical presence in three camps: Mae La, Umpiem Mai and Noe Poh; LACs have yet to open in the remaining four camps.

As an integral part of building legal capacity in the camps, IRC/LAC was tasked with helping to write a comprehensive legal code for use in all camps. In 2009, IRC described the comprehensive legal code as follows:

“LAC is now supporting the Karen and Karenni refugee leadership in a major initiative to develop comprehensive legal codes for the camps that reflect (and integrate the camp with) Thai law, as well as community practices. The development of a comprehensive code will provide a framework for the leadership to resolve or refer disputes, and the camp population with a basis to assert their rights and recognize their responsibilities in the future. LAC has also supported the camp leadership through a detailed review of the way in which domestic violence and other gender based violence is dealt with by camp justice bodies; the results of the review will be reflected in the legal code.” (Joel Harding, Senior Protection Co-ordinator, IRC, 2009)

As a direct result of the UNHCR and IRC/LAC projects, we have seen improvements and change in refugee access to justice. Compared to 20 years ago, we now see more serious cases from refugee camps accepted in the Thai Justice system. UNHCR representatives and IRC/LAC staff also monitor and support these cases.

However, we have not seen concrete achievements in the other objectives of the IRC/LAC project. Since 2005, the Camp Justice system has been under review by KRC and IRC/LAC, with the collaboration of UNHCR, and as of 2014 this review had not been completed. A set of camp rules and regulations is not yet in place that would make a clear, full, standardized camp justice system. The “comprehensive legal code for camps” that was promised by the partnership of IRC/LAC and KRC has not appeared.

In 2009, there was limited circulation of a draft of new rules for camps, entitled “General Offenses” (20 pages), and a “Template of Criminal Procedure” (13 pages). The drafts were based on Thai law, and were quite detailed although they were still in need of substantial community input and editing. In 2011, these documents were suddenly abandoned without explanation. A new document was introduced called Development of Mediation of Legal Standards (DMLS). Then in 2012 this document was transformed yet again into the document called “Mediation for Dispute Resolution Guidelines” (“MDRG”). All these documents and decisions were the responsibility of IRC/LAC, UNHCR, KRC, and KnRC.

In 2014, the 80-page “MDRG” was released and piloted in Mae La Camp. The MDRG is not a “comprehensive legal code”; rather it is a set of guidelines on how to mediate or arbitrate civil and criminal disputes.

4.2.2 Current Context

An unofficial framework for the Camp Justice system has been introduced by KRC and IRC/LAC in three camps. A pilot program based on this framework is underway in Mae La Camp, and similar programs are being introduced in Umpiem Mai and Noe Poh, where IRC also has set up LACs and therefore has a presence. There are no LACs in the other four Karen camps and so far the “MDRG” element of the framework, mentioned below, has not been introduced in those camps. The intention of KRC and IRC/LAC is to apply the framework in all seven camps in the future. The framework will need to be approved by relevant authorities, but it is not clear how or when that process will take place.

The framework has three main parts. Each part also has one document that describes it.

1. MDRG (Mediation and Dispute Resolution Guidelines)
2. KRC 39 Rules (Karen Refugee Committee, February, 2011 version)
3. Absolute Jurisdiction Cases (for referral to the Thai Justice system)

Within this framework, and due to the lack of any alternative, the KRC 39 Rules are very powerful. The KRC 39 Rules, consisting of three pages, were revised by KRC in 2011, and now have a perhaps greater role than they were ever intended by KRC to have. (See Appendix 2 for the full “KRC 39 Rules” document.) Despite the ten-year partnership with IRC/LAC to develop the legal capacity of KRC, the KRC 39 Rules is a very flawed legal document in that it fails to provide adequate guidance to the Camp Justice system or sufficient protection for refugees.

The Rules from the “KRC 39 Rules” which may relate to SGBV cases		
No.	Character	Action
19	Any Action taken against young persons, aged between 7-18 must not be the same action taken against the adult. (Rule)	1.educate 2.warning 3. Any suitable action.
23	Social and cultural norms must not be abused including 1. Adultery 2. Illegal sexual engagement 3. Engaging in sex work (Civil law suit)	1. Warning 2. Compromising 3. Action taken similar to that of action taken by related society
29	No murdering (Crime)	Turn over to Thai authority
30	Human trafficking is prohibited (Crime)	Turn over to Thai authority
31	Violent and / or sexual abuses are prohibited. (Crime)	Turn over to Thai authority
33	Do not physically or mentally hurt others (Crime)	Turn over to Thai authority
35	Do not abuse the personal rights of other (Crime)	Turn over to Thai authority
39	Do not cause disorder in the camp. (Civil law suit – Crime)	Warning One month confinement Cash fine, 1000 Bahts

In addition to the above three elements of the framework, there also exists an official document called “The Guidelines for Detention Practices”. The four documents are available from KRC or IRC/LAC in Karen, Burmese and English. The Detention Guidelines explain how the refugees who act as camp security guards should follow international standards when detaining any person in camp. In our study it was not clear how many of the camps have access to or are able to apply the Detention Guidelines as most Karen camps do not have the type of detention facilities which are needed. All camps are discouraged by international agencies, and the documents in the proposed legal framework, from using detention. Mae La Camp is the only Karen camp which has proper detention facilities, the construction of which was funded by IRC/LAC. (For a full discussion of the issue of detention, see Section 4.5)

4.2.3 IRC/LAC’s Role in Camp Justice:

IRC is the only INGO working in the camps with a targeted access to justice project. This project is implemented in partnership with the two Refugee Committees, KRC and KnRC.

In December 2013, there were three Karen camps with a physical presence of IRC/LAC (i.e. Office, Legal Centre, and staff).

- o Mae La (since 2005)
- o Umpiem Mai (since 2011)
- o Noe Poh (Since 2011)

It is also in these three camps that the MDRG document is currently being piloted. The RTG has not yet approved the expansion of the IRC/LAC project to all camps. The four Karen camps without an IRC/LAC presence (and also not yet piloting the MDRG) are Mae Ra Ma Lang, Mae La Oon, Htam Hin, and Ban Don Yang. In the three camps where IRC/LACs are present, they play a significant role in the administration of Camp Justice. It is not clear exactly what power and authority the IRC/LAC project and staff have been given and by whom.

In the 3 camps with LACs, the LAC staff offers legal advice to victims of criminal and civil offenses, as well as to those who committed or have been accused of committing such acts. They can give advice about Camp Justice and Thai Justice. They also play a big role in cases which are referred to Thai Justice, in that they facilitate the whole process of a case going through the Thai Justice system for both the victim and the accused. For this report, KWO did not have access to any of LAC's internal statistical data about its cases.

In three Karen camps, IRC/LAC project staff co-ordinates with UNHCR in the assistance it provides. In the four Karen camps **where IRC/LAC is not present**, the UNHCR staff takes responsibility directly for refugee access to Thai Justice and provides some support to any case going through that process.

There are enormous barriers for a refugee to proceed through the Thai Justice system, such as financial costs, transportation and travel permits to town, legal representation in court, language and cultural translation, accommodation and food when in town (for full discussion of barriers, see Section 4.3.3). Without assistance from LAC or UNHCR, a refugee would not be able to access the Thai Justice system.

Even though IRC/LAC has a physical presence in only three Karen camps, it is the **partner of KRC** in the work of building legal capacity and developing systems and infrastructure in all camps. Therefore, the IRC/LAC project greatly affects how the justice systems work in **all 7 Karen camps**.

4.2.4 Outline of Camp Justice Procedure in SGBV Cases

As this study surveys SGBV cases and Justice Outcomes, it will be helpful for readers to understand the context and process of a single SGBV case. In 2013, a manual was released entitled "The Automatic Response Mechanism: the Standard Operating Procedure for SGBV cases in Karen camps (ARM/SOP)". We quote from the manual here in describing the steps and roles involved.

The following steps are what usually happens in an SGBV case in most camps:

- 1. An incident is reported to Section Level. This means to the Section Leader. Sometimes the victim might report directly to the camp level. In that case, if the case is considered not very serious, it is referred back to Section Level, to the Section Leader.*
- 2. The Section Leader and some of his section committee and staff will deal with the case. If requested by the Section Leader they will interview, gather information, discuss with all involved. At Section level they will come to an agreement of some kind between the victim and accused perpetrator.*
- 3. If the case is too serious or complicated for Section level, or if no agreement can be reached, then the Section Leader will refer the case up to Camp Level.*
- 4. The case will go to Camp Level Social Welfare In-Charge, first. If it is necessary, the case will then be referred to the Camp Justice level. This means it will be handled by the camp justice position-holders.*
- 5. Camp Social Welfare or Camp Justice will deal with the case.*
- 6. If the case is serious, and/or the victim chooses to do so, the case may be referred to Thai Justice.*
- 7. Sometimes the Thai Justice do not, or can not, take on the case and so they refer it back to Camp Justice.*

4.2.5 Differences from Camp to Camp

Different Camp Committees preside over the affairs of each of the seven camps, and each Camp Committee has organized the Camp Justice system within its camp to be a little different from those in the other camps. Camp Committees are elected every three years and consist of 10 to 20 members, with women accounting for 10 to 20% of members. All Camp Committee members are refugees and are elected to their positions. Justice Systems vary depending on the resources available to each of the Camp Committees, whether IRC/LAC is present, and how each camp applies the KRC 39 Rules. There are many differences between camps due to the various levels of skill, experience and knowledge of the members of Camp Committees, and the refugee security and justice staff. Each camp also has a unique relationship with the local Thai authorities and this affects how legal cases are handled. We see differences from camp to camp based on what the UNHCR staff and the IRC/LAC staff are able to do. We also see differences due to the geography and position of the camp. For example, if there is a tarred road nearby or if it is very isolated, then more or fewer resources and less support can be offered. The seven camps are spread along a border of more than 3,000 km and this creates huge logistical, resource management, and communication challenges.

4.2.6 High Turnover of Justice Implementers

Within camp governance structures, each camp comprises 10 to 20 “Sections”, each of which falls under the authority of a Section Leader with a small committee. The **Section Leaders** play a key role in the Camp Justice system, as they serve as the first point for reporting any incident. It should be noted that in some larger camps Sections are grouped into Zones which report to the Camp Committee.

Elections are held once every year to select Section Leaders, so there can be a high turnover of these officials. Section Leaders are free to stand for re-election, and some individuals do remain in their position for a number of terms if re-elected. The Section Leaders and their committees are under the authority of the Camp Committee. Members of the Camp Committee also play very important roles in justice. The Camp Committees are **elected once every 3 years**.

There is not systematic training or information provided to a new position holder in the various levels of camp governance. There is very little guidance provided for them in terms of written documents, policies, reporting, forms, etc. Documented policies and procedures and increased training would greatly improve the capacity of individuals and structures to provide community justice even when there are few other material resources available.

4.2.7 Impact of Resettlement

Since 2005, the mass resettlement of refugees facilitated by UNHCR to “third countries” (e.g. USA, Norway, Australia, Canada, England) has **taken its toll on the capacity of the community leadership** to provide protection and security and adequate justice responses. The model of camp management used in all the camps since their establishment places community members in all leadership and governance positions. This structure suffers greatly when skilled, experienced members are resettled to foreign countries. UNHCR, donors, and INGOs now recognize that they did not take this into account sufficiently when planning and implementing the resettlement program. Many community elders with justice knowledge have departed from camps and their capacity and roles have not been adequately replaced. Section Leaders, who are the first point of contact for reporting criminal and civil wrongs within camps, and members of the higher level Camp Committee, are expected to make fair decisions and apply knowledge of justice with little or no training or resources, and with few traditional elders from whom they can seek advice.

4.2.8 Gaps in the Camp Justice System

To understand the full context of access to justice for refugees, it may be helpful to bring some clarity to what is not being done under the Camp Justice system. Because the camps have been in existence for more than 20 years it is often assumed that elements of justice systems are in

place or have been completed. In fact, we see that there are many essential resources and structures that are missing. The following elements, which we believe would better ensure a fair and functional justice system, are not present in camps:

- A comprehensive legal code/rules for all camps, including definitions, which sets down specific rules and penalties for infractions
- Systematic record keeping for case management (for cases of all types; what exists is not standardised across all camps)
- Training that is regular, relevant and understandable for justice implementers about the function of their jobs and scope of their authority
- Systematic evidence gathering, and systematic procedures for investigations
- Clear guidelines and documented procedures for referral to Thai Justice
- Written agreements and guidelines to inform the working relationship of Thai police and camp security for case management
- Adequate resources for camp to use to administer cases and in the administration of justice
- Equipment for security guards
- Development of infrastructure
- Detention facilities and equipment
- Enough staff in enough positions
- A gender balance among justice implementers
- A sustainable system to reduce the negative impact of the high turnover of staff and position holders

Given the resources that have been devoted to the issue of Camp Justice over the past two decades, this is a disheartening list. All groups involved in improving access to justice in the camps should be concerned that these important systems and safeguards are not yet in place.

4.3 The Thai Justice System

As a result of UNHCR and the RTG coming to an agreement in 2003, the RTG investigates and prosecutes serious offenses committed by refugees. In addition, UNHCR maintains discretion to refer any other camp incident or dispute to the Thai authorities for legal action on a case-by-case basis.

In general, we observe in the Karen camps that serious cases involving Thai citizens are always referred to Thai Justice to handle. We have also observed that Camp Justice will **usually refer very serious cases** perpetrated by refugees to Thai Justice, if for example detention for a long period is warranted, the perpetrator is very violent, the camp community has been threatened by the perpetrator, or the camp feels it cannot manage to address the situation on its own.

In our study we found that 13% of SGBV cases reported to the camp authorities were then submitted to Thai Justice. Data from IRC/LAC and UNHCR indicating the total number and type of cases handled in the Thai Justice system was not available to KWO, so we are not able to say how this 13% relates to the overall justice landscape.

4.3.1 Absolute Jurisdiction Crimes

The RTG has provided guidelines indicating which types of criminal activity involving refugees should be referred to the Thai authorities. These offenses are referred to as “Absolute Jurisdiction” crimes (See Appendix 1 for a full list). It is also stated that these cases should only be handled by the Thai Justice system and should not be handled by the Camp Justice system. There is no instruction about what to do if for some reason the Thai Justice system does not intervene in a situation where an “Absolute Jurisdiction” crime is committed in a camp. There is also very little guidance in terms of procedures for how the justice actors in camp and officials in the Thai Justice system should interact, refer, report, share, document, and co-ordinate.

The following crimes are among the “Absolute Jurisdiction” offences and may also be classified as SGBV:

- a) Murder
- b) Human trafficking
- c) Assault with Grievous Bodily Harm
- d) Sexual Offences Against Children
- e) Non-Compoundable Rape

4.3.2 Non-Compoundable vs. Compoundable Rape

Thai law distinguishes between two types of rape: non-compoundable rape and compoundable rape. According to the instructions for Absolute Jurisdiction cases, non-compoundable rape cases should be handled in the Thai Justice system, whereas compoundable rape may be handled by Camp Justice.

Non-Compoundable Rape as defined in Thai Law requires one of the following elements:

- a) the victim is raped in a public place; OR
- b) the victim is 15 years of age or younger; OR
- c) the victim is raped by more than one perpetrator; OR
- d) the victim is grievously injured as a result of the rape; OR
- e) the victim dies as a result of the rape; OR
- f) the person committing the rape takes advantage of their position of power or authority over the victim; OR
- g) a firearm is used to injure or threaten the victim during the rape; OR
- h) explosives are used to injure or threaten the victim during the rape.

Compoundable Rape is defined in Thai Law as having all of the following:

- a) The survivor was raped in a private place; and
- b) The survivor is above 15 years of age; and
- c) The survivor was raped by only one perpetrator; and
- d) The survivor was not grievously injured or killed in the rape; and
- e) The survivor was not raped by a person who is in a position of authority; and
- f) No firearm was used in the rape; and
- g) No explosive was used in the rape.

In Thai law, a crime which is categorized as “compoundable” is allowed to be handled by the victim and perpetrator coming to an agreement during a discussion facilitated by the police. This method of dispute resolution is permitted in situations only if the victim agrees to its use. This is not permitted however in crimes which are categorized as “non-compoundable”. In many countries in the world it is not possible to “mediate” a solution in this way in a criminal case, although it is often possible in more minor civil cases. In a number of Asian countries, like Thailand, the law still allows for mediated solutions to rape.

4.3.3 Barriers to Accessing Thai Justice

A lot of challenges exist in the relationship between Camp Justice and Thai Justice. Even though the community system is poorly resourced and inadequate, it is familiar and so it is the one most refugees would prefer to use. There are also a number of logistical and other barriers that discourage camp residents from accessing the Thai Justice system, such as:

- There are significant financial costs involved in travelling to Thai courts, including for transportation, accommodation and food.
- Refugees do not have complete freedom of movement and need travel permits to leave the camps.
- Refugees need legal representation in court and are not familiar with the Thai system or their legal rights.
- Refugees often do not speak Thai and so there are language and cultural barriers to overcome.

- Depending upon the location of the camp, Thai courts can be located a significant distance away.
- Refugees fear discrimination or bias against them in the Thai justice system.
- The victim's legal status might be unclear.

Therefore, although the Thai Justice system has the structure, resources and authority to handle more serious cases, often it seems very removed, unfamiliar and frightening to camp residents.

4.4 Roles in the Justice Systems

Overall, the Justice Systems that refugees can access are made up of individuals and organizations that can be placed into four main groups:

a) **Power Holders:** RTG, UNHCR, IRC/LAC, KRC (and KnRC).

- These actors make policy, create rules, make decisions, have authority to create and approve and disseminate rules, create forms, design record systems, distribute, inform, give training, provide resources, respond to complaints, create codes of conduct for camp governance and enforce them, have the power to overturn Camp Justice decisions, etc.

b) **Implementers:** Camp Committee, Judges, Section Leaders, Security Staff, Mediation and Arbitration Team (MAT), LAC.

- These actors directly handle all cases, e.g. receive reports or complaints of disputes or crimes, investigate, enquire, detain, decide, refer to others, mediate, arbitrate, keep order.
- In the absence of adequate guidance from the power holders, these bodies and individuals make rules, or interpret rules.

c) **Advocates / Supporters:** KWO, CBOs, NGOs, some INGOs, religious or community leaders, elders, advisors, family members.

- These actors can influence the process but have no decision-making power in individual cases.
- They give advice or information, provide services to support the victim or perpetrator, attend a justice session and advocate for better outcomes for the victim or perpetrator, and accompany the victim or perpetrator when seeking services if requested.

d) **Observers/Monitors:** Refugee community members, other INGOs, donors.

- These actors provide funds and resources.
- They can influence but have no decision-making power in individual cases.

At the moment the nature and scope of **power and authority** of the first two groups is not clearly documented. Moreover, some groups do not fill their role very well or do more than they are authorized to do. It is also not clear how different groups are given mandates, or authority. Roles overlap and orders contradict. The jurisdiction of each group is not clearly defined and stated. This leads to confusion in the administration of justice and can lead to inadequate Justice Outcomes for victims.

4.5 The Issue of Detention in Camp

Basic principles of international law, embodied in documents such as the Universal Declaration of Human Rights, provide that all people have the right not to be arbitrarily arrested nor held in detention without legal sanction. In each country, only those specially authorized to do so may arrest or detain. They are usually the representatives of the national justice system, and certain standards of legal process, and for physical detention conditions, should be met. This standard presents special problems for refugee camps everywhere, and for those in Thailand. The majority of the Karen refugee camps are physically far away from Thai police, police stations and prisons and it seems in the case of refugees, arrests and detentions by Thai officials of those people accused of crimes committed in the camps, take place only when the case has been formally accepted in the Thai Justice system. For all other serious cases, the Camp Justice system is faced with a dilemma.

There is a lot of contradictory instruction about the use of detention at the camp level given to justice implementers by those individuals and agencies which hold power. In the interests of security, and because most cases of violence are handled by Camp Justice, the justice implementers in each camp feel obliged to detain some individuals who are suspected of, or later found responsible for, crimes and offenses within the camp. However, UNHCR actively discourages use of all detention in camps. The “MDRG” which has been developed by IRC and KRC for use in camps states clearly that detention is not an option as a penalty in camp. On the other hand, the existence of the official document “Detention Guidelines” seems to condone it and the local Thai authorities who are responsible for each camp accept that some form of detention in camp is necessary, especially for violent offenders, or persons posing a threat to others, or to prevent the escape of a person accused of a serious crime.

No agency provides financial or material resources for detention needs in most camps. The refugee security staff is not provided with any security equipment. Fines paid by guilty parties provide the only revenue and these are likely to be very small amounts, given the poverty in camps. The conditions of detention vary from camp to camp, but in general it is agreed that they are not suitable for long periods of detention. While six Karen camps have detention facilities made of bamboo and wood, there is one Karen camp, Mae La, with a stronger detention centre made of wood and cement, which was constructed with funds provided by IRC. (The two Karenni refugee camps also have these types of centres). It is unknown why no resources have been provided by international actors for similar facilities in the other camps. Repeated requests by all Camp Committees for resources to construct adequate facilities that meet international standards have been rejected.

In an analysis of the current framework for justice in the Karen camps, a leading academic, Kirsten Mc Connaichie, wrote about detention in her research and reports on the administration of justice in these camps:

“Formalizing the camp dispute resolution system as a restorative justice approach (as the MDRG is trying to do) may be helpful, provided sufficient investment and attention is given to supporting the implementation. However, dispute resolution does not become ‘restorative justice’ simply by removing the possibility of punitive sanctions. The approach used by refugee leaders at present has many elements that are close to a restorative justice model (such as an emphasis on consent, participation and a negotiated solution) but it also relies on the sanction of detention. In my interviews in 2012, camp leaders found it difficult to understand how a justice process would be effective without this.”

Detention is a very sensitive and complex issue affecting the security of victims of crimes, the accused or perpetrator, and the wider community. It has not been properly resolved despite the camps being in existence for more than 20 years.

5. Methodology

KWO's aim in conducting this study was to collect evidence to reveal the nature and scope of Justice Outcomes in SGBV cases. We wanted to look at facts to help us see the real situation. We therefore researched how SGBV cases are being handled by the Camp and Thai Justice systems. We want to be able to provide more information for the discussions on refugee access to justice, particularly as it affects women.

To conduct this study of Justice Outcomes for SGBV cases arising in the Karen refugee camps, members of KWO Central conducted a survey of the KWO records for SGBV cases in all seven Karen camps. The team visited the seven Karen camps in August and September 2013. We selected cases from among each camp's KWO records which dated from early 2011, through 2012, to end of 2013 (3 years). A total of 289 cases were eventually included in this study.

This study does not include all SGBV cases which occurred in camps during this time period, nor that were reported to the justice systems in the seven camps over the three years. It also does not include all cases managed or assisted by KWO in the time period. So that our selection of cases was objective, we identified three criteria that all cases had to meet:

- It was an SGBV case; and
- KWO was involved in the case management or providing key services; and
- KWO had reliable and full records about it.

KWO is confident that there are enough cases included in our study, and that the data is reliable enough, to be able to draw some conclusions and suggest patterns that can be useful to reveal some of the successes and failures in the justice system available to refugee women and girls.

5.1 Type of Data Collected

For each case we gathered the following data:

Case Number
KWO Case Code/Type
Incident Date
Type of Justice System Used in the Case <ul style="list-style-type: none">• Camp Justice• Thai Justice (through IRC/LAC or UNHCR)• None
If the case was handled by Camp Justice (and not referred to Thai Justice) which level of camp justice dealt with the case? <ul style="list-style-type: none">• Section Level only• Section/Zone/Camp (all of these collaborated)
Whether the victim stayed in a KWO Safe House or in her own home while her case was being handled
Justice Outcome: Was a decision/ judgment reached in the case? (Yes/No)
If so, what was it?
Perpetrator/Accused: What happened to the perpetrator/accused?

Note that Thai law makes a distinction between “non-compoundable rape” and “compoundable rape”. Both types of rape cases have clear definitions which are available to Camp Justice (as shown in Section 4.3.2). In this study, we have not identified whether a rape case was “compoundable” or “non-compoundable” as the distinction was not made in the KWO records in camp. The actual legal terms “Non-compoundable” and “Compoundable” are not defined in any of the documents available to the Camp Justice system.

5.2 Cases Included in this Report

During the selection of cases, we found a number of cases for which KWO held reliable and complete records but where victims had chosen not to report to a justice system. Even though our study aims to measure in some way the nature of Justice Outcomes in SGBV cases, we decided to include these cases in the study so as to provide some evidence about the “non-reporting” of SGBV cases.

In some camps, in some cases, the Camp Justice system might give more than one “outcome” in a case. For example, the perpetrator might receive a period of detention plus be asked to sign an agreement not to re-offend. For this study, among the KWO records in camps we found that in most cases there was only one outcome. For those cases where we found two outcomes recorded, we chose the more serious/stronger one to record in the study as the outcome for the case.

We reviewed the data for the 289 cases, and identified four main categories:

- o Sexual Violence (chapter 7)
- o Physical Violence (chapter 8)
- o Other SGBV Cases (chapter 9)
- o SGBV Cases not reported to a Justice system (chapter 10)

The Section for each crime will present the facts of the findings first, and then follow with some comment and analysis.

5.3 Best Practices Followed

We endeavored to keep our report evidence-based. We collected and studied the facts of Justice Outcomes in this report and we provide some comment and analysis based on those facts. This method allows us to measure Justice Outcomes, and the justice system, in a more objective way. It provides evidence for how the justice system may be succeeding or failing. As a result, it also indicates the system’s effectiveness as a mechanism to reduce SGBV in the refugee camps.

We also maintained strict confidentiality with respect to all data collected. To protect the privacy of victims, no names or dates or other identifying information are included in this report.

5.4 Limitations of the Study

The number of cases we have used for this study (289) may be too small, in particular considering the extended time period covered in this report (3 years), to ensure completely reliable findings.

The records of other agencies involved in justice work in the refugee camps (Camp Committees, KRC, IRC/LAC, UNHCR) were not available for us to consult so we were not able to compare our data with other sets of data in order to verify facts and findings.

This report reflects the conclusions, analysis and opinions only of KWO. KWO did not have the resources to consult with the Camp Committees directly and frequently with respect to the analysis of the findings of this study. Any further research or action which comes as a result of this report must ensure that representatives of all the Camp Justice implementers are fully involved.

No other studies on this theme have been conducted or published by any of the agencies who play a role in the justice systems for refugees, so our research was not able to benefit from their input, experience and perspectives.

5.5 Preliminary Reports

KWO was not able to present a full report on this study in 2013, so we created a brief “Preliminary Report” to share some early, key findings with the Camp Management Working Group (CMWG) which meets in Mae Sariang on a quarterly basis. A small number of hard copies of this Preliminary Report were handed out at the CMWG meeting on November 19th,

2013. We completed our study and report in 2014, but due to the sensitive political climate in Thailand we did not release a report at that time. KWO did make a brief Powerpoint presentation in Karen with handouts in English of some of the main findings at the CMWG meeting on November 18th, 2014.

Following the release of our Preliminary Report and subsequent presentation of findings, KWO did not receive any follow-up inquiries, questions or contact from any of the organisations present. Nor did any other group involved in justice work in the camps offer to allow us to compare our findings to other data available regarding Justice Outcomes in the camps. It is interesting to note that none of the power holders referred to in this report, who were all present at these two meetings, have communicated with KWO about concerns we raised in these two preliminary presentations of findings.

5.6 Background Reading

To help us better understand and analyse the data in this study, we consulted a number of relevant documents and reports. We list them in Appendix 3 for reference.

FINDINGS

6. Overview of All Cases

A total of 289 cases of Sexual and Gender Based Violence (SGBV) were studied from the seven Karen-majority camps. In total, 84% of the victims (242 cases) chose to report to a Justice System. Most of the analysis in this study looks at these 242 cases and their Justice Outcomes. Of the 289 total cases, 16% of the victims chose not to report to a Justice system (i.e. 47 cases).

Among the total of 289 cases in this study, 72% are cases of Physical Violence, 21% are cases of Sexual Violence, and 7% are other forms of SGBV. Among the 242 cases that reported to a Justice System, we find similar percentages across the types of cases: 73% are Physical Violence, 21% are Sexual Violence, 6% are other forms of SGBV.

The highest total number of cases in one camp is for Mae La Camp (83 cases), which is also the camp with the biggest population among the 7 Karen-majority camps. The 2nd largest caseload is in Umpiem Mai Camp (73 cases). The lowest number of cases in this study is 19, from Noe Poh Camp.

Table 6: All Cases in this Study							
	Camp	Total Cases	SGBV Case Type			Reported to Justice	
			Sexual Violence	Physical Violence	Other SGBV	Cases reported	Cases <u>not</u> reported
1.	Mae La Oon	24	13	8	3	21	3
2.	Mae Ra Moe	30	11	15	4	18	12
3.	Mae La	83	16	64	3	59	24
4.	Umpiem Mai	73	3	70	0	73	0
5.	Noe Poh	19	3	13	3	17	2
6.	Ban Don Yang	34	7	20	7	31	3
7.	Htam Hin	26	7	18	1	23	3
	Total	289	60	208	21	242	47
	Percentages	100%	21%	72%	7%	84%	16%

6.1 Possible Justice Outcomes

The complete range of Justice Outcomes found in cases from the seven camps in this study is as follows:

All Camp Justice Outcomes:

1. Detained in camp
2. Signed agreement of promise not to re-offend
3. Perpetrator fled
4. No action
5. Other (a fine paid to Justice or a divorce granted)

All Thai Justice Outcomes:

1. Detained in a Thai prison
2. Fine only (paid to Justice)
3. Perpetrator removed from public office
4. Perpetrator fled
5. No charges were filed against the accused
6. On-going

6.2 Adequate vs. Inadequate Justice Outcomes

We suggest there is general agreement in our community, and in many communities, about what an “adequate” Justice Outcome should be for an act of violence against a person.

For 30 years KWO has listened to Karen refugee women who have been victims of violent crimes. Women say that when a man is found guilty of violence he should be punished. The punishment should say to him and the wider community that **his violent behaviour is serious and unacceptable**. The punishment ruling should make clear that **the woman is not to blame for the crime in any way**. In addition to punishment, the system should be able to **prevent him from committing further violence**. Where possible, this should be accomplished through rehabilitation and behavior change. But if that is not possible, then through legal controls, such as being banned from coming within a certain distance of the woman or her house. The Justice Outcome should **help her recover** from the crime emotionally, and/or physically, e.g. the perpetrator may need to make a public confession and apology, or he may have to go and live in another place.

For women and the whole community to feel secure it is not enough just to achieve a Justice Outcome but **to achieve an adequate Justice Outcome**. An adequate Justice Outcome must be consistently issued so that everyone can observe, predict and understand how that Justice Outcome was achieved. Adequate Justice Outcomes for any crime should carry a sense of reprimand and penalty for the perpetrator. The outcome must be proportionate, meaning the outcome is equally as serious or minor as the crime committed. They should be standard, and should not be subject to prejudice or personal bias. They should be able to be carried out realistically. An adequate Justice Outcome must carry with it clear consequences for any failure to comply, e.g. an agreement must provide for consequences in case of non-compliance. In addition, Justice Outcomes that include punishment and rehabilitation plans must be recorded in detail and closely supervised to make sure there is compliance.

6.3 Reporting to a Justice System

Among the 289 cases considered in this report, a total of 242 cases (84%) reported to a Justice System. Cases of Sexual Violence and Physical Violence both had high rates of reporting, 85-87%, while other types of SGBV cases reported to a Justice System less frequently (67%). The great majority of cases reported only to Camp Justice (87%). A much smaller number of cases reported to Thai Justice (13%).

Table 6.3 : All Cases Reporting to a Justice System

	Case Type	Total Cases Reporting	Camp Justice	Thai Justice	Total cases in study	% of cases reporting
1.	Sexual Violence	52	27	25	60	87%
2.	Physical Violence	176	171	5	208	85%
3.	Other SGBV	14	13	1	21	67%
	Totals	242	211	31	289	
	Percentages		87%	13%		84%

6.4 Cases Handled by Camp Justice:

In the seven camps, of the total 242 cases in this study that reported to a Justice System, 87% of those cases (211 cases) were handled by Camp Justice only.

We found that:

- The Section level only handled 40%.
- The Zone/Camp level handled 60%.
- In 44% of cases across the seven camps, the perpetrator received a period of detention as the Justice Outcome.
- In 36% of cases across the seven camps, the Justice Outcome was to ask the perpetrator to sign an agreement not to re-offend.

- In the remaining 20% of cases, the perpetrator fled, no action was taken, a fine was paid, or a divorce was granted.
- No cases were still on-going when we collected the data.

Table 6.4: All Cases and Camp Justice (CJ)

				Level of CJ		Outcomes					Tot
	Type of case	Tot. cases	CJ Tot.	Section Only	Sect, Zone, Camp	A= Detain in camp	B= sign Agree-ment	C= perp fled	D= No action	E= other	
1	Sexual Violence	60	27	8	19	10	7	2	6	2	27
2	Physical Violence	208	171	69	102	80	61	10	7	13	171
3	Other SGBV	21	13	7	6	2	7	1	0	3	13
	Total	289	211	84	127	92	75	13	13	18	211
	Percentage		100%	40%	60%	44%	36%	6%	6%	8%	100%

- Within the sample of cases in this study, we found that Umpiem Mai Camp has a much higher rate of detention than any other camp. If we separate out the numbers for Umpiem Mai from the other six camps then the real rate of detention in the other six camps appears much lower and the real rate for Umpiem Mai is much higher than the results shown in Table 6.4 above. For a comparison of Umpiem Mai outcomes and the six other camps see Table 6.7 below.

6.5 Cases Handled by Thai Justice

Of the 242 cases that reported to a Justice System, 13% were handled by the Thai Justice system: 25 cases of Sexual Violence, 5 cases of Physical Violence, and one other SGBV case (31 total cases).

We found that:

- Most cases handled by Thai Justice were Sexual Violence cases (80% of all the cases that went to Thai Justice).
- Very few Physical Violence cases were handled by Thai Justice.
- In 58% of Thai Justice system cases, perpetrators were given a period of detention in a Thai prison.
- Approximately 19% of cases were still on-going at the time we collected our data.
- In the remaining 23% of cases, the Justice Outcomes included: perpetrator was removed from public office or fled, no charges were filed, or the Justice Outcome is unknown.

Table 6.5: All Cases and Thai Justice (TJ)

				Outcomes						
	Camp	Total cases	TJ Tot.	a. Detain in Thai Prison	b. Fine only	c. Perp removed from public office	d. Perp fled	e. no charges filed	f. on-going	g. un-known
1	Sexual Violence	60	25	15	0	2	3	1	4	0
2	Physical Violence	208	5	2	0	0	0	0	2	1
3	Other SGBV	21	1	1	0	0	0	0	0	0
	Total	289	31	18	0	2	3	1	6	1
	Percentages		100%	58%	0%	7%	10%	3%	19%	3%

6.6 Comment and Analysis

- a) The percentages of types of SGBV cases found in this study are very **similar to the percentages for data which KWO** has collected through our **Safe House and SGBV project** in the same time frame (i.e. 2011-13). In about 600 cases where victims stayed in either a KWO Safe House or in a private home, we found a strong similarity to the percentages in this study: 73% were Physical Violence cases, 21% were Sexual Violence cases and 6% were other types of SGBV cases. This similarity suggests that the data and facts of this study are reliable.
- b) Women overwhelmingly **chose to report crimes of violence to Camp Justice (87% of those considered in this study)**. Because most SGBV cases appear to be addressed by Camp Justice, it stands to reason that overall responses to and prevention of SGBV violations in the Karen camps could be strengthened through an increase in resources allocated to the development and support of the Camp Justice system.
- c) The **range of actual Justice Outcomes is far too narrow** for SGBV cases in both Thai Justice and Camp Justice. There are not many options and most would be considered an inadequate or inappropriate judicial response to violence. Although there is little that can be done about the possible options in the Thai Justice system, there is certainly the possibility to increase the number and type of options available in the Camp Justice system.
- d) There are too many cases handled by Camp Justice which are **resolved by the use of an inadequate, weak and vague** mechanism called “**signing an agreement**” (75 cases or 36%) in which the perpetrator only promises not to re-offend. This agreement replaces a penalty for the perpetrator so he is not held accountable for his behavior, and it provides no security for the victim or community. For a full discussion of these agreements, see Section 8.7 below.
- e) Perpetrators released from Thai prison, or from camp detention, **return to or remain in camp** and their presence becomes a protection risk for the victim and for the community. None of the options among the Justice Outcomes give instructions for how to ensure the security of the victim, or what to do with perpetrators if they re-offend or how they could be supported to make changes in their behavior once they return to camp.
- f) The 13% of SGBV cases **reported to Thai Justice** represents a **big increase** compared to 20 years ago when no SGBV cases affecting refugees were reported to or handled by Thai Justice.
- g) There remain many **obstacles facing the woman**, her family, and the camp justice implementers if **they want a case to be heard in a Thai court**. Some of these are general obstacles and are listed in Section 4.3.3 above. But there are additional barriers for women victims in SGBV cases that further inhibit use of the Thai Justice system, such as:
 - **Lack of support for victim and witnesses when out of camp in Thai towns** (for health services, justice procedures, personal security). She is far away from family and support networks.
 - **Confidentiality is difficult to maintain.**
 - As punishments can be more severe in Thai Justice, **the woman, her family, and the community** are more vulnerable to acts or **threats of revenge** and intimidation from the perpetrator or his family. It is very difficult for the camp to provide security in these situations.
 - If the **perpetrator is well known or related to the woman** it will be complicated by many feelings. She may feel sorry for him if he were to be put in a Thai prison away from his people for any length of time. This can make her feel reluctant to bring the case to Thai Justice. In addition, if the perpetrator contributes financially or offers security to the household, she may fear that she will be unable to provide for herself or her family without the perpetrator.
 - Violence against women is only now being recognized as a serious crime in Thailand itself. Thai police work **within budget and staff constraints** so may feel reluctant to allocate resources for investigation of violence against women generally, and this reluctance increases when the case is complicated by refugee status or other issues, e.g. in more remote areas it is costly for Thai police to travel to a camp which might be 3 hours down a muddy track.

- If there is no confession and/or a lack of immediate and substantial evidence and/or witnesses, the cases will not proceed in the Thai Justice system. They are **referred back to camp** to be dealt with there. If it is a serious crime included in the Absolute Jurisdiction list, the Camp Justice has very little guidance about what they should do. Under existing guidelines, they are not allowed to proceed. However, these are often the most serious cases and the Camp Justice implementers feel obliged to take some action, in the interests of public safety.
 - In our study we found that 19% of the cases taken to Thai Justice were still on-going whereas Camp Justice had no on-going cases. This **slower process** of justice becomes another problem if the woman or any of her witnesses have **applied to resettle**, or if, for protection reasons, UNHCR facilitates a “fast track” resettlement application for a victim/witness. Camps have reported seeing the **premature departure** of a key witness or the victim, which has caused cases to be dropped. The perpetrator has been returned to the camp community with the case unresolved, and this creates a protection risk for other women and girls in the community.
- h) **The main type of violent crime in this study reported to Thai Justice was Sexual Violence:** 25 of the 31 cases (80%). This trend would seem to imply that victims who report sexual violence and the Camp Justice officials who respond to such violations consider themselves lacking necessary infrastructure to address crimes of Sexual Violence within camps, and thus they opt to access the greater resources of the Thai Justice system to handle these situations.
- i) In our study we expected that the data would show clear differences and significantly higher standards in the quality of Justice Outcomes for **women victims of violence in Mae La Camp**, compared to the other camps. We assumed that as a result of the well-funded and well-resourced IRC/LAC project operating there for eight years (since 2005) we would see noticeably better/fairer/more consistent Justice Outcomes for SGBV cases in both the Camp Justice and the Thai Justice systems. It was therefore interesting for our research team to discover this was not the case. In fact for many of the indicators, Justice Outcomes for SGBV cases from Mae La revealed a worse situation for women’s access to justice than in the other six camps. Very few cases from Mae La were referred to Thai Justice, there was a high rate of non-reporting, and there were especially inadequate Justice Outcomes for cases handled in Camp Justice.

6.7 Findings in Umpiem Mai Camp:

Umpiem Mai’s population is similar in size to Noe Poh, Mae Ra Ma Luang and Mae La Oon Camps, but the caseload in Umpiem Mai in this study is twice the size of any one of these camps. The larger caseload in Umpiem Mai may be caused by one, or a combination of, the following:

- More SGBV cases were reported in Umpiem Mai (to KWO, the Camp Committee or to a Justice System).
- There were more and better records kept by the KWO, so more cases could be included in the study.
- More SGBV incidents occurred in Umpiem Mai.

Moreover, the findings among the other six camps had some similarities, but the findings for Umpiem Mai were noticeably different. As a method for analysis, we separated out the numbers for Umpiem Mai and compared them to the numbers for the group of six other camps, set forth in Table 6.7 below.

- In 90% of cases in Umpiem Mai (65 of 73 cases), the perpetrator received a period of detention as the Justice Outcome.
- In the other six camps combined, a much lower rate and number of cases received a period of detention: 20% (44 of 216 cases).
- In Umpiem Mai, **all** cases of violence in this study also reported to a Justice System.
- In the other six camps combined, 22% of victims chose not to report their case to a Justice System (47 of 216 cases).

- In Umpiem Mai, in 7% of cases (5 cases) a promise not to re-offend was the main Justice Outcome. However in the six other camps, this Justice Outcome occurred in 33% of cases (70 of 216 cases).
- In the six other camps, the remaining types of Justice Outcomes (perpetrator fled, no charges filed, no action taken, divorce, removed from public office, etc) were found in **25% of cases** (55 cases). In Umpiem Mai, these were found in only 3% of cases (2 cases).

Table 6.7: All Cases: Six Camps Compared to Umpiem Mai. Camp and Thai Justice Outcomes Combined				
Type of Case	Justice Outcome	6 Camps (216 cases)	Umpiem Mai (73 cases)	7 camps (289 cases)
Sexual Violence 60 cases	A period of detention	24	1	25
	Promise not to re-offend	7	0	7
	All other outcomes	18	2	20
	Not reported	8	0	8
Physical Violence 208 cases	A period of detention	17	65	82
	Promise not to re-offend	56	5	61
	All other outcomes	33	0	33
	Not reported	32	0	32
Other SGBV 21 cases	A period of detention	3	0	3
	Promise not to re-offend	7	0	7
	All other outcomes	4	0	4
	Not reported	7	0	7
Total cases and percentages	Total Detained	44 = 20%	65 = 90%	110 = 38%
	Total Promise not to re-offend	70 = 33%	5 = 7%	75 = 26%
	Total all other Outcomes	55 = 25%	2 = 3%	57 = 20%
	Total not reported to Justice	47 = 22%	0 = 0%	47 = 16%

We suggest in Section 6.2 above that there is general agreement in our community, and in many communities, about what an “adequate” Justice Outcome should be for an act of violence against a person. In the camps, one of the main tools used to deal with SGBV was an agreement by the perpetrator not to re-offend. Because of inherent flaws in the drafting, application and enforcement of these agreements, discussed in detail in Section 8.7, we believe that they are an inadequate Justice Outcome for victims of violence. Based on this understanding, we suggest that **80% of SGBV cases in six camps received an inadequate Justice Outcome** (172 of 216 cases). In Umpiem Mai, only 10% of cases received an inadequate Justice Outcome (7 of 73 cases) and agreements not to re-offend represent only a small portion of Justice Outcomes there (7% or 5 of 73 cases). Though detention does not completely satisfy the justice needs of a victim of violence, at a minimum Umpiem Mai has made it clear to perpetrators and the wider community **that violence against women is a serious crime** and not acceptable, that women will be protected from violence, and that the perpetrator will be penalized. Numerous studies in various countries have shown that one considerable motivating factor reported by women and girls who choose not to pursue a justice response in SGBV offenses is the perceived lack of effective action by the justice system in similar instances in their areas.

6.8 Review of Justice Framework:

The findings from this study suggest that there are very serious gaps, inconsistencies, contradictions and inadequacies in the current justice framework available in the Karen refugee camps. These shortcomings have contributed greatly to poor Justice Outcomes, including for serious violence perpetrated against women in most camps. We suggest there is an urgent need for a thorough review of the current framework.

The framework currently in place in seven camps (comprising the documents “KRC 39 Rules” and “List of Absolute Jurisdiction Cases” in four camps, plus the “MDRG” and “Detention Guidelines” in three camps) does not function well as a whole. There is limited guidance regarding how these documents should work together, and in fact they present many contradictions with little information about how to reconcile inconsistencies. Moreover, they provide no guidance at all for many common offenses and justice issues. This serves to confuse and disable the implementers of Camp Justice.

During our study many of these gaps and contradictions became apparent. To give one example: “Compoundable Rape” cases are considered to be less serious by the RTG and are not “Absolute Jurisdiction” cases so the RTG has authorized Camp Justice to handle them. Compoundable rape however is the most common form of rape we see in our community and we would certainly classify it as a serious crime. A Compoundable rape is perpetrated by one man, usually in a fairly private place, and without use of a gun, but perhaps with some other threatening instrument. The “MDRG” defines Compoundable Rape as a “minor” crime which can therefore receive only a minor penalty in camp, and no detention for the perpetrator. On the other hand, the “KRC 39 Rules” only guidance is that all cases of sexual and physical violence should “Turn over to Thai authorities”.

These inconsistencies, gaps and contradiction of the Justice System in camps mean that uniform and adequate Justice Outcomes are not guaranteed. Victims, therefore, are left without the security that they deserve, that would provide them with the comfort to consistently report crimes, and that would signal to the community that violence against women is a serious and unacceptable crime. For victims of SGBV crimes, this consistency in application of law and in Justice Outcomes is crucial.

7. Sexual Violence

Of the total 289 cases in this study, there are 60 cases of Sexual Violence. This is 21% of the total cases. The cases include three types of sexual violence:

- Rape (72% of the 60 cases)
- Attempted Rape (20%)
- Sexual Assault (8%)

7.1 Overview

Rape and Attempted Rape accounted for 92% of all Sexual Violence cases. Mae La, Mae La Oon, and Ma Ra Moe Camps had the highest numbers of cases among the seven camps (16, 13, and 11 cases, respectively). Ban Don Yang had the highest number of Attempted Rape cases. Both Umpiem Mai and Noe Poh Camps had the lowest numbers of cases (3 cases each).

Table 7.1 : Sexual Violence (SV) Cases						
			Type of case			
	Camp	Total SV	Rape	Attempted Rape	Sexual Assault	Total
1.	Mae La Oon	13	12	0	1	13
2.	Mae Ra Moe	11	8	1	2	11
3.	Mae La	16	14	2	0	16
4.	Umpiem Mai	3	3	0	0	3
5.	Noe Poh	3	3	0	0	3
6.	Ban Don Yang	7	1	6	0	7
7.	Htam Hin	7	2	3	2	7
	Totals	60	43	12	5	60
	Percentages	100%	72%	20%	8%	100%

7.2 Reporting to Justice System

In 87% of the 60 cases, victims chose to report to a Justice System (i.e. in 52 cases) and 13% (8 cases) did not report. Among the 52 cases a little more than half (52%) of the cases were handled by Camp Justice and a little less than half (48%) were handled by Thai Justice. In five camps both Camp and Thai Justice were accessed to handle Sexual Violence cases. However, in the two other camps, all cases were handled by Camp Justice only, and no Sexual Violence cases were handled by Thai Justice (Htam Hin and Ban Dong Yang Camps).

Mae La Oon and Ma Ra Mo had the highest numbers of cases reporting to Thai Justice. In Mae La Camp six of the 16 Sexual Violence cases (i.e. 38%) were handled by Thai Justice.

Table 7.2 : Sexual Violence (SV) Cases and Justice System						
	Camp	Total SV in the study	Camp Justice	Thai Justice	Total reported	Total not reported
1.	Mae La Oon	13	2	10	12	1
2.	Mae Ra Moe	11	2	5	7	4
3.	Mae La	16	8	6	14	2
4.	Umpiem Mai	3	1	2	3	0
5.	Noe Poh	3	1	2	3	0
6.	Ban Don Yang	7	6	0	6	1
7.	Htam Hin	7	7	0	7	0
	Totals	60	27	25	52	8
	Percentages		52%	48%	87%	13%

7.3 Cases Handled by Camp Justice:

Of the total 60 Sexual Violence cases, 27 or 45% were handled by Camp Justice.

We found that:

- In 70% of cases the Camp or Zone Level of the system handled the case, after it was referred from the Section Level.
- In 30% of cases only the Section Level handled the case and it was not referred up to Camp Level.
- In 63 % of all cases (17 cases), there was little or no action taken against the perpetrator.
- In 37% of cases (10 cases), the perpetrator was detained for a period of time in camp and the great majority of these cases were in Htam Hin camp where all of its seven cases were detained.
- The length of detention in the ten Sexual Violence cases which received this outcome ranged from one to three months.

There is inconsistency across the camps in the Justice Outcomes for Sexual Violence. Htam Hin Camp placed all perpetrators in a period of detention. Ban Don Yang Camp took no action at all in four out of six cases and in the other two cases asked only for the perpetrator to sign an agreement not to re-offend. In Mae La, the Justice Outcome was weak in all cases with no detention being given in any of the eight cases.

Overall, we see inadequate Justice Outcomes for most cases of Sexual Violence handled by Camp Justice.

Table 7.3: Sexual Violence Cases and Camp Justice (CJ)

				Level of CJ		Outcomes					Tot
	Camp	SV Tot.	CJ Tot.	Sect Only	Sect, Zone, Camp	A = Detain in camp	B = signed Agree-ment	C = perp fled	D = No action	E = other	
1.	Mae La Oon	13	2	0	2	1	0	0	0	1	2
2.	Mae Ra Moe	11	2	0	2	1	1	0	0	0	2
3.	Mae La	16	8	3	5	0	4	1	2	1	8
4.	Umpiem Mai	3	1	0	1	0	0	1	0	0	1
5.	Noe Poh	3	1	0	1	1	0	0	0	0	1
6.	Ban Don Yang	7	6	5	1	0	2	0	4	0	6
7.	Htam Hin	7	7	0	7	7	0	0	0	0	7
	Total	60	27	8	19	10	7	2	6	2	27
	Percentages		45%	30%	70%	37%	17 cases				100%
							63%				

A= detained in camp and when released, remains in camp.

B= perpetrator signed an agreement not to repeat the violence, and/or he received some form of counseling. This is a camp based "agreement", explained in more detail later in this report. It is not a "CSO".

C= perpetrator ran away from camp before any action could be taken.

D= camp justice heard the case but decided to take no action.

E= *in both cases the perpetrator was fined only. A fine is payed to the justice system not to the victim.

7.4 Cases Handled by Thai Justice:

Of the total 60 Sexual Violence cases in this study, 25 or 42% were handled by the Thai Justice system.

We found that:

- In 60% of these cases (15) the perpetrator was detained in a Thai prison. Half of the cases that were detained (8), came from Mae La Oon Camp.
- Prison sentences in these 15 cases ranged from two months of rehabilitation for an underage offender to 26 years for a multiple offender. Most prison sentences were one to four years in length.

- In the remaining ten cases:
 - ◊ In three cases the Justice Outcome was inadequate.
 - ◊ In three cases the suspected perpetrators fled before the case was complete, so they escaped punishment.
 - ◊ In four cases the outcome was not yet decided at the time of collecting data.
- In Mae La camp, six out of a total of 16 cases, were reported to Thai Justice. The perpetrators in three cases received Thai prison terms. The Justice Outcomes of the three other cases were inadequate.
- No Sexual Violence cases were referred to Thai Justice from Htam Hin and Ban Dong Yang Camps.

Table 7.4: Sexual Violence Cases and Thai Justice (TJ)										
				Outcomes						
	Camp	SV Tot.	TJ Tot.	A.= Detain in Thai Prison	B= Fine only	C= Perpetrator removed from public office	D= perpetra- tor fled	E= no charges filed	F= on- going	Total
1.	Mae La Oon	13	10	8	0	1	1	0	0	10
2.	Mae Ra Moe	11	5	1	0	1	0	0	3	5
3.	Mae La	16	6	3	0	0	1	1	1	6
4.	Umpiem Mai	3	2	1	0	0	1	0	0	2
5.	Noe Poh	3	2	2	0	0	0	0	0	2
6.	Ban Don Yang	7	0	0	0	0	0	0	0	0
7.	Htam Hin	7	0	0	0	0	0	0	0	0
	Total	60	25	15	0	2	3	1	4	25
	Percentages		42%	60%						

A= detained in a Thai prison. When released, perpetrator returned to camp.

B= had to pay a fine only.

C= the perpetrator held Thai public office and he was removed from that position.

D= the perpetrator fled before the case was finished.

E= after investigation, the police did not find enough evidence to bring the case to the prosecutor, so no charges were filed.

F= at the time of this study, the case was on-going. No Justice Outcome reached yet.

7.5 Comment and Analysis

- The most common Sexual Violence crime committed against Karen women is rape and at tempted rape. The violent crime of rape is not very well understood by most men and many women. Unlike many other crimes, theft for example, the crime of **rape carries a great deal of stigma against the woman** who is the victim and it can influence her ability to report the ability of the justice system to respond fairly, the ability of her family and community to support her, and the ability of the perpetrator to accept that he has committed a serious crime.
- The Justice Outcomes are **extremely inadequate** for the women who reported sexually violent men. It is well documented that **lack of real justice outcomes gives perpetrators a sense of impunity**. Weak justice systems teach sexual offenders that they can rape without consequence which can encourage repetition of the crime.
- Given that crimes of rape and Sexual Violence are not well understood it is perhaps not surprising that the **rules and penalties** regarding rape and Sexual Violence **are especially weak and vague**. None of the **existing documents** or frameworks provides enough guidance for justice implementers in camps or adequate protection for refugee women and girls.
- In 58% of all Sexual Violence cases, women received **inadequate responses from the Camp and Thai Justice systems** (see Table 7.6). An act of violence requires a certain level of response from the justice system in the community. We define “adequate” more extensively in Section 6.2 above, but in general we mean that the outcome will at the very least control the perpetrator in some way, protect the victim and those around her, discourage future acts of violence, send a message to the community that violence is unacceptable behaviour, and be proportional to the crime. A period of detention is not a

perfect solution but it seems to fulfil these five requirements to some extent. The other Justice Outcomes we recorded in our study which were provided in cases of Sexual Violence were inadequate and did not fulfill these requirements. They may be potentially effective only if implemented in combination with a number of other stronger measures.

- e) The widespread use of inadequate Justice Outcomes in Camp Justice (17 out of 27 cases) means **perpetrators of violence are not being held accountable for their actions**. Only 10 of 27 cases handled by Camp Justice received a serious penalty (a period of detention). However, almost all of these cases were in Htam Hin (7 cases). Htam Hin reported no cases to Thai Justice. Three camps gave a serious penalty in the three other cases. Curiously, Mae La did not detain any perpetrators even though it is the only camp that has adequate detention facilities and so is in a better position to use detention as a penalty for rape. In 15 of 25 cases **referred to Thai Justice, the perpetrator received a serious penalty** (i.e. a period of detention). However, more than half of these were from one camp, Mae La Oon (8 cases), which suggests an inconsistency across all the camps.
- f) **In 13% of Sexual Violence cases in this study, the case was not reported to any Justice System** at all. This means the sex offender was not held accountable in any way, not identified nor punished. The victims did not see justice done. Studies have shown that perpetrators of sexual violence are more **likely to re-offend** if they suffer no consequences for their actions.
- g) **The range of options available in Camp Justice for penalties** in cases of Sexual Violence is **too limited**.
- h) **Too many Sexual Violence cases are handled only at Section level** in camp. Often the least trained and less experienced members in the camp justice structure are at the Section level. All rape cases should be automatically referred up to Camp level without any attempt at the Section level to verify if it really is a rape case or not. In two camps, there were six cases of Sexual Violence in which **no action was taken**. The two camps are Ban Dong Yang and Mae La and they are the only two camps in this study that showed Sexual Violence cases being handled at the Section level.
- i) Evidence in this study shows large **inconsistencies across the camps in the capacity for case management when referring to Thai Justice**. For example, half of the cases that went to Thai Justice and then got successful convictions, including a period of detention, were from Mae La Oon (8 out of 15 cases). Only small numbers of cases from other camps had an outcome like this. It is difficult to explain why there are so few Sexual Violence cases from the six other camps successfully prosecuted by Thai Justice.
- j) The two camps near Mae Sariang town (Mae Ra Ma Luang and Mae La Oon) have the **highest numbers of cases reporting to Thai Justice** and then being handled by Thai Justice, with successful convictions. The numbers are much higher than for other camps that have bigger populations and which get targeted support from the IRC/LAC project. It may be because these two camps get greater UNHCR support for victims going into the Thai Justice system in Mae Sariang compared with other camps, and/ or because the UNHCR staff has generated a more successful working relationship with the local Thai authorities.
- k) Victims of crime using the Thai Justice system are able to apply for compensation under Thai law. In this study, even though **17 men** were successfully prosecuted for sexual violence offenses in Thai Justice, **we found no evidence that anyone filed criminal compensation claims on behalf of the women**. Women need Justice Outcomes that help them to recover from the crime and financial compensation can provide access to services and options needed for recovery.
- l) In **Mae La Camp only six of the 16** Sexual Violence cases (38%) were referred to Thai Justice. This seems a comparatively low number given that IRC/LAC has been operating in Mae La since 2005 with one main purpose being to facilitate refugee access to Thai Justice.
- m) Regardless of whether the case is successful or not, **the perpetrator remains in, or returns to, the community with no supervision or management plan**. This presents a **significant protection risk for his victims and the community as a whole**. Camps are small, closed communities, with residents living in often densely crowded conditions, so the woman and perpetrator are very likely to cross paths on a regular basis. Women live in fear of their attacker and can be badly affected by any contact with them. Women have reported that they and their families have been threatened.

- n) Some cases reported to Thai Justice **cannot be completed because the victim is resettled to another country** before the completion of the case, so it is dropped. This means the perpetrator is released into the community without any consequences.
- o) In too many cases in both Camp Justice and Thai Justice, the perpetrator has been able to escape. There has been a slow reaction from security, or slow reporting by the victim. Preventing him fleeing is made more difficult because there are not adequate detention facilities to detain him effectively, the facilities that are available in camps have not been approved, or he was released from custody on bail. It seems there is a need to improve mechanisms to **prevent the escape** of an accused man, or a perpetrator, and to establish more thorough and systematic tracking and monitoring of these men, as well as **action to pursue them**. Perpetrators of violence who flee their own community **become a protection risk to the new community** wherever they settle.
- p) The KWO has had numerous reports of **Karen women committing suicide after surviving rape** or Sexual Violence. Reports have come from every camp. While suicide is an extreme result, countless other women have been affected deeply not just by the rape but by the response and processes of Camp Justice or Thai Justice. The very real stigma attached to women who are the victims of sexual violence means sexual crimes are treated differently and often taken less seriously than other crimes. This is especially obvious during the reporting and investigation stages. There is currently **no clear process to ensure** that rape and crimes of sexual violence are **managed sensitively** by people with the right skills and knowledge or that confidentiality will be maintained.
- q) In three Sexual Violence cases, the Thai Justice system **sent the case back to Camp Justice**. In these cases the Camp Justice must handle them. There have been many more reports to KWO from the camps that cases are often refused or sent back to camp by Thai Justice. The reasons given are:
- ◇ Not enough evidence for the prosecutor to be confident of a conviction, so no charges are filed.
 - ◇ Police did not investigate.
 - ◇ No one believes the victim.
 - ◇ The perpetrator flees.
- Having her report rejected for investigation or prosecution has enormous emotional effects on the woman. She is **more likely to be blamed and shamed by community**, even by close family, as a shadow of **doubt has been created** about her case. It is important that Camp Justice be able to respond to her situation and proceed with her case if she wishes to continue. However, if it fits under the definition of Non-compoundable rape under the Absolute Jurisdiction guidelines, then Camp Justice is not supposed to deal with it, even if it is "sent back to camp". When the Camp Justice handles these cases, it is given very little guidance and support. Implementers of Camp Justice are in a difficult position. If they take no action they allow the woman to suffer without any Justice Outcome and the perpetrator to go unpunished. Very often the perpetrator is known to the woman and may be a member of the community, or may hold the added power of being a Thai citizen. If they take action they do so with limited resources, which often can lead to an inadequate Justice Outcome which trivializes the seriousness of the crime. **In either case the perpetrator is not really held to account for his violence**, the woman lives in fear, and rape appears to be tolerated in the community.
- r) In one case of adultery in this study, the man was sentenced by Camp Justice to seven months in detention. Karen society does not condone adultery and we sometimes see heavy punishments handed down for it by Camp Justice. The punishment in this particular case was **much stronger than any of the penalties given by Camp Justice for committing rape**. Adultery is considered a threat to the family unit and it is not accepted in Karen culture. Nonetheless, adultery is a human relationship that is consensual between two adults and it is legal under Thai Law. On the other hand, **rape is a crime**, whereby the victim is violated against her wishes. Penalties for perpetrators of rape and Sexual Violence should be stronger than those for adulterers.

- s) Only three Sexual Violence cases were included in this study from Umpiem Mai Camp. This seems a **small number of cases**, especially if compared to the very high number of Physical Violence cases included from that camp. This small number may be due to fewer Sexual Violence cases occurring or being reported to KWO in Umpiem Mai, incomplete record-keeping by KWO, or a higher rate of non-reporting of Sexual Violence.
- t) We found no evidence in our study to show that either the Camp or the Thai Justice system tried to document and **monitor sexual offenders in order to rehabilitate** them or to bring about **behavior change**. There is an urgent need for the justice systems to take actions in this regard.

7.6 All Justice Outcomes for Sexual Violence in Seven Camps

Almost **60% of sex offenders in this study in the seven Karen camps received an inadequate penalty or none at all**. This is evidence of an overall weak capacity in the justice systems responding to the serious crime of sexual violence.

Table 7.6: Sexual Violence Cases in 7 Camps. All Justice Outcomes in Camp and Thai.			
Sexual Violence	Outcome	7 camps (60 cases)	%
Total of 60 cases of rape, attempted rape and sexual assault	A period of detention	25	42%
	Promise not to re-offend	7	12%
	All other outcomes	20	33%
	Not reported to Justice	8	13%
	Total	60	100%
	Cases with a Period of Detention	25	42%
	Total Cases with an Inadequate Outcome i.e. all others	35	58%

The inadequate and contradictory advice in the legal framework regarding crimes contributes to inadequate Justice Outcomes. The “KRC 39 Rules” state only “Violent and / or sexual abuses are prohibited. (Crime) Turn over to Thai authority”. The MDRG states in cases of rape that: *“Imprisonment or detention is not one of the outcomes of camp dispute resolution mechanisms”* and makes plain, *“If the survivor wants the alleged perpetrator to be punished by detention (if found guilty) s/he should choose Thai justice system. In such case, it has to be emphasized that the evidence must be sufficient and relevant”*.

By making SGBV cases hinge upon victim initiation of proceedings and choice of venue (as is the case for non-compoundable rape, or if the victim wishes to see the perpetrator imprisoned) the current system appears to assign to private individuals a burden that legally falls to the state or its designated representatives. This does not reconcile well with the human rights framework underpinning the situation of refugees in camps. Women and girls have the fundamental human right to be free from violence, including SGBV, wherever they live. The host state and appointed international actors are responsible to respect, protect, and fulfill that right. If they delegate this responsibility to camp officials, they have a duty to ensure that those officials properly exercise their function.

8. Physical Violence

There are 208 cases of Physical Violence in the total of 289 cases in this study. Physical Violence is by far the most common form of SGBV that women suffer in the seven camps (72% of all the cases) and Domestic Violence is the most common form of Physical Violence.

In this study, there are four types of Physical Violence:

1. **Domestic Violence**= physical violence perpetrated by a family member (usually husband, or father): **92%**.
2. **Physical Assault**= physical violence by a non-family member: **4%**.
3. **Unlawful Death**= murder and suspicious deaths: **1%**.
4. **Threats of Violence**= threaten to use serious violence against a person, with a strong belief it will take place, creating a high level of fear: **3%**.

8.1 Overview

Domestic Violence accounts for 92% of all cases and is by far the most common form of violence in all camps (192 cases). Two camps, Umpiem Mai and Mae La, have much higher numbers of Physical Violence cases than the other camps (70 and 64 cases, respectively). The other four camps had significant numbers ranging from eight to 20 cases per camp.

- Umpiem Mai Camp has the highest number of cases of Domestic Violence (69 cases) of any camp.
- Mae La Camp has the second highest number of Domestic Violence cases and the highest number of all other types of Physical Violence, including two of the three deaths.
- All the recorded Threats of Violence in this study took place in Mae La Camp. No other camp showed records of Threats of Violence.
- Almost all cases of Physical Assault (which is Physical Violence perpetrated by a non-family member) occurred in Mae La Camp.

Table 8.1: Physical Violence (PV) Cases

	Camp	Total PV cases	Type of Case				Total
			Domestic Violence	Physical Assault	Unlawful Death	Threats Of Violence	
1.	Mae La Oon	8	8	0	0	0	8
2.	Mae Ra Moe	15	14	1	0	0	15
3.	Mae La	64	51	6	2	5	64
4.	Umpiem Mai	70	69	1	0	0	70
5.	Noe Poh	13	13	0	0	0	13
6.	Ban Don Yang	20	20	0	0	0	20
7.	Htam Hin	18	17	0	1	0	18
	Totals	208	192	8	3	5	208
	Percentages	100%	92%	4%	1%	3%	100%

8.2 Reporting to the Justice System

In 85% of all Physical Violence cases, the case was reported to a justice system (176 cases). Most of the cases were handled within the Camp Justice system.

- A smaller number of cases chose not to report to any justice system (15% or 32 cases). Most of the cases not reported arose in Mae La Camp (19 cases), while half of the Physical Violence cases in Ma Ra Mo Camp were also not reported to any justice system.
- Almost all (97%) of all Physical Violence cases reported to a justice system were handled by the Camp Justice system (171 of 176 cases).
- Only 3% (5 cases) were handled in the Thai Justice system.

- Umpiem Mai, Noe Poh and Ban Dong Yang Camps all have high rates of reporting Physical Violence cases to a justice system (95-100%). Almost all of the cases were handled by Camp Justice.
- Mae La Oon and Htam Hin also have quite high rates of reporting cases to a justice system (88% and 83%, respectively).
- Two camps, Mae La and Ma Ra Mo, have comparatively lower rates of reporting Physical Violence to a justice system (70% and 47%, respectively).

Table 8.2: Physical Violence (PV) Cases and Justice System

	Camp	Total PV	Camp Justice	Thai Justice	Total Reported	Total Not Reported
1.	Mae La Oon	8	7	0	7	1
2.	Mae Ra Mo	15	7	0	7	8
3.	Mae La	64	42	3	45	19
4.	Umpiem Mai	70	69	1	70	0
5.	Noe Poh	13	13	0	13	0
6.	Ban Don Yang	20	19	0	19	1
7.	Htam Hin	18	14	1	15	3
	Totals	208	171	5	176	32
	Percentages	100%	97%	3%	85%	15%

8.3 Cases Handled by Camp Justice

Camp Justice handled 171 cases of Physical Violence. This is 82% of all the Physical Violence cases in this study, and it is 97% of all Physical Violence cases reported to the justice system.

Overall, in cases from the seven camps handled by Camp Justice, 40% of them were **handled only at Section level** and 60% were referred up to Zone and/or Camp level.

We noticed quickly when reviewing the data in this study that **Umpiem Mai camp handles its Physical Violence cases very differently** from the other six camps. To allow us to show a more accurate picture of Justice Outcomes in this section, we decided to present Umpiem Mai results separately from the other six camps.

In the other six camps combined, more than half of the cases (52%) were **handled only at Section level** of the camp (53 cases) without being referred up to the Camp level. In Umpiem Mai Camp a much smaller number of cases (23%) were handled at Section level only, with most cases going to Camp level.

The rate of **detaining perpetrators** as the Justice Outcome of Physical Violence cases is very low in most camps, but is very high in Umpiem Mai. The Justice Outcome in 93% of all cases in Umpiem Mai Camp, whether handled at the Section or Camp level, was a period of detention for the perpetrator (64 of 69 cases). However in the other six camps the combined total of cases which resulted in a period of detention was 16% of cases (i.e. 16 of 102 cases in 6 camps). Half of these cases were in Htam Hin Camp (8 cases).

In six camps, the most common Justice Outcome was to ask the perpetrator to **sign an “agreement”** not to re-offend (55% of 102 cases or 56 cases). In Umpiem Mai, an “agreement”, as the only Justice Outcome, was signed in 7% of cases (5 of 69 cases).

In six camps, the **three other Justice Outcomes** (the perpetrator fled, no action was taken, or a divorce was granted) occurred in 17% of cases. No case in Umpiem Mai resulted in these Justice Outcomes.

Mae La Camp had the highest number of **divorces** granted in cases of violence, meaning that there were no other consequences for the perpetrator for the actual violent act.

Table 8.3: Physical Violence Cases and Camp Justice (CJ)											
	Camp	PV Tot.	CJ Tot.	Level of CJ		Outcomes					Tot
				Sect Only	Sect, Zone, Camp	A = Detan in camp	B = signed Agreement	C= Perpetrator fled	D = No action	E = other	
1	Mae La Oon	8	7	2	2	1	4	0	1	0	7
2	Mae Ra Moe	15	7	2	5	3	3	1	0	0	7
3	Mae La	64	42	22	20	1	20	7	3	11	42
4	Umpiem Mai	70	69	16	53	64	5	0	0	0	69
5	Noe Poh	13	13	4	9	1	9	1	0	2	13
6	Ban Don Yang	20	19	19	0	0	16	0	3	0	19
7	Htam Hin	18	14	4	10	9	4	1	0	0	14
	Total	208	171	69	102	80	61	10	7	13	171
	Percentages		100%	40%	60%	47%	36%	30			100%
								17%			

A= detained in camp and when released, remains in camp.

B= perpetrator signed an agreement not to repeat the violence, and/or he received some form of counseling. This is a camp based "agreement", explained in more detail below. It is not a "CSO".

C= perpetrator ran away from camp before any action could be taken.

D= camp justice heard the case but decided to take no action.

E= all cases were divorce with or without child support.

In six camps, the Justice Outcome for Physical Violence cases **failed to give an adequate response** to the use of violence. In 84% of cases, the perpetrator was not given any kind of punishment. Instead, in most cases he was asked only to sign an agreement promising not to re-offend. In other cases he was able to flee, or no action was taken. In some cases the Justice Outcome was to grant a divorce. Granting a divorce, although it may be used as a method to protect the victim from further abuse, is not appropriate as the only consequence for a perpetrator committing a crime.

In Umpiem Mai Camp, only 7% of cases received Justice Outcomes that we would define as inadequate.

8.4 Cases Handled by Thai Justice

Only a small number of Physical Violence cases (5 cases) from all camps were handled by the Thai Justice system. Some other cases were reported to Thai Justice but then were referred back to camp to be handled there.

Two Cases of Domestic Violence were handled by Thai Justice and the perpetrators were given a period of detention.

The Physical Violence cases where the victim died were always reported to the Thai Justice system (3 cases). All cases were suspicious deaths implying physical and possibly sexual violence had been perpetrated.

- In one case, where the victim was elderly and had been missing for two weeks, the police stated the victim had "died of natural causes" when her body was found. The victim's family decided not to pursue a justice response.
- One case, where the victim's body was found just outside camp after being missing for a few days, is still open but not active.
- In one case, the perpetrator was arrested and is in detention in Thai prison, but the case was on-going at the time of gathering data for this study.

Table 8.4: Physical Violence Cases and Thai Justice (TJ)											
				Outcomes							
	Camp	PV Tot.	TJ Tot.	A.= Detain in Thai Prison	B= Fine only	C= Perpetrator removed from public office	D= perpetra- tor fled	E= no charges filed	F= on- going	G= unknown	Tot
1	Mae La Oon	8	0	0	0	0	0	0	0	0	0
2	Mae Ra Moe	15	0	0	0	0	0	0	0	0	0
3	Mae La	64	3	1	0	0	0	0	1	1*	3
4	Umpiem Mai	70	1	1	0	0	0	0	0	0	1
5	Noe Poh	13	0	0	0	0	0	0	0	0	0
6	Ban Don Yang	20	0	0	0	0	0	0	0	0	0
7	Htam Hin	18	1	0	0	0	0	0	1	0	1
	Total	208	5	2	0	0	0	0	2	1	5

A= 2 cases of DV, perpetrators given prison sentences.

F= judicial process not complete at time of this study.

G= outcome unknown. KWO provided services to the victim and IRC/LAC facilitated access to Thai Justice.

8.5 Outcomes for All Physical Violence Cases

The Justice Outcomes for Physical Violence cases in Umpiem Mai versus the other six camps combined is presented in detail in Table 8.5 below. When we look at the results we can see more clearly how the justice system in the six other camps **is failing to respond adequately** to violence against women. The majority of Physical Violence cases in this study are Domestic Violence cases and the majority of cases are handled by Camp Justice. (Only 5 cases of 208 Physical Violence cases were handled by Thai Justice).

- **Inadequate Justice Outcomes occurred in 88% of** all incidents of physical violence **in 6 camps** leaving victims unprotected and perpetrators unpunished.
- The inadequate outcomes shown in table 8.5 include: the signing of an agreement not to re-offend, the disappearance of the perpetrator, failure to take action, divorce, and failure to report the case to justice.
- In Umpiem Mai, these inadequate Justice Outcomes were infrequently or never used: an agreement not to re-offend was signed in only 7% of cases and the other outcomes were not used as the main Justice Outcome at all.
- On the other hand in the other six camps, these inadequate Justice Outcomes predominated: 40% signed agreements, 23% chose not to report to justice, and 24% of cases were given a selection of the other inadequate outcomes.
- In Umpiem Mai, 93% of cases (65) received a period of detention as the Justice Outcome, whereas in six other camps the total combined was 12% (17 of 138 cases).

Table 8.5: Physical Violence Cases. Justice Outcomes of 6 Camps Compared to Umpiem Mai. Both Camp and Thai Justice.				
Physical Violence	Justice Outcome	6 camps (138 cases)	Umpiem Mai (70 cases)	7 camps (208 cases)
Physical Violence 208 cases	A period of detention	17	65	82
	Promise not to re-offend	56	5	61
	All other outcomes	33	0	33
	Not reported	32	0	32
Total cases and percentages	Total detained	17 = 12%	65 = 93%	82 = 39%
	Total promise not to re-offend	56 = 41%	5 = 7%	61 = 29%
	Total all other outcomes	33 = 24%	0 = 0%	33 = 16%
	Total not reported to justice	32 = 23%	0 = 0%	32 = 15%
		Total 6 camps= 138	Total UM= 70	Total 7 camps= 208
	A period of detention	17 = 12%	65 = 93%	82 = 39%
	Inadequate response= all the others	121 = 88%	5 = 7%	126 = 60%

Umpiem Mai camp is the only camp which provides an adequate Justice Outcome for the crime of Physical Violence and it seems to have proven effective in reducing violence against women in that community. Informal reports from Umpiem Mai indicate that incidents of Domestic Violence have declined since the camp started to give systematic detention penalties to perpetrators of Physical Violence in 2009. One community leader estimated: “There used to be one or two new incidents every day. But now we see only one new incident in a week maybe.” Umpiem Mai’s Camp Justice system has given a clear message to the community that physical assault of a wife is unacceptable.

8.6 Comment and Analysis

- Physical Violence and Domestic Violence **are serious crimes**. They are crimes in both Thai law and the KRC 39 Rules, but in six camps they do not seem to be treated as serious crimes.
- We found in our study that there were **no systemic record-keeping** processes in place. Not all records indicated the exact nature and extent of the violence, if a weapon was used, whether it also involved sexual violence or marital rape, if it was a repeat offense, and if so, how many times the crime had been repeated. This type of information is important in all cases, but especially for Domestic Violence, so that justice implementers can make fair judgments and give appropriate penalties. No guidelines or protocols exist for record keeping or making judgments in the camps for these aspects of violence. Despite the absence of detailed records we were able to gather information that **suggests a significant level of serious violent crimes against women in the camps**. In this study KWO gathered anecdotal data, a more informal source of evidence, which was consistent across all camps. Generally speaking, we found that crimes reported to a formal justice system were more likely to be serious or repeated incidents of violence. KWO is aware that frequently incidents of more minor violence go unreported, especially if the perpetrator is a family member (i.e. it is a domestic violence incident). Therefore, when a woman chooses to ask the community leaders to intervene for her protection, by reporting to KWO or the justice system, she is more likely to have experienced a serious episode of violence. Over the same three years of this study, we found 53% of women who experienced Domestic Violence and who sought services from KWO also requested to stay for a period of time in a KWO Safe House. If a woman is being forced to leave her own home, or her children, she has experienced a higher level of violence. In addition, within Camp Justice, if a case is more serious, or the parties involved are not satisfied at Section level, the case is referred up to the Zone and/or Camp level. Between 50% and 80% of Domestic Violence cases in this study were handled by a higher authority than the Section level in each camp, suggesting the majority of these cases featured serious violence and/or conflict.

- c) Domestic Violence is a common term for **men who commit violent crimes against women (or children) in their families**. Domestic Violence has often been accepted by men and many women as **not serious, a “private matter”, or the fault of the victim**. These beliefs are reflected in justice systems which then treat this violent crime as a minor offence or somehow excusable. Even though there are still many places today where this attitude is common, it has changed in the 20th century in many other countries. It is **now widely accepted that domestic violence violates the human rights of women**, and the justice systems in those places have changed to provide more adequate protection responses for women. Unfortunately this is not yet true in the Karen refugee camps.
- d) Evidence in this study shows that the justice system in Karen camps **fails to take adequate action against married men who commit violent crimes against their wives**. Domestic Violence is the most common form of SGBV in our community. Perpetrators of Domestic Violence in our community are husbands, fathers, uncles, brothers, sons, and friends. The victims are our mothers, sisters, daughters, aunties, grandmothers, and friends. We therefore all know someone personally who is either a victim or a perpetrator of domestic violence. Evidence in this report shows that at least 192 men we know have committed serious acts of violence against **women in their families**. We all have the fundamental human right to be free from violence, wherever we live, and we especially expect that right to be respected in our own homes. Surely the time has come for all of us, men and women, to work together to stop violence in our homes.
- e) Many women victims of violence do not report perpetrators who are family members. In part, this is due to the stigma involved. The victims fear being blamed and shamed by family, the community and the justice system. In addition they have a commitment to and often love the man committing the violence against them. He may be the main provider for the family and punishment for him means hunger for her and her children. Justice systems need to be very strong and effective for women to have the confidence to report domestic violence. Mae La is the largest refugee camp with a population of 43,255 at the time of this study. It is also the camp which has received the longest-running and widest-ranging assistance from the IRC/LAC project (since 2005) so we expected reporting of violence to be high in this camp. However, **Mae La Camp had by far the highest rate of non-reporting Physical Violence cases among the seven camps**. A total of **30% of Physical Violence cases** in Mae La were **not** reported to justice. The majority of reported cases were handled by Camp Justice, and only **one perpetrator** received a period of detention as a penalty. On the other hand, Umpiem Mai is a mid-sized camp with a population of 13,154. We found **100% of cases reported to justice in Umpiem Mai**, and in 93% of the 69 cases handled there by Camp Justice **the perpetrator received a period of detention** as a penalty. We see a strong connection here between the type of Justice Outcome handed down to the perpetrator and the rate of reporting by the victim. When women know that the justice system will do something to protect them and to penalize their attackers, women tend to report violations against them.
- f) We found no evidence in our study to show that the Camp or Thai Justice system tried to **monitor repeat violent offenders** in efforts to break the cycle of violence. There is an urgent need for justice systems to take action in this regard, especially in Domestic Violence cases. There are very few services in the community that have the aim of rehabilitating offenders. The DARE program is one good exception, and it provides successful treatment in five of the seven Karen camps for violent men who have drug and alcohol addictions. Creating a wider range of options for Camp Justice Outcomes would improve protection for women and could work to increase behaviour changes in violent men.
- g) Currently there are **two main options used in Physical Violence cases**: a period of detention (mostly used only in one camp) or a promise not to re-offend (mostly used in the other six camps). There should be a wider range of effective options. Detention may be too harsh for some cases, and a simple promise not to re-offend is certainly too soft for all cases of violence. More effective Justice Outcomes will penalize the perpetrator, protect the victim, and also support changes in the violent behaviour of the perpetrator.

- h) The evidence in this report suggests that **the justice system accessible to refugees is failing to support** change in violent behavior in 100% of cases.
- i) Most camps **do not frequently use detention** as a penalty in SGBV cases. Even camp authorities within Mae La Camp, the only Karen camp with proper detention facilities, do not make use of the available facilities.
- j) There were very few **cases of physical assault** of women or girls by non-family members (only 8 in total in this study) and most of them took place **in Mae La Camp** (6 cases). This means that most physical violence against women is perpetrated by someone close to them, someone in their own family, usually a husband, and not by a stranger.
- k) **Suspicious deaths** are “Absolute Jurisdiction” cases and should be handled by Thai Justice. Cases of death **require a thorough investigation** that employs ample and adequate resources. These types of investigations are beyond the capacity of the Camp Justice system. However, two of the three deaths of women included in this study received a poor response from the justice system. Both cases remain unsolved. There are several other cases of unlawful deaths of women which were not included in this study, but which we know also received very poor responses from the justice system.
- l) We found a very low rate of reporting and recording for **threats of violence**, although KWO is aware that it happens quite frequently. All reported cases in this study were in Mae La Camp.
- m) The **documents** that are intended to provide substantive legal guidelines are woefully inadequate. Despite being a modern document **the MDRG reinforces old beliefs** and does not provide for adequate remedy for women impacted by domestic violence. The MDRG states that “Physical assault by husband (DV) with no weapon, and injuries lasting less than 10 days to heal is an eligible minor offense for a CSO”, or Community Service Order. A CSO, discussed more fully in Section 8.7 below, requires only that a perpetrator contribute labor and time to the community as a form of compensation for a crime. The MDRG advises that the crime can also be dealt with by such things as a Promissory note, or paying Compensation, or a divorce. The **KRC 39 Rules also provide very little guidance** to Camp Justice implementers regarding Domestic Violence. Offences are not defined and the only possible response to violence is to “Turn over to Thai authorities”.
- n) Overall, evidence in this study shows inadequate and inconsistent responses from the justice systems in cases of Physical Violence. The inconsistency between the Justice Outcomes in Umpiem Mai compared to the other six camps is striking but there is also significant inconsistency between all the seven camps in how they handle cases of violence. Inadequate and inconsistent justice responses to violence leads to a feeling of **impunity for perpetrators of violence** and this in turn supports an increase in the use of violence in the community.
We believe this poor justice response is due to two main factors:
 - A lack of instruction; and**
 - A lack of support and resources to Camp Justice Implementers**
- o) Despite obvious weaknesses, 98% of women suffering physical violence in this study chose to report the crimes **only to Camp Justice and/or to seek services only in camp** (203 of 208 cases). An immediate and substantial increase in resources allocated to the **development and support of the Camp Justice system** will greatly improve protection of women and will certainly decrease SGBV.

8.7 The “Agreements”

In six camps (excluding Umpiem Mai), the main and often only Justice Outcome for a majority of cases of Physical Violence, and a lesser percentage of Sexual Violence, reported to Camp Justice was the perpetrator’s signing of an “agreement” wherein he promises not to re-offend (**40% of Physical Violence cases and 27% of Sexual Violence cases**). If we look at the results **for 7 camps, then 36%** of all cases of violence reported to Camp Justice received this outcome (75 of 211). These “agreements” are frequently used as a tool by the Camp Justice system to control or respond to incidents of violence against women, so it is important to understand what they contain so we can evaluate how effective they are.

We looked at several agreements from four Karen camps and found:

- They are not standardized across the different camps. There is not a form provided by KRC or another group that is used by the Camp Justice system in all camps. So these agreement formats vary from camp to camp.
- These agreements are not any of the forms or agreements mentioned in the MDRG which is in use in Mae La Camp (and to a lesser extent in Umpiem Mai and Noe Poh Camps). For example, they are not a “CSO” or a “Promissory Note”.
- Within a single camp, the agreements are standardized in terms of their format and use across Sections and Zones.
- An agreement format in each camp is created by the “Judges Committee” of that camp.
- The agreements we collected from the four camps had some similarities. They all contained simple data regarding the case:
 - Date
 - Case Code (see below)
 - Names and ages of those involved
 - Location of residence
 - List of witnesses to the agreement (but not witnesses to the incident of violence)
 - Description of any punishment given
 - Statement that the perpetrator promises not to re-offend
 - Signature of the perpetrator
- Case Code: These refer to the numbers of the Rule in the “39 KRC Rules” that it is decided has been broken. For example, in the agreements we reviewed, four Case Codes were used: 19, 23, 31, and 33 which are shown below:

KRC Rules referred to in “agreements”		
19	Any Action taken against young persons, aged between 7-18 must not be the same action taken against the adult.(Rule)	1. Educate 2. Warning 3. Any suitable action
23	Social and cultural norms must not be abused including 1. Adultery 2. Illegal sexual engagement 3. Engaging in sex work (Civil law suit)	1. Warning 2. Compromising 3. Action taken similar to that of action taken by related society
31	Violent and / or sexual abuses are prohibited. (Crime)	1. Turn over to Thai authority
33	Do not physically or mentally hurt others (Crime)	1. Turn over to Thai authority

- The Case Codes in the agreements from only Mae La Camp also referred to the MDRG Guideline # 9 which describes Domestic Violence.

In the “MDRG” there are templates for many of the forms needed in the mediation, group conferencing and arbitration processes. “Promissory Notes” are mentioned often as an option for possible Justice Outcomes, but there is no template provided for a “Promissory Note”. (Unfortunately there are no page numbers in the MDRG, so we cannot provide a full reference). The guidance we found in the MDRG is as follows:

“Promissory Note (only for criminal offences)

“I promise never to commit this offence again. I understand that if I do, I may receive a harsher punishment in the future”.

The MDRG also proposes CSOs (Community Service Orders) as a possible Justice Outcome in Camp Justice. A CSO requires a perpetrator to contribute labor and time to work for the community as a form of compensation. CSOs do not seem to be used as a Justice Outcome in SGBV cases. We expected to see some CSOs in the records of the three Karen camps where IRC/LAC offices exist, but none of the KWO records in these camps mentioned a CSO being used as a Justice Outcome in an SGBV case in this study. It is not clear what this implies about the CSOs.

Elements that we found **absent** from all the agreements:

- There was no record of the underlying incident. Most of the agreements just mentioned that the general KRC Rule was broken. But what exact event the agreement referred to was not recorded.
- There was no record of any consequences for the offender if he breaks the agreement.
- There was no record of whether the perpetrator was a repeat offender, how many times it had happened already, or any series of escalating consequences if the behaviour continued.
- There was no record of whether compensation was paid to the victim or not.
- There was no signature of the victim. It is called an “agreement” but there was no space for the injured party to be recognized.
- There were no standards or guidelines about who should conduct the discussion, how to write the agreement, or who should be present.
- There were no standards about who should be a witness, or who authorises the agreement. Therefore it is not clear what power the agreement has.
- There was no mention of how the agreement may be enforced.

There is a lot of room for improvement in the drafting, use, and implementation of agreements. They are widely used in at least six Karen camps, especially in Domestic Violence cases, and often seem to be the only Justice Outcome. As a penalty or response to a crime of violence they are extremely inadequate. There is an urgent need to review and evaluate how effective they are to penalize or control violence in our community.

9. Other SGBV cases

In this study of 289 cases of SGBV, we have included the 21 cases here, which we name “Other SGBV”. This section includes two main types of violence against women:

1. Trafficking (and attempted trafficking): 43% of these cases.
2. Adultery: 57% of these cases.

9.1 Overview

Trafficking is a form of SGBV and there are nine cases of trafficking and attempted trafficking in this study. Five of the nine cases took place in Ban Dong Yang Camp. Most of the cases are “attempted trafficking” rather than “trafficking”.

Adultery, on the other hand, is not usually identified as a form of SGBV by most international agencies. However, in the Karen refugee context, most women consider it to be a form of violence because of the hardships it can cause women and their children. Twelve cases of adultery are included in this study, with small numbers of the cases across all camps except Umpiem Mai. In Umpiem Mai the KWO had no records of cases of adultery that fit the criteria for this study.

Table 9.1 : Other SGBV Cases

	Camp	Total Other SGBV cases	Type of case			Total
			Adultery	Attempted Trafficking	Trafficking	
1.	Mae La Oon	3	2	1	0	3
2.	Mae Ra Moe	4	4	0	0	4
3.	Mae La	3	2	1	0	3
4.	Umpiem Mai	0	0	0	0	0
5.	Noe Poh	3	1	2	0	3
6.	Ban Don Yang	7	2	4	1	7
7.	Htam Hin	1	1	0	0	1
	Totals	21	12	8	1	21
	Percentages	100%	57%	38%	5%	100%

9.2 Reporting to the Justice system

Of the 21 cases in this section, 67% reported to a Justice System (14 cases in total).

- Most of these were handled by the Camp Justice (13 cases).
- Only one case was handled in the Thai Justice system.
- In 33% of cases, there was no report to any justice system (7 cases). These were mostly cases of adultery.

Table 9.2 : Other SGBV Cases and Justice System

	Camp	Total Other SGBV cases	Camp Justice	Thai Justice	Not reported
1.	Mae La Oon	3	1	1	1
2.	Mae Ra Moe	4	4	0	0
3.	Mae La	3	0	0	3
4.	Umpiem Mai	0	0	0	0
5.	Noe Poh	3	1	0	2
6.	Ban Don Yang	7	6	0	1
7.	Htam Hin	1	1	0	0
	Totals	21	13	1	7
	Percentages	100%	62%	5%	33%

9.3 Cases Handled by Camp Justice

A total of 13 cases were handled in the Camp Justice system. About half at Section level and half at Camp level. Ban Dong Yang Camp had the highest number of cases and all cases were handled at Section level.

- In almost half of the total cases the perpetrator was asked to sign an agreement not to re-offend (a mix of adultery and trafficking offenses).
- Among the other half of the cases we see the perpetrator received a period of detention, had to pay a fine, fled, or was granted a divorce.

Table 9.3: Other SGBV Cases and Camp Justice (CJ) Outcomes											
				Level of CJ		Outcomes					
	Camp	Tot. Other SGBV cases .	CJ Tot.	Sect Only	Sect, Zone, Camp .	A = Detain in camp	B = signed Agreement	C= Perpetrat or fled	D = No action	E = other	To- tal
1	Mae La Oon	3	1	1	0	0	1	0	0	0	1
2	Mae Ra Moe	4	4	0	4	0	1	0	0	3	4
3	Mae La	3	0	0	0	0	0	0	0	0	0
4	Umpiem Mai	0	0	0	0	0	0	0	0	0	0
5	Noe Poh	3	1	0	1	1	0	0	0	0	1
6	Ban Don Yang	7	6	6	0	0	5	1	0	0	6
7	Htam Hin	1	1	0	1	1	0	0	0	0	1
	Total	21	13	7	6	2	7	1	0	3	13

E= other: 2 cases paid a 3,500 baht fine. 1 case was granted a divorce.

9.4 Cases Handled by Thai Justice

Only one case was handled by Thai Justice (a case of attempted trafficking) and the Justice Outcome was a period of detention in a Thai prison. This case was in Mae La Oon Camp.

Table 9.4: Other SGBV Cases and Thai Justice (TJ) Outcomes										
				Outcomes						
	Camp	Total other SGBV cases	TJ Tot.	A.= Detain in Thai Prison	B= Fine only	C= Perpetrator removed from public office	D= Perpetrator fled	E= no charges filed	F= on-going	Tot
1.	Mae La Oon	3	1	1	0	0	0	0	0	1
2.	Mae Ra Moe	4	0	0	0	0	0	0	0	0
3.	Mae La	3	0	0	0	0	0	0	0	0
4.	Umpiem Mai	0	0	0	0	0	0	0	0	0
5.	Noe Poh	3	0	0	0	0	0	0	0	0
6.	Ban Don Yang	7	0	0	0	0	0	0	0	0
7.	Htam Hin	1	0	0	0	0	0	0	0	0
	Total	21	1	1	0	0	0	0	0	1

9.5 Comment and Analysis

- a) For a small camp like Ban Don Yang (pop: 3,251) there is a **disproportionately high number of cases of trafficking** compared to the other six camps. There may be some confusion about what “trafficking” is: the definition is vague or not available to Camp Justice implementers. So the concept may be applied incorrectly in Ban Dong Yang, or perhaps applied incorrectly in the other six camps. It is not clear why there so few cases reported from other camps. **Trafficking is a complex social issue** and it is quite often confused with voluntary migration for work. Clearer and more detailed definitions and guidelines are needed and should be made available to all camps in local languages.
- b) The **Justice Outcomes overall were weak**, especially if we consider that eight of 13 of the cases reported were trafficking or attempted trafficking, which are Absolute Jurisdiction cases, and should be reported to the Thai Justice system. Only one of the total nine trafficking cases was handled by Thai Justice.
- c) **Twelve cases of adultery** are included in the study. In traditional Karen society, once women are married, they often become dependent on their husbands for income, household needs and security. Adultery is not against the law in Thailand. And it is not included in lists of “What is SGBV?” when INGOs give training in the refugee camp communities. However, adultery is a violation of Karen customary law. It is considered a threat to the family unit. It is also referred to in the “KRC 39 Rules” (Rule #23) as an act to be avoided and which is punishable. In the refugee camp context the consequences of a husband committing adultery can cause real hardship for women and children, that include abandonment, increased poverty, decreased personal security, and emotional abuse. Karen women and girls, and KWO, consider some cases of adultery to be a form of SGBV. The cases of adultery in this study had complete and reliable records and were included due to the types of violence these cases brought to the lives of women.
- d) In the legal framework available to justice implementers in the camps, there is a lack of clarity and detail about what to do in cases of adultery and this causes serious problems and mismanagement of cases. There is **no definition for adultery** in the **KRC 39 Rules**. The **definition of adultery in the MDRG** states: “Adultery happens when a married person has a sexual relationship with another person who is not his/her spouse”. The MDRG definition misses a key element, which is that the sexual relationship between two people **must be consensual**.
- e) The cases of adultery in this study were all cases where the husband committed adultery and the wife suffered violence of some form as a result. In other cases, we recognize that women may also commit adultery. However, KWO has grave concerns about the lack of clarity on this social and justice issue. We have received reports of **incidents of rape** in the Camp Justice system **which have been passed off as “adultery”**. If a woman or girl is raped by a married man, or if she is herself married and is raped by a man who is not her husband, then the incident has been named “adultery” and dealt with as such. Rather than be treated with the kindness due her as a victim of a crime, the woman or girl has instead been punished for committing a crime. This fails to make clear that the woman is not to blame and it does not address the man’s sexual violence in any way.

10. Cases Not Reported to a Justice System

Of the 289 cases in this study, 47 women chose not to report to any justice system (16% of all cases).

10.1 Overview

Most of the cases which did not report to justice were Physical Violence cases (68% or 32 cases). Of the non-reported cases, 17% were Sexual Violence cases (8 cases) and 15% were Other SGBV (7 cases of adultery or trafficking.)

- The large number of incidents and high rate (68%) of non-reporting in Physical Violence cases is due to the large total number of this type of case among all SGBV cases.
- Of the total 47 cases that did not report, half of them were in Mae La Camp.
- Mae La Camp and Ma Ra Mo Camp have the highest rates of non-reporting. In Mae La, 29% of their case load did not report. In Ma Ra Mo, 40% of their case load did not report.
- In all of the other five camps, there are low rates for non-reporting. It means that in five camps most cases reported to the justice system.
- Umpiem Mai is the only camp where we see that all cases reported to the justice system.

Table 10.1 : Cases Not Reported to a Justice System

	Camp	Total Cases in this study	Total Cases <u>not</u> reported to a Justice System	Type of case		
				Sexual violence	Physical violence	Other SGBV
1.	Mae La Oon	24	3	1	1	1
2.	Mae Ra Moe	30	12	4	8	0
3.	Mae La	83	24	2	19	3
4.	Umpiem Mai	73	0	0	0	0
5.	Noe Poh	19	2	0	0	2
6.	Ban Don Yang	34	3	1	1	1
7.	Htam Hin	26	3	0	3	0
	Totals	289	47	8	32	7
	Percentages of total case type	100%	16%	13%	19%	33%
	Percentage of 47 cases not reported		100%	17%	68%	15%

- If we look at the number of cases which did not report to justice within their case types, we see that 19% of Physical Violence cases did not report (32 of 176 cases), 13% of Sexual Violence cases did not report (8 of 60 cases) and 33% of Other SGBV cases did not report (7 of 21 cases).

10.2 Comment and Analysis

- We have identified previously how important a healthy strong justice system is for women to report SGBV crimes. KWO, like other community groups, respects a **woman's right to make an informed choice about how or if she pursues justice**. We are committed to supporting her in an open and honest way. Our respect for her decision not to report does not reduce our **grave concern** when this happens and we believe an improved justice system will increase reporting.
- The finding in this study is that among the victims who reported to a community service in all seven camps, **16% chose not to report to justice**. (By excluding Umpiem Mai, it is actually higher in the other six camps at **22%**). This gives us a baseline concrete number to work from. Without placing undue pressure on women, we'd like to see changes made in the justice systems so that this number decreases.

- c) Physical and Sexual Violence cases have a **similar rate of non-reporting** (15% and 13%), but the rate for adultery and trafficking offenses is much **higher** (33%).
- d) If we remove the two camps with the highest rates of non-reporting (Mae La at 29% and Mae Ra Mo at 40%), the **other five camps all have non-reporting rates between 8% and 13%**.
- e) The **high rate (almost 30%) of non-reporting to justice in Mae La Camp** is difficult to explain, considering that it is the Karen camp where the IRC/LAC project has been working longest in partnership with the KRC to build the capacity of the governance structures and community to handle civil and criminal disputes (since 2005). **Mae Ra Moe also has a high rate of non-reporting** (40% of their case load in this study). The IRC/LAC project is not present in Mae Ra Moe Camp, although KRC is.
- f) When we compare with the apparent **0% of non-reporting** in Umpiem Mai, where almost all perpetrators of SGBV received a period of detention, it suggests that a **woman may be more likely to report her case to justice if she has seen authorities in her area take action** to penalize men who behave like her abuser and to protect women in situations like hers.
- g) Based on KWO conversations with women over many years, there are **four main reasons a victim of SGBV may choose not to report** her case to a Justice System:
 - 1) If she does not believe that the Justice System will provide results or protection for her.
 - 2) If she is very afraid of revenge from the perpetrator.
 - 3) If she is afraid of stigma against her from the community.
 - 4) If the perpetrator is her husband, and the victim has received threats from him that he will abandon her if she reports the case.
- h) At least **47 perpetrators of violence** in this study have not been held to account for their actions in any way. Some of these 47 cases were very serious. When a case is not reported to a justice system it means that the perpetrators were not identified, not judged, not penalized. Nor did they receive counseling or any kind of support for rehabilitation. These perpetrators could still represent a potential source of danger and risk to women, to the community, and to themselves.
- i) The **47 women in this study** who chose not to report to a justice system may be living in on-going situations of violence and danger which might have been addressed by a stronger justice system.

11. RECOMMENDATIONS

11.1 Key Recommendations:

1. Improve and expand the KRC Rules so that a “comprehensive legal code” will be available for use across all seven camps within 6 months. This process can be effectively and efficiently conducted by KRC in close collaboration with a team of representatives of all Camp Committees, Camp Justice Implementers, KWO, other CBOs, community members, and victims, with technical support as requested.
2. Conduct an independent review of the current justice framework (KRC Rules, MDRG, Absolute Jurisdiction, Detention Guidelines) to identify gaps, inconsistencies and contradictions; establish a Camp Justice Working Group to consider the findings and initiate action to address the problems within 6 months.
3. Ensure that all rules and guidelines are reviewed and amended to provide adequate protection for women victims of SGBV.
4. Develop and implement adequate justice outcomes that punish perpetrators, keep victims and communities safe from violent offenders, and demonstrate that serious criminal behaviour will not be tolerated.
5. Clarify the nature and scope of the power and authority of justice “Power Holders” and “Implementers”; ensure transparency with respect to each group’s mandates, role and jurisdiction; make this information public.
6. Provide greatly increased and standardized resources to the Camp Justice system (eg. funds, equipment, staff, guidelines, procedures, forms, training).
7. Institute systematic and standardized record-keeping for all cases, as well as standardized and gender-sensitive evidence-gathering protocols.

11.2 Recommendations to Key Stakeholders

1. *To the Camp Committees, Section Committees and Camp Security*
The seven Karen-majority camps have many similarities and differences. Nobody understands better than you how the justice system works and where its weaknesses are. You are our “justice implementers”. You have been working under extremely challenging circumstances, both under-resourced and without proper support from power holders. We recommend that you take action to strengthen justice in your camp and to demand action from the “power holders”. The findings of this report support the demands that have already been made many times, for better guidelines, and for more resources to be allocated to this area. We ask you to be the leaders in promoting change.
2. *To the Karen Refugee Committee (KRC)*
We recommend that a complete revision of the 39 Rules be undertaken so that there are enough rules for most crimes and offenses which occur in camp, definitions of terms, adequate penalties, and details, with clear procedures for camp justice implementers to act. The KRC is responsible for this, as the elected representatives of the camps. The KRC will respond to what the camp leadership and community requests, and will be advocates for what is needed in the camps. KRC will give support to the extremely challenging work of the camp justice system, and will protect the community systems that manage justice.

3. *To UNHCR*

UNHCR has an international duty of care to ensure that justice and protection occurs in the refugee camps. As such UNHCR should ensure that the camp justice system is functioning well, to monitor and support this system, provide tools and resources that the camps lack in order to have a strong system, and to make sure minimum standards are met. UNHCR should provide support to the KRC and Camp Committees justice work in every camp without disempowering them or dismantling existing structures.

4. *To IRC for the LAC Project*

Due to the evident failure to achieve stated goals within a reasonable time, and a lack of scrutiny of the implementation and achievements of this project, we recommend that the LAC project activities and any plans to expand them be put on hold, until a comprehensive set of rules for use by camp justice have been completed, a review of the justice framework has been conducted, and an evaluation of the LAC project has been implemented by its donors. After all results have been shared, and if donors, community and refugee leadership provide approval, then steps may be taken for this project to move forward.

5. *To The Border Consortium (TBC)*

We recommend that TBC make the building of a strong camp justice system an integral part of their camp management program, in partnership with refugee and camp committees. The Border Consortium is the NGO with the longest-standing relationship with the Camp Committees and the Refugee Committees. In partnership they have established a good quality food distribution system and support for camp management under very close scrutiny by donors. Justice is an important part of camp management, and when it is failing then good governance also fails.

6. *To CCSDPT*

We recommend that CCSDPT work across sectors to support the strengthening of the camp justice systems and treat it as an essential and urgent part of CCSDPT's "preparedness to return" planning. Support for an effective community-led justice system will facilitate the understanding and practicing of good justice principles among refugees and better equip them to build communities of good governance upon return. Given the current political climate, this should be an urgent issue for CCSDPT.

7. *To the Donors of Justice and SGBV Programming*

We recommend that an independent evaluation of the LAC project is undertaken to assess the full impact of the grants to date.

An independent annual audit of justice outcomes from all camps should also be conducted to assess whether protocols and guidelines are followed and minimum protection standards are met.

The evaluation and audits should ensure genuine and secure participation of the community, camp justice implementers, KWO, victims, perpetrators, CBOs, women, youth and children.

Donors should also ensure that adequate resources be made available now for those who are actually carrying out the difficult work of justice in the camps. Funds should be made directly available to camp committees for administration, equipment, human resources and support for victims.

8. *To all the men in the camps*

Most men are not violent and most men disapprove of using violence on their wives, daughters, mothers or aunties. We recommend that all men become more active, make demands, and stand up against the violence that is being done against women in our community. SGBV is a serious community issue, and we need men to speak out against it and to take the blame and shame off women and put it on the perpetrator. It is never okay to joke or to stay silent about violence against women. We want men to demand adequate justice outcomes that punish the perpetrator, protect women and the community from violent men, and that say clearly that violence is not acceptable.

9 To Our Community

Women who have suffered sexual or physical violence need your support. They need help to find services, and encouragement to report the crime. We recommend that everyone in the community give your support to victims of violence and, if the justice outcome is not adequate to protect the victim or to punish the perpetrator, then to make complaints to the justice implementers and power holders. In our community we need to show zero tolerance for violence.

11.3 Specific Recommendations for all stakeholders about camp justice

Having identified gaps and weaknesses in the Camp Justice system, especially in relation to cases of Sexual and Gender Based Violence perpetrated against refugee women, we recommend making the following changes which would strengthen the response and increase protection for all.

1. Rules and Penalties

1. The **KRC rules and penalties should be expanded** to cover many more common crimes and civil offenses that occur in the camps and which are not currently addressed in the guidelines.
2. **Definitions of all key terms** should be developed, so that rules and penalties can be understood and applied in a standardized way by all. (e.g. identify clearly what constitutes trafficking)
3. The **penalties and justice outcomes available should be expanded** and ensure there are enough that are adequate to protect the victim and to control violence.
4. Describe clearly the **role, authority, mandate and limits** of each position, staff, or organization in the camp justice system.
5. All rules, penalties and procedures should be written in **more detail**.
6. Improve and **clarify all procedures** and referrals.
7. The rules and other documents should be revised so that they **connect smoothly** with each other and are standardized in all camps thereby creating a fair, transparent and uniform process.
8. The rules should be updated and improved so they adhere to **basic human rights**, women's rights, and victim's rights.
9. The rules should be supported by a set of procedures, forms and **record-keeping systems** as detailed below.
10. In those 3 camps where the **LAC project** is established, **clarify their authority** in the camp justice system.
11. For the 7 camps, **clarify the authority of the UNHCR** in the camp justice system.
12. The rules should **be published and shared widely** with justice implementers and throughout the community in education campaigns.
13. Provide clear and thorough guidance regarding when and **how to apply the multiple sources of legal guidance** (MDRG, KRC Rules, List of Absolute Jurisdiction cases, and Detention Guidelines) and between **multiple systems** of justice implementers (camp justice and Thai Justice).
14. Conduct a 3 week **residential workshop** with full community participation (representatives of camp committees, section leaders, security, KWO, CBOs, youth and children) to revise and produce draft rules and penalties for community justice.
15. **Invite individuals with expertise** in this area to support and advise the process of revision.
16. Complete the revision of rules and penalties **within 6 months**.

2. Administration (procedures, staff, etc)

1. Implement systematic and **standardized record keeping** for justice case management and monitoring/evaluation. To be implemented by all actors involved (Section Leaders, Camp Committee, Security staff, LAC, INGOs, UNHCR, etc).
2. To support better justice outcomes, **detailed procedures, job descriptions**, levels of authority, etc should be developed and documented and then training provided to all staff and position holders in camp justice on an annual basis.
3. In efforts to reduce violence and manage violent men, case management forms should include **standardized information about the incident**, the level of violence used, the nature of injuries caused, and the number of times the perpetrator has offended.
4. Create agreements and procedures between justice actors tailored to this situation so that **information can be shared safely** and effectively.
5. Increased effort should be made to overcome **obstacles created by languages**: all documents and forms and definitions to be provided in Karen, Burmese, English and Thai, and field tested for comprehension prior to distribution.
6. Create a clear, **documented referral system** for cases being referred from camp justice to **Thai justice**, and for the reverse of this, when cases are referred back to camp justice.
7. Develop the **camp justice infrastructure**. eg. Create more positions and employ more staff to administer justice in the camps.

8. Develop and institute a **sustainable system** to reduce the negative impact of the high turnover of staff and position holders in camps. eg. Develop more written policies and procedures which will stay in place even when staff or position holders change.
9. Ensure that **women hold 30%** of positions in the camp justice system, including some as security staff.

3. Resources for Camp Justice

1. Immediately **increase resources** provided to the camp justice system: funds, equipment, offices, detention facilities, guidelines (as above), staff, etc.
2. Provide **annual training** in rules, penalties, procedures etc, for existing justice implementers and for those new to the work. For those new to the position, this should take place after each section election (annual) and camp election (once in 3 years). The training should be compulsory. This would be a time also to reinforce authorization levels and the correct protocols for dealing with cases of SGBV, a time to go over forms, case documentation and referral processes, etc.
3. **Create more positions** and recruit more permanent staff for the Camp Justice system so that essential knowledge of rules and procedures do not diminish each time there is an election.

4. Detention

1. **Detention facilities in camps are necessary** and funding is needed to ensure that these facilities meet minimum international standards. Mae La camp's detention centre is constructed of cement, wood, and wire. Each camp should have an adequate detention centre for short term detention of violent offenders, or accused who are at risk of fleeing.
2. Apply the already existing "**Detention Guidelines**" and **update** and improve them where needed.
3. Clarify guidance regarding detention practices, including by **eliminating contradictory advice**.
4. Allow and support detention in camps for short periods of **up to 6 months**.
5. Facilitate **exposure trips** to the detention facilities in Mae La camp and Umpiem Mai camp for Justice stakeholders, especially those participating in reviews or evaluations.
6. Provide an **immediate penalty of at least 3 days to 2 weeks detention** to the perpetrator of every incident of physical violence.
7. For detaining those accused or found guilty of **Sexual Violence**, see section 6 below.
8. **Create detailed guidelines** for security staff and other camp justice implementers in the use of detention.

5. Justice Outcomes

1. To reduce incidents of violence, and to increase reporting to justice by victims, KWO strongly recommends **immediate detention of the perpetrator** of physical violence in camp for 3-14 days (and longer if injuries are more serious).
2. **Expand** the number and variety of **available Justice Outcomes** so that they adequately protect a victim and the community, punish a perpetrator, and encourage behavior change in violent men.
3. Introduce the use of **temporary "restraining orders"**. Invite individuals with expertise to show how these work and help adapt them for the local context. (In Australia these are called "AVOs" and have been very successful in controlling violent men).
4. **Reduce or stop the use of "agreements"** as a justice outcome for crimes of violence.
5. Ensure a **proportional response** to crime (e.g. that rape is punished more severely than adultery or stealing).
6. **Reduce inconsistencies** in Justice Outcomes across all camps.
7. For any cases where alcohol or drugs has been an element of the violence, **referral to the DARE program should always be recommended**, while it is understood that this is not a punishment, and participation must be voluntary. In those 2 camps where DARE is not operational, arrange for willing individuals to travel to one of the 5 camps where DARE provides treatment.
8. **Provide reparation and redress for the victim**: financial compensation either by the offender or by the "authorities" (eg. a Trust Fund), material support, rehabilitation (material, medical, psychological and social assistance), satisfaction (such as recognition, public apology, etc) and guarantees of non-repetition.

6. Sexual Violence (including Rape)

1. Any type of rape or attempted rape must be judged as a **serious crime with serious consequences** for the perpetrator.
2. Develop **new Camp Justice Outcomes** especially for cases of Sexual Violence, as none of the current ones are adequate.
3. **Immediately detain** an accused sexual offender in camp for 24 hours, until preliminary investigation can be carried out, and charges can be laid, or dropped.
4. Develop **special new procedures** for handling sexual violence cases, and child protection cases. Neither of these types of cases should be handled like other cases.
5. Rape, suspected rape, and attempted rape cases, should **not be handled at Section level**. As soon as the victim reports rape, the Section leader should refer the case to camp level. The Section leaders should not be burdened with the duty to decide if it is really a rape case or not.
6. Sexual violence cases must **not be solved through "mediation"** or "group conferencing".
7. Justice implementers will need **specialized training** so they can handle sexual violence cases sensitively and not blame the victim.

7. Physical violence (including domestic violence)
 1. To reduce incidents of violence, to protect women, to control violent men, to increase reporting to justice by victims, KWO strongly recommends **immediate detention of the perpetrator domestic violence** in camp for 3-14 days (and longer if injuries are more serious).
 2. All cases of physical violence, including domestic violence, are to be treated as **serious crimes**.
 3. Refer all cases directly to camp level. They should **not be handled at Section level**.
 4. Security guards should step in and **stop any violence** as it occurs.
 5. Anyone can report an incident of domestic violence and the security will have a duty to investigate. When domestic violence is a case of **physical assault** then it is a **crime**. To protect the victim, the security staff do not need to wait for the incident to be reported by the victim.
 6. Develop guidelines with security staff for how to assess Domestic Violence incidents so that they can detain in a **standardized, fair, and transparent manner**.
 7. Establish **programs** that will encourage **change in the behavior** of the perpetrator.
 8. Apply heavier penalties for **repeat offenders**. Keep good records of cases and perpetrators, so that repeat offenders are more easily identified.
 9. **Supervise** domestic violence offenders closely.
 10. If perpetrators of violence move or separate from their wives and there are children, the perpetrator must continue to **pay child support** on a monthly basis, to the camp justice authorities who will then pass it on safely and regularly to the victim.
 11. If there is an **agreed desire to separate** husband and wife due to the use of violence by the husband, it will be the husband who must leave the house, not the wife and children. Camp security must provide adequate protection to the woman and her children in their home.
8. Victims (and witnesses)
 1. All rules, penalties and procedures should be victim-centered and ensure **her safety and dignity** at all times.
 2. Staff of NGOs or agencies who support women in the **Thai** criminal justice process should help them file **claims for compensation** in the civil court.
 3. Funds and materials should be provided to **support victims to recover**.
 4. Ensure that victims are provided **adequate resources** when cases are brought to Thai Justice, including by working to reduce barriers listed in 4.3.3 and by providing for adequate, gender-sensitive case management. This includes ensuring that witnesses and other relevant personnel are available to testify.
 5. Improve measures to **protect victims and witnesses**, and camp justice implementers, especially in cases where the perpetrator is a Thai citizen, or the case is taken to Thai court.
9. Perpetrators
 1. Establish programs in camps that will **support change in the behavior** of violent men.
 2. Create procedures and records to **control, monitor and supervise** all perpetrators of violence.
 3. Provide **greater emphasis on the perpetrator** in relevant legal guidelines and agreements. For example, provide for adequate follow-up and ensure that he does not escape, continues to be monitored when appropriate, receives the opportunity to rehabilitate, and receives adequate guidance and counseling regarding behavior change.
10. Agreements
 1. The current system of “agreements” needs to be **revoked or amended** as a non-adequate justice outcome for SGBV.
 2. To the extent that “agreements” continue to be used, **improve the drafting**, use, and implementation of these agreements, including by establishing clear penalties for non-compliance.
 3. An “agreement” may be effective if it is **used in collaboration with other measures**, never as a stand-alone outcome.
 4. A **more effective agreement** needs to include at least:
 - Recognition of the victim, and her views and concerns, and inclusion of her signature.
 - Recognition of the facts of the case (ie what happened?).
 - Redress/reparation for the victim.
 - Guarantees of non-repetition of the violence by the offender, support for change of behavior (including something similar to a “restraining order” or being moved to another camp; supervision/monitoring/ accompaniment of offender by other community members; acceptance by the offender to enter rehabilitation programs such as DARE, etc)
 - Consequences/sanctions for non-respect of the agreement (including detention), and monitoring and enforcement authorities.
 - Clear description of procedure when an agreement is broken, and state clearly what behavior violates the agreement.
 - Standardized format across all camps.

- What other measures have been taken. The Agreement form should note any other penalties given to perpetrator.
- An agreement can serve as a public record and formal acknowledgment of the offender's criminal conduct.
- It should state clearly what types of cases can use an agreement and what types of cases cannot.
- A separate form should be used to show when a perpetrator has completed an associated penalty.

11. Gender Equality

1. **Increase the involvement of women** in the justice system. Institute quotas so that a minimum percentage of 30% women sit on Camp Committees, KRC, and other relevant leadership and policy-making institutions.
2. **Policies to address gender imbalance** among justice staff in camps need to be in place. Because of stigmatization of victims of SGBV within the wider camp community, and a prevailing attitude, particularly in the male community, that it is not a serious crime, it is essential that committees have proper representation by women. This is especially necessary with cases of SGBV, but should be the practice for all justice management, since women comprise half the camp population.
3. Provide regular **gender awareness training** for both men and women.
4. Improve gender equity throughout all **documents and structures**.

12. Transparency and Accountability

"Not only must Justice be done; it must also be seen to be done".

1. It is essential that justice systems be transparent and accountable. In this case, new rules and penalties and procedures in camp justice must be **shared widely in the community** in printed form, be easily accessible, and be the focus of education campaigns.
2. A **community justice working group** should be established in each camp. Its role and authority should be made clear in its "Terms of Reference". We suggest it could comprise members of the camp committee, section committee, security, community members, KWO, various kinds of community leaders, representatives of CBOs, etc. The working groups can ensure community participation and provide a forum for transparency in camp justice. For example it might receive complaints; requests for appeals on judgements; it could monitor compliance with the rules and procedures; it can educate; ensure training is appropriate and regular for all Justice implementers; advise when there is a need for changes in rules or procedures; etc.
3. As the main power holders in camp justice, the UNHCR, IRC LAC, and KRC **should become more transparent and accountable**.
 - We recommend that a mechanism be developed to ensure the justice actions and programs of each agency is properly **scrutinized**. This kind of scrutiny already exists in some other sectors.
 - We recommend that each agency provide an **annual report** outlining their justice work, and a summary of cases and justice outcomes they have been involved in. This would reveal patterns, gaps, strengths and weaknesses and provide useful information for action planning.
4. There is a need to protect the privacy and **confidentiality of individuals**. However this should not be used as an excuse to withhold all information from those organizations and individuals who provide legitimate services and roles in camp justice. **Information sharing protocols** should be developed and adhered to as a matter of urgency.

13. Needs More Study

During our study, we identified a number of issues which would benefit from further study:

1. Complete a comprehensive review of the IRC's Legal Assistance Centres and share findings with all stakeholders.
2. Assess why Mae La, which has had the longest and most extensive IRC/LAC presence, has not seen improved Justice Outcomes for, and reporting of, SGBV crimes.
3. Conduct further study into the disparity of outcomes between Umpiem Mai and other camps: Does data hold true across other types of crimes? Was sentencing to detention in prior cases the determining factor in reporting crimes? To whom are sexual violence cases reported, what happens with them?
4. The strengths and weaknesses of the current justice framework.

Appendix 1: Thai Justice Absolute Jurisdiction Cases

(1) An ***absolute jurisdiction offence*** is an offence which can only be handled under the Royal Thai Justice System. Absolute jurisdiction offences will not be criminally punished under the Camp Justice System.

(2) The following offences are “absolute jurisdiction offences”:

1. Unlawful killing;
2. Inducing a child to commit suicide;
3. Attempted unlawful killing, and assisting in the commission of an unlawful killing before, during and after the commission of the offence;
4. Forced Abortion;
5. Non-compoundable rape (as per section 276, 277, 277bis, 277ter);
6. Non-compoundable gang rape;
7. Attempted non-compoundable rape (as per section 276, 277, 277bis, 277ter) and assisting in the commission of a non-compoundable rape before, during and after the commission of the offence;
8. Sexual offences against children;
9. Attempting to commit sexual offences against children and assisting in the commission of sexual offences against children before, during and after the commission of the offence;
10. Inflicting a serious injury on children;
11. Attempting to commit a serious injury against children and assisting in the commission of a serious injury against a child before, during and after the commission of the offence;
12. Assault causing grievous injury;
13. Drug offences;
14. Human trafficking;
15. Attempt to traffic in persons and assisting in the commission of trafficking in persons before, during and after the commission of the offence; and
16. Forestry offences; and
17. Firearm offences.

Appendix 2: KRC 39 Rules. The “KRC 39 Rules” (2011 Revised Version): “Rules and Regulations for Refugees (Temporary Asylum Seekers) in the 7 camps”.

No	Character	Action
1	Every house must have in-front of the house, the number of section, house number, UN Register number and house hold members. F/M (Rule)	1. Educate 2. Warning 3. Fine, 100 Bahts.
2	The house owner must report to section security in-charge if he receives any guest in his house. (Rule)	1. Educate 2. Guest will be fined 50 Bahts; house owner will be fined 100 Bahts.
3	Enter and leave only through formal checkpoint/gates. (Rule)	1. Educate 2. Warning
4	If any problem occurs for anyone who has exited the camp by their own, the camp authority will not be responsible. (Rule)	1. Educate 2. Give warning
5	Camp residents must provide necessary assistance whenever needed by the responsible camp. (Rule)	1. Educate 2. Warning 3. Fine, 100 Bahts.
6	No trading of NGO deliveries. (Rule)	1. Educate 2. Warning 3. Cash fine, (a) 3000 Bahts fine for trade equivalent to 1000-5000 Bahts - 15 days confinement. (b) 5000 Bahts. - 25 days confinement.
7	An adult house hold member must always attend the meeting once informed. (Rule)	1.Educate 2.Warning
8	No hanging about from 9:00 pm to 5:00 am in the camp except for the responsible persons. (Rule)	24. Hours confinement.
9	Immediately report to camp Authority if there is any particular incident. (Rule)	Educate
10	No cattle, buffalo, sheep, or goat breeding in the camp (Rule)	1.Educate 2.warning 3.Cash fine for (a).Sheep.Goat;200.Bahts (b).Cattle.Buffalo.500.Bahts
11	Chicken, ducks and dogs can be raised in a proper place; however, this must not create any conflict with neighbours. (Rule)	1.educate 2.warning 3.cash fine (a).The dog’s owner must pay for the medical charges of the person attack by his/her dog.
12	Every person must obey and follows the rules of water supply and sanitation. (Rule)	1.Educate 2.warning 3. Action taken according to the rules of water supply and sanitation.

13	To follow any education- related regulation (Rule)	1.educate 2.warning 3. Action taken according to the rules of Education.
14	No discrimination of nationality or belief (Rule)	1.Educate 2.warning 3.Turn over to Thai authority
15	Any camp resident should inform the relevant camp authority before exiting the camp. (Rule)	1.Educate 2.warning 3. three days public services.
16	Rules related to fire warning must be strictly followed.(Rule)	1.warning 2. Turn over to Thai authority.
17	The showing or selling of X-rated movies or pictures are prohibited. (Rule)	1.warning 2.1000 Bahts. Cash fine and one month confinement.
18	Must follow any Health care related instruction (Rule)	1.warning 2. Action taken according to the regulation of Health care.
19	Any Action taken against young persons, aged between 7-18 must not be the same action taken against the adult.(Rule)	1.educate 2.warning 3. Any suitable action.
20	Parents must take full responsibility for both physical and mental development of their offspring.(Rule)	1.Educate 2.warning 3. Must present (report) his/her once in a week for three months.
21	Any political activity in the camp is prohibited.(Rule)	Turn over to Thai authority.
22	The lending of cash and valuable materials must first be informed to the camp authority for legalizing the deal.(Civil law suit)	(a).cases come off with out deal. -must be fined 500-Bahts -cases worth decrease 5000 Bahts, section can decide. -5000-30,000 ,Zone leader can decide -over 30,000 must be determined by camp judiciary. (b).Percentage reclaim for the case worth- -100-5,000 Bahts 5 %, -5,000-10,000 Bahts 4% -over 50,000 Bahts 2 %
23	Social and cultural norms must not be abused including 1. Adultery 2. Illegal sexual engagement 3. Engaging in sex work (Civil law suit)	1. Warning 2. Compromising 3. Action taken similar to that of action taken by related society
24	Illegal materials cannot be traded.(Civil law suit)	1.Educate, warning, or turn over to Thai authority
25	Deforestation both inside and outside camp is prohibited. (Crime)	Turn over to Thai authority
26	The possession or supplying of drugs is prohibited. (Crime)	1.Turn over to Thai authority
27	Gambling in the camp is prohibited (Crime)	Turn over to Thai authority

28	No stealing and the committing of fraud are allowed. (Crime)	Warning with confession and guarantee Confinement one week to six months Cash fine, depend on value of the Materials.
29	No murdering (Crime)	Turn over to Thai authority
30	Human trafficking is prohibited (Crime)	Turn over to Thai authority
31	Violent and / or sexual abuses are prohibited. (Crime)	Turn over to Thai authority
32	The illegal exploitation of children for self-gain which creates mischief in the child is prohibited. (Crime)	Turn over to Thai authority One month confinement Fine, 100 Bahts.
33	Do not physically or mentally hurt others (Crime)	Turn over to Thai authority
34	Do not cause any action that negatively effects the stability and peacefulness of the camp. (Crime)	Turn over to Thai authority
35	Do not abuse the personal rights of other (Crime)	Turn over to Thai authority
36	The production or trade of alcohol is prohibited (Civil law suit - Crime)	Turn over to Thai authority
37	Do not use public property as one's personal property. (Civil Law suit – Crime)	Warning One month confinement Cash fine, 100 Bahts
38	Do not take or damage public property. (Civil Law suit – Crime)	Warning One month confinement Cash fine, 1000 Bahts
39	Do not cause disorder in the camp. (Civil law suit – Crime)	Warning One month confinement Cash fine, 1000 Bahts

Appendix 3: Background Reading

1. "Mediation and Dispute Resolution Guidelines" (MDRG). 2013 draft.
2. "Absolute Jurisdiction Offenses". KRC code, October 2009.
3. "KRC 39 Rules". Revised 2011 edition.
4. "General Offenses". Drafts 2009 and 2011.
5. "Automatic Response Mechanism/ Standard Operating Procedures for cases of SGBV in the 7 Karen refugee camps along the Thai-Burma Border". (ARM)
6. "Development of Mediation and Legal Standards" (DMLS). Draft 2009.
7. "Administration of Justice in Refugee Camps on the Thai-Burma Border". A report by Kirsten McConnachie. (2012).
8. "Governing Exiles: competing sites of law and justice on the Thai-Burma border". A report by Kirsten McConnachie. (2011).
9. "Women's Access to Justice: Identifying the Obstacles and Need for Change- Thailand". International Commission of Jurists. (2012).
10. "Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers". Human Rights Watch report. (2012).
11. "A Community Based Approach in UNHCR's Operations". UNHCR Manual, (2008).
12. UN Security Council Resolution 2122: on Women Peace and Security. (2013)
13. United Nations Security Council Resolution 1325: on women and peace and security. (2000).
14. Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).
15. "UN Basic Principles on the Use of Restorative Justice Programs in Criminal Matters". (2002).
16. Geneva Call "Deed of Commitment for the Prohibition of Sexual Violence in Situations of Armed Conflict and Towards the Elimination of Gender Discrimination". (Signed by the KNU and KNLA on July 21st, 2013)
17. Policy Paper on Sexual and Gender Based crimes from the International Criminal Court (ICC).
18. Documents from the 2014 Global Summit on Sexual Violence in Conflict.
19. Various reports by the "Women's Initiatives for Gender Justice".

Appendix 4: Abbreviations used in this report

ARC	American Refugee Committee
ARM/SOP	Automatic Response Mechanism/ Standard Operating Procedures for SGBV Cases in Karen Camps
AUSAID	Previous name for the Australian Government Aid Department (now called DFAT)
CBO	Community Based Organization
CCSDPT	Committee for Co-ordination of Services for Displaced People in Thailand
CJ	Camp Justice
CMWG	Camp Management Working Group
CSO	Community Service Order
DARE	Drug and Alcohol Recovery and Education
DFID	Department for International Development (UK Government)
DMLS	Development of Mediation of Legal Standards
INGO	International Non-Government Organization
IRC	International Rescue Committee
KnRC	Karenni Refugee Committee
KNU	Karen National Union
KRC	Karen Refugee Committee
KWO	Karen Women's Organization
LAC	Legal Assistance Centers (also IRC/LAC)
MAT	Mediation and Arbitration Teams
MDRG	Mediation and Dispute Resolution Guidelines
NGO	Non-Government Organization
PV	Physical Violence
RTG	Royal Thai Government
SGBV	Sexual and Gender Based Violence
SV	Sexual Violence
TBC	The Border Consortium (previously TBBC)
TJ	Thai Justice
UNHCR	United Nations High Commissioner for Refugees



Karen Women's Organization