

# Regional Cooperation to Prevent Human Trafficking in Asia: The Case of Thailand\*

Amara Pongsapich  
National Human Rights Commission of Thailand

## 1. Preamble<sup>1</sup>

Human trafficking is a well-known phenomenon in Asia. Many countries are country of origin, others are country of destination; while others are origin, destination and transit countries. Over the past years, the human trafficking has become transnational organized crimes involving international and local criminal networks. Individuals being trafficked include children and women as well as migrant workers. Some joined the criminal organizations voluntarily and others are forced into the system for the benefit of the agencies.

There are many international instruments available to deal with the cross-border international crimes which exploit human beings and violate human rights. In addition to the Universal Declaration of Human Rights, the most important instruments are: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of the Child (CRC), Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), and International Convention on the Protection of All Migrant Workers and Members of Their Families.

## 2. International Mechanism on Anti-Trafficking

1. The Universal Declaration of Human Rights, Article 13 states: *(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Every one has the right to leave any country, including his own, and to return to his country.*
  
2. The International Covenant on Civil and Political Rights, Article 12 states: *(1) Everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose his residence. (2) Everyone shall be free to leave any country, including his own.*

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*(3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. (4) No one shall be arbitrarily deprived of the right to enter his own country.*

3. More, specifically, Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against Transnational Organized Crime, Article 5 Criminalization states: *(1) Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses the conduct set forth in article 3 of this Protocol, [ human trafficking—recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation....] when committed intentionally.*

4. On issue of children, there are the Hague Convention on Child Abduction and the ILO Convention No. 138, on Minimum Age for Employment. Furthermore, the ILO Convention on the Worst Forms of Child Labour (No. 182), Article 3, states that the Worst Forms of Child Labor shall include: *All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced compulsory recruitment of children for use in armed conflict; the use, procurement or offering of a child for prostitution, production of pornography or pornographic performances; the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs; work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.*

### 3. Collaborative Mechanism on Anti-Trafficking

#### 3.1 National legislation

National legislation and other measures are essential tools to equip both government and non-government organizations to carry out their work in preventing and controlling human trafficking both at the countries of origin and destination. Thailand legislated 3 laws: (1) Prevention and Suppression of Prostitution Act, 1996; (2) Measures in Prevention and Suppression of Trafficking in Women and Children Act, 1997; (3) Child Protection Act, 2003; (4) Protection of Victims of Family Violence Act, 2007; and (5) Prevention and Protection of Human Trafficking Act, 2008. After

2008, special funds are allocated for the purpose of prevention and protection of trafficking victims.

### 3.2 Collaborative Action Projects

- ILO International Programme on the Elimination of Child Labour (ILO-IPEC) Project supported two collaborative projects: (1) Collaborate with the Payao Provincial Office of Social Development and Human Security on the project titled “Community Empowerment in Payao Province to Combat Trafficking in Children and Women for Slavery, and (2) Collaborate with the Chiang Mai Center for protection of Child's Rights on the project titled “Prevention and Combating Trafficking in Children and Women for Forced Labour and Sexual Exploitation.
- ILO-IPEC and the U.S. Department of Labour collaborated to support project on development of national policy and implementation of action programmes in 6 pilot provinces, i.e., Samut Sakhon, Udon Thani, Tak, Chiang Rai, Songkhla, and Pattani.
- Collaboration of ILO Mekong Subregional Project to Combat Trafficking in Children and Women and UN Inter-agency project to combat trafficking in children and Women on project titled “Labour migration and trafficking within the Greater Mekong Subregion” (2001)
- ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women (2003-2008). There are many sub-projects to investigate trafficked cases in different parts of the countries in the Mekong Sub-region.

This project is essential in bringing about bilateral Memorandum of Understanding on Trafficking of Children and Women between partner countries within the Mekong Sub-region.

### 3.3 Memorandum of Understandings

Memorandum of Understandings are tools to adopt at national, bilateral and multi-lateral or regional levels.

#### 3.3.1 National level

To combat human trafficking problem, it was found that, in addition to government agencies, non-government organizations have been playing vital roles in dealing with the issue. However, implementing agencies

need to collaborate more systematically. In 2003, three types of MOUs were signed, i.e., MOU between GO/NGO collaboration, MOU to support collaboration among Gos, and MOU to support collaboration among NGOs.

### 3.3.2 Bilateral level,

MOUs signed bilaterally focused on two issues, i.e., migrant labor and children and women.

- Migrant Labor: Three MOUs between Thailand and its neighboring countries have been signed. (1) Thailand and Lao PDR on Employment Cooperation signed on 18 October 2002 in Vientiane, (2) Thailand and Cambodia on Employment Cooperation signed on 31 May 2003 in Ubon Ratchatani, and, (3) Thailand and Myanmar on Employment Cooperation signed on 21 June 2003.
- Children and Women: Since Thailand is located on a centrally strategic position, MOUs on Trafficking of Children and Women were signed between Thailand and its neighboring countries. The MOU between Thailand and Cambodia was signed on 31 May 2003, between Thailand and Lao PDR was signed on 31 July 2005, and between Thailand and Vietnam was signed on 24 March, 2008. However, MOU between Thailand and Myanmar was signed more recently on 24 April 2009 at Nay Pyi Taw. The objectives are to identify collaboration efforts between policy and implementing agencies in each country. The efforts to rescue, repatriate, and re-integrate returning individuals back to society. However, research reports indicate that despite the MOU, the process has not been very successful. The re-integration process turned out to be the most complex and sensitive process.

These MOUs are signed bilaterally after attempts to develop an MOU for the Mekong Sub-regional level failed.

In addition, Thailand is country or origin for trafficking of women and children into countries in the North which are destinations of the women. At present, Thailand has signed MOUs with Japan, the Republic of South Korea, Germany, and the United Kingdom.

### 3.3.3 Multi-country or regional level,

There are different forms of agreements initiated at multi-country level. One of the first attempts made was the signing of the MOU on Coordinating

Mekong Ministerial Initiative against Trafficking (COMMIT) on 29 October, 2004. Other initiatives may be classified again into two groups of labour and women and children. Here are some examples:

- Migrant Labor: Thailand Nationality Verification Project: In order to solve the issue of undocumented migrant workers from the neighboring countries, Thailand required migrant workers to register which means that they need to have a clear nationality. Since many migrant workers who have been trafficked and are involved with criminal organizations and corrupt officers, the process met with resistance. The Lao PDR and Cambodian governments collaborated with the Thai Government to assist their migrant workers and agreed to establish registration offices at the border towns. The Myanmar government did not provide such service in the beginning; but after some negotiations, the Myanmar registration offices are now established along the Thai-Myanmar border. The process is on-going and the deadline is in 2012.
- Children and Women: The Southeast Asia National Human Rights Institutions Forum signed Memorandum of Understanding Against Trafficking of Women and Children on March 30, 2010. The four countries in Southeast Asia with National Human Rights Commission are Indonesia, Malaysia, Philippines, and Thailand. The objectives are: (1) To prevent and combat trafficking of women and children in Southeast Asia and in other regions in the world; (2) To strengthen cooperation amongst the member institutions in the area of trafficking of women and children; and (3) To foster cooperation amongst national human rights institutions in the world to address trafficking.

The MOU is applied to support the process of monitoring or strengthening the efforts, where appropriate, of the States of Member Institutions, to enable trafficked women and children to get access to legal remedies, and other forms of intervention.

Most recently, the ASEAN Commission on Women and Children (ACWC) was established during the ASEAN Summit held in Hanoi on 7 April, 2010.

- Other: In addition to migrant labor and children and women issues, there are many collaborations carried out at the regional and inter-regional levels. The ones that Thailand is involved in include:
  1. Core group under the Asia-Europe Framework—ASEM Plan of Action on Trafficking in Human.
  2. Consultative member of Asia Pacific Cooperation—Inter-

Government Asia-Pacific Informal Consultations on Refugees, Displaced Persons and Migrants.

3. Member of ASEAN Ministerial Meeting on Transnational Crime—AMMTC to carry out the Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime.

#### 4. Conclusion

This paper attempts to discuss regional cooperation on the issue of trafficking of children and women in Asia. The case of Thailand is used to demonstrate the different levels of cooperation which took place. Other countries should have similar experience. Despite the many attempts of the different forms of collaborative efforts, Thailand has been downgraded in the 10<sup>th</sup> Edition of the U.S. Department of State Trafficking in Persons Report 2010 from Tier 2 to Tier 2 Watch List. The report adopted the methodology of in-depth interviews of different stakeholders collected by the embassies in the country. Three factors by which to determine whether a country should be on Tier 2 (or Tier 2 Watch List) versus Tier 3 are: (1) the Extent to which the country is a country of origin, transit, or destination for severe forms of trafficking; (2) the extent to which the country's government does not comply with the minimum standards and, in particular, the extent to which officials or government employees have been complicit in severe forms of trafficking; and (3) what measures are reasonable to bring the government into compliance with the minimum standards in light of the government's resources and capabilities to address and eliminate severe forms of trafficking in persons.