



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**Consideration of reports submitted by States  
parties under article 12, paragraph 1, of the  
Optional Protocol to the Convention on the Rights  
of the Child on the sale of children, child  
prostitution and child pornography**

**Initial reports of States parties due in 2008**

**Thailand\***

[30 October 2009]

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\* Annexes may be consulted in the files of the Secretariat.

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## I. Introduction

### A. 1. General situation

1. Thailand ratified the Convention on the Rights of the Child (CRC) on 12 February 1992. The Convention entered into force on 26 April 1992. On 11 January 2006, Thailand acceded to the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, which became effective in 11 February 2006.

2. Thailand also adopted and signed a number of other child-related agreements, both global and regional. One of these agreements is “A World Fit for Children”, the outcome document of the Special Session of the United Nations Assembly on Children, held between the period of 8–10 May 2002 in New York. “A World Fit for Children” was adopted as the new agenda for children. Thailand has made serious efforts to fulfill its obligations under this document through the development of National Policies and Strategies on Child Development of 2007–2016, pursuant to the goals and targets set forth by “A World Fit for Children”. The draft National Policies and Strategies were prepared through the collaboration of relevant government agencies, the private sector, experts and academicians, and approximately 12,000 representatives from child and youth groups nationwide. It was approved by the Cabinet on 1 May 2007, designating the agencies responsible and calling for the development for a three-year plan of action at both the national and provincial levels.

3. The content of the National Policies and Strategies was the expansion of the original four key priorities as set forth in “A World Fit for Children”, namely promoting healthy lives; providing quality education for all; protecting children against abuse, exploitation and violence; and combating HIV/AIDS. Seven additional priorities were included to make the National Policies and Strategies more comprehensive and reflective of the situation and problems of the children in Thailand, taking into account the Convention and the recommendations of the United Nations Committee on Child Rights regarding the second periodical report of Thailand on the implementation of the Convention. The seven additional priorities are: family and children; recreation; child participation; culture and religion; promotion of safety and prevention of injuries; media; and legislation, rules and regulations concerning children.

4. In 1996, Thailand participated in the First World Congress against the Commercial Sexual Exploitation of Children in Stockholm, Sweden. At this forum, commonly known as the Stockholm Congress, Thailand pledged its commitment to the Declaration and Agenda for Action against the Commercial Sexual Exploitation of Children, leading to its subsequent adoption of National Policies and Plan of Action on the Prevention and Suppression of Commercial Sexual Exploitation of Children in 1996.

5. In 2001, following its participation in the Second World Congress against Commercial Sexual Exploitation of Children in Yokohama, Japan, Thailand adopted the National Policy and Plan of Action for the Prevention and Suppression of Trafficking in Women and Children of 2003–2010, approved by the Cabinet on 1 May 2003. The Anti-Human Trafficking Act was enacted on 6 February 2008 and came into force on 5 June 2008.

6. In addition, Thailand has participated in various regional meetings and processes concerning children, including the East Asia and the Pacific Ministerial Consultations on Children, held every two years to follow up on the progress made by the member States in fulfilling their commitments for children, and recommend joint action for improving the situation of children in the region. The seventh Ministerial Consultation in 2005 resulted in

the adoption of the Siem Reap-Angkor Declaration, which is the current agenda for children in the region.

7. Thailand attaches great importance to the principle of participation and ensures the participation of all relevant partners, namely government agencies, local administrative organizations, non-governmental organizations (NGOs), international organizations, and particularly children and youth, in the planning, implementation, monitoring and evaluation of projects and activities.

## **B. 2. Definition and situation of the sale of children, child prostitution and child pornography**

### **2.1 Definition**

8. The definitions of the sale of children, child prostitution and child pornography were endorsed in the ministerial resolution of 23 November 2005, which harmonize with the definitions under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography:

(2.1.1) **Sale of children** means any act whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

(2.1.2) **Child prostitution** means the use of a child in sexual activities for remuneration or any other form of consideration;

(2.1.3) **Child pornography** means any representation of a child engaged in real or simulated sexual activities or any representation of the sexual parts of a child for sexual purposes.

### **2.2 Situation**

9. 2.2.1 Situation of the sale of children and child prostitution. There has been an increase in commercial exploitation and abuse of children and child pornography overall. Methods and forms have changed in relation to luring and selling of children. Sellers or agents have adopted tactics that are making it more difficult for authorities to apprehend them. The lucrative nature of the business has caused innocent children to fall prey to exploiters in great number. Thailand is a source, transit and destination country for human trafficking. Children and women are being sent from Thailand to such countries as Malaysia, Japan, Taiwan, Bahrain, Australia, France and Germany. Thailand is a transit country for women and children trafficked from neighboring countries, including Myanmar, Laos, Cambodia and China, en route to those countries mentioned above. Thailand is also a destination country for economic migrants from neighboring countries, seeking better livelihood opportunities. This factor, coupled with Thailand's policies in relation to economic incentives and tourism promotion, particularly in the upper part of the North of Thailand (Chiang Rai Province), which has been developed as part of the Greater Mekong Sub-regional Economic Zone, has resulted in the increase in the volume of domestic and foreign tourists and movement along the border areas. Greater movement along border areas has created channels for traffickers to lure and procure children for the purposes of sexual exploitation and pornography.

10. The tables below contain the following data: non-Thai victims of trafficking and prostitution who were assisted by the State and NGOs, such as the Department of Social Development and Welfare, Ministry of Social Development and Human Security, the Center for the Protection of Child Rights Foundation and Foundation for Child Development; Thai children and women who were victims of trafficking abroad; and Thai children involved in prostitution during the period 2005–2007.

Table 1  
Assisted non-Thai victims of trafficking

<i>Country</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>Total</i>
Myanmar	64	180	87	<b>331</b>
Laos	226	272	277	<b>775</b>
Cambodia	193	115	62	<b>370</b>
Vietnam	4	4	4	<b>12</b>
China	4	1	0	<b>5</b>
<b>Total</b>	<b>491</b>	<b>572</b>	<b>430</b>	<b>1 493</b>

*Source:* Department of Social Development and Welfare, Ministry of Social Development and Human Security.

Table 2  
Assisted Thai victims of trafficking abroad

	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>Total</i>
Assisted children and women	207	147	262	<b>616</b>

*Source:* Department of Social Development and Welfare, Ministry of Social Development and Human Security.

Table 3  
Thai children involved in prostitution

<i>Type of involvement</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
Prostitution	59	60	72
Trafficked for prostitution	136	152	166

*Source:* Department of Social Development and Welfare, Ministry of Social Development and Human Security.

11. According to the data provided by the United Nations High Commissioner for Refugees (UNHCR), of the 150,000 displaced people fleeing armed conflict in Myanmar, who have been taking refuge on Thai soil for more than 20 years, half are children. Over 7,000 children, both within and outside the temporary shelters, have been separated from their parents and family members as a result of the displacement and internal conflicts in Myanmar. These children are being assisted by UNHCR and relevant local agencies.

12. 2.2.2 Situation on child pornography. The INTERPOL Specialist Group on Crimes against Children states that child pornography is created as a consequence of the sexual exploitation or abuse of a child. It can be defined as any means of depicting or promoting the sexual exploitation of a child, including written or audio material, which focuses on the child's sexual behavior or genitals.

13. Child pornography may take many forms. The most common is visual pornography, which is a visual depiction of a child engaged in explicit sexual activity, real or simulated, or the lewd exhibition of genitals intended for the sexual gratification of the user. Audio pornography involves the use of any audio devices using a child's voice, real or simulated, intended for the sexual gratification of the user. Child pornography may also take the form

of written materials describing sexual behavior of a child, intended for the sexual gratification of the user.

14. Pornographic pictures and videos are key evidence that child violation has occurred. Child pornography is a major breach of a child's legal rights. Forcing or luring a child to watch pornographic materials is also an act of violation. Production of pornographic materials is a problem closely associated with the transnational sale of children. Often, children sold from one country to another eventually became victims of child pornography. There is an enormous number of pornographic images of children floating around on the internet. Due to the fact that the internet facilitates limitless production and easy distribution of images, the collection of child pornographic images has become a massive activity of child abusers. Often, these images are marked with numbers to facilitate easy search and collection. Images in recent years are moving images with storylines, similar to animations. In these images, children are forced to smile or moan so as to make it appear that they are having fun.

15. Child pornography inflicts severe and long-term psychological damage on a child, which continues long after the abuser has been prosecuted. This is because once the image of a child ends up in the public domain of the internet, such an image becomes irretrievable and will haunt the child for the rest of his or her life. Child pornographic materials can also be used to lure other children by making them believe that what has been done is alright.

16. Thailand is widely recognized, both by local and foreign markets, as a production and distribution source of child pornographic materials. The Internet Watch Foundation ranked Thailand fifth on the list of "Top Five Hosts" of child abuse websites in 1996. Based on reports of abuse by web users, almost 5,000 websites (3.6 per cent) can be traced to Thailand. In January 1996, research conducted by Assumption University of Thailand (ABAC) found that two per cent of internet users in Thailand aged between 15–24 years have met someone they talked to in chatrooms in person; 13 per cent of whom then engaged in sexual activities with such individuals. Social networking websites have become popular meeting venues among Thai children and teenagers who do not seem reluctant to share personal information, including nude pictures of themselves, and ignoring the risk of falling prey to sexual exploiters. These images are likely to be distributed via the internet and end up eventually on child pornographic websites.

### **C. 3. Legal status of the Optional Protocol**

17. For the provisions of the Optional Protocol to be applied at the national level, State parties must first internalize the instrument by harmonizing their domestic laws with the provisions under the Optional Protocol. Thailand has internalized the principles and provisions under both the Convention and the Optional Protocol as shown by its domestic laws concerning children which are mostly in line with the Convention. The Constitution of Thailand of 2007 states that "children, youth and family members shall have the right to be protected by State against violence and unfair treatment and shall enjoy the right to survive and to receive physical, mental and intellectual development potentially in suitable environment. An interference and imposition of rights of children, youth and family members shall not be made except by virtue of the law specially enacted for the maintenance of family institution or utmost benefit of such person" (Article 52).

18. In addition, Article 152 of the Constitution stipulates that "in considering a bill concerning children, the youth, women, the elderly, the disabled or handicapped, if the House of Representatives does not consider it by its full committee, the House of Representatives shall appoint a non-standing committee consisting of representatives, from private organizations concerned with the respective types of persons, of not less than one-third of the total number of members of the committee and the members thereof shall

consist of women and men in closely apportion". In 2008, Thailand's new Anti-Trafficking in Persons Act came into force. The new Act is an improved and more comprehensive version of the Measures in Prevention and Suppression of Trafficking in Women and Children Act of 1997. Draft legislation aimed at suppressing pornographic materials and harmful media is being considered in the parliament. The draft is the responsibility of the Sub-Committee on Law Reform, a body responsible for the revision of child-related laws pursuant to the Thai Constitution and the Convention.

**D. 4. Mechanisms for the implementation and monitoring of the Optional Protocol and agencies responsible**

19. A number of agencies are involved at various levels in the implementation of the Convention and its Optional Protocol on the sale of children, child prostitution and child pornography, including government and non-governmental agencies and civil society. The Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups under the Ministry of Social Development and Human Security is the main coordinating agency. There are mechanisms at both the national and regional levels, as well as independent mechanisms, for supporting and monitoring the implementation of commitments under the Convention and the Optional Protocol, including:

20. 4.1 *The National Youth Commission*, chaired by the Prime Minister or designated Deputy Prime Minister. It is responsible for the formulation of policies and guidelines concerning children and youth. The Sub-Committee on Child Rights was appointed to formulate guidelines supporting the implementation of the Convention, and to prepare periodical reports on the result of Thailand's implementation submitted to the United Nations Child Rights Committee. On 1 September 2004, the composition of the Sub-Committee and its jurisdiction were amended to cover the implementation of both optional protocols of the Convention. The Sub-Committee now comprises 36 members, including representatives from the parliament, government agencies and non-governmental organizations; academicians; legal experts; representatives from the United Nations Children's Fund (UNICEF) and one girl and one boy.

21. The National Sub-Committee to Combat Trafficking in Children and Women was appointed to formulate national policy and plan for the prevention and suppression of trafficking in children and women, both domestic and cross-border. The current plan of action for 2003–2010 consists of seven core plans, including the development of data collection, monitoring and evaluation systems, and administrative mechanisms.

22. The Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups has the responsibility of preparing an annual situation analysis of children and youth in Thailand and organizing a national assembly on child and youth development every two years. However, with the enactment of the National Promotion for Child and Youth Development Act of 2007, which came into effect on 13 April 2008, the National Child and Youth Commission was appointed to supersede the aforementioned National Youth Commission, which had been dissolved upon the revocation of the National Youth Promotion and Coordination Act of 1978.

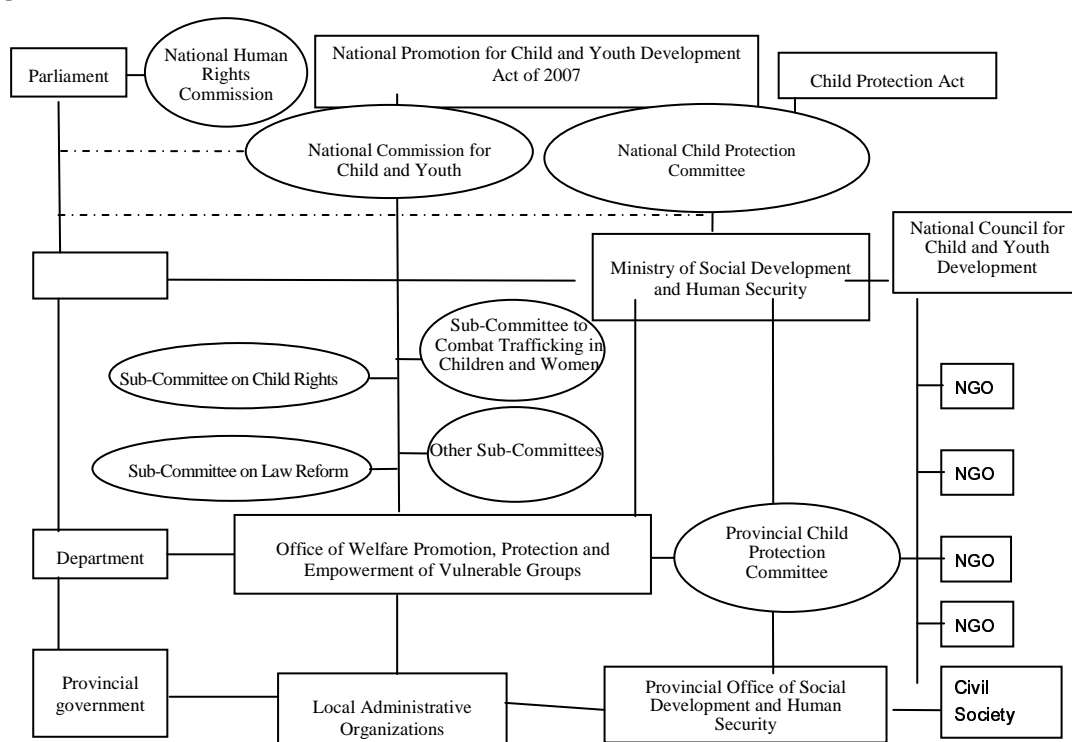
23. 4.2 *National Child Protection Committee*. The National Child Protection Act of 2003 aims to promote collaboration among government and non-governmental agencies in providing better protection to children. The National Child Protection Committee was established, chaired by the Minister of Social Development and Human Security. Provincial Child Protection Committees were established in all 76 provinces of Thailand, acting as implementation mechanisms at the regional level. The Ministry of Social Development and Human Security and the Provincial Office of Social Development and Human Security act



as secretary of the Committee and are responsible for formulating policies and coordinating plans concerning children with relevant agencies at both the national and provincial levels.

24. 4.3 *National Human Rights Commission.* Pursuant to the Thai Constitution of 2007, the National Human Rights Commission was established as an independent body responsible for promoting respect for human rights and monitoring practices that constitute human rights violations. Under the Commission, the Sub-Committee on Child, Youth and Family was appointed to be responsible for the implementation of the Convention and its optional protocols. The Sub-Committee has been holding periodical meetings with relevant agencies to keep abreast of progress and constraints in the implementation of the Convention and its protocol. It also conducts visits; receives complaints and commissions researches and studies in order to make informed recommendations on policies and practices on child rights.

**The chart below shows the mechanisms for coordination at the national and regional levels.**



## E. 5. Dissemination and training

25. 5.1 *Dissemination.* The Optional Protocol has been translated into Thai and disseminated to various agencies, including government and non-governmental agencies, local administrative organizations and the media since 2001, even before Thailand's ratification of the Optional Protocol in 2006. Following the ratification, the Optional Protocol has been printed and incorporated into the copies of the Convention, along with its summary, and distributed to relevant agencies to inform them of Thailand's obligations under the Optional Protocol, in particular, and the Convention in general. Copies of the translation have also been distributed to various academic institutes and local administrative organizations nationwide.

26. In addition, numerous meetings and seminars have been organized at the national and regional levels specifically to disseminate knowledge on the Convention and the Optional Protocol to a wide range of audiences, including representatives of relevant agencies, law practitioners, academicians, training facilitators, child rights volunteers, community leaders, and child and youth groups. Key content of the Optional Protocol has also been incorporated into wider meetings and seminars concerning children and disseminated via the internet.

27. 5.2 *Training*. Sensitization and training on the Convention and the Optional Protocol has been conducted by such agencies as the Ministries of Interior, Education, Justice, Labor, Public Health, Social Development and Human Security; the Office of the General-Attorney; the Royal Thai Police; and non-governmental organizations, such as Holt Sahathai, the Foundation for Child Development; the Centre for the Protection of Child Rights Foundation, and the Buddhist Youth for Development Foundation. The Convention and its Optional Protocol have been incorporated into both general training on child rights and specialized training.

28. Child rights sensitization training was initiated in 1997 for child rights practitioners in government and non-governmental agencies. From 2003 onwards, child right sensitization and training of trainers has been conducted regularly at the national, international and local levels to raise awareness on child rights, the Convention and its Optional Protocols. Training activities conducted in each year includes:

(1) Two 12-day international training modules, namely child rights sensitization training of trainers and child participation training, for child rights practitioners from 13 countries in the Asia and the Pacific regions;

(2) A five-day national child rights sensitization module for child rights practitioners from various government and non-governmental agencies, child and youth groups and local administrative organizations;

(3) A one or two day-local child rights sensitization module for local leaders, children, youth, parents, guardians, teachers, child minders, child rights volunteers and the general public. This training is aimed at creating networks for the development and protection of children.

## **F. 6. Preparation of report on the implementation of the Optional Protocols**

29. The Sub-Committee on Child Rights under the Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups appointed two working groups to be responsible for the preparation of reports on the implementation of the optional protocols to the Convention. These are: the working group on “the sale of children, child pornography and child prostitution”, comprising 21 members; and the working group on “The involvement of children in armed conflicts”, comprising 18 members, including representatives from relevant agencies, experts and two children. Information has been gathered from, and meetings held with, relevant agencies for drafting of the reports. Public hearings had been held and recommendations incorporated into the reports, which were submitted to the Sub-Committee on Child Rights and further to the National Youth Commission for approval. The reports has been translated into English and submitted to the Cabinet for approval before being forwarded to the Ministry of Foreign Affairs for eventual submission to the United Nations Child Rights Committee and public dissemination.

## G. 7. Budget allocation for the implementation of the Optional Protocol

30. Thailand attaches great importance to the issues of human trafficking and child prostitution. Recognizing the intricacy of trafficking and prostitution networks domestically and transnationally, Thailand announced human trafficking as a national agenda on 6 August 2003 and allocated a budget of 100 million baht to be used for care and assistance of victims. The Ministry of Social Development and Human Security was designated as the main agency responsible for overseeing the execution of duties under this agenda. The agenda set forth criteria for the utilization of the aforementioned fund, categorized according to the following objectives:

- (1) Supporting projects of the fund beneficiaries;
- (2) Donations to those warranting assistance;
- (3) Compensation for victims or others entitled to the funds.

31. In 2008, the new Anti-Trafficking in Persons Act came into force. Section 57 of this Act provides for the transfer of welfare capital for the prevention and suppression of trafficking in persons (known as 100 million baht fund) to be used as initial capital for the Anti-Trafficking in Persons Fund under this Act.

32. Under the National Plan of Action on the Prevention and Suppression of Trafficking in Children and Women of 2005–2010, projects and activities implemented by relevant agencies in the government and non-governmental sectors and by the international organizations between the period 2005–2007 totaled 283 projects with a total expenditure of 2,014,161,678 baht.

Table 4

### Budget for anti-human trafficking projects and activities

<i>Main plan</i>	<i>Projects</i>	<i>Budget (Baht)</i>
1. Prevention	152	1 312 207 260
2. Assistance and Protection	47	297 832 434
3. Law enforcement and suppression	19	76 099 184
4. Repatriation and rehabilitation	9	217 544 640
5. Development of information system, monitoring and evaluation	30	47 646 100
6. Development of administrative mechanisms	14	20 304 900
7. International coordination	12	42 527 160

## II. Prohibition of the sale of children, child prostitution and child pornography

### A. 1. Legislation concerning the sale of children, child prostitution and child pornography

33. Since becoming a State party to the Convention, Thailand has made consistent efforts to amend its laws relevant to the sale of children, child prostitution and child pornography. A sub-committee has been appointed to oversee the amendment of child-related laws in pursuant to the Thai Constitution and the Convention. The said sub-

committee comprises law practitioners, child rights experts and practitioners from various fields, and representatives from relevant government and non-governmental agencies. It is responsible for reviewing and drafting legislation concerning children to ensure that they are consistent with the Thai Constitution and the Convention. Some of the major laws relevant to the Optional Protocol include:

## **1.1 Legislation concerning the sale of children and child prostitution**

34. Definition of a child; punishments for offences; criminal liability; attempt to commit offences; conspiracy to commit offences; prescription of offences relating to sexuality.

### *1.1.1 The Penal Code*

35. The Penal Code specifies punishments relating to the sale of children, child prostitution, and sexual abuse of children, regardless of gender. Punishment for an offence varies according to the victim's age, categorized into:

- Offence committed against a child not over 13 years of age
- Offence committed against a child not over 13 but not yet over 15 years of age
- Offence committed against a child between 15–18 years of age

36. Punishment is most severe when the offence is committed against a child aged not over 13 years of age.

### *1.1.2 The Amended Criminal Procedure Code No. 26 of 2007*

37. This Act amends provisions concerning interrogation, investigation and identification of alleged persons by injured parties or witnesses who are under 18 years of age. In such cases, it is required that either a psychologist, social worker or any other person requested by the child, and the public prosecutor shall be present. The amendment aims to protect a child who is involved in the justice system from any physical and psychological harm. However, the types of criminal case warranting such special treatment have not been defined under this Act, causing the proceedings of certain cases to be unnecessarily lengthy in practice. In addition, interrogation under this special treatment proved to be repetitive, subjecting the child witness or victim to undue traumas it hopes to avoid.

### *1.1.3 The Prevention and Suppression of Prostitution Act of 1996*

38. This Act has provisions which clearly prohibit the sale of children and child prostitution. Under this Act, a person is prohibited to act for the purpose of prostitution of himself or herself; to advertise or induce another person for the purpose of prostitution of himself, herself or another person; to procure, lure, compel, threaten, take away or commit violence against, another person, for the purpose of prostitution; and to own, supervise or manage a prostitution business. Punishments for offences under this Act are prescribed in relation to the age of the victim, categorized into offences committed against a person aged not yet over 15 years and those committed against a person aged between 15–18 years.

39. The parents or guardian of a child who connive in the prostitution of a child shall be liable to punishment as prescribed under this Act.

### *1.1.4 Money Laundering Control Act of 1999*

40. This Act penalizes any offences relating to sexuality under the Penal Code (only in respect to procuring, seducing or taking away for an indecent act a woman and child for sexual gratification of others and of taking away a child and a minor); offence under the

Prevention and Suppression of Prostitution Act (only in respect to procuring, seducing or taking away such persons for their prostitution and being an owner, supervisor or manager of a prostitution business or establishment or being a controller of prostitutes in a prostitution establishment), regardless of whether such an offence is committed in or outside the Kingdom. Any transaction of money or property obtained from the commission of an act constituting a predicate offence shall be liable to punishment under this Act.

#### 1.1.5 *Child Protection Act of 2003*

41. The Child Protection Act of 2003 contains provisions relating to welfare assistance, protection of safety and behavior promotion with the intention of ensuring that children receive appropriate care and development and that they are protected from any form of abuse, exploitation or unfair discrimination. It promotes collaboration between government and non-governmental agencies in providing better protection to children, in line with the Thai Constitution, National Economic and Social Development Plan and the Convention.

#### 1.1.6 *Anti-Trafficking in Persons Act of 2008*

42. This Act is aimed at making the Measures in Prevention and Suppression of Trafficking in Women and Children of 1997 more comprehensive, specifically in regards to criminalizing acts of exploitation committed against any person, not only children and women; and broadening the definition of exploitation to include such acts as bringing into the Kingdom or sending out any person for the purpose of prostitution; forced labor or service or causing a person to become a beggar; coerced removal of organs for the purpose of trade or any other forms of exploitation. This Act also provides for the establishment of Anti-Trafficking in Persons Fund and better provision of assistance and protection to victims.

### 1.2 **Legislation concerning child pornography**

43. Legislation currently in effect which contain provisions concerning child pornography, including terms of penalty for an offence; individual liability; penalty for commission of an offence, attempt to commit an offence, and conspiracy and involvement in an offence; and duration of an offence, are as follows:

#### 1.2.1 *Computer Crime Control Act of 2007*

44. The rationale for the enactment of this legislation is that a computer system is essential to business operations and the human way of life, and as such, if any person commits an act that disables the working of a computer system according to the predetermined instructions or that causes a working error – a deviation from that required by the predetermined instructions or that resorts to any means to illegally know of, correct or destroy a third party's data contained in a computer system or that uses a computer system to disseminate false or pornographic computer data, then that act will damage and affect the country's economy, society and security including people's peace and good morals. Therefore, it is deemed appropriate to stipulate measures aimed at preventing and suppressing such acts.

45. The office of Information Technology Control under the Ministry of Information and Communication Technology has been established to be responsible for the implementation of the Computer Crime Control Act B.E. 2550 (2007) by issuing relevant ministerial notifications and regulations, e.g. the Ministerial Regulation on Confiscation or Seizure of Computer Systems, the Ministerial Regulation on Prevention and Amending Programmes Causing Damage to Computers or Computer Systems or Other Programmes, the Ministerial Notification on Requirements for Service Providers to Maintain Computer Traffic Data, and the Ministerial Notification on qualification of competent officials and

their identification cards. The Office also drafted rules on the arrest, detention, search, investigation and prosecution of those who commit an offence under the Computer Crime Control Act B.E. 2550 (2007). Furthermore, the Office has published a Handbook for Internet service providers and organizations in accordance with the Act.

### 1.2.2 *Publishing Registration Act of 2007*

46. The Publishing Registration Act of 2007 sets forth criteria for the registration of newspapers issued in the Kingdom. The names of publishers, advertisers, editors or owners of the newspapers must be declared for public scrutiny. The Commander of the Royal Thai Police is empowered to prohibit the importing or ordering for distribution in the Kingdom of any print materials which are deemed defaming, insulting or threatening to the King, the Queen, the Heir-apparent or the Regent, or which will affect the security of the Kingdom or the people's peace or good morals. Such order may specify the time of prohibition. The Commander of the Royal Thai Police has the power to seize and destroy any such print materials. An offender is liable to imprisonment of not over three years or a fine of not more than 60,000 baht or both.

### 1.3 **Prescription of offences relating to the sale of children, child prostitution and child pornography**

47. The Penal Code applies to the prescription of offences relating to the sale of children, child prostitution and child pornography as with other criminal offences. Under the Penal Code, if the offender is not prosecuted and brought to the Court within the following specified periods of time as from the date of the commission of the offence, the prosecution shall be precluded by prescription:

(1) Twenty years in the case of offences punishable with death, imprisonment for life or imprisonment of twenty years;

(2) Fifteen years in the case of offences punishable with imprisonment of over seven years but not up to twenty years;

(3) Ten years in the case of offences punishable with imprisonment of over one year up to seven years;

(4) Five years in the case of offences punishable with imprisonment of over one month up to one year;

(5) One year in the case of offences punishable with imprisonment of one month downwards or other punishment.

48. If the offender has been prosecuted and brought to the Court, but the offender escapes, or is insane, and the Court gives an order suspending the trial till the specified period has expired reckoning from the date of escape, or the date of giving order suspending the trial, it shall be deemed that prosecution be likewise precluded by prescription. In the case of a compoundable offence, if the injured party does not make a complaint within three months reckoning from the day when the offence and the offender became known to him, the prosecution shall be precluded by prescription.

## **B. 2. Legislation concerning the adoption of a child**

49. Thai legislation relating to adoption aims to ensure that any person who is involved in the adoption of a child adheres to the international agreement on adoption. The Child Adoption Act of 1979 defines "a child" as a minor according to the Civil and Commercial Code, meaning a person aged not over 20 years old but does not include those who have attained majority through marriage. This Act prohibits any person from:

(1) Taking or sending a child out of the Kingdom for the purpose of adoption, either directly or indirectly, except by the permission of the Minister;

(2) Advertising pictures, name or any written messages which reveal the identity of an adoptive or adopted child, prospective adoptive parents or guardian, or a person applying for the adoption. Publicizing a court order is prohibited, except for the benefits of the State.

50. The Act prescribes penalties for a legal professional, managing director or representative of such legal professional, who shall be liable for punishment for an offence committed under this Act, unless such person can prove that he or she is not involved in the commission of the offence by the juristic person.

### **III. Penal/Criminal Procedure**

#### **A. 1. Jurisdiction of the Thai Court**

51. Provisions providing the Thai State with jurisdiction over offences stipulated under the Optional Protocol are contained in the following legislation:

##### **1.1 The Penal Code**

52. The Penal Code contains provisions establishing jurisdiction of the Thai Court for a number of sexual offences. Under the Penal Code:

(1) Any person who commits an offence within the Kingdom shall be punished according to the Thai laws. The commission of an offence in any Thai vessel or airplane shall be deemed as being committed within the Kingdom, irrespective of the place where such Thai vessel or airplane may be;

(2) Whenever any offence is even partially committed within the Kingdom, or the consequence of the commission of which, as intended by the offender, occurs within the Kingdom, or by the nature of the commission of which, the consequence resulting therefrom should occur within the Kingdom, or it could be foreseen that the consequence would occur within the Kingdom, it shall be deemed that such offence is committed within the Kingdom;

(3) In the case of preparation or attempt to commit any act provided by the law to be an offence, even though it is done outside the Kingdom, if the consequence of the doing of such act, when carried through to the stage of accomplishment of the offence, will occur within the Kingdom, it shall be deemed that the preparation or attempt to commit such offence is done within the Kingdom;

(4) Whoever procures, seduces or takes away a child not yet 18 years old for an indecent act or sexual gratification of others outside the Kingdom shall be deemed as having committed an offence within the Kingdom;

(5) Whenever an offence is committed within the Kingdom, or is deemed by this Code as being committed within the Kingdom, even though the act of the co-principal, a supporter or an instigator in the offence is done outside the Kingdom, it shall be deemed that the principal, supporter or instigator has committed the offence within the Kingdom;

(6) Whoever commits an indecent act against a child not yet over 18 years old outside Thailand and such act causes grievous bodily harm or death to the child, shall be punished under Thai laws, provided that:

(a) The offender is a Thai person and a request for punishment has been made by the Government of the country where the act occurred, or there is a request for punishment by the injured party; or

(b) The offender is an alien and the Royal Thai Government or a Thai person is the injured party, and there is a request for punishment by the injured party.

(7) Whoever commits an offence within the Kingdom, or commits an offence deemed by this Code as being committed within the Kingdom, shall not be punished again within the Kingdom, if: there be a final judgment of the foreign Court acquitting such person, or there be a judgment of the foreign Court convicting such person, and such person has already passed over the punishment. If such person has not passed over the punishment according to the judgment of the foreign Court, the Thai Court may inflict less punishment to any extent than that provided by the law for such offence, or may not inflict any punishment at all, having regard to the punishment already suffered by such person.

## **1.2 The Amended Criminal Procedures Code**

53. The Amended Criminal Procedures Code revised provisions concerning interrogation, investigation and identification of alleged persons by injured parties or witnesses who are under 18 years of age. In such cases, it is required that either a psychologist, social worker or any other person requested by the child, and the public prosecutor shall be present. The amendment aims to protect a child who is involved in the justice system from any physical and psychological harm. The questioning of a child as an injured party or witness must be done in a setting specifically arranged for this purpose and must have the presence of a multi-disciplinary team for the best interests of the child.

## **1.3 The Prevention and Suppression of Prostitution Act of 1996**

54. Any person who procures, seduces or takes away any person for the prostitution of such person, even with her or his consent and irrespective of whether the various acts which constitute an offence are committed within or outside the Kingdom, shall be liable to punishment under Thai law.

## **1.4 The Anti-Trafficking in Persons Act of 2008**

55. Whoever, for the purpose of exploitation, does any of the following acts: (1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or (2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child; is guilty of trafficking in persons. If the offence is committed in order that the trafficked person taken into or sent out of the Kingdom to be under the power of the other person unlawfully, the offender shall be liable to twice the punishment prescribed for such offence. Whoever commits an offence mentioned in Section 6 outside the Kingdom shall be liable for the punishment stipulated in this Act in the Kingdom. The provision of Section 10 of the Penal Code shall apply *mutatis mutandis*.

## **B. 2. Extradition**

56. In 2008, the new Extradition Act was enacted to replace the Extradition Act of 1929, which became outdated and failed to cope with the present reality and new forms of



problem concerning the extradition of criminals. Thailand has signed and ratified extradition treaties with 14 countries, including Canada, the United Kingdom, the United States, Australia, Belgium, China, Indonesia, the Philippines, Laos, Cambodia, Malaysia, South Korea, Bangladesh and Fiji.

57. Extraditable offences are restricted to offences which, under the law of the requested State and Thai law, are considered criminal offences and punishable with the death penalty, or imprisonment or any other forms of restriction of liberty of over one year, regardless of whether or not such offences are stipulated in the same sections or are called the same under the laws of the two States. Other criminal offences which are punishable with imprisonment or other forms of restriction of liberty of less than one year may be extraditable, provided that such offences are connected with the offences for which a request of extradition has been issued, regardless of whether the requests are made at the same time, from the beginning or later.

58. Proceedings will commence with a request from a foreign government to the Royal Thai Government through the central authority (which is the Attorney General or designate). In the case that the requested State does not have an extradition treaty with Thailand, the request for extradition shall be processed through the diplomatic means. The extradition request and accompanying documents must be translated into Thai and properly authenticated. The extradition request and accompanying documents may be brought before the Court without an accompanying witness.

59. The Court may consider extraditing the accused to be prosecuted or receive his sentence for the crime which is under the jurisdiction of the requested State, providing:

1. That the offence charged is extraditable and not forbidden under Thai law, or is not one of a political character or is a military offence.
2. That, in absence of an extradition treaty, the requested State clearly demonstrates that Thailand's request for extradition will be reciprocated in the same manner.

## **C. 3. Seizure of property and assets and closure of establishment**

### **3.1 Money Laundering Control Act of 1999**

60. The sale of children and child prostitution are penalized under clause (2), Section 3 of the Act, which deals with any offence:

“(2) relating to sexuality under the Penal Code only in respect of procuring, seducing or taking away for an indecent act a woman and child for sexual gratification of others, offence of taking away a child and a minor, offence under the law on measures for the prevention and suppression of women and children trafficking or offences under the law on prevention and suppression of prostitution only in respect of procuring, seducing or taking away such persons for their prostitution, or offence relating to being an owner, supervisor or manager of a prostitution business or establishment or being a controller of prostitutes in a prostitution establishment”.

61. Any property connected with the commission of any such offence shall be seized or attached. If proven guilty as charged, the Court has the power to order such property to be vested in the State.

### 3.2 The Penal Code

62. The Court has the power to seize the property that a person uses or possesses for the purpose of committing an offence, or that is obtained from the commission of an act constituting a predicate offence under the Code.

### 3.3 The Publishing Registration Act of 2007

63. The Act sets forth criteria for registering newspapers issued in the Kingdom. The Commander of the Royal Thai Police is empowered by this Act to seize and destroy any print materials that are deemed damaging to the society.

## D. 4. Law enforcement case studies

### Example 1

64. An Australian man, aged 33, was arrested on 9 November 1993 in Chiang Mai and charged with exhibition and distribution of pornographic pictures, illegal possession of knife, and insult to Buddhism. The offender allegedly committed indecent acts against a number of Thai girls and women by taking nude photographs of them having sexual intercourse and placing a Buddha image on sexual organs of the girls. The offender admitted having taken the photographs himself.

65. The offender was tried for two separate charges. The first involved insults to Buddhism; exhibition and distribution of pornographic pictures; and illegal possession of knife. The offender was found guilty of committing offences under Sections 206, 278 and 371, and amended Section 91 of The Penal Code and was sentenced to:

- Imprisonment of two years for insult to the religion
- Imprisonment of six months for exhibition and distribution of pornographic pictures
- Fine of 100 baht for illegal possession of knife

66. The offender was also tried for indecent act against a minor under 13 years old (the charge of indecent act against a minor had not been brought against the offender in the first instance because the injured minor had not yet been found). The Coalition to Fight Against Child Exploitation (FACE), in cooperation with the provincial social welfare officers, subsequently located the girl and brought her to give a statement as a witness. Chiang Mai Provincial Court found the offender guilty of committing offences under Section 279 of the Penal Code and Amended Criminal Procedures Code No. 8 of 1987, punishable with the imprisonment of one year. However, as the offender pled guilty to the charge, the sentence was reduced by one third by virtue of Section 78 of the Penal Code. The Court also ordered seizure of the exhibits. On 3 June 1996, the public prosecutor appealed for the Court to impose a severe penalty for the offence of indecent act. The Court of Appeal amended and increased the sentence to imprisonment of six years. However, as the offender pled guilty to the charge, the sentence was reduced by half by virtue of Section 78 of the Penal Code.

67. The offender was brought to trial at the Criminal Court in Bangkok for the charges of rape and indecent assault against minors not over 13 and 15 years old, which the offender had allegedly committed before the case in Chiang Mai but no case had been brought against him because only the procurer had been arrested. The victims had already left for Chiang Mai. In this Bangkok case, the offender allegedly raped and committed an indecent act against a girl not over 13 years old. He also placed a Buddha image on the sexual organs of girls and took pictures. An employee of a photo shop, where the offender had taken the films to be developed, sent the photographs to the Centre for the Protection of Children's Rights Foundation. The police was informed and efforts were made to locate the

girls and the offender who also appeared in the photographs. Only the procurer was found. Subsequently, the offender was arrested and the photographs seized as exhibits by the Chiang Mai Provincial Court. On 16 May 1997, the Criminal Court in Bangkok found the offender guilty of committing offences under Sections 277 and 279 and imposed punishment on all counts. The offender was also found guilty of offences under Section 91 concerning rape of a minor not over 13 years old. The offender was sentenced to imprisonment of 36 years. Upon a plea of guilty, the punishment was reduced by half, to 18 years, adding to the penalty imposed on the offender by the Chiang Mai Provincial Court.

68. Three Thais were arrested in connection with this case on the charge of procuring minors for indecent purpose. The Court sentenced all three offenders to imprisonment of 14–50 years.

#### **Example 2**

69. A German man was arrested along with a Thai agent on the charge of procuring minors for indecent purpose. The German man was a procurer who supplies minors to German tourists, businessmen and politicians for sexual purpose in Thailand. The arrest led to further arrests of 20 German citizens. The German procurer and Thai agent were found guilty of sexual abuse of minors and distribution of indecent materials and sentenced to imprisonment of seven years each.

#### **Example 3**

70. A Swedish man, aged 66, was arrested in Pattaya on 19 February 1993 for residing with a Thai boy, aged 13 years and six months. The offender had been detained at Choburi Provincial Court and was released on bail of 150,000 baht on 5 March 1993. On 10 March 1993, the offender fled the country. The new Swedish extraterritorial law allows the authorities in Sweden to punish Swedish citizens who commit indecent acts in other countries. A Swedish public prosecutor coordinated with the International Cooperation Division of the Office of the Attorney-General of Thailand. The Office of the Attorney-General, in cooperation with the Police Department and Embassy of Sweden arranged for a witness interrogation on 20 September 1994 at the Embassy of Sweden in Bangkok. Swedish police officers and public prosecutor and the offender's attorney were present at the interrogation of witnesses, including the injured minor, translator and two police officers from Pattaya Police Office.

71. The interrogation proceedings were recorded on video and sent to Sweden, equipping the Swedish authorities with enough evidence to prosecute the offender. The Swedish Court asked FACE to bring the injured minor to testify at the Court in Sweden. The child victim identified the offender and confirmed that the offender had committed indecent acts against him on many occasions. The offender denied the charge and informed the court that they were merely resting in the offender's room.

72. The Swedish Court found the offender guilty and sentenced the offender to imprisonment of three months and fine of 100,000 baht, including interest from the time of arrest onwards, as compensation for the injured minor, totaling 150,000 baht. The offender was also ordered to compensate the Swedish State for the expenses incurred.

#### **Example 4**

73. The injured party, Ms. Kor had been lured by an organized trafficking ring into prostitution in Singapore. She was repatriated to Bangkok on 9 December 2004.

74. Ms. Kor, aged 16 years old, is the eldest daughter of the family. She is a resident of Samutprakarn Province. Her parents were divorced. She ran away from home when she was in her first year of secondary school. Ms. Kor started working at a karaoke bar in

Pathumthani Province as a waitress. The bar is also involved in prostitution business. Ms. Kor worked from 20.00–02.00. After less than a month since she started working there, Ms. Kor was informed by Ms. A, a cashier at the bar, of an opportunity to earn a good income from prostitution in Singapore. Enticed by the prospect of making between 20,000–30,000 baht a week, Ms. Kor agreed to go to Singapore.

75. Ms. A then contacted Ms. B, residing in Songkla, to travel up to inspect Ms. Kor. Ms. B arrived in Pathumthani on 3 February 2003. After the inspection, Ms. B asked Ms. Kor to pack her bags and took her to a coach station. Ms. A received 5,000 baht from Ms. B as a commission.

76. Ms. B accompanied Ms. Kor to Songkla. They stayed there for two days. In the meantime, Ms. B arranged for Ms. Kor to use the passport of another person with a facial similarity to Ms. Kor as a travel document to Singapore.

77. On 7 February 2003, Ms. B traveled with Ms. Kor to Singapore, using another person's passport. The journey took two days by coach. On arrival in Singapore, Ms. B took Ms. Kor to meet another Thai agent called Mr. C.

78. On 8 February 2003, Ms. Kor was taken to an apartment where she met with eight other Thai girls of similar age. They all stayed in the same room. In the evening of the same day, Mr. C took Ms. Kor and eight other girls to a workers' camp to work from 19.30–01.00. A shuttle bus was arranged to take them there and pick them up afterwards. Ms. Kor was informed by Mr. C that she needed to sell her service to 275 men in order to relieve herself of her debts. It took one month for Ms. Kor to pay back the debts.

79. After that Ms. Kor received over 10 clients per day, charging 400 per client for her service. Ms. Kor sent back 30,000 baht every month to her grandmother and her father. When it was time to travel back to Songkla to renew her visa, after 55 days, Ms. Kor left to Songkla and stayed with Ms. B.

80. On 7 April 2003, Ms. Kor returned to Singapore and resumed work on 29 April 2003. She had to pay back the same amount of debts as the first time.

81. Ms. Kor was arrested on 30 November 2003 on the charge of prostitution. She was imprisoned for ten days and then assisted to return to Bangkok. She arrived in Bangkok on 9 December 2003 and was taken to Kredtrakarn Protection and Occupational Development Center.

82. FACE was contacted by the social workers from Kredtrakarn Centre on the case. FACE assisted in caring for and interviewing Ms. Kor, the injured party, in collaboration with a multi-disciplinary team. The injured party was taken for interrogation and to file the case at the Suppression Unit.

83. FACE worked closely with the interrogation officer and public prosecutor on all matters, including identification of crime scenes and prosecution of offenders. Ms. B was arrested on 5 October 2005. Evidence was gathered for prosecution of the suspects, Ms. A, Ms. B and Mr. C, and charges were filed against them. On 6 February 2006, FACE coordinated with the public prosecutor, requesting expedient investigation of the injured party as witness. The injured party had been in the care of Kredtrakarn Centre for over one year and was due to be released soon. It was feared that once the injured party left, it would become difficult to summon her back for investigation, due to the lack of a permanent residence. On 3 March 2006, the public prosecutor conducted witness investigation by virtue of Section 173 of the Penal Code.

84. On 10 October 2006, the Court found the offenders guilty of taking away a minor over 15 years old but not yet 18 years old from parents and sentenced them to imprisonment of two years according to Section 31 of the Penal Code and imprisonment of

five years for committing an offence under Section 9 of the Prevention and Suppression of Prostitution Act of 1996, totaling seven years.

85. The offenders were guilty of “for sexual gratification of others, procuring, seducing or taking away a minor over fifteen but not yet eighteen years of age for the prostitution of such person, irrespective of whether the various acts which constitute an offence are committed within or outside the Kingdom, by means of fraud, deceit, threat, violence, the exercise of undue influence or coercion against her or his will in any manner whatsoever; conniving to separate a child over fifteen but not over eighteen years of age from his or her parents or guardian for exploitation or indecent purpose; and admitting a person known to them as having been procured, seduced or taken away, in order to bring about prostitution”.

#### **Example 5**

86. Mr. A, Ms. B and C connived to advertise and persuade the plaintiff, Ms. D, and other persons to work as waitresses in a restaurant in Japan, claiming that they would receive remuneration as high as 40,000 baht per month, and asked the plaintiff to enter into a loan contract with the accused. Once arrived in Japan, however, the plaintiff and others were forced into prostitution to pay back the debts of 1,200,000 baht to the Yakuza gang. The plaintiff and others were supervised by Ms. E. The plaintiff later escaped and was pursued by the Yakuza gang, leading to the death of Ms. E and the arrest of the plaintiff and a few others. The Supreme Court of Japan sentenced the plaintiff and others to imprisonment of seven years. The plaintiff was later sent back to Bangkok due to the plaintiff's health condition and filed a complaint against Mr. A, Ms. B and C. The investigative officer and public prosecutor filed charges against Mr. A, Ms. B and C with Lomsak Provincial Court for illegally arranging employment overseas; and procuring by means of fraud and deceit persons for the sexual gratification of others or sending women out of the Kingdom to be under the illegal control of another person. The Court considered the facts of the case in conjunction with Section 446, paragraph 2 of the Civil and Commercial Code; Unfair Contract Terms of 1997; the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, signed by Thailand, and sentenced the offenders to imprisonment of 13 years and payment of 4,682,608.65 baht, including interest of 7.5 per cent per year, as compensation to the plaintiff, counting from the time the case was filed to the Court onwards.

87. These examples manifest consistent efforts by Thailand to prevent and address the sale of children, child prostitution and child pornography. Important legislation was amended and enacted to keep up with modern realities. Child protection tools, mechanisms and networks were created and expanded and cooperation fostered among all sectors.

## **E. 5. Court proceedings based on the international instruments**

### **Example 1**

88. The Centre for the Protection of Children's Rights Foundation collaborated with FACE, SR Law Firm, Gender Equality in Justice System Project and the Association for the Promotion of the Status of Women to bring charges against Ms. A for child exploitation and abuse. These organizations assisted the child victim in appointing an attorney to work with a public prosecutor, referring to the principles and protection provided for injured children under the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Court accepted the document as a basis for investigation and subsequently found the witness testimonies sufficient to convict the offender.

**Example 2**

89. Friends of Thai Women in Asia collaborated with the Office of the Human Rights Commission, FACE and S R Law Firm to file charges against Mr. A and three associates for committing an offence of procuring a person for indecent purpose and offences under the Measures in Prevention and Suppression of Trafficking in Women and Children Act of 1997. Victims of the case appointed an attorney to work alongside the public prosecutor. The prosecutors referred to the principles and protection provided for the injured party under the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and civil case complaints regarding compensation. The Director of the Centre for the Protection of Children's Rights Foundation gave a testimony confirming Thailand's obligations under the Protocol. The Court agreed to hear the case and subsequently convicted the offenders.

**IV. Protection of the rights of victims****A. 1. General situation**

90. Thailand has taken serious efforts to combat the sale of children, child prostitution and child pornography, through legislative measures and court proceedings, as mentioned in Chapter 2 and 3. In regards to administrative measures, the Sub-Committee to Combat Trafficking in Children and Women was established in 1999, consisting of representatives from the State agencies, non-governmental organizations and international organizations concerned. The Sub-Committee is responsible for formulating policy and plans for the prevention and suppression of trafficking, emphasizing close collaboration amongst all sectors of the society at both the policy and implementation levels. Efforts have been made to formulate measures and mechanisms; amend legislation, regulations and orders; exchange information and networks; and monitor and evaluate implementation to combat trafficking.

91. Measures have been taken to ensure the rights of children who are victims of trafficking in the justice system in pursuant to Articles 49–57, Section 4, and Articles 67–93, Section 7, of the Act Instituting Juvenile and Family Courts and Juvenile and Family Procedures of 1991. Procedures in providing assistance to victims have been adopted pursuant to the Prevention and Suppression of Prostitution Act of 1996 and the Measures in Prevention and Suppression of Trafficking in Women and Children of 1997 and the Anti-Trafficking in Persons Act of 2008, which replaced the Measures in Prevention and Suppression of Trafficking in Women and Children of 1997. The National Policy and Plan of Action on the Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women of 2003–2010 provides a framework for both governmental and non-governmental agencies to work together to combat human trafficking.

92. On 14 June 1995, the Cabinet passed the resolution approving the establishment of the Operation Center on Prevention and Suppression of Human Trafficking at the national, provincial and international levels. The Center is mandated to act as the focal point for the coordination of all trafficking matters; providing information, services and assistance to victims of trafficking; encouraging participation of communities in the prevention and suppression of trafficking; and providing data and information to decision makers for the formulation of policies and measures in combating trafficking.

## **B. 2. Protection of the rights of child victims**

### **2.1 Protection and rescue mechanisms**

93. Protection and rescue of trafficked victims require collaboration from State agencies, non-governmental organizations and local organizations in all aspects, ranging from the judiciary process, welfare and assistance, to the rehabilitation and reintegration of victims. In line with the National Policy and Plan of Action 2003–2010, the Operation Center on Prevention and Suppression of Human Trafficking was established at the national, provincial and international levels. At the national level, the Ministry of Social Development and Human Security is the focal point for coordinating counter-trafficking operations with Provincial Operations Centers. A Provincial Center is headed by the Provincial Governor. The Head of the Provincial Social Development and Human Security acts as Secretary of the Center. The Operations Committee is composed of the Chief of the Provincial Police; the Chief of the Provincial Public Health Office; the Provincial Public Prosecutor; the Head of the Provincial Employment Office; the Head of the Provincial Labour Protection and Welfare Office; a Representative from the Provincial Development Office; the Head of the Provincial Agriculture Office; the Director of the Provincial Labour and Skills Development Office; and representative(s) from NGO(s). The ambassador or consul general of the Ministry of Foreign Affairs heads the International Committee. Each level then collaborates with relevant organisations to execute its duties.

94. Thailand has developed memorandums of understanding on trafficking at various levels as follows:

(1) International level, including Memorandums of Understanding (MOUs) on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking with Cambodia, Laos and Myanmar; and an MOU on Cooperation against Human Trafficking in the Mekong Sub-region;

(2) National level, including MOUs among State agencies; MOUs among non-governmental organizations; and MOUs between State agencies and non-governmental organizations;

(3) Regional level, including MOUs among agencies concerned in five regions: 17 provinces in the North; 19 provinces in the Northeast; eight provinces in the East; six provinces on the west coast of the South; and eight provinces on the east coast of the South. Similar agreements are under preparation with agencies in the upper central and lower central regions.

95. The regional MOUs empower the Provincial Operations Center to establish a Rescue Operations Unit in the form of a multi-disciplinary team, composed of: police; an administrative officer; social workers; a psychiatrist; a physician; an interpreter; any other people concerned. Any province which has the capacity to organize the Rescue Operations Unit in the form of a multi-disciplinary team at the district level, may do so as appropriate. The district Rescue Operations Unit is tasked with identifying risks; rescuing victims; interviewing and screening victims; and referral for rehabilitation and reintegration. The Unit is required to report its implementation to the Provincial Unit.

#### **Victim assistance**

96. Assistance of victims can be categorized into four main processes as follows:

- (1) Rescue and provision of shelter and appropriate services.
- (2) Legal protection and support.
- (3) Rehabilitation and reintegration; and

(4) Monitoring and evaluation.

97. Protection and assistance of victims involve various steps, including:

(1) Receiving complaints/reports, or surveillance, or receiving requests for assistance;

(2) Rescuing victims from prostitution establishments and other residential settings; investigation or verification of complaints; and evidence gathering for prosecution purposes;

(3) Screening victims (referring non-victims to appropriate competent officers under other laws to provide necessary assistance as provided under such laws);

(4) Support for prosecutions of offenders and witness protection;

(5) Referral to welfare homes, welfare and occupation centers, remand homes/protection and vocational training centers, emergency homes or any other forms of protection facilities as appropriate;

(6) Fact-finding and assessment of victims;

(7) Data coordination;

(8) Preparedness programme prior to repatriation;

(9) Repatriation;

(10) Reintegration;

(11) Monitoring and evaluation.

98. Services for victims are provided by many agencies, mainly the Department of Social Development and Welfare, the Center for the Protection of Children's Rights Foundation, the Foundation for Women; the Child Development Foundation, FACE, the Anti-Trafficking Unit in the North of Thailand, World Vision Foundation of Thailand.

99. Services for victims of trafficking provided by the aforementioned agencies and approximately 25 other agencies working in relation to rescuing and assisting children and women who are victims of trafficking include: provision of safe shelters; dissemination of information on victim assistance; translation and interpretation support; rehabilitation; self-adjustment; life-skills training; education on HIV/AIDS; counseling; physical and psychological care; vocational training; job placement and recreation. Cultural and religious beliefs of victims, as well as victims' appropriate development, are taken into account. If the victim is a child, further assistance is given to the child's family and in the judiciary process.

100. Currently there are 104 remand homes for trafficked victims in the country, supervised by the Department of Social Development and Welfare. The Government has now designated seven main protection homes located at various regions in the country for foreign victims. These are:

- Kredtrakan Protection and Occupational Development Centre at Nonthaburi Province for girls and Pakkred Remand Home for Boys (Central)
- Narisawat Protection and Occupational Development Centre in Nakhon Ratchasima Province (Northeast)
- Song Kwai Protection and Occupational Development Centre in Pitsanuloke Province, Chiang Mai Home for Boys and Chiang Rai Home for Children and Family (North)



- Srisurat Protection and Occupational Development Centre in Suratthanee Province (South)

101. Operational guidelines for assisting trafficked victims, as stipulated in the MOU on common guidelines of practices for agencies concerned with cases where women and children are victims of human trafficking, include:

(1) During the course of rescuing women and children, there shall be restrictions on photographing, display or distribution of photographs, dissemination of photographs or sound recording, or broadcasting the voice of any individual who is an injured party, or witness, or restriction on advertisement, or dissemination of content or publishing of article, audio or visual materials regardless of type of media, restriction on disclosure of personal data and history, place of residence, workplace or educational institution of any individual, who is a witness or injured party, unless it is deemed necessary to act in the best interest of the victim or provide protection and assistance to the injured party or witness;

(2) A social worker, psychologist, psychiatrist, interpreter or a professional on children and women must participate in the initial inquiry and investigation of the injured party and such inquiry shall be recorded on video and audio tape to be used as evidence;

(3) In the case where an offence took place when the child was under 18, but was discovered when the child was over that age, the offenders are to be prosecuted for their crime against a child under 18 years of age;

(4) In the case where the injured parties assert that they are over 18 years of age without any proof of ID cards or any other forms of identification, and there is reasonable doubt that their assertion is untrue, the investigating officers or the officials of the Department of Social Development and Welfare shall arrange medical examinations, to rule whether the injured parties are 18 years old or younger. While awaiting the examination results, the injured parties shall be interrogated in accordance with the special procedures for children under the Amended Criminal Procedures Code;

(5) In the case where the injured party is a child who is an alien or non-Thai, the principle of the Amended Criminal Procedures Code in relation to the protection of children in the justice system shall be applied;

(6) There are similar procedures dealing with Thai children and women who were trafficked overseas and repatriated to Thailand, in terms of information sharing with Thai embassies and consuls in the countries to which they were trafficked, as well as repatriation, prosecution, reintegration and follow-up.

### **2.3 Development of mechanisms and network to prevent and address human trafficking**

102. In addition to assistance and protection of victims, Thailand has implemented various capacity-building programmes and activities, including:

- (1) Workshops on law enforcement;
- (2) Workshops on repatriation process;
- (3) Training on interviewing skill and collection of victims' data;
- (4) Training for interpreters to assist in the interview and collection of victims' data;
- (5) Training on repatriation and reintegration skills;
- (6) Training of trainers for awareness-raising on human trafficking;
- (7) Life skills training for girls;

- (8) Short-term vocational training for children and women from at-risk highland communities during school breaks;
- (9) Workshops on volunteer networks to assist Thai women abroad;
- (10) Development of a website to raise awareness on child labour.

#### **2.4 Child labour**

103. Under the Labour Protection Act of 1998, the minimum working age is now 15 years. Children between 15–18 years old are forbidden from being employed in certain types of work which are considered hazardous and in certain venues. It requires employers to inform the labour inspectors whenever children are employed within 15 days of the employment and within 7 days of the termination of the employment. The legislation not only protects children from exploitation by employers but also supports anti-trafficking efforts.

104. The Provincial Operations Center for Child and Female Workers was established to coordinate with relevant agencies, both State and non-governmental, at the central and provincial levels, in terms of data collection and legal assistance to child and female workers who have been exploited. A child labour protection and prevention plan and regulations have been enforced, focusing on the:

- (1) Development of a specific operational plan on child labour, to ensure equal protection for both Thai and foreign child workers under the Labour Protection Act;
- (2) Stringent measures against violators of the Labour Protection Act of 1998;
- (3) Prosecution of employers who employ children under 15 years of age or engage them in hazardous work which is forbidden under the Labour Protection Act of 1998;
- (4) Establishment of 24-hour hotlines to receive complaints and reports on child labour violations and provide counseling.

105. To ensure appropriate linkage between child labour protection and multi-disciplinary assistance to victims of human trafficking, the Ministries of Labour and Social Development and Human Security, through the Sub-Committee to Combat Trafficking in Women and Children, are in the process of developing a set of guidelines on the prevention, protection and assistance to victims of trafficking for forced labour, expected to be enforced in 2008.

### **C. 3. Examples of protection of children from human trafficking**

106. The World Vision of Thailand was notified by the surveillance volunteers in Mae Sot District, Tak Province about four girls and boys of Burmese origin, aged between 7–12 years, being detained in the community. Officers of World Vision coordinated with the provincial police and rescued the children on 23 February 2007. From questioning of the children and witnesses it transpired that a Burmese agent had lured the mothers of the victims to bring the victims to another agent in Mae Sot District. The victims were being detained awaiting the arrival of yet another agent to take them to Bangkok to sell flowers on the streets, when the rescue team arrived. At present, the victims are in the care of the provincial home for children and families, awaiting referral for appropriate rehabilitation according to the guidelines on assistance to victims of human trafficking before eventual repatriation.

107. The suspects who were arrested for being trafficking agents were not charged with the offence under Section 5 of the Measures in the Prevention and Suppression of

Trafficking in Women and Children Act of 1997 due to lack of circumstantial evidence. In this case, the agent who received and brought the victims into the Thai border was charged, at the inquiry stage, with the offence under the Immigration Act of 1978 and the offence of taking away a minor not yet over 15 years from parents. However, the public prosecutor proceeded only with the charge of the offences committed under the Immigration Act. The Court sentenced the offender to imprisonment of three months. As illustrated by this case, weaknesses still exist and challenges remain for practitioners in the justice system in regard to anti-transnational trafficking. The following measures are needed:

- (1) Development of mechanisms and tools to enhance international cooperation; increase district-to-district coordination and strengthen data collection and planning;
- (2) Development of incentives for victims and families to cooperate with the police;
- (3) Training of relevant authorities, particularly the border patrol police, to improve their knowledge and understanding of human trafficking; training of female investigators for human trafficking cases;
- (4) Increase cooperation among communities, State and non-governmental sectors, to counter interventions by agents to induce child victims back to Myanmar.

#### **D. 4. Recommendations**

108. The aforementioned case illustrates the importance of family cooperation. It also points to the need to improve the necessary knowledge and skills of the relevant authorities in relation to anti-human trafficking efforts and to develop tools, mechanisms and networks to improve protection of victims, particularly in terms of international cooperation.

109. Despite Thailand's consistent efforts to address the sale of children, child prostitution and child pornography and some positive gains, challenges still remain and need careful consideration and resolution. The State should take into account the overall situation of children and families and provide initial assistance to them in regards to their economic and social wellbeing.

### **V. Prevention of the sale of children, child prostitution and child pornography**

#### **A. Prevention of the sale of children and child prostitution**

110. Developments over the past decades have significantly changed the face of Thai society. The focus on economic, rather than social, development; adaptation of values towards capitalism and materialism; and contact with Western cultures have all contributed to the change in traditional aspects of Thai family structure, most importantly the change from extended family to nucleus family. In the urban areas, often both parents are engaged in economic activities, leaving their children in the care of child minders or day-care institutions. In the rural society, children are very often left with elderly grandparents, while parents move away to search for better economic opportunities in towns. Modernization of communication has made it easier for human traffickers to exploit at-risk groups, most often children and women, luring them into unskilled labour and non-formal market. Globalization has made trafficking networks more complicated and difficult to reach and at the same time pushed up the demand for child and female labour.

111. Thailand places great importance on preventative measures, recognizing that deprivation of education and occupation opportunities is one of the key factors that push children into the hands of traffickers. The Government is employing several strategies to prevent induction and trafficking of children into prostitution. These include:

### **1. Education**

112. The foundations of preventive measures against trafficking are the Thai Constitution, past and present, which ensures equal right to education; National Education Act of 1999 which ensures the right of all children born in Thailand to free basic education of at least 12 years; and the Compulsory Education Act of 2002 which requires all children born in Thailand to attend nine-year compulsory education. Education sector enjoys the highest allocation of the government budget, approximately 18 per cent of the overall budget in 2006 in addition to budget from the private sector and local administrative organizations.

113. The Thai Government also recognizes the importance of ensuring equal access to education of deprived and disadvantaged children. The Committee on Strategy Development for Deprived and Disadvantaged Children was established to formulate integrated policies and remedial measures, both long and medium terms, and guidelines for mobilization and management of resources for effective implementation in pursuant to the National Education Act of 1999.

114. The Cabinet passed a resolution on 5 July 2005 expanding educational opportunities for disadvantaged children and allocating budget to educational institutions that accommodate children who have no Thai nationality or formal document, such as a house registration. The budget was allocated based on expense per student, covering from pre-school to higher secondary education. It requires the Ministry of Education to arrange suitable education module for displaced children, fleeing persecution, who have sought temporary asylum in Thailand. It requires the Ministry of Interior to develop a database of children without Thai nationality and formal document and permit these children to travel for the purpose of education within the duration of such curriculum.

115. Some of the key activities include:

- (1) Scholarship for 79,000 deprived students;
- (2) Scholarship at the tertiary level for students from district and sub-district levels according to the needs of the localities and of the children;
- (3) Scholarship for street children, children with disabilities, orphans and children affected by HIV/AIDS, totaling 11,000 children;
- (4) Supporting programmes and activities that aim to address the needs of street children, children with disabilities and orphans;
- (5) Supporting formal and non-formal education for people with disabilities and disadvantaged people, including:
  - Formal basic education for people with disabilities and non-formal education for people with disabilities in the form of continuous education equivalent to basic education
  - Welfare schools and assistance to disadvantaged children in the non-formal system through the provision of continuous education equivalent to basic education to 1,666,620 children; literacy programme for 279,083 children; and short-term training on life skills for 669,579 children
  - Establishment of loan fund for education

- Bicycle on Loan Initiative, encouraging schools to lend bicycles to deprived students for the duration of their education

116. Efforts have been made to reform the quality of education with a focus on life long learning by investing in capacity-building of teachers for child-centered teaching and learning; requiring all educational institutions that provide basic education to establish internal quality control systems; and encouraging participation of families, communities, NGOs and religious institutions in the provision of education.

117. According to the data of the Ministry of Education, the attendance rates of children in various age groups have been increasing, particularly at the secondary level, during the period of 2005–2007, with a slight drop in 2007 at the pre-school and tertiary levels.

Table 5

**Attendance rates of preschool-tertiary students nationwide for 2005–2007 academic years**

<i>Level</i>	<i>Age group</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
Preschool	3–5	73.67	75.03	74.27
Primary	6–11	102.13	103.47	101.02
Lower secondary	12–14	95.46	96.66	96.95
Higher secondary	15–17	65.55	65.77	68.55
Tertiary*	18–21	53.37	68.05	59.74
<b>Total</b>	<b>3–21</b>	<b>80.78</b>	<b>84.69</b>	<b>82.54</b>

*Source:* Operations Center, Communication and Information Technology Center, Office of the Permanent Secretary, Ministry of Education.

\* Not including post-graduate students.

118. The Royal Thai Police has designated its officers to campaign in schools to raise awareness on human trafficking and self-protection, such as warning children to be cautious when talking to strangers or when playing in secluded areas.

## 2. Tourism

119. The Thai immigration policy of issuing visas on arrival at the immigration check point has made it easy for foreigners to stay in the Kingdom and secure jobs as English teachers. Some are involved in sexual exploitation of children. Efforts have been made by the Thai Government to address the problem through legislation measures, notably those prescribed under the Immigration Act of 1979 and the operational guidelines of the Royal Thai Police to prevent persons with suspicious behaviours or motives from entering the Kingdom. Any alien who falls into categories 7 and 8 under Section 12 of the Immigration Act of 1979 is to be reported to the Immigration Commission. If the Commission deems it necessary to revoke the person's residence permit, it will make a recommendation to that effect to the Ministry of Interior.

120. The Tourism Authority of Thailand and the Ministry of Tourism and Sports have combined their efforts against sex tourism, taking strict measures against travel and transportation agencies involved in sex tourism. The Ministry of Tourism and Sports also supports End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) International, Child Wise and Accor Asia Hotel in the implementation of "the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism". Training has been organized for provincial tourism agencies and members of the private tourism sector on how to cope with suspected and actual cases of child sex

tourism and preventive measures. Approximately 6,000 employees of Accor Asia Hotel have been trained on detection of signs of child-sex tourism while hotel guests are informed of the hotel policy regarding child protection. Training has been organized for business operators on the prevention of sex tourism. Police officers under the Police Command for Elimination of Wrongdoing against Children, Youth, and Women, which was established to be directly responsible for human rights protection of children, youth and women, have been designated to carry out surveillance and investigation, and to notify the Tourist Police of any suspected cases of child-sex tourism.

### 3. Child labour

121. Activities planned in 2008 by the Ministry of Labour to prevent exploitation of children in the labour market include:

(3.1) Preparedness programme prior to entry into the labour market, targeting lower and higher secondary students and vocational students. The programme aims to familiarize those children who do not want to continue to higher education and intend to go into the labour market on their rights under the labour laws and correct work concepts to prevent them from being lured into unlawful activities. The programme is in line with the Safety in School Project under the Department of Labour Protection and Welfare;

(3.2) Public education on the prevention of child labour and remedial measures, targeting employers, employees, child workers, students and the general public in 75 provinces, including:

- 2,700 participants each from 25 provinces: Chainart, Trat, Nakorn Nayok, Samut Songkram, Srakaew, Singburi, Angthong, Nan, Payao, Prae, Mae Hongson, Sukhothai, Uthraditr, Uthaithani, Nakorn Phanom, Mukdaharn, Yasothorn, Loei, Srisaket, Nongbualumpoo, Amnartcharern, Narathivas, Phangnga, Pattalung and Satul
- 3,000 participants each from 25 provinces: Chantaburi, Petchaburi, Suphanburi, Khampaengpetch, Chiang Rai, Tak, Pichit, Pitsanulok, Petchbhun, Kalasin, Chaiphum, Buriram, Mahasarakham, Roi-et, Sakolnakorn, Surin, Nongkai, Udonthani, Ubol Ratchathani, Krabi, Chumporn, Trang, Pattani, Yala and Ranong
- 3,300 participants each from 25 provinces: Nakorn Pathom, Pathumthani, Nonthaburi, Samut Prakarn, Samut Sakorn, Karnchanaburi, Prajuabkirikhan, Prachinburi, Ayudhdhaya, Rayong, Ratchburi, Lopburi, Sraburi, Chiang Mai, Nakornsawan, Lumpang, Lumpun, Khonkaen, Nakorn Ratchasima, Phuket, Songkla, Suratthani, Choburi and Chacheongsao

122. The public education campaign mentioned above aims to raise awareness and improve knowledge on rights and responsibilities according to the laws; provide information relevant to children and the general public in the rural areas; mobilize communities to take part in anti-child labour exploitation efforts through mobile units equipped with audio and video players, loudspeakers and communication materials. Activities are organized in collaboration with relevant agencies, such as provincial job placement offices, agencies under the Ministry of Social Development and Human Security, provincial public health offices, hospitals, provincial skills development centers and educational institutes. A public education campaign at the local level is coordinated with relevant local administrative organizations, village headmen, the village committee or village volunteers, using such venues as temple grounds, schools, and village welfare centers. At least 50 participants are encouraged to attend each meeting. In the case where the campaign is to be organized at a workplace, an employer or owner of the business will be notified in advance.

123. 3.3 Operations Center to Assist Child and Female Workers. Meetings are organized once or twice a year with executive committees of the centers, in order to:

- (1) Formulate an operational plan to prevent and eradicate the worst form of child labour;
- (2) Provide recommendations and support for the prevention efforts and solutions to the problem of termination of employment;
- (3) Recommend actions for the protection of special groups, such as child and female workers and non-formal workers;
- (4) Coordinate activities and labour-related information;
- (5) Prevent efforts to lure children into unlawful activities or exploitation;
- (6) Prepare children who wish to enter the labour market on their rights and responsibilities under the laws, work ethics and labour market information;
- (7) Campaign against child labour exploitation at the village level;
- (8) Establish networking and coordination systems with relevant government agencies within the provinces and between provinces and the central government.

#### **4. Policies and plans for the prevention of the sale of children and child prostitution**

124. To ensure that preventive actions against the sale of children and child prostitution are integrated, the National Sub-Committee to Combat Trafficking in Children and Women has specified prevention as the first among seven core components of the National Policy and Plan on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women. The prevention plan is to be implemented at every level: community, provincial and international, focusing on capacity-building and awareness-raising of families, communities and society at large. Key measures include:

- (1) Social services for all. Supporting educational services, both formal and non-formal, employment counseling, health and recreational services, etc.;
- (2) Public education campaign via the media, print and electronic. Production of information materials to raise awareness on human rights, child rights, women's rights and related laws, and the magnitude of human trafficking, targeting the general public, high-level executives, children, families, government officials and non-governmental organizations;
- (3) Training and workshops for police officers, teachers, social workers, psychologists, immigration police, public attorneys, public health officers, staff of non-governmental agencies, the media, families and communities. The objective of the training is to instil correct attitudes and values towards children and women, particularly victims of human trafficking;
- (4) Strengthening family and community institutions by encouraging the public to participate in local decision-making and planning in the form of a public forum. Strengthening the technological and legislative capacities of local organizations, non-governmental organizations and surveillance groups, particular in the at-risk areas;
- (5) Pro-active measures, including sending officials concerned with protection and assistance for trafficked children and women to coordinate with relevant agencies abroad; and increasing opportunities for experience sharing at the international level, or designating officials responsible specifically for providing assistance to children and women abroad as requested by the Ministry of Foreign Affairs;

(6) Integrating into all school and training curricular such issues as human rights, child rights and women's rights, life skills, sex and family education;

(7) Campaigning against commercial sexual exploitation of children and women and child labour.

125. Projects and activities implemented under the National Policy and Plan on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women of 2005–2007 totaled 152 (including the aforementioned projects and activities). These are:

(1) Capacity-building of Baan Mae Jun School for the prevention of trafficking in children and women. The school is used as a base for prevention efforts and students are at the center of activities aimed at preparing disadvantaged children for occupational training;

(2) Occupational and livelihood support implemented by the Department of Industrial Promotion, aimed at assisting the rural population securing sustainable occupations and improving their economic conditions, thus reducing social problems stemming from poverty and unemployment;

(3) Project to strengthen local networks for family development, implemented by the Office of Women's Affairs and Family Institution in collaboration with provincial agencies and local administrative organizations nationwide;

(4) Integrated Development of Highland Communities Project, to prevent trafficking in children and women in Chiang Rai, focusing on empowerment of families and development of occupation skills in eco-tourism;

(5) Coordination for the Prevention and Resolution of Trafficking in Women and Children for Labour and Sexual Exploitation Project, involving capacity-building of provincial agencies, government and non-governmental, in terms of knowledge, detection tools, standardized and up-to-date database on human trafficking for effective planning and awareness-raising; and assistance to children and other target groups;

(6) Public education campaign via radio and television to raise awareness of communities on human trafficking and encourage them to take part in surveillance and notification of suspected cases via 24-hour hotlines, implemented by the Ministry of Social Development and Human Security, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Interior, Office of the Attorney-General, and the Royal Thai Police;

(7) Workshops at the national and local levels, aimed at capacity-building of child and youth councils to prevent human trafficking. The workshops were organized by the Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups. The workshops were attended by 300 representatives from child and youth councils in 75 provinces, 40 members of the Bangkok Youth Council, and 80 officials. The councils were given some funds for their activities aimed at dissemination of information and raising awareness against human trafficking.

126. The Sub-Committee to Combat Trafficking in Children and Women is in the process of assessing and evaluating the implementation of the National Plan, expected to be completed by the end of 2008.



## **B. Prevention of the production and dissemination of child pornographic materials**

127. Economic and societal changes brought on by modernization and globalization have seen a number of children being left without proper care and guidance by parents and inundated with various types of media. The report for the fourth quarter of 2005 released by the Office of the National Economic and Social Development Committee pointed out that children in primary schools preferred to read pornographic comics while those at secondary and undergraduate levels preferred to view pornographic videos. Television consumption of children is an issue of concern. Market competition has driven television producers to focus on popularity and rating, often at the expense of morality and age-appropriateness of content and images. The Child Watch Report of 2005–2006 by Ramjitti Institute stated that secondary school and university students spent up to 140–160 minutes a day watching television. Children have a tendency to imitate their idols and try to gain acceptance among friends, putting them at some risk of being drawn into inappropriate activities.

### **1. Action taken to prevent the production and dissemination of child pornographic materials**

128. An independent body was established to be responsible for frequency allocations and management, and regulation of telecommunications services, namely the National Telecommunications Commission. It is responsible for ensuring that telecommunications services are conducted in a manner which takes into account the best interests of the public, national and local, in terms of education, cultural, security and other public interests; and promoting free and fair competition. The Office of the National Telecommunications Commission is responsible for the general affairs of the National Telecommunications Commission. Some of the projects and activities which aim to prevent child pornography include:

(1) Ensuring that licensed telecommunications and internet service providers carry out their businesses strictly according to the terms and conditions of their licenses;

(2) Establishing channels for receiving complaints of any usage of telecommunications services in a manner which is deemed harmful to the peace and good morals of the public. The Commission has formulated a consumer protection plan under the Telecommunications Consumer Protection Institute;

(3) Conducting regular visits and information-sharing meetings with telecommunications operators and internet service providers to establish a common understanding on how to prevent child pornography via telecommunications and the internet;

(4) Collaborating with relevant agencies, such as the Ministry of Information and Communication Technology, the Office of the Prime Minister, the Ministry of Culture, and the Royal Thai Police, in the formulation of guidelines and measures to prevent and address the problem.

129. The Computer Crime Control Act B.E. 2550 (2007), section 14, stipulates that “whoever enters wholly or partially obscene computer data into computer system and that computer data may be accessible by the public shall be liable to imprisonment for a term of not exceeding five years or to a fine not exceeding one hundred thousand baht or both”. Section 21 stipulates that if it appears to the competent officials that any computer data contains such obscene data, the competent officials may file a request before the court to ban the sale or distribution of such computer data, to order the owner or possessor of that computer data to stop using, destroy or modify that computer data which is inappropriate and could be harmful to minors. Section 26 stipulates that “a service provider shall maintain

computer traffic data for not less than ninety days as from the date that data entered into the computer system” in order for competent authorities to use as evidence and to prosecute whoever enters such data into the computer system.

130. The Ministry of Information and Communication Technology organized a total of seven seminars aimed at improving awareness and understanding of inappropriate use of the internet and the enforcement of the Computer Crime Act of 2007 in Bangkok and the regions. It has also implemented the “Cyber Care Project”, aimed at suppressing inappropriate dissemination of materials via the internet. The project has been divided into the following sub-projects:

(1) Cyber Clean, a collaboration with relevant agencies to create a learning society via the internet. The Cyber Clean logo, containing the contact address ([www.cyberclean.org](http://www.cyberclean.org) and [signin@cyberinspector.org](mailto:signin@cyberinspector.org)) for notification of any indecent websites or messages on the internet, was posted on internet websites;

(2) The Gatekeeper Project, aimed at barring inappropriate websites from abroad by installing gateway filters to screen and authorise websites;

(3) The Housekeeper Project, aimed at providing tools for parents and teachers to better supervise children and youth regarding computer and the internet, including:

(3.1) Smart Gamer, allowing parents to set time limits for both off-line and on-line computer games;

(3.2) Kiddy Care, screening inappropriate websites and allowing parents to personally check applications;

(3.3) People Clean, facilitating easy notifications of inappropriate websites by the internet users with just one click of a button. More information on this can be obtained by visiting [www.ichousekeeper.com](http://www.ichousekeeper.com).

(4) Workshops and technical meetings at schools to disseminate knowledge on internet harm and appropriate use of the computer, and to give demonstrations to parents and teachers on the application of the “Gatekeeper Programme”. Copy discs of the Gatekeeper software were disseminated to educational institutions and the interested public.

131. During the years 2004–2005, the Ministry of Culture and the Ministry of Information and Communication Technology have jointly developed a software programme called “Web Guard” to bar access to inappropriate websites. Approximately 20,000 copies of the software CDs were produced and disseminated to schools nationwide. However, only 300 individual computers have actually registered to use the software. During the same period, another piece of software called “Swing” was developed to facilitate reporting of suspicious websites. In 2006, the Prime Minister’s Office established a 24-hour hotline, 1111, the website [www.thaicypcop.com](http://www.thaicypcop.com), and F.M. 105 radio (aired between 3–5 pm everyday) to encourage the public to get involved and report incidences of pornographic materials. The Obscene and Pornographic Materials Elimination Center was also established to take a leading role in arresting and prosecuting those involved in the trade. The Centre liaises with Internet service providers (ISPs) and serves to ensure that pornographic materials are removed from the Web.

132. Cooperations between State agencies and the private sector can be seen from such project as “Partners in Learning”, a five-year partnership between Microsoft Thailand and the Ministry of Education. Under this programme, an on-line community ([www.pil.in.th](http://www.pil.in.th)) was launched to promote knowledge sharing among teachers and provide an e-learning resource on Information Communication Technology (ICT) skills which can be transferred to students. Training has been targeted for 20,000 teachers. It also promotes safe internet

use. A comic book was produced and disseminated to teach the general public and children about the dangers of the internet.

## 2. Action taken against television pornographic materials

133. The Government recognizes the influence of the media on people's learning and development. Research conducted by the Ministry of Culture, in cooperation with academic institutes, found that the media is one of the factors which contribute to societal problems and culturally deviant behaviors. It was found that children and youth have a tendency to imitate what they have seen on television, including the use of violence and coarse language. The Cabinet passed a resolution on 27 December 2005, approving the recommendation of the National Committee for the Promotion of Creative Media that the Ministry of Culture establish a rating system for all types of media. On 28 March 2006, the Cabinet approved the allocation of central budget of the Ministry of Culture for the development and enforcement of the rating system. The proposal by the Ministry of Culture has been submitted to the Cabinet for approval and translation into law or policy.

134. The National Broadcasting Commission under the Public Relations Department collaborated with six radio and television stations on the development of programme classification system. On 1 December 2006, classification symbols were launched, introducing radio and television audience to the concept of age-based classification of programme content. The classification system is expected to be the first step towards self-regulation by the television industry. On 5 June 2007, the Cabinet passed a resolution designating responsibilities for the development of television classification system as follows:

135. The Public Relations Department is to:

- (1) Develop a system of programme classification, including quality assessment and age-based classification of programmes, and a system of time zones for content;
- (2) Formulate laws and policies supporting the development of the classification system for television programmes and introduce the system to television stations and other relevant people.

136. The Ministry of Culture is to:

- (1) Develop necessary structures and mechanisms in support of the establishment and application of a media classification system, allowing the public to take part in the monitoring, surveillance and evaluation of the system; and form a sub-committee comprising representatives from the Ministry of Culture, the Ministry of Social Development and Human Security, the Ministry of Education and the general public;
- (2) Disseminating knowledge on the classification of media content and campaigning for active participation by the public in the classification of media content, including publicizing the importance of, and channels for, such participation.

137. These measures aim to improve the educational values of television programmes for the child and youth audience and protect them from inappropriate consumption of television. A number of agencies, both public and private, took part in the development of the classification system, most notably all six television networks and the Federation of Broadcasters Association. Television stations must first and foremost follow the guidelines prescribed under the Ministerial Regulations No. 14 of 1996, Article 16 of the Ministerial Regulation No. 15 of 2000 and related rules and regulations. Television programmes are classified into four categories, represented by seven symbols indicating age-appropriateness of such contents, as follows:

(1) “ด” represents a programme suitable for viewers aged between 2–12 years. A jigsaw symbol is used to represent a mixture of substance and entertainment which can be expected from the programme. Within this category, “ก” is used to represent a programme suitable for pre-school children, aged between 2–6 years, symbolized by a pink smiling face;

(2) “ท” represents a generic programme, suitable to all age groups, symbolized by a picture of green house;

(3) “น” represents a programme which should be viewed with parental guidance, sub-divided into:

“น 13” for viewers under 13 years; and

“น 18” for viewers under 18 years, symbolized by orange tick and cross marks to indicate both positive and negative sides of the programme;

(4) “จ” represents a programme which is suitable only for viewers over 18 years, symbolized by a red lightening strike to indicate mature images, sounds or content.

Programmes that are not subject to classification include:

- (1) News and current affairs;
- (2) Programmes shorter than 15 minutes;
- (3) Some live broadcasts, such as royal ceremonies, seminars, concerts and sports events.

The classification of content is based on five criteria:

- (1) Physical violence;
- (2) Sexuality and nudity;
- (3) Coarse and impolite language;
- (4) Drugs and illicit substances;
- (5) Opposition or violation of a person or group of persons.

138. The Ministry of Culture is in the process of applying a system of classification to the internet, print media and motion pictures.

### **C. Participation of State agencies, private sector, community organizations and the public sector**

139. Joint efforts in the form of networks between the public and private sectors to raise public awareness on the sale of children, child prostitution and child pornography include:

(1) “Internet Adeptness Project” by the Center for Girls, aimed at improving life-skills of school students to protect themselves from internet harm;

(2) “Working together to Stop Violence against Children in East Asia and Pacific” Project, supported by UNICEF in 2005, providing a forum for children to share their views on violations against children with the United Nations Secretary-General;

(3) Development of social mechanisms for the protection of sexually abused children in the form of networks of community child protection volunteers, taking part in receiving complaints of child abuse and assisting victims;

(4) Supporting youth groups to take a lead role in campaigning against the sale of children and child pornography, with activities ranging from training, camps and drama to community radio;

(5) Training and capacity-building of children and youth as leaders in the prevention efforts, enabling them to take a lead role in the surveillance of rights violations, dissemination of relevant information in schools and communities, and providing counseling to their peers.

## VI. International assistance and cooperation

### A. 1. Prevention

140. State agencies and non-governmental organizations of Thailand have cooperated with foreign governments, international non-governmental organizations, the United Nations and other international bodies to address the fundamental causes of children's vulnerability, namely poverty and underdevelopment, which place them at risk of being trafficked or exploited for indecent purposes. Some of the key activities and processes in which Thailand has actively participated include:

141. 1.1 A regional campaign to fight child trafficking in Southeast-Asia, named Asia against Child Trafficking (ACTs), was launched in 2001. The campaign is aimed at raising awareness and empowering communities to protect children from trafficking. Local NGOs from the region, including a number of local Thai organizations also participate in this on-going campaign.

142. 1.2 In May 2003, Thailand and Cambodia signed an MOU on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking. Similar MOUs have been signed with the Lao People's Democratic Republic and Vietnam in July 2005 and March 2008 respectively. The MOUs focus on the repatriation and rehabilitation of trafficking victims, and training to increase prosecution rates. Similar agreements are in the process of discussion with China, Japan and Myanmar.

143. Such cooperations have seen a reduction of trafficking victims who are foreign nationals, namely from China, the Lao People's Democratic Republic, Cambodia, Vietnam and Myanmar, as can be seen from Table 1 in Chapter 1. In this connection, temporary shelters and transit centers have been set up in Cambodia, the Lao People's Democratic Republic and Vietnam to receive trafficking victims returned from Thailand. Thailand and Yunnan Province of China have jointly established focal points for coordinating action against transnational crimes, including human trafficking. The focal point of Thailand is established within the Royal Thai Police, while the counterpart in China is based within the International Cooperation Division, Yunnan Provincial Public Security Department.

144. 1.3 In 2006, the Ministry of Tourism and Sports, in cooperation with the Ministry of Social Development and Human Security, hosted a Mekong sub-regional seminar on cooperation with the tourism sector against human trafficking. The Ministry of Tourism and Sports has also formulated national strategies for the prevention of sexual exploitation of children in tourism.

145. The Tourism Authority of Thailand is working with different international representatives from governments of child sex tourism-sending countries, United Nations agencies (such as the World Tourism Organization and UNICEF), international NGOs (including ECPAT International) and international private businesses, to strengthen its efforts to combat the commercial sexual exploitation of children in tourism. Some key elements include: adaptation of Thailand's image to that of a family destination by

educating tour operators around the world about the Thai Government's stance against child-sex tourism; promoting extraterritorial legislation and training of the Tourist Police. The Tourism Authority of Thailand (TAT) also adopted the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

146. 1.4 At the policy level, UNICEF has forged cooperations at the national and international levels for capacity-building and establishment of child protection systems to reduce poverty and vulnerability of children. During the period 2007–2011, a child protection system will be established in 25 provinces of Thailand. In 2007, the system was piloted in six provinces which have been affected by Tsunami. The objective is to protect children from abuse, neglect and all forms of exploitation, focusing on close cooperation between the public and private sectors. UNICEF have also coordinated with various agencies at the international level to formulate measures and guidelines for child protection, particularly in relation to the children who are at risk of being trafficked and exploited, such as those in Aranyaprathet District of Thailand. A meeting was jointly held by Thailand and Cambodia to discuss measures to prevent exploitation of children, such as child beggars, and procedures for internal assistance and safe migration.

147. 1.5 According to the global report on child labor of the International Labor Organization, of all children engaged in child labor around the world, 70 per cent are working in agriculture. The outcome of the meeting in November 2006 pointed to the need for increased efforts and measures to address the problem of child labor in agriculture in the next four years. Research into child labor in agriculture in Thailand in the past two years has found that these children lack water, have to haul heavy loads of produce over 25 kilograms, lack protective equipment and are exposed to toxic pesticides. Many have to work longer than eight hours, work at night or irregular hours. Given the situation, the International Labour Organization (ILO) East Asia Regional Office, in cooperation with the Ministry of Labor, the National Child and Youth Development Council, the Foundation for Child Development, Central Pattana Public Company Limited and the International Rescue Committee organized a World Day against Child Labor on 12 June 2007. Thailand observed the World Day against Child Labor on 12 June 2007. The event was organized at the centre of the business district in Bangkok, the Central World and attended by approximately 600 people, including students from the rural and Bangkok areas; representatives from relevant agencies; employers; employees; migrant workers network; United Nations agencies and the media. The objectives of the event are to make children and youth engaged in child labor aware of the potential hazards of agricultural activities and of a safe working environment; and promote campaigns to stop child labor in agriculture.

148. 1.6 Since 2005, activities and processes supported by the Ministry of Labor in cooperation with the ILO to prevent and find solutions to the trafficking problem include:

(1) The Mekong Project to Combat Trafficking in Children and Women (TICW), addressing the trafficking problem in the six countries of the Mekong sub-region. It focuses on improving working standards and labor protection and promoting cooperation under the MOU on cooperation to combat trafficking in children and women;

(2) The Sub-regional Advisory Committee, a sub-regional policy coordination process. Activities include awareness-raising; training and handicraft skills development; and research into capacity-building for management of labor migration and prevention of trafficking in children and women for labor exploitation.

149. 1.7 On 28–29 November 2007, a national seminar on “Achieving Goals and Promoting Partnerships at the Sub-regional level on Trafficking for Labor Exploitation” was organized to review the progress and achievements of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) and to publicize and disseminate a

guidebook called “Travel Smart – Work Smart Guides” for foreign migrants seeking work in Thailand. The seminar was attended by high-level officials from Cambodia, China, Lao PDR, Vietnam and Thailand.

## **B. 2. Victim protection**

150. International cooperations regarding victim protection include:

(2.1) Physical and psychological rehabilitation, including:

(1) Five projects concerning prevention of commercial sexual exploitation of children, targeting at-risk groups, including children from ethnic minorities, stateless children, street children, children from broken families and children affected by HIV/AIDS, with technical support from ECPAT International and financial support from Group Development, the British Embassy and the European Union;

(2) AIDS prevention and integrated reproductive health services for laborers and those engaged in sex service along the borders of Chiang Saen District and Mae Sai District of Chiang Rai and people in the communities. This is an inter-country project, involving Thailand, Myanmar, Lao PDR and China, funded by the International Planned Parenthood Federation (IPPF);

(3) Awareness-raising for at-risk groups and youth through a cartoon animation called “Thang Su Fun Khong Jun Gup Dao”, funded by the International Organization for Migration and Population, Refugees and Migration (PRM);

(4) Surveillance schools, educating secondary school and university students in nine provinces in the North on human trafficking to take precautions and report incidences (Anti-Trafficking Coordination Unit Northern Thailand (TRAFCORD));

(5) Child participation in the prevention of the commercial sexual exploitation of children, including supporting youth radio and community drama, child and youth assemblies, child rights seminars and workshops, activities on Child Rights Day (by ECPAT Chiang Rai with financial support from Group Development, the British Embassy and the European Union);

(6) Strategies for responding to human trafficking problem in the Mekong Delta to reduce the number of trafficking victims, internally and inter-country (World Vision with financial support from Australia);

(7) Protection Home and Child Rights Protection for Mekong Community (Development and education program with support from the United States);

(8) Human Resource Development for Staff Involved in Recovery and Reintegration of Child Victims of Trafficking for Sexual and Labor Exploitation, focusing on monitoring and evaluation skills of multi-disciplinary teams, supported by the International Labour Organization (ILO)/International Programme on the Elimination of Child Labour (IPEC)/ILO/IPEC Regional Programme Combatting Child Trafficking for Sexual and Labour Exploitation in Asia (TICSA-II).

151. 2.2 Repatriation and reintegration projects and activities during 2005–2007 include:

(1) Repatriation and reintegration of trafficking victims and other vulnerable groups in the Mekong region under the International Organization for Migration (IOM) with support from the Australian Government Overseas Aid Program (AUSAID)/The

United States State Department's Bureau of Population, Refugees and Migration (US PRM);

(2) Coordination with agencies involved in the repatriation of trafficking victims by the United Nations Inter-Agency Project for Human Trafficking (UNIAP);

(3) Rehabilitation and life-skills training prior to repatriation, implemented by the Department of Social Development and Welfare and NGOs, with financial support from IOM;

(4) The Mekong Delta Regional Trafficking Strategy: MDRTS by the World Vision Foundation of Thailand with financial support from the United States Agency for International Development (USAID).

## **C. 3. Law enforcement**

### **3.1 Thai legislation and enforcement**

152. The Royal Thai Police designated the Police Command for Elimination of Wrongdoing against Children, Youth, and Women as the agency responsible for investigation and suppression of domestic and cross-border trafficking. According to the data reported by the unit, eight traffickers were arrested and ten victims found in 2006; while eight traffickers were arrested and 94 victims found in 2007.

#### **Problems**

(1) Poverty is the main driving force that pushes many children to enter willingly into the trafficking trade and child prostitution;

(2) The agencies responsible lack sufficient knowledge, understanding and action on the problem;

(3) Some pornographic materials, namely internet pornography, are difficult to suppress, requiring experts to deal with the problem. Most of the materials come from abroad.

#### **Recommendations**

(1) The Government must look at the whole picture of the problem of children and families, and take serious and continuous action to address it;

(2) The Government must take action to ensure continuous and effective suppression of the problem;

(3) The Government must address the problem of corruption among authorities concerned;

(4) Enhance capacity of and budget for officials responsible for investigation and suppression of internet pornography.

### **3.2 International agreement and coordination at the bilateral, regional and multilateral levels**

153. 3.2.1 In October 2004, through a regional initiative called the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), Cambodia, China, the Lao People's Democratic Republic, Myanmar, Thailand, and Vietnam signed the MOU on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region. A plan of action was developed to guide implementation of the various proposed measures for the period of 2008–2010, comprising:



- (1) Training and capacity-building;
- (2) Development of national plans of action;
- (3) Bilateral and multilateral cooperation;
- (4) Legislative framework and law enforcement;
- (5) Screening and protection of trafficking victims;
- (6) Preventive measures;
- (7) Cooperation in tourism.

154. 3.2.2 The MOU on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking, which Thailand signed with Cambodia and the Lao People's Democratic Republic. A plan of action was also developed.

155. 3.2.3 The Treaty on Mutual Assistance in Criminal Matters, signed by the Association of South East Asian Nations (ASEAN) members, including Thailand. The treaty calls for the widest possible measure of mutual assistance in investigations or court proceedings, to strengthen the effectiveness of law enforcement and suppression of crimes, including human trafficking. Thailand is in the process of ratifying the treaty.

#### **D. 4. Financial, technical and other assistance**

Financial, technical and other assistance is as follows:

- (1) A project, implemented by Payao Provincial Office of Social Development and Human Security with financial support from ILO, to coordinate efforts to empower communities in Payao Province to combat labor migration of children and women;
- (2) A project, implemented by the Chiang Mai Coordination Centre for Child Protection with financial support from ILO, to coordinate efforts for the prevention and resolution of trafficking in women and children for labor and sexual exploitation;
- (3) The Draft National Plan of Action on the Protection, Rehabilitation and Prevention of the Worst Forms of Child Labor, in pursuant to the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (a cooperation between ILO/IPEC and the Department of Welfare and Labor Protection);
- (4) An Implementation Plan to Eliminate Child Labor in Six Pilot Provinces, namely Chiang Rai, Tak, Udorn Thani, Samut Sakorn, Pattani and Songkla. The plan covers forced labor and human trafficking for work in the agricultural and fishery sectors, including migrant workers (ILO/IPEC);
- (5) Workshop on the management of education for at-risk children in border provinces, particularly stateless children, migrant children and children of migrant workers (ILO in cooperation with the Education Council);
- (6) Draft Guidelines for the Prevention and Suppression of Human Trafficking for Labor and training of staff of the Ministry of Labor nationwide (a cooperation between ILO/IPEC and Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups, Department of Labor Protection and Welfare and Department of Employment, Ministry of Labor);
- (7) ILO/IPEC Regional Programme on Combating Child Trafficking for Sexual and Labor Exploitation (TICSA), supporting activities of the Center for the Protection of

Children's Rights Foundation with funding from the United States Department of Labor (USDOL);

(8) Project to Strengthen Knowledge and Services on Reproductive Health for Youth with Assistance from Communities in the North and South (Planned Parenthood Association of Thailand with financial support from UNFPA);

(9) Training of Paralegal Volunteers for Rural Women Project (Women's Studies Center, Chiang Mai University with financial support from Cultural Industries Development agency (CIDA);

(10) Capacity Building for Network Organizations for the Prevention of Commercial Sexual Exploitation and Trafficking of Women and Children (ECPAT with financial support from Group Development/the British Embassy and the European Union);

(11) Public education campaign on the human trafficking process (implemented by the Foundation for Child Development with funding support from the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP));

(12) Training and skills development for staff of the World Vision Foundation of Thailand (with financial support from The United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP));

(13) Newsletter from UNIAP Thailand to disseminate information about human trafficking;

(14) Public education campaign through radio/television programmes (implemented by TRAFCORD with financial support from the United States and Asia Foundation);

(15) Training on human trafficking cases, organized by the Police Command for Elimination of Wrongdoing against Children, Youth, and Women with support from the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT), Australia;

(16) Implementation of the Action Plan to Combat Trafficking in Persons Especially in Women and Children, including a study on demand for human trafficking and seminars on a gender perspective on human trafficking, and development of social policy for trafficking victims.

## VII. Provisions under other laws

### A. 1. Promotion and protection of child rights

156. Thailand has consistently revised and developed its legislation concerning child rights promotion ever since its **ratification** of the Convention on the Rights of the Child. Some of the major legislation having recently been introduced includes: the Child Protection Act of 2003; the Labor Protection Act of 1998; the Promotion of Child and Youth Development Act of 2007 and the Domestic Violence Victim Protection Act of 2007.

157. *Labor Protection Act of 1998*. The law came into force on 9 August 1998. The Ministry of Labor is the main agency responsible for its enforcement. The Act contains many provisions aimed at providing protection for child workers, improve their quality of life and promote a safe working environment. Some key provisions concerning child rights include:

- Employment of a child under 15 years is prohibited.

- An employer shall arrange for a child employee to have an uninterrupted rest period each day of not less than one hour for every four hours that the employee has worked.
- An employer is prohibited from causing a child employee under the age of 18 to work between 2200 hours and 06:00 hours.
- Child employees aged under 18 shall have the right to take leave to attend meetings, seminars, training sessions which are held by educational institutes or a government or private agency approved by the Director-General, or take leave for other reasons. The child employee shall clearly inform the employer of the reason for the leave in advance and show the relevant documents, if any.
- An employer is prohibited from paying remuneration of a child employee to a person other than the employee.
- An employer is prohibited from demanding or receiving “guarantee money” for any reason whatsoever, from the child employee.

158. *Child Protection Act of 2003*, effective 30 March 2004. The concepts and principles of the Convention have been adopted as a foundation for this Act. The main agencies responsible for its implementation are the Ministry of Interior, Ministry of Education, Ministry of Justice and Ministry of Social Development and Human Security.

159. This Act aims to promote collaboration amongst relevant agencies in all sectors and defines the procedures and measures for the provision of welfare assistance, safety protection and behavioral development of the child. These measures aim to enable the child to be taken care of, nurtured and developed appropriately, which in turn will promote the stability of the family institution and prevent the child from being abused, exploited or discriminated against. It also aims to improve the ways and means to foster collaboration amongst the government agencies and private organizations in providing protection to the child, so as to be in line with the present Constitution of the Kingdom of Thailand, the National Economic and Social Development Plan, and the United Nations Convention on the Rights of the Child. The main mechanisms for implementation of this Act are the National, Provincial and Bangkok Metropolitan Child Protection Committees and the Child Protection Fund. The best interests of the child are of primary importance in any conduct concerning a child and any discrimination of an unfair nature is prohibited. It also defines general conduct toward a child, as well as assistance, safety protection and promotion of appropriate behaviors to prevent the child from coming into contact with the justice system.

160. *Promotion of Child and Youth Development Act of 2007*. Defines guidelines and procedures in promoting appropriate **development** of children and youth in the context of the present social condition. It requires a child and youth center to be established in all districts, as well as a child and youth council. Non-governmental organizations and local administrative organizations are encouraged to be involved in the promotion of child and youth development. The Act came into force on 13 April 2008. The Ministry of Social Development and Human Security is the main agency responsible for the implementation under this Act.

161. *Domestic Violence Victim Protection Act of 2007*. Aims to promote decent relationships in family. Any act of domestic violence is considered a criminal offence under the Penal Code and will be penalized. Children, youth and persons in family are entitled to the protection of the State against any act of domestic violence and of unfair nature. The Act came into force on 12 November 2007. The Ministry of Social Development and Human Security is the main responsible agency for the implementation under this Act.

162. The Sub-Committee for the Amendment of Child-Related Legislation, a body responsible for reviewing and revising child-related laws in line with the Thai Constitution

and the Convention, meets on average once a month and holds regular meetings with relevant agencies to discuss and share information on matters relating to the advocacy and enforcement of child-related legislation.

## **B. 2. International obligations concerning child rights**

163. International instruments concerning child rights under which Thailand is obligated include:

- (1) International Covenant on Civil and Political Rights of 1966. Came into force on 30 January 1997;
- (2) International Covenant on Economic, Social and Cultural Rights of 1966. Came into force on 5 December 1999;
- (3) Convention on the Elimination of All Forms of Discrimination Against Women of 1979. Ratified on 9 August 1985; Optional Protocol of 1999. Ratified on 14 January 2000;
- (4) United Nations Convention against Transnational Crime. Signed on 19 December 2000;
- (5) ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Form of Child Labor. Ratified on 16 February 2001;
- (6) Hague Convention on the Civil Aspect of International Child Abduction of 1973. Ratified on 1 November 2002;
- (7) International Convention on the Elimination of All Forms of Racial Discrimination of 1965. Came into force on 28 February 2003;
- (8) ILO Convention No. 138 Concerning Minimum Age for Admission to Employment. Ratified on 11 May 2004;
- (9) Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption of 1993. Ratified on 1 August 2004;
- (10) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- (11) Protocol against the Smuggling of Migrants by Land, Sea and Air.

## **C. 3. Problems and obstacles**

164. Despite the aforementioned legislative and administrative framework and cooperation with relevant agencies, both domestic and international, challenges still remain in regard to the implementation of plans and measures to address the sale of children, child prostitution and child pornography. Some key obstacles include: involvement of influential figures in these processes, making it difficult to enforce the laws and prosecute offenders; rapid circulation of child pornographic materials, mostly from abroad; and insufficient operational budget.

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