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In-Depth

Analysis of the Sex Trafficking Industry in Thailand

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On Assistance for
Victims of Human
Trafficking

Supported by



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Preface

Forced prostitution and child prostitution have currently been in connection with transnational organized crimes. Many countries have made great efforts to impose legal measures and adopt conventions in order to secure the prohibition and prevention of human right violations. Thailand has also ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), UN Convention against Transnational Organized Crime (UN-TOC), Convention on the Rights of the Child (CRC), Worst Forms of Child Labour Convention and etc. As one of the member states, Thailand shall develop mechanism and justice system as being bound by the Conventions. Thailand has maintained efforts to prohibit and suppress modern-day slavery by putting in place of the Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997). Thailand has also established laws in order to combat human trafficking, resulting in the proclamation of the Anti-Trafficking in Persons Act B.E. 2551 (2008). The latter, which has replaced the Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997), is then used to suppress human trafficking crimes and protect victims of human trafficking.

Thailand is a country of origin, destination and transit. Despite continued efforts to fight against human trafficking crimes, Thailand was ranked in Tier 2 Watch List of the Trafficking in Persons (TIP) report for four consecutive years. In 2014, it was even worst that Thailand was listed in Tier 3 which is regarded as the country of the worst human trafficking situation. Thailand was viewed as a trader of men, women and children imported from neighboring countries by forcing, coercing or deceiving for sexual exploitation

The sex trade has exploited more secretly by hiding women or children in massage parlors, bars, karaoke bars, hotels or even in an individual house. Women and children with fraudulent documents are sexually exploited in karaoke bars and massage parlors. In addition,

the TIP report indicated that Thailand failed in screening and protecting victims of human trafficking. Although social workers can join with law enforcement officials in screening and protecting victims of human trafficking, only the law enforcement official is empowered to identify the victims. Sometimes the social workers do not agree with the victim refusal of the official. Due to inadequate procedures to identify and screen the potential victims or victims, the victims are arrested and not screened after the police raids at brothels.

This report has reflected experiences from the lens of practitioners and incorporated the practices of all concerned officials involved in the justice system. The report covers legal measures, roles of multidisciplinary teams and process of victim assistance and protection. Alliance Anti Traffic (AAT) hopes that this report will be of great use for Thailand and neighbor countries in terms of assisting and protecting victims of human trafficking and in order to empower victims to stand with dignity as others in the society.

Thank you to all victims who shared their stories, experiences and lessons learned for collecting all contents to write up this report. Gratitude goes to Ms.Thanavadee Thajeen, Pol.Maj.Jatuporn Arunreuk-tawin and the editorial team including Ms.Chaleerat Saengsuwan, Ms.Siriwan Vongkietpausan, Mr.Sorrakrai Sornsri, Ms.Janjira Sukkhiew and Ms.Kanjana Sae-Ung for compiling lessons learnt and editing the contents. Thanks to Kinder Not Hilfe (KNH) and The Finnish Evangelical Lutheran Mission (FELM) who supports us in making this report and Japan International Cooperation Agency (JICA) under the project called “Project on Capacity Development on Assisting Victims of Trafficking in the Greater Mekong Sub-Regional Countries (CM4TIP)” who provides support for publishing this report in English version.

Mr.Jurgen Thomas
Project Director, International Section
Alliance Anti Traffic (AAT)

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Chapter 1

Human Trafficking in Sexual Commerce



1.1 History of Sexual Commerce

Prostitution has existed since prehistoric times.¹ In Europe and Asia Minor since the time of Ancient Greece and Rome, there were traditions of sacrificing virginity as worship to the gods. Many women with piety gave sexual favor to strangers in temples or sacred places as part of a ritual.

Under Christianity, such rituals were purged, but these sexual practices survived by transforming themselves into paid services which became widespread and gave rise to openly-operating brothels.

The word for prostitute in the Thai language is Sopenee. Which is literally translated as “beautiful woman”. This word refers to a woman who agrees to have sexual intercourse with a man in exchange for money or valuables. Even though regulated by law in its early days, prostitution has caused many problems..

In Asia, prostitution has existed at least as far back as the time of the Buddha. In India, there is evidence that prostitution was a legal and honorable profession. Prostitutes were recognized for their contributions to society. In Ancient China, prostitutes were considered sex experts, as some were appointed as advisor to the imperial court. Brothels for the general public were known as “tea houses”.

History of Prostitution in Thailand

Prostitution emerged in Thailand in the 16th-17th century after contact with Westerners. A lexicon from the reign of King Narai denoted women employed to have sex with men as Sopenee.

In the Rattanakosin era, the center of prostitution was in Sampeng area, catering mainly to the Chinese population who had settled there since the establishment of Bangkok as the capital. In the Law of Three Seals, – the provision on sexual relationships called prostitutes Ying Nakhon Sopenee (“prostitute women of the city”). During the reign of King Rama V, brothels were called Rong Ying Nakhon Sopenee (“Halls of the prostitute women of the city”). Often identified by the green lanterns placed outside, they were also known

as the “green-lantern places” and are found concentrated along Trok Khao lane.

As prostitution became widespread, sexually-transmitted diseases also became rampant. King Rama V and thereby enacted the Venereal Disease Act B.E. 2452 (1909) to prevent and control the venereal infections through the registration of all brothels and prostitutes.

This law required that the brothel operator be female and authorized by authority. The operator was required to maintain a list of existing and new prostitutes, and prohibited from allowing unregistered prostitutes or those under 15 years old. The operator was also forbidden from detaining or contractually binding prostitutes. It was also prohibited to force or deceive unwilling women into prostitution.

After World War II, the United Nations issued a resolution declaring that prostitution undermined human dignity and caused social degeneration through trading women, forcing women into prostitution, spread of crime and venereal diseases. To comply with the resolution as a member of the United Nations, Thailand enacted the Prostitution Suppression Act B.E. 2503 (1960) to replace the Venereal Disease Act B.E. 2452 (1909). As a result, prostitution became illegal since then. In 1993, Thailand came under scrutiny over child prostitution; as a result, the Thai government enacted the Prostitution Prevention and Suppression Act B.E. 2539 (1996). However, the number of prostitutes failed to decrease, but became disguised in other forms and venues such as entertainment places, coffee houses, spas, and karaoke bars.



© Thai women in prostitution in the past from <http://news.upyim.com/154801/>

1.2 Victimization of Women and Children in Human Trafficking¹

A study with interviews and document review was conducted among ten women and children who had been deceived into prostitution and forced labor before being rescued and moved to the Kredtrakarn Protection and Occupational Development Center. With an average age of 14-15 years old, most of the women and children had poor education. Five are from Laos, two from Thailand, two from Myanmar and one from Cambodia. The study found that:

1) Most of the women and children were from rural families and deceived by someone in the same village, outsiders, or even family members. Their movement was facilitated by a network of collaborators from brokers who were responsible for contacting women and children in the village to multiple transit agents until they reached the final destination. There are two transportation routes:

- **Routes into Thailand:** Most women and girls from Laos, Myanmar and Cambodia entered Thailand illegally through various checkpoints. Laotians through Chong Mek check point Ubon Ratchathani, Nakhon Phanom, Mukdahan and Nong Khai provinces; Myanmarese through Mae Sot checkpoint of Tak province and Mae Sai checkpoint of Chiang Rai province. All ten of them ended up in Bangkok as the final destination.

- **Routes from Thailand:** This is the route for Thai women and children travelling to Japan for work through similar processes and networks. Most entered Japan “legally”, with the travelling expenses and other fees paid by the agents in advance. Once in Japan, each had to work to pay off a debt of approximately 1.7 million baht.

2) Factors that increase the risks of being trafficked among women and children are:

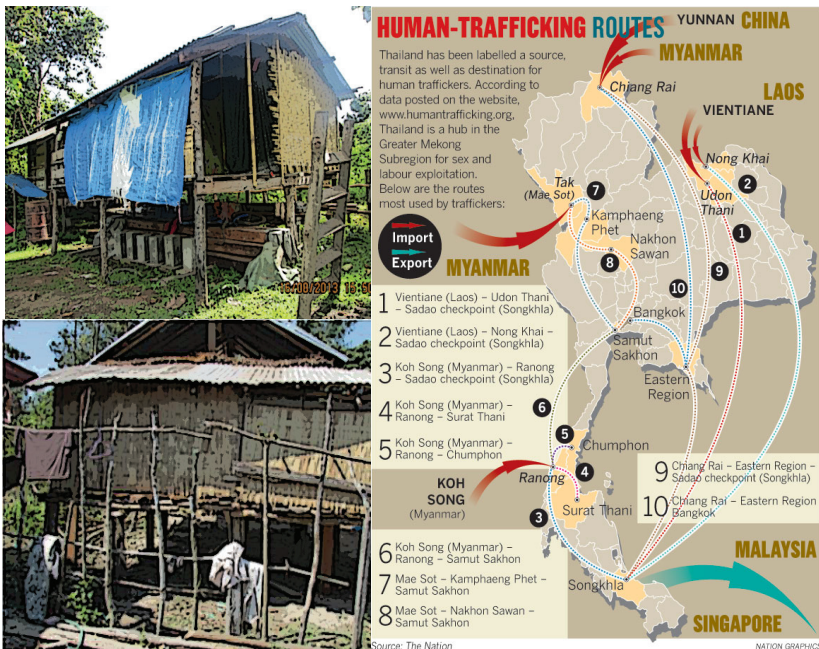
Internal factors such as factors associated with women and girls’ backgrounds including ranging from being female; single; under 20 years old and uneducated. Personal factors such as needs for food, clothes and housing also increased their vulnerability to recruiters. The idea of gratefulness and paying “debt” to parents also influenced their decision to accept “job offers” in the hope of contributing income to their family. As for the family factor, family

members considerably influence the decisions of women and girls because they think that their daughters' work would help increase income and get a better family life.

External factors at micro-level are, for example, unemployment, family debts and landlessness. At macro level, there are pull factors due to the income disparity of the country's economic development, coupled with Thailand's demand for cheap labor. Better transportation and communication infrastructure also gives recruiters access to and convenient transfer of vulnerable women and children.

1.3 Situations of Human Trafficking in Sexual Commerce

Although illegal, prostitution is widely available in Thailand. It is also found that sexual exploitation and abuse against women and children often occur in the context of sex-related business or prostitution. In some venues they are subjected to detention, confinement, coercion, threat, physical and emotional abuse, rape and forced prostitution. Depriving the victims of their freedom and human dignity, these actions are human rights violations.



© Homes of women and children in their country of origin and trafficking routes of women and children

The Trafficking in Persons (TIP) situation in Thailand has increasingly intensified and become more complex. From solely an origin country, Thailand has become a country of origin, transit and destination as follows:

- **As country of origin:** Women and children from Thailand's rural areas, hill tribe communities and other origins are recruited into prostitution in Thailand and other countries.
- **As country of transit:** Thailand has been used by the TIP network as a transit point to transfer women and children from Myanmar, Laos, China, Cambodia, etc. To third countries.
- **As country of destination:** Many women and children from Myanmar, Laos, China, Cambodia, etc. End up being subjected to exploitation in Thailand.

Women and children who are victims of human trafficking can be divided into four groups:

1. Thai nationals who end up being trafficked
2. Those without Thai nationality who illegally enter the country and end up being trafficked
3. Those without Thai nationality who legally enter the country and end up being trafficked
4. Those without Thai nationality who live in the country and end up being trafficked

The victims have often been persuaded or deceived or offered benefits (either to them or to their family) and agreed to enter Thailand, even illegally or with fake passports. Once they arrive at their destination, they often find working conditions different from what they have been promised. Moreover, they are threatened and have to pay off debts associated with their travel, food, accommodation and other fees, which force them into prostitution. For fear that they would be hurt, arrested, charged with offenses, or unable to return to their country, the victims dare not prosecute offenders.²

Although Thailand has enacted the Anti-Trafficking in Persons Act in 2008, the TIP situation including coercion, deception, detention and exploitation remain serious. In 2014, Thailand was demoted by the US State Department from Tier 2 (Watch List) to Tier 3 (Countries with the worst situations) in its annual Trafficking in Persons (TIP) report.³



TRAFFICKING IN PERSONS REPORT

<http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm>

Previously, Thailand has been put on the Tier 2 Watch List for three consecutive years from 2010 to 2012 as a country that had yet to comply with the minimum international standard for the elimination of trafficking in persons because the rate of arrests was not consistent with the seriousness of the situations.

Thailand's downgrading to Tier 3 will possibly compel the US to use trade sanctions against the country. Combating human trafficking will require many law enforcement in addition to the Anti-Trafficking in Persons Act B.E. 2551 (2008). It also needs collaboration of the victims as well as government agencies, NGOs and international organizations at all levels to prevent and combat human trafficking.



EAST ASIA & PACIFIC

Boundary representation is not authoritative.

TIER PLACEMENTS

■ Tier 1
 ■ Tier 2
 ■ Tier 2 Watch List
 ■ Tier 3
 ■ Tier 3 (Auto downgrade)

YEAR	PROSECUTIONS	CONVICTIONS	VICTIMS IDENTIFIED	NEW OR AMENDED LEGISLATION
2008	1,083 (106)	643 (35)	3,374	2
2009	357 (113)	256 (72)	5,238	3
2010	427 (53)	177 (9)	2,597	0
2011	2,127 (55)	978 (55)	8,454 (3,140)	4
2012	1,682 (115)	1,251 (103)	8,521 (1,804)	4
2013	2,460 (188)	1,271 (39)	7,886 (1,077)	3
2014	1,938 (88)	969 (16)	6,349 (1,084)	3

The above statistics are estimates only, given the lack of uniformity in national reporting structures. The numbers in parentheses are those of labor trafficking prosecutions, convictions, and victims identified. The number of victims identified includes information from foreign governments and other sources.

Chapter 2

Legal Measures for the Prevention and Suppression of Human Trafficking in Sexual Commerce



Laws related to the prevention and suppression of sexual exploitation are the Criminal Code and specific laws, namely, the Prostitution Prevention and Suppression Act B.E. 2539 (1996) and Anti-Trafficking in Persons Act B.E. 2551 (2008). Practitioners must be knowledgeable about actions offenses according to these laws pertaining to exploitation in sex business.

2.1 Criminal Law

The criminal offenses related to sexual exploitation in sex business are, for example, stipulated in Sections 282, 283 and 286 of the Criminal Code. All three sections were amended by the Criminal Code Amendment Act (No. 22) B.E. 2540 (1997). The justification for the amendment⁴ was on the grounds that the offenses were made against women and children sold, taken away or procured in order to gratify the sexual desire of oneself and another person or to serve the purposes of indecent act or exploitation such as child begging or child labor in brutal working conditions. As such, the provisions in the amended law are more comprehensive as they expand its coverage of those offenses to include not only the offenses against women and children but also the offenses against boys or persons of any sex.

Offense

Section 282: Procuring and taking away a man or woman for indecent act

“Procuring” means the act to procure or contact a man or woman or a child for another person for the gratification of sexual desire or indecent act.

“For the gratification of sexual desire” means the act to sexually gratify a man or woman by such acts as kissing or touching which may not necessarily be the extent of sexual intercourse..

“Indecent act” means the act to procure and take away for indecency. Whether the person (a man or a woman) consents to the indecent act or not is considered an offence. The consent, in this sense, occurs when the person is aware of being taken away for indecent act. However, if the person is deceived, it is not considered

a consent. The act of procuring, seducing or taking away is for the purposes of the gratification of sexual desire or indecency for another person – not one's own.

In the case that the person consents to be taken away for the gratification of sexual desire or indecency for another person in exchange for money, the person who procures or takes away will be guilty and cannot claim to have received the consent.

Section 282 Whoever, in order to gratify the sexual desire of another person, procures, seduces or takes away for indecent act the man or woman with his or her consent, shall be punished with imprisonment of one to ten years and fined of two thousand to twenty thousand baht.

If the commission of the offense according to the first paragraph is occurred to the person over fifteen years but not yet over eighteen years of age, the offender shall be punished with imprisonment of three to fifteen years and fined of six thousand to thirty thousand baht.

If the commission of the offence according to the first paragraph is occurred to the child not yet over fifteen years of age, the offender shall be punished with imprisonment of five to twenty years and fined of ten thousand to forty thousand baht. Whoever, in order to gratify the sexual desire of another person, obtains the person who is procured, seduced or taken away according to the first, second or third paragraph or supports in such commission of offense, shall be liable to the punishment as provided in the first, second or third paragraph, as the case may be.

Supreme Court Judgment No. 1386/2521

The plaintiff petitioned that the accused and Mr. W and two others procured/ seduced/took away Miss P. aged 17 for indecent act in order to gratify the sexual desire of another person. Mr. W. deceived Miss P. that he would take her to her sister in Lampang province, but instead led her to the accused and company. The accused and company then took her to Bangkok and forced her into prostitution.

The Appeal Court found that the accused and company are guilty of procuring/taking away the victim for indecent act in order to gratify the sexual desire of another person, but not for deceiving the victim from her domicile. The Appeal Court ruled that the accused is guilty under Section 282 of the Criminal Code.

Note:

The offence of procuring/seducing/taking away a person in order to gratify the sexual desire of another person and for indecent act is immediately completed by itself, without the seduced/taken away person being subjected to the indecent act or rape. Whoever receives the procured/seduced/taken away person is also liable.

The Supreme Court ruled that Mr W. was the person who deceived the victim by making her believe that she would be led to work with her sister. Once the victim agreed, Mr. W. took her to the accused's house, and on the same day the accused (Mr. W.) and company took the victim to Bangkok without further arrangement. The court ruled that the accused and Mr. W. and company had together planned to seduce/take away the victim for indecent act in order to gratify the sexual desire of another person, by assigning Mr. W. with the role of deceiving/ seducing/taking away the victim. Once the victim had been obtained, the accused and Mr. W. and company transferred and forced her into prostitution. The court, therefore, ruled that the accused is guilty under Section 282 paragraph 1 and Section 283 paragraph 2 of the Criminal Code.

Supreme Court Judgment No. 6560/2546

The accused's restaurant operated as a place of prostitution. The accused received benefits from the prostitution income of employees. The accused's offense, therefore, is procuring a person in order to gratify the sexual desire of another person under Section 282 of the Criminal Code, not only for abetting prostitution.

Section 283: Procuring and taking away a man or woman for indecent act without consent

Section 283 concerns a lack of consent of a man or woman, and therefore involves the use of deceitful means, threat, doing an act of violence, unjust influence or mode of coercion by any other means.

Two external elements are:

The first element involves the act of procuring, seducing or taking away of a person.

“Procuring” means the procuring of a man or woman

“Seducing” means the seducing of a person to a certain place

“Taking away” means the act of taking a person. The second element refers means, namely, the use of deceitful means, threat, doing an act of violence, unjust influence or mode of coercion by any other means.

“The use of deceitful means” refers to the use of tricks for the purpose of misleading.

“Unjust influence” refers to the use of influence in illegitimate ways. For example, when a mother forces her daughter into prostitution by indirectly saying that if the latter refuses to comply, the latter will not be otherwise taken care of.

Two internal elements are:

General intention to procure, seduce or take away a person without consent

Specific intention for indecent act or sexual gratification of another person.

Note:

“Receiving” under Section 282 and 283 refers to simply receiving or sheltering. It does not require hiding or concealing.

Supreme Court Judgment No. 210/2541

The fact that the victim agreed to go to work at a restaurant with the accused does not mean that the victim had given consent, because the victim did not agree to prostitution in the first place. She agreed to go with the accused only because she was misled into believing that she would be taken to work in the restaurant owned by the accused’s sister. The fact that the accused deceived the victim and sold her to Mr. B for prostitution shows that the accused had an intention to seduce the victim for indecent act and sexual gratification of another person through the use of deceitful means. Therefore, the accused is guilty under

Section 283 paragraph 2 and Section 318 paragraph 3 of the Criminal Code.

Supreme Court Judgment No. 799/2517

The accused took five victims to work as waitresses and then forced them to have sex with clients. As each victim was violated separately with specific intents, the accused was convicted on five separate counts of offense under Section 283 paragraph 1 of the Criminal Code.

Supreme Court Judgment No. 8867/2554

The plaintiff petitioned and attested that, in order to gratify the sexual desire of her husband Mr. O, the accused procured/seduced/ took away a girl, known as A, aged 13 (under 15 years of age) to have sexual intercourse with Mr. O, using deceitful means by telling her that she would buy her a mobile phone in exchange. The plaintiff asked the court to punish the accused under Section 283 of the Criminal Code.

Case dismissal by the Court of the First Instance

The Court of the First Instance dismissed the case, but the Appeal Court (Region 2) ruled that the accused is guilty under Section 283 paragraph 3.

Section 283 Whoever, in order to gratify the sexual desire of another person, procures, seduces or takes away for indecent act a man or woman by using deceitful means, threat, doing an act of violence, unjust influence or mode of coercion by any other means, shall be punished with imprisonment of five to twenty years and fined of ten thousand to forty thousand baht.

If the commission of the offense according to the first paragraph is occurred to the person over fifteen years but not yet over eighteen years of age, the offender shall be punished with imprisonment of seven to twenty years and fined of fourteen thousand to forty thousand baht, or imprisonment for life.

If the commission of the offense according to the first paragraph is occurred to the child not yet over fifteen years of age, the offender shall be punished with imprisonment of ten to twenty years and fined twenty thousand to forty thousand baht, or imprisonment for life, or death.

Whoever, in order to gratify the sexual desire of another person, obtains the person who is procured, seduced or taken away according to the first, second or third paragraph, or supports in such commission of offense, shall be liable to the punishment as provided in the first, second or third paragraph, as the case may be.

The Accused in the Supreme Court

The Supreme Court ruled that Section 283 paragraph 3 has both external and internal elements of offenses. The two external elements are 1) procuring, seducing or taking away of a person under 15 years of age; and 2) using deceitful means, threat, doing an act of violence, unjust influence or mode of coercion by any other means.

Note:

The interpretation of Section 286 paragraph 2 as components of the offence in separation from or together with paragraph 1 or definition of the offence under paragraph 1 results in an offence under Section 286 which hinges on the economic status of the offender. The only offenders punishable under this offence are the poor, while those with better economic status have little chance of being punished for this offence, even when their economic status may be a result of exploitation of prostitutes.

In addition, the two internal elements are: 1) general intention to procure, seduce or take away a person under 15 years of age without consent; and 2) specific intention for indecent act or sexual gratification of another person.

Considering the external elements of offense, it is important to consider the means. For this case, there was the use of deceitful means, resulting in misleading. As for the facts of the case, the accused persuaded the victim who is under 15 years of age to have sexual intercourse with Mr. O, her husband, in exchange for a mobile phone and a payment of 1,000 baht. However, there is no evidence of deceitfulness, lie or intention to deviate from the agreement. Without using deceitful means, threat, doing an act of violence, unjust influence or mode of coercion by any other means, the accused, therefore, is not guilty under Section 283 paragraph 3 as accused by the plaintiff.

However, from the facts of the case, it is clear that at the time and date of the incidence, in order to gratify the sexual desire of another person, the accused procured a person under 15 years of age for indecent act. The victim pretended to nod but did not

explicitly agree signifying a lack of consent. Although the victim did not go through with the agreement and the accused did not achieve the desired goal, the accused nevertheless has carried out the act with all the components that constitute an offense under Section 282 paragraph 3. The Supreme Court therefore reversed the earlier court judgment and ruled that the accused is guilty under Section 282 paragraph 3 of the Criminal Code.

Section 286:subsisting on the earning of a prostitute⁵

“Subsisting on the earning of a prostitute, even it is some part of the prostitute’s income” is interpreted as:

1. Subsisting on the entire earning of a prostitute
2. Subsisting on a partial earning of a prostitute.

To constitute an offense under this section, the offender must be unable to sustain without the entire or partial earning of a prostitute.

Section 286 Any person, being over sixteen years of age, subsists on the earning of a prostitute, even it is some part of the prostitute’s income, shall be punished with imprisonment of seven to twenty years and fined of fourteen thousand to forty thousand baht, or imprisonment for life.

Any person has no other apparent or sufficient means of subsistence, and:

- (1) Is found residing or habitually associating with one or more prostitutes;
- (2) Takes board and lodging, or receives money or any other benefit arranged for by a prostitute; or
- (3) Take part in order to help any prostitute in the quarrel with her customer,

The provisions of this Section shall not be applied to any person who receives maintenance from a prostitute who is bound to give maintenance according to law or morality.

Supreme Court Judgment No. 1431/2533

The offense of “subsisting on the earning of a prostitute” under Section 286 of the Criminal Code requires that the accused can face punishment in the event that the accused does not have other apparent or sufficient means of subsistence. In this case, the public prosecutor only demonstrated that the accused received money from the income of a prostitute, but failed to show that the accused had no other apparent or sufficient means of subsistence. Therefore, the accused’s action does not constitute an offense under Section 286

At the end of the decision, Mr. Supot Saengprachakul wrote a note that the Supreme Court⁶ has laid down this principle in several judgments that in order to convict an accused under Section 286 of the Criminal Code, the plaintiff must be able to attest that the accused has no other apparent or sufficient means of subsistence, as required in paragraph 2.

However, some legal scholars such as Yut Saeng-uthai and Surasak Likhasitwatthanakul were of the opinion that the components of offense lie only in paragraph 1, while paragraph 2 are only assumptions for the purpose of determining whether or not the accused subsists on the earning of a prostitute in accordance with paragraph 1. Supot Saengprachakul agreed with the two scholars for the reason that paragraph 2 has no provision for punishment and, therefore, unlikely to describe the components of an offense.

In addition, paragraph 2(3) stipulates that ... “that person is considered to subsist on the earning of a prostitute, unless satisfactorily proven otherwise.” As a result, in order to prove the offense, the plaintiff needs only to demonstrate that the accused subsists on the entire or partial income of a prostitute, without having to show that the accused does not have other apparent or sufficient means of subsistence.

Note:

The problem with this Section is that the court has always dismissed cases under this Section. Even when the court is shown the fact that the accused receives money or benefits from prostitutes, the venue owner only needs to demonstrate that they have other means of subsistence in order to be exonerated. This provision, therefore, cannot punish perpetrators in reality.

Supreme Court Judgment No. 1208/2535

For the offense of subsisting on the earning of a prostitute, the prosecution must demonstrate that a accused over 16 years of age subsists on the entire or partial income of a prostitute. In this sense, the accused cannot survive without a part of the earning, or has other sufficient means of subsistence; and the accused is found residing or habitually associating with one or more prostitutes. However, the plaintiff demonstrated that the accused over 16 years of age procured women for prostitution and received only dividends from the incomes of the prostitutes. Therefore, the court cannot punish the accused under this Section as petitioned.

2.2 The Prevention and Suppression of Prostitution Act B.E. 2539 (1996)

Definition

“Prostitution” means the acceptance of sexual intercourse, the acceptance of any other act, or the commission of any other act for sexual gratification of another person in a promiscuous manner for remuneration or any other benefit, irrespective of whether the person who accepts such act and the person who commits such act are of the same or opposite sex.

“Prostitution Establishment” means the place or premises arranged for prostitution or allowed for prostitution, and it shall include the place used for making contact or procuring another person for prostitution.

Prostitution is sexual intercourse where in the absence of existing relationships, the sex provider aims to obtain money or material benefits from the client in exchange for sex - in the same way as transactions between sellers and buyers of goods/services.

“Prostitution establishment” refers not only to brothels but also includes other places that allow prostitution, or used for making contact or procurement of persons for the purpose of prostitution. Hotels, restaurants, entertainment venues, karaoke bars, cafes, and other places that allow covert prostitution are liable under this law, even though they do not operate for the purpose of prostitution as such.

Punishment measures

As prostitution is illegal in Thailand, there are legal provisions that penalize those involved in prostitution including prostitutes, clients, prostitution business owners, managers, touts, prostitute masters as well as parents who allow children to prostitute.

1. Punishment measures against prostitutes

The Prostitution Prevention and Suppression Act B.E. 2539 (1996) shall punish prostitutes in three categories:

First category 1: those who, for the purpose of prostitution⁷, offer, solicit, introduce oneself to, follow, or importune another person in a public place The prosecution of the prostitute is intended to prohibit prostitution in public places as it causes nuisance to the public. If such act is overtly and shamelessly committed or causes nuisance to the public, the person shall be punished with a fine not exceeding one thousand baht.

First category 2: those who congregates with another person in a prostitution establishment for the benefit of prostitution of that person⁸ or of another person shall be punished. However, the offender is not guilty if the offense is committed because of being forced or under unavoidable circumstances. As the law does not allow prostitution, there are no “prostitution establishments” as such. Congregation in a place can be considered illegal under this Act when it covertly offers prostitution. Whether it is a hotel, restaurant, karaoke bar or other kind of places, if it is organized for or allows prostitution, or used for making contact with or procuring for prostitution, congregation in such a place is punishable with imprisonment not exceeding one month, or a fine not exceeding one thousand baht, or both.

Note:

Because socioeconomic status is a compelling factor for prostitution, most prostitutes have a low level of education. To protect those persons – especially children and young persons – who may be deceived or persuaded into prostitution, the punishment should be lenient and they should be given protection and occupational development opportunities, including psychological rehabilitation, medical treatment, vocational training and improvement of quality of life.

Third category: those who advertise or induce, through printed materials, telephone calls or internet distribute information to the public for solicitation or communication for the purpose of prostitution shall be liable to⁹ imprisonment of six months to two years, or a fine of ten thousand to forty thousand baht, or both.

2. Punishment measures against owners, prostitute masters, managers and controllers of prostitution businesses or establishments¹⁰

Prostitution establishments or venues are often operated by several persons, including owners, managers, touts, and prostitute masters (pimps). The law has punishment provisions for those involved liable to imprisonment of three to fifteen years, and a fine of sixty thousand to three hundred thousand baht.

If the prostitution business or establishment has a person over fifteen but not over eighteen years of age for prostitution, the offender shall be punished with imprisonment of five to fifteen years, and a fine of one hundred thousand to three hundred thousand baht. If the child is not over fifteen years of age, the offender shall be punished with imprisonment of ten to twenty years, and a fine of two hundred thousand to four hundred thousand baht. These harsh measures are intended to combat child prostitution.

3. Punishment measures against clients

In addition to punishment for owners of prostitution establishments with a child or young person of not over eighteen years of age, the law also imposes punishment on those who have sexual intercourse or achieve sexual gratification with a child or young person not over eighteen years of age, with or without his or her consent.¹¹

The problem relating to the enforcement of this offense is the interpretation that “the act of sexual intercourse with a child or young person over fifteen years of age, but not over eighteen years of age in prostitution establishments” is limited to the act of sexual intercourse that takes place only in prostitution establishments. As a result, if the sexual intercourse with a child takes places in other places, the client is not punishable.

4. Punishment measures against those who procure, seduce, or take away another person to commit the act of prostitution, or receive such a person, or abet the commission of such offense¹²

Because prostitution is a lucrative business, there is a large network of persons who procure, seduce, or take away the persons person, including children and young persons under eighteen years of age, to commit the act of prostitution. Such person is liable to punishment, even with consent of the persuaded person, with imprisonment of one to ten years and a fine of twenty thousand to two hundred thousand baht.

If the offense is committed against a person over fifteen years but not over eighteen years of age, the offender is punishable with imprisonment of five to fifteen years and a fine of one hundred thousand to three hundred thousand baht. If the offense is committed against a child not over fifteen years of age, the offender is punishable with imprisonment of ten to twenty years and a fine of two hundred thousand to four hundred thousand baht.

If the offense is committed by means of deceit, threat, violence, exercising undue influence, or coercing against his or her will in any manner whatsoever, the offender shall be liable to heavier penalty by one third.

Those who admit a person procured for prostitution or abet the commission of such offense are liable and punishable to the same extent as the procurer.

5. Punishment measures against parents or guardians¹³

Parents in some rural areas have the values of sending their daughters into prostitution, following examples of others in the community where such practice is seen as bettering the socioeconomic status of the family. There are active networks of agents that offer up front payments to the parents or guardians in order to recruit women and girls into prostitution and sexual business. Some women/girls are aware of what is expected of them, while others have no idea of what awaits them. Parents or guardians who connives in the commission of such offense is punishable with imprisonment of four to twenty years, and a fine of eighty thousand to four hundred thousand baht.

Authority of the Competent Officials

The competent official under the Prostitution Prevention and Suppression Act BE 2539 (1996) has the powers and duties as follows:

(1) to enter, during daytime and nighttime, into an entertainment establishment under the law on entertainment establishments, for inspection of the commission of the offenses under this Act.

(2) to take a victim, whether lured or forced into prostitution, who gives consent to be brought to receive the protection and vocational development, to the inquiry official in order to proceed and find the offender for further action. In this case, the provision of Section 33 shall be applied mutatis mutandis to the sending of the prostitute into the care of the primary shelter.

Supreme Court Judgment No. 1608/2538

The plaintiff petitioned the court to punish the 2nd and 3rd accused under Section 283 of the Criminal Code for procuring or taking away a woman for indecent act using deceitful means, but the court found that the two accused were liable for procuring or taking away the woman for indecent act with consent of the woman under Section 282 of the Criminal Code and Section 8 of the Prostitution Prevention and Suppression Act B.E. 2539 (1996). As the same act is punishable under two different laws, the accused is liable to the law with the heavier punishment, in accordance with Section 90 of the Criminal Code.

The court also found that the victims consented that the 2nd accused seized their passports and plane tickets in accordance with an agreement between them, therefore the two accused are not liable under Section

188 of the Criminal Code. Although the offense under this section is prohibited from adjudication by the Supreme Court, the action of the two accused are not found to constitute an offense, the Supreme Court has the power to dismiss the charge in accordance with Section 185 of the Criminal Procedure Code in conjunction with Sections 215 and 225.

The 1st accused drove and transported the woman who consented to prostitution as assigned by the 2nd accused. The 1st accused also took the prostitution fee from the plain cloth police officer in order to deliver it to the 2nd accused. Therefore, the 1st accused acted on behalf of the 2nd accused. The 1st accused's action is considered the supporter of the 2nd accused, and therefore constitutes an offense under Section 282 of the Criminal Code and Section 8 of the Prostitution Prevention and Suppression Act B.E. 2539 (1996) in conjunction with Section 86 of the Criminal Code.

2.3 The Anti-Trafficking in Persons Act B.E. 2551 (2008)

The Anti-Trafficking in Persons Act B.E. 2551 (2008) was promulgated in the Government Gazette on 6 February 2008, and entered into force on 5 June 2008, replacing the Measures in the Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997).

Elements of human trafficking offense¹⁴

Section 6 of the Anti-Trafficking in Persons Act B.E. 2551 (2008) defines the three elements which constitute a TIP offense:

1. An act involving transporting a person and depriving the person of his or her physical freedom such as procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving of a person

Section 8 Whoever, for sexual gratification of that person or of another person, commits sexual intercourse or any other act against a person over fifteen years but not over eighteen years of age, with or without his or her consent, in a prostitution establishment, shall be punished with imprisonment of one to three years and a fine of twenty thousand to sixty thousand baht.

If the offence under the first paragraph is committed against a child not over fifteen years of age, the offender shall be punished with imprisonment of two to six years and a fine of forty thousand to one hundred and twenty thousand baht.

If the offence under the first paragraph is committed against the spouse of the offender, and is not for sexual gratification of another person, the offender is not guilty.

2. A means to undermine the person's freedom of decision, depriving them of the ability to form a genuine consent such as use of threat or use of force, abduction, fraud, deception, abuse of power, or 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/her control

3. A purpose for exploitation such as seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labor or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion, regardless of such person's consent

In the case of an act committed against a child under 18 years of age, the second element is not necessary to have a means for depriving of the freedom of decision as indicated in the second element. In such a case, only the act which involves procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving of a child for the purpose of exploitation is sufficient to constitute a TIP offense.

In conclusion, TIP refers to exploitation of fellow human beings. The act of seeking benefits from the exploitation of another human being is considered TIP, whether by threat, use of force, , or giving money or property (benefits) to achieve consent. However, the same act committed against a child under 18 years of age even with his/her consent constitutes TIP because a child is naïve and must be protected by the law from seduction, deception and use of force. The act described thus must be for the purpose of exploitation such as prostitution or other forms of sexual exploitation, slavery, causing to be a beggar, forced labor or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion.

Components of TIP offence

External Components		Internal Components
<p>(1) The act</p> <ul style="list-style-type: none"> • Procuring • buying • selling • vending • bringing from • sending to • detaining • confining • harboring • receiving of a person 	<p>(1) The means</p> <ul style="list-style-type: none"> • use of threat • force • abduction • fraud • deception • abuse of power • giving money to family or guardian as exchange of victim exploitation 	<p>(1) For the purpose of exploitation from</p> <ul style="list-style-type: none"> • prostitution • production or distribution of pornographic materials • sexual exploitation in other forms • slavery • forced beggar • forced labor • coerced removal of human organs for the purpose of trade • any other similar practices resulting in forced extortion

Punishment

For lay individuals

- Whoever commits an offense of trafficking in persons is liable to imprisonment from four to ten years and a fine from eighty thousand baht to two hundred thousand baht (Section 52 paragraph 1)

- If the offense is committed against a child whose age exceeds fifteen years but not yet reaching eighteen years, the offender is liable to imprisonment from six to twelve years and a fine from one hundred twenty thousand baht to two hundred forty thousand baht (Section 52 paragraph 2)

- If the offender is committed against a child not over fifteen years of age, the offender is liable to imprisonment from eight to fifteen years and a fine from one hundred sixty thousand baht to three hundred thousand baht (Section 52 paragraph 3)

- A person who supports the commission of an offense of trafficking, aids by contributing property, procures a meeting place or

lodge, induces, suggests or contacts a person to become a member of the organized criminal group, demands, accepts, or agrees to accept a property or any other benefit in order to help the offender of trafficking in persons not to be punished is liable to the same punishment as the offender of an offense of trafficking in persons (Section 7)

- A person who prepares to commit an offense of trafficking is liable to one-third of the punishment stipulated for such offense. (Section 8)

- If two persons upwards conspire to commit an offense of trafficking, they are liable to no more than one-half of the punishment stipulated for such offense. If any one of the offenders has committed in furthering the conspiratorial objective, each member of the conspiracy shall be liable, as an additional count, for the punishment stipulated for the committed offense. (Section 9)

- If the offense is accrued by the commission of persons from three persons upwards or of the member of an organized criminal group, such offenders shall be liable to heavier punishment than that prescribed in the law by one-half. (Section 10)

- A person commits an offense of trafficking by professing himself to be an official and exercising the functions of an official without being an official having the power to do so shall be liable to twice the punishment stipulated for such offense. (Section 12)



For persons of authority or government officials

- Any member of the House of Representatives, member of the Senate, member of a Local Administration Council, Local Administrator, Government Official, employee of the Local Administration Organization, or employee of an organization or a public agency, member of a board, executive, or employee of state enterprise, an official, or member of a board of any organization under the Constitution, who commits an offense of trafficking in persons is liable to twice the punishment stipulated for such offense. (Section 13 paragraph 1)

- Any member of the Committee, member of Sub-Committee, member of any working group and competent official empowered to act in accordance with this Act, who commits an offense under this Act, shall be liable to thrice the punishment stipulated for such offense. (Section 13 paragraph 2)

For juristic persons

- Any juristic person that commits an offense of trafficking in persons is liable to the punishment of a fine from two hundred thousand baht to one million baht. (Section 53 paragraph 1)

- In the case where the offender is a juristic person, if the offense of such juristic person is caused by an order or an act of any person, or the omission to issue an order or perform an act which is the obligation of the managing director, or any person who is responsible for carrying out the business of the said juristic person, such person is liable to the punishment of imprisonment from six to twelve years and a fine from one hundred twenty thousand baht to two hundred forty thousand baht. (Section 53 paragraph 2)

- In the case where the competent official finds that there is any violation, non-compliance with measures on prevention and suppression of human trafficking or offense committed in establishments, factories, or vehicles according to this Act, the Sub-Committee as stipulated in Section 25 paragraph 2 can make the following orders if the owners/operators of establishments or the owners of the vehicles fail to explain or prove to the Sub-Committee that they have used due care.

- Temporarily shut down the establishment or factory
- Suspend the operating license of the establishment or factory
- Temporarily prohibit the use of the vehicle

- Take necessary measures to prevent the reoccurrence of the offense (Section 16/2 amended by the Anti-Trafficking in Persons Act (no. 2) B.E. 2558 (2015))

Money laundering offense

Trafficking in Persons is one of predicate offenses under the Anti-Money Laundering Act B.E. 2542 (1999). The Anti-Money Laundering Board, therefore, has the power to seize the assets of the offenders.

TIP offenses in the context of prostitution

Section 282, 283 of the Criminal Code	Prostitution Prevention and Suppression Act BE 2539 (1996)	Anti-Trafficking in Persons Act BE 2551 (2008)
<ul style="list-style-type: none"> • Procuring, seducing or taking away 	<ul style="list-style-type: none"> • Procuring, seducing or taking away 	<ul style="list-style-type: none"> • Procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving of a person with use of 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; or procuring a child of no more than 18 years of age
<ul style="list-style-type: none"> • In order to gratify the sexual desire of another person or for indecent act (with/without consent) 	<ul style="list-style-type: none"> For the purpose of prostitution with consent 	<ul style="list-style-type: none"> • For the purpose of prostitution; even with consent in the case of a child of no more than 18 years of age
<ul style="list-style-type: none"> • Without the intention to seek benefits from the sexual gratification or indecent act 	<ul style="list-style-type: none"> • Seeking money or benefits in exchange 	<ul style="list-style-type: none"> • Receiving a share of benefits from the prostitution which constitutes exploitation

Economic hardship is one of the factors that pushes women and children into prostitution. The exploitation of persons, especially children, usually involve the offering of money or material benefits because of the naivety of children. In addition, the social expectation that daughters should contribute to the income of the family makes women and girls enter prostitution as an expression of gratitude to their parents. Traffickers often exploit this social construction, and offer benefits to the family in order to traffic women and girls from neighboring countries into Thailand for prostitution.

Child prostitution is a long-standing serious problem in Thailand, with the organized trafficking networks and routes. However, trafficking of children under 18 years of age is severely condemned by the international community especially developed countries which consider child prostitution a serious crime against children and a human rights violation. In addition, child prostitution also directly impacts Thai society by depriving the children of educational opportunities and quality of life.

Persons engaged in human trafficking

These days, human trafficking networks have become better organized and more complex. The actors involved are:

1. Broker who contacts, seduces, persuades or deceives the victim
2. Transporter who facilitates the travel, and arranges false passports, etc. In order to take the victim to the destination
3. Controller who forces the victim to work, and punishes/ harms him/her when the victim refuses to do so.
4. Dealer who contacts clients, takes the victim to work or offer service, and gets a share of the benefits from the work performed or service offered by the victim
5. Receiver who harbors the victim before exploitation such as prostitution, labor on fishing vessels, beggary, domestic work, or labor in factories or agricultural sector, etc.
6. Client who buys service. In some cases, the client who accepts child sexual service shall be considered as an offender.

Note:

Exploiting prostitution that is considered trafficking in persons must involve deception, abduction, or threat. However, the procurement of a child not over 18 years of age for prostitution is always an offence of trafficking in persons regardless of the child's consent.

Differences between prostitution and human trafficking related to prostitution

From the experience of rescuing victims of prostitution-related human trafficking and the comparative study of the Prostitution Prevention and Suppression Act B.E. 2539 (1996) and Anti-Trafficking in Persons Act B.E. 2551 (2008), we can identify the differences between prostitution and prostitution-related human trafficking as follows:

Prostitution	Prostitution-related human trafficking
➤ The prostitute has the liberty to choose work freely without being subjected to deception, use of threat or use of force	➤ The victim can be a child who is deceived or lied about the nature of work, or is forced to work.
➤ The establishment owner has the power to control the prostitute within certain perimeters and limited time -only during working hours.	➤ The victim is forced and controlled to work with violence and deprived of rights and freedom
➤ No debts are incurred as a result of work. The prostitute is not forced to work to pay off debts.	➤ Debts are incurred from working. The incurred debts, for example, are for advance payments of remuneration, the agent's fee, surgery, travel, accommodation, food, daily expenses, etc. So the victim is forced to work to pay off debts.
➤ The prostitute has the liberty to travel.	➤ The victim is deprived of liberty, detained or confined. His/her passport is confiscated. Contact with family and outsiders is forbidden.
➤ The prostitute regularly receives remuneration or a share of the money earned.	➤ The victim is not paid for remuneration nor a share of the money earned. Or s/ he is paid very little, which is disproportionate to the work.
➤ Punishment is not in violation of the law, and there is no punishment to life, body and liberty.	➤ The victim is subjected to punishment in violation of the law with use of threat, bodily and psychological harms, and deprivation of liberty.
➤ The prostitute can quit or stop working at will.	➤ Quitting or stopping to work is entirely up to the establishment owner or controller.

Supreme Court Judgment No. 10632/2554

The accused procured a girl under 15 years of age for the purpose of prostitution for Mr. N. The offense was already completed, even though Mr. N. did not have sexual intercourse with the girl.

Supreme Court Judgment No. 6087/2554

The accused was well aware of Miss O's prostitution, and procured/took her for prostitution. Even though the accused did not receive a share of benefits from her prostitution, the accused is guilty for procuring/taking away of a person under 15 years of age for the sexual gratification of another person or for prostitution under Section 282 paragraph 3 of the Criminal Code and for taking away a child for lucre or indecent purpose under Section 317 paragraph 3 of the Criminal Code.

Supreme Court Judgment No. 891/2515

The two victims are 17- and 18-years-old and living in Ubon Ratchathani province. The accused and company hired the two petitioners out and took them by car to as far as Roi Et province to stay at the 1st accused's house which operates as a brothel. Despite the two victims' consent to travel with the accused and to have sexual intercourses with other men at the house, the accused is guilty of procuring, seducing or taking away a person under 18 years of age under Section 282 of the Criminal Code.

As for the charge of the deprivation of liberty, the court found that the 1st accused detained the victim in a locked room from the night they arrived until the following morning, and they were being watched over by guards. This constitutes deprivation of bodily liberty. Therefore, the accused is guilty under Section 310 of the Criminal Code. Such behaviors in this case also would be considered a offense of human trafficking.

2.4 The Entertainment Place Act B.E. 2509 (1966)

The reason for enacting this Act is because entertainment places may conduct business which may negatively impact on public order or morality, or provide performance for entertainment which is not appropriate for clients of young age.

1. Definition

“Entertainment place” means a place established for providing service with a purpose of commercial benefit.

2. Types of service places

The Service Place Act, Amendment No. 4 B.E. 2546 (2003) divides entertainment places into the following categories according to the nature of business and operating hours:¹⁵

Entertainment places classified by the nature of business include

Section 3 (1)	a place for dancing, ramwong, or ronggeng as its regular business with or without a service partner ¹⁶
Section 3 (2)	a place where food, liquor, tea or any other beverage is sold and serviced with a concubine for looking after a customer ¹⁷
Section 3 (3)	a place for bathing, massaging, and steaming with a service provider to the customer except: (a) a place where a service provider has registered and been licensed to be a practitioner of the art of healing in a field of Thai traditional medicine in type of Thai massage under the law on the practice of the art of healing, or a place exempted from registering and being licensed to be a practitioner of the art of healing in a field of Thai traditional medicine in type of Thai massage under such law or a clinic under the law on clinic;
Section 3 (3)	b) a place for health and beauty as prescribed by the Notification of the Ministry of Public Health with an approval of the Minister of Interior, which shall have characteristics of a place, service or service provider in accordance with the standard prescribed by the Notification of the Ministry of Public Health with the approval of the Minister of Interior. Such Notification may set out the criteria and inspection procedure for certifying to be in line with such standard (c) other places as prescribed in the Ministerial Regulation.
Section 3 (4)	a place where food, liquor, or any other beverage is sold or serviced in one of the following forms: (a) providing music, musical performance, or any other performance for entertainment and allowing or neglecting a singer, a performer, or any other employee to sit with the customer; (b) providing musical instrument to the customer with a service provider who sings with the customer and allowing or neglecting any other employee to sit with the customer;
Section 3 (4)	(c) providing a dance or allowing a dance or a dance performance such as dancing on a stage or dancing in the vicinity of food or beverage table; (d) having a characteristic of a place, light or sound settings, or any other equipment as prescribed in the Ministerial Regulation
Section 3 (5)	a place where food, liquor, or any other beverage is sold with a musical performance or any other performance for entertainment and is closed after 24.00 o'clock
Section 3 (6)	other places as prescribed in the Ministerial Regulation. At present, there are no Ministerial Regulation for this purpose. The intention of Section 3 (6) is to fill the legal loopholes that may present themselves in the future.

Operating hours¹⁸

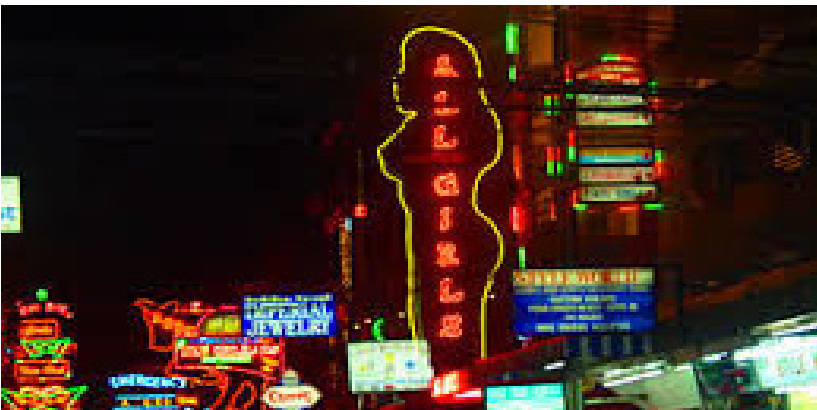
Type	Entertainment places established before 13 January 2004 (both inside and outside Zoning Areas)	Entertainment places inside Zoning Areas	Entertainment places outside Zoning Areas
Section 3 (1)	21.00-02.00	21.00-02.00	21.00-24.00
Section 3 (2)	11.00-14.00/ 18.00-24.00	11.00-14.00 / 18.00-24.00	11.00-14.00 / 18.00-24.00
Section 3 (3)	12.00-24.00	12.00-24.00	18.00-24.00
Section 3 (4)	18.00-01.00	18.00-01.00	18.00-24.00
Section 3 (5)	18.00-01.00	18.00-01.00	18.00-01.00

3. Application for a license to establish an entertainment place

No person shall establish an entertainment place unless granted a license by a competent official. (Section 4)

In accordance with the Ministerial Regulation, the application for a license to establish an entertainment place under Section 4 must be submitted to:¹⁹

- In Bangkok, the Superintendent or Deputy Superintendent who is head of the police precinct in which the entertainment place is located;
- In other provinces, to the District-Chief Officer or the Assistant District Officer who is head of the district where the entertainment place is located.



© Entertainment places in Pattaya, Chonburi province,
<https://www.t-nation.com/living/thailand-trilogy-2>

Places of public entertainment and karaoke licence form

Sor Bor.2 Form

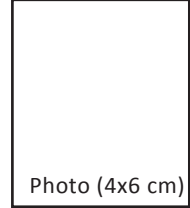


Photo (4x6 cm)

Place of Entertainment License

File No.....License No.....

Pursuant to Section 4 of the Entertainment Place Act B.E. 2509 (1966)

Granted for.....Nationality.....Age:.....years old

Address No.....Soi (Lane).....Road.....

Sub-District.....District.....Province.....

To establish an entertainment place according to Section 3 (1) c, (2) c and (3) c

which is named in Thai language as

And in English language (if any) as

Located at address no.....Lane.....Road.....

Sub-District.....District.....Province.....

Granted on day.....month.....year.....

(signature).....competent officer

(.....)

Position

Criteria for granting a license to establish an entertainment Place²⁰

(1) The applicant shall have qualifications as follows: (Section 6)

- Being not less than twenty years of age;
- Not having disgraceful behavior or lacking of morality;
- Not being of unsound mind or mental infirmity
- Not being infected with serious contagious disease, ;
- Not having been sentenced in a sex-related offense , an offense of trafficking of women and girls, or an offense related to suppression of prostitution, dissemination and commerce of obscene material.

At present, the Ministry of Interior has a policy to grant no additional license for entertainment places under Section 3 (1), (2) and (3), except those permitted before the issuance of the policy. As an exception, one license for an entertainment place under Section 3 (4) can be applied for each hotel which is certified for tourism standard or has been granted a Board of Investment certificate.

(2) Building²¹

- The building must have a permit under the Building Control Act or a building inspection certificate from an engineer or architect with a license for professional practice.

(3) Entertainment place

- The entertainment place shall not be located near a temple, a place for holding any religious ceremony, an establishment of education, a hospital, a dormitory, or a residential area, to the extent that will cause disturbance to such place (Section 7);
- Be located within the Zoning Areas (Section 5)

4. Renewal of license

A license to establish an entertainment place is valid until the 31st of December in the year of license issuance. A licensee who intends to renew a license must submit an application before the expiration date of license. Upon a submission of such application, a business may continue to operate until a competent official issues an order not to grant a renewal of such license. (Section 10)

Documents required for the renewal of license²²

- (1) A copy of the license to establish the entertainment place
- (2) Two 4x6 cm frontal photographs of the applicant or the representative of juristic person which are no more than six months old (no eyeglasses);

(3) A medical certificate from a licensed physician certifying that the applicant or the representative of juristic person fits the criteria under Section 6 (3) and (4)

In the case that there have been changes in the documents submitted for the application of the license to establish the entertainment place, the applicant must submit those changed documents in addition.

Criteria regarding criminal records and location are the same as the criteria for the application for a license.

5. Moving, changing or expanding entertainment places

Section 13 A licensee shall not move, change, amend, or expand an entertainment place except otherwise given permission in writing by a competent official.

(1) Moving

In provinces with a decree establishing Zoning Areas for entertainment places, entertainment places can only move into Zoning Areas. (Moving out of Zoning Areas is prohibited.)

In provinces with a decree establishing Zoning Areas which prohibit entertainment places, moving is allowed only in necessary or inevitable cases.

(2) Changes inside and outside of the entertainment place

The competent official may permit changes if deemed necessary. But if changes have been made before permission, the competent official may reject the renewal application or suspend or revoke the license.

(3) Expanding

The competent official may permit expansion of the space at his discretion. However, the competent official may reject any expansion that increases the number of rooms to the extent as to add another entertainment place.

6. Change of licensee or operator²³

The change of licensee is considered a transfer of license which is not allowed by the Act. Or in other words, the license is granted only for the specific licensee. Therefore, the competent official cannot permit the change of licensee or transfer of license, except in the case of change of the operating person on behalf of the juristic person which the competent official may permit at discretion.

7. Transfer of business²⁴

Because a license is issued to a specific individual, the transferee must apply for a new license, except in the case of inheritance.

8. Preparing, maintaining and altering employee records²⁵

(1) Preparing employee records

A licensee must prepare two sets of records for each staff, worker, service partner, concubine, worker whose work is related to bathing, massage, or steam, and a maid of the entertainment place before he/she starts working in an entertainment place.

(2) Maintaining employee records

One set of records must be kept at the entertainment place for inspection at any time. The other set must be submitted to the district or sub-district office where the license to establish the entertainment place was granted.

(3) Altering employee records

In the case where the detail in an employee record has altered, a licensee must notify such alteration to the district or sub-district office where the license to establish the entertainment place was granted within seven days from the date of alteration.

(4) In the case where a record kept at an entertainment place is lost, destroyed, or damaged in material, the licensee must prepare a new record within seven days from the date when the record was lost, destroyed or damaged in material. (Section 15)

9. Employee identification numbers²⁶

-The licensee must arrange a tag of identification numbers for each staff, worker, service partner, concubine, worker whose work is related to bathing, massage or steam, and maid of the entertainment place. The tag must contain the same identification numbers as each employee's record, and be attached on the right chest at all times while the employee is working in the entertainment place.

- The identification number tag shall be in circular shape with a diameter of no less than 5 centimeters. The background color shall be red for service partners, concubines, bathers, masseuses and steam worker. And blue for staffs, workers and maids. The identification numbers shall be in white Arabic numbers, and underneath the numbers there shall be the full name or initials of appropriate size of the entertainment place.

10. Responsibilities of customers

Those who wish to use services of an entertainment place, especially those licensed under the Entertainment Place Act, shall:

1) always carry the national identity card or an official document containing his/her photo and indicating his/her age. Any person who enters an entertainment place without an official document, or refuses to present an official document at the time of inspection is liable to a fine not exceeding five thousand baht. (Section 28/1 paragraph 2)

2) NOT carry weapons inside an entertainment place. The Ministry of Interior requires that entertainment places are strictly weapon-free zones, except in the case that such person is an officer in uniform and carries the weapons inside for a performance of duties under the law. (Section 16/2)

3) NOT commit any narcotic-related offense. The government, particularly the Ministry of Interior, is strict about narcotics-related offenses, and requires that entertainment places are narcotics free. Narcotics-related offenses committed in the entertainment place shall be strictly prosecuted in accordance with narcotics laws.

11. Administrative punishment under the Act

In the case that the competent official exercises the power to refuse a renewal of a license, suspend a license, or revoke a license because a licensee lacks a qualification; or an entertainment place operates its business in contradiction with public order or good morality; allows or neglects an assembly of people for the commission of an offense relating to narcotics; or there is the commission of an offense relating to narcotics inside the entertainment place; or fails to operate its business in compliance with; or violates the provisions under this Act or the Ministerial Regulation issued under this Act, the criteria in considering whether a competent official will issue an order to grant a renewal of a license, to suspend a license, or revoke a license shall be in accordance with the Notification of the Ministry of Interior on the Criteria for the Renewal, Suspension and Revocation of Licenses and Time Period for Suspension of Licenses dated 4 April 2005.

Note:

Human trafficking offences do not always involve brokers, transporters or transporters in every case. If there is an act of "receiving" for the purpose of exploitation, it can be deemed a human trafficking offence.

12. Review and appeal of administrative punishment

(1) When the Provincial Office receives a report that an entertainment place has violated the Act, the office shall collect evidence to conclusively prove the case.

(2) If the Provincial Office has sufficient proof of the violation, it shall issue a notification to the licensee of the charges and the right to appeal, dispute the facts and present evidence in accordance with Section 30 of the Administrative Procedure Act B.E. 2539 (1996).

(3) The Governor, as the competent official, shall exercise the power under Section 21 of the Service Place Act B.E. 2509 (1966) to suspend or revoke the license of the entertainment place.

(4) The Provincial Office shall notify the licensee of the order to suspend or revoke the license and the right to appeal the administrative order within 15 days in accordance with Section 21 final paragraph of the Service Place Act B.E. 2509 (1966) or notify the right to appeal the order to refuse the issuance or renewal of a license within 30 days in accordance with Section 11 of the same Act.

(5) Once an appeal is made against the administrative order to the District-Chief Officer, the Governor, or to the Permanent Secretary of Interior through the District-Chief Officer or the Governor, the Provincial Office shall determine if the appellant is the licensee or the authorized director of the juristic person licensed for that particular entertainment place. If the appellant is appealing on behalf of the said person, there must be power of attorney from the latter.

(6) When the Provincial Office finds that the appellant has the right to appeal, it will collect evidence to report to the Ministry of Interior consisting of the following:

6.1) Detailed report of the violations of the entertainment place leading to the administrative order

6.2) A copy of the license to establish the entertainment place (Sor.Bor. 2 Form)

6.3) A copy of the arrest record, daily report concerning the case, fine record, or court decision (if any)

6.4) Diagram, if the offense involves a crime scene

6.5) A copy of the notification of the facts which are reasons leading to the issuance of the administrative order in accordance with Section 30 of the Administrative Procedure Code B.E. 2539 (1996). The notification must be made to the party according to

Section 5 or Section 70 of the Administrative Procedure Code B.E. 2539 (1996).

6.6) A copy of the Governor's administrative order

(7) When the licensee appeals the order concerning the suspension or revocation of the license, there are different legal consequences as follows:

7.1) In the case that the licensee appeals the order regarding the suspension or revocation of the license for a reason in Section 21 paragraph 2 (1), the appeal is deemed as staying the enforcement of the administrative order.

7.2) In the case that the licensee appeals for a reason in Section 21 paragraph 2 (2) or other reasons, the competent official who issued the administrative order has a power to order a stay of execution of the administrative order, but the order must be issued within seven days from the date receiving an application for a stay of execution of the administrative order. If such period has passed and the competent official has not yet issued any order, it shall be deemed that there is a stay of execution of the administrative order to suspend or revoke such license. In this case, the appellant can file a petition for a stay of execution of the administrative order by indicating in the appeal or in a separate petition. With the petition to stay the execution of the administrative order, the competent official has a power to do so.

13. Power to regulate and inspect entertainment places

The District-Chief Officer and police officer with a rank of police inspector or higher has a power to inspect and regulate entertainment places to ensure that they do not conduct their businesses in violation of public order and moral. In the case of shutting down an entertainment place, the District-Chief Officer shall notify the licensee in writing, and post a copy of the order at the front entrance of the entertainment place.



© Available: www.buzzinmediagroup.com

(สพ.3 form) Record form of the persons worked in entertainment places

Sor Bor 3.Form

No.....		Personal history
Police Station/District/Sub-District	(Front side)	Born at sub-district.....District.....
Name of Entertainment Place.....	Record of the employee of the	Province.....Year of birth.....(B.E.....)
License No.File No.....	entertainment place according to	Father's name.....Mother's name.....
Employee's position.....	Section 14 of the Entertainment Place	Current address of parentsLane (Soi).....
Start work from	Act B.E. 2509 (1966)	Road.....Village no.(Moo).....Sub-district.....
Employee Identification No.....		District.....Province.....
Employee's record		Employment history
Name.....Age.....years old Alias.....	<div style="border: 1px solid black; padding: 10px; text-align: center;"> Photo (4x6 cm) </div>	Former employment place.....Address no.....
Nationality.....Thai identification card/permanent residence card no.....dated.....		Road.....Sub-district.....
issued by.....in the province of.....		District.....Province.....
		Position.....
		Date of leaving.....
Education		Reason for leaving.....
Education level.....School name.....		Other jobs
District/sub-district.....Province.....		In addition to this entertainment place, I am also
Year of graduation.....	Appearance	working in another place named.....Road.....
Family status	Height.....	Sub-district.....District.....
Name of spouse.....Number of children.....	Body shape.....	Province.....
Marital status (living together or separation)	Skin color.....	Position.....
Current address	Hair.....	I certify that the aforementioned statement is true.
Address no.....Lane (Soi).....	Face shape.....	(Signature).....Employee
Road.....Village no (Moo).....	Eye.....	(Signature).....Licensee of the entertainment place
Sub-district.....District.....	Mark.....	
Province.....Tel no.....	Name.....	

Note:

A licensee must prepare two sets of records for each employee before he/she starts working in an entertainment place. One set of records must be kept at the entertainment place for inspection at any time. The other set must be submitted to the office where the license to establish the entertainment place was granted. Therefore, an inspection of an entertainment place should involve examination of the list of employees at the entertainment place.

Supreme Court Judgement No. 1163/2518

Although the accused was licensed to open a massage parlor, the accused arranged the place for the prostitution of others with women providing prostitution alongside massage service. Therefore, the accused’s place is deemed a prostitution establishment under Section 4 of the Prostitution Suppression Act B.E. 2503 (1960).

Administrative punishment under the Entertainment Place Act B.E. 2509 (1966)

Offense	Duration of suspension	
	First time	Second time
Failing to prepare employee records	10 days	20 days
Selling liquor to a drunk person who behave in an annoying manner or is unconscious	10 days	20 days
Moving, changing, amending, or expanding an entertainment place without written permission from a competent official	30 days	60 days
Accepting a person under eighteen years of age to work in an entertainment place	30 days	60 days
Allowing or neglecting for carrying of weapon inside an entertainment place	60 days	Revocation of license
Allowing or neglecting for a person less than twenty years of age to enter an entertainment place	60 days	Revocation of license
Allowing performance of obscene or indecent nature in an entertainment place	60 days	Revocation of license
Operating an entertainment place in violation of the hours prescribed by law	60 days	Revocation of license
Allowing or neglecting for commission of narcotics-related offense within an entertainment place	90 days	Revocation of license
The licensee commits narcotics-related offense in one’s own entertainment place	Revocation of license	
Having or allowing forced prostitution, child prostitution or forced child labor in an entertainment place	Revocation of license	
License suspension of over 120 days	Revocation of license	

Note:

An entertainment place as specified by this Act is not permitted to operate as a covert prostitution establishment.

Chapter 3

Roles of Multidisciplinary Teams in Assisting Victim of Human Trafficking



© Meeting of the rescue operation team (DSI, gendarmerie 17, Thai TV reporter of channel 8, and AAT) for preparing a rescue operation to protect women victims from trafficking in 2014

The process of providing assistance and protection to victims of trafficking involves people from many professions with different roles and legal powers. These people with different knowledge, capability, experience and expertise work together as a team with a common purpose to provide assistance and protection in accordance with their professional principles, which is considered in the form of multidisciplinary teams

3.1 Multidisciplinary Team Working

To provide assistance and protection, a team can function in two different ways as follows:²⁷

1. Interdisciplinary: There is collaboration among people from different professions with information sharing and contributions of resources, but without conducting meetings together
2. Multidisciplinary: All people from different professions conduct meetings or consultations to brainstorm and determine appropriate approaches and solutions together

The victim assistance and protection process in accordance with the Anti-Trafficking in Persons Act BE 2551 (2008), involves many organizations which collaborate and work as a multidisciplinary team as follows:

1. Officials from the Ministry of Social Development and Human Security (MSDHS)

The MSDHS has the following units to provide assistance and protection to victims of trafficking:

- A) Provincial Shelter for Children and Families
- B) Protection and Occupational Development Center
- C) Provincial Social Development and Human Security Office

These units have the role of identifying victims of trafficking and provide assistance and protection, food, accommodation, medical treatment, physical and mental rehabilitation, education, training, legal aid, and repatriation to the victim's domicile.

2. Police officers from the Royal Thai Police

Receive notifications and complaints, provide assistance and protection, and participate in victim identification, investigate, collect evidence, and prosecute perpetrators.

3. Anti-Human Trafficking Division, Central Investigation Bureau

It is a body with expertise in the prevention, suppression and investigation of cases relating to human trafficking and deception of laborers, in collaboration with the government and private sectors, NGOs and international organizations, with the aim to protect human rights, as well as prevent, suppress and prosecute human trafficking offenses.

4. Administrative officials

Receive notifications and complaints, provide assistance when there are reasonable grounds to believe that there is a violation of the Entertainment Place Act, the Anti-Trafficking in Persons Act or other related criminal offenses.

5. Immigration officers

Receive notifications and complaints in relation to violations of the laws concerning immigration, migrant registration and human trafficking and other laws within their jurisdiction. Receive and repatriate migrants and foreign victims of trafficking

6. Competent officials under the Anti-Trafficking in Persons Act BE 2551 (2008)

The competent official under the Anti-Trafficking in Persons Act B.E. 2551 (2008) is a senior administrative or police official including an ordinary civil servant holding a position not lower than level 3 appointed by the Minister of Social Development and Human Security, who is also the competent official under the Criminal Code with the powers and duties to prevent and suppress human trafficking. These powers are: to summon any person to give statements, or submit documents or evidence; to search the body of any person or any place; or to submit an ex parte application to the Court of competent territorial jurisdiction asking for an order to permit him to obtain documents which have been or may be used to commit offense of trafficking in persons.

7. Department of Special Investigation (DSI)

As a unit under the Ministry of Justice, DSI has a role in preventing, suppressing and controlling crimes with serious impacts on the economy, society, national security and international relations.

Cases which fall under DSI's responsibility are complex criminal cases - those seriously affecting public order, morality and national security. In addition, nine categories of crimes have been added to the annex of the Special Case Committee Announcement as cases to be investigated by DSI, in accordance with the Ministerial Regulation on the Determination of Special Cases in the Special Case Investigation Act (No. 2) B.E. 2555 (2012). These are crimes related to computers, foreigners' businesses, human trafficking, mining, businesses of financial institutions, cosmetics, hazardous materials, drugs and food.



© Women rescue operation done by Department of Special Investigation (DSI) in collaboration with AAT

8. Public prosecutors

Investigate the human trafficking cases which occur abroad, notify the victim of their rights to compensation and legal aid, and petition for compensation on behalf of the victim. After the court rules to grant compensation to the victim, the public prosecutor notifies the Director-General of the Legal Execution Department for the enforcement of the judgment.

9. Doctors and nurses



© Sent the victims of sex trafficking for victims age determination by teeth examination (medical evidence) through the institution under the Ministry of Public Health

Provide physical examination, diagnosis, treatment and follow-up on treatment; determine the age of the victim; and conduct physical and mental health impact assessment of the victim which will be used as evidence for determining the amount of compensation for the victim.

10. Social workers and psychologists



© AAT in cooperation with the Multi-Disciplinary Team rescued victims of sex trafficking from a karaoke in Prachinburi province and identified the victims via interview, 2014

Provide physical and mental rehabilitation, prepare case history, analyze personal and family problems,, measure intelligence level, provide individual counseling,group therapy to reduce stress, and improve personality, promote self-esteem and confidence, and support self adaptation and harmonious reintegration into society.

11. Witness Protection Bureau, Ministry of Justice

Provide protection for the safety of the victims or witnesses in criminal cases, as well as their families. Such persons can request protection if they face insecurity in life, body, health, reputation, assets or other rights before, during or after becoming witnesses.

12. Officials from the Labor Welfare and Protection Department, Ministry of Labor

Investigate the employment conditions and treatment of employees, as well as order employers to pay wage or treat employees in compliance with the Labor Protection Act B.E. 2541 (1998).

13. Department of Legal Execution

Execute court judgments in civil cases as well as civil parts of criminal cases by seizing, freezing and selling debtors' property and distributing the proceeds to creditors.

In human trafficking cases, when the court orders to grant compensation to the victims, the latter become creditors, and the Director-General of the Legal Execution Department will execute the judgment by seizing, freezing, and selling property through an auction in order to compensate for the victims' damages.

According to Section 15 of the Anti-Human Trafficking Procedure Act B.E. 2559 (2016), the court judgment in relation to indemnity and damages for punishment shall be part of the court judgment in criminal case. In case of legal case execution required, the victim shall become a creditor. In this case, the Ministry of Social Development and Human Security is responsible for providing legal assistance to the victim in accordance with the law on prevention and suppression of human trafficking in order to ensure the execution of the court judgment.

14. Embassies and consulates

Check the background of individuals, verify nationality, as well as provide protection and support to nationals who need help in such cases as natural disasters, robbery, illness, arrest, detention.

In human trafficking cases, the victim will be provided protection and facilitated for return to their domicile by government agencies. The destination country (where the victim is being protected) must coordinate with the relevant embassy or consulate for the purpose of verifying nationality, and tracing and assessing the family of the victim prior to the return of the victim. After that, the embassy/consulate shall be notified about the return schedule.

15. Non-governmental organizations (NGOs)

Receive tips-off and notifications from victims or witnesses as victims often seek help from NGOs. Then, NGOs will provide information to the government agencies (e.g. administrative officials or police) with authority to examine the facts and rescue the victims accordingly.

16. Lawyers

Provide rights protection and legal aid to the victims such as fact-finding and legal counseling on legal provisions as well as the rights and duties contained therein. Victims trust lawyers whom may be requested to participate in the investigation process, as well as in filing as co-plaintiff along with the public prosecutor.

17. Interpreters

Facilitate communication between non-Thai victims and relevant parties. Interpreters are important in the justice process of TIP cases and specified by law to play a role in every stage from police investigation, public prosecution to court trial.

Advantages of multidisciplinary team

1. The diverse expertise of the multidisciplinary team member who come from different agencies ensures a more effective assistance for women and children

2. Collaborative thinking, action and problem solving increase effectiveness.

3. Multidisciplinary team ensures check and balance among all agencies involved, preventing bribery and corruption, because all problems must be solved through multilateral meetings, not unilateral decisions.

Disadvantages of multidisciplinary team

1. Each agency has its own mission and protocol, causing considerable challenges and problems. For example, when the victim gives a different age from what was indicated in her identification document, some agencies adhere to the passport age while others choose to believe the verbal account from the interview.

2. Officials from some agencies lack skills in interviewing and identifying victims. Therefore, they only get personal details of the victims without investigating in-depth details which may help the victims secure their entitlements such as prosecution of the perpetrators or demanding compensation from the employers/perpetrators.

Recommendations for the multidisciplinary team

1. The mission must align with the best interest of women and children for protection.

2. To ensure more effective protection, the multidisciplinary team must include various agencies including government agencies and NGOs.

3. The government must allocate budget and support the role of NGOs as an option in rehabilitation, occupational training and empowerment of victims of trafficking, while monitoring and evaluating measures to protect and rehabilitate trafficked persons.



© AAT cooperated with a Multi-Disciplinary Team from government sectors and NGOs through a meeting to determinate the assistance direction for victims of trafficking

4. Those involved in the rescue operation must be strengthened their capacity and expertise to be on up-to-date on human trafficking situations such as knowledge about investigative tools and interview techniques, and opportunities to learn from others through exchange of experiences.

5. Involved agencies or the multidisciplinary team must update all involved agencies on the progress until the end of the assistance and protection process. Also, the multidisciplinary team should establish effective ethical rights- based practice standards.

6. Each involved agency should share to the multidisciplinary team's meeting the information derived from their information searching and experiences of case assistance for women and children. This will enhance discussions on how to provide assistance. After the operation for the protection of victims, the multidisciplinary team should also convene meetings.

7. Collaborate with origin countries through diplomatic channels or MOUs to allow cross-country involvement of government agencies and NGOs for the purpose of collecting community and family information such as family assessment, home visits, rehabilitation, and human trafficking prevention at individual (victim), family and community levels.

3.2 Roles of Multidisciplinary Teams in Human Trafficking Cases

A multidisciplinary team may comprise administrative officers, police officers, immigration officers, and representatives from the Anti-Human Trafficking Division, DSI, Ministry of Labor, Ministry of Social Development and Human Security, NGOs, and interpreters. The responsibilities of the multidisciplinary team are:

1. Collect information, receive notifications, conduct fact-finders, and collect evidence. Conduct a timely rescue operation if there is a reasonable ground to believe that women or children are in danger of human trafficking.

2. Consult, plan, prepare for the team in rescuing victims through the collaboration of the multidisciplinary team. Rescue operations are led by police officers, administrative officers, or

persons authorized by the Provincial Anti-Human Trafficking Operation Center to ensure timely rescue operations.

3. Conduct a timely rescue operation if there is a reason to believe that women or children are in danger of human trafficking or being transferred for hiding in other places. In this case, the multidisciplinary team must immediately notify the operation team and the Provincial Anti- Human Trafficking Operation Center without delay. In the case that the team cannot conduct a rescue operation in certain localities, the team has to notify local government agencies to take charge.

4. Interview the rescued persons to find facts for victim identification and collect information, as well as coordinate with relevant agencies.

5. Refer victims of trafficking into the process for assistance, support, rehabilitation and reintegration



© A rescue operation from a karaoke and witnesses identification in Kanchanaburi province by AAT in collaboration with the Operation Center on Prevention and Suppression of Human Trafficking and the Crime Suppression Division in 2012.

In rescuing victims of trafficking in brothels, entertainment places or other locations, the rescue team must also take control of perpetrators, collect and examine evidence and identify victims.

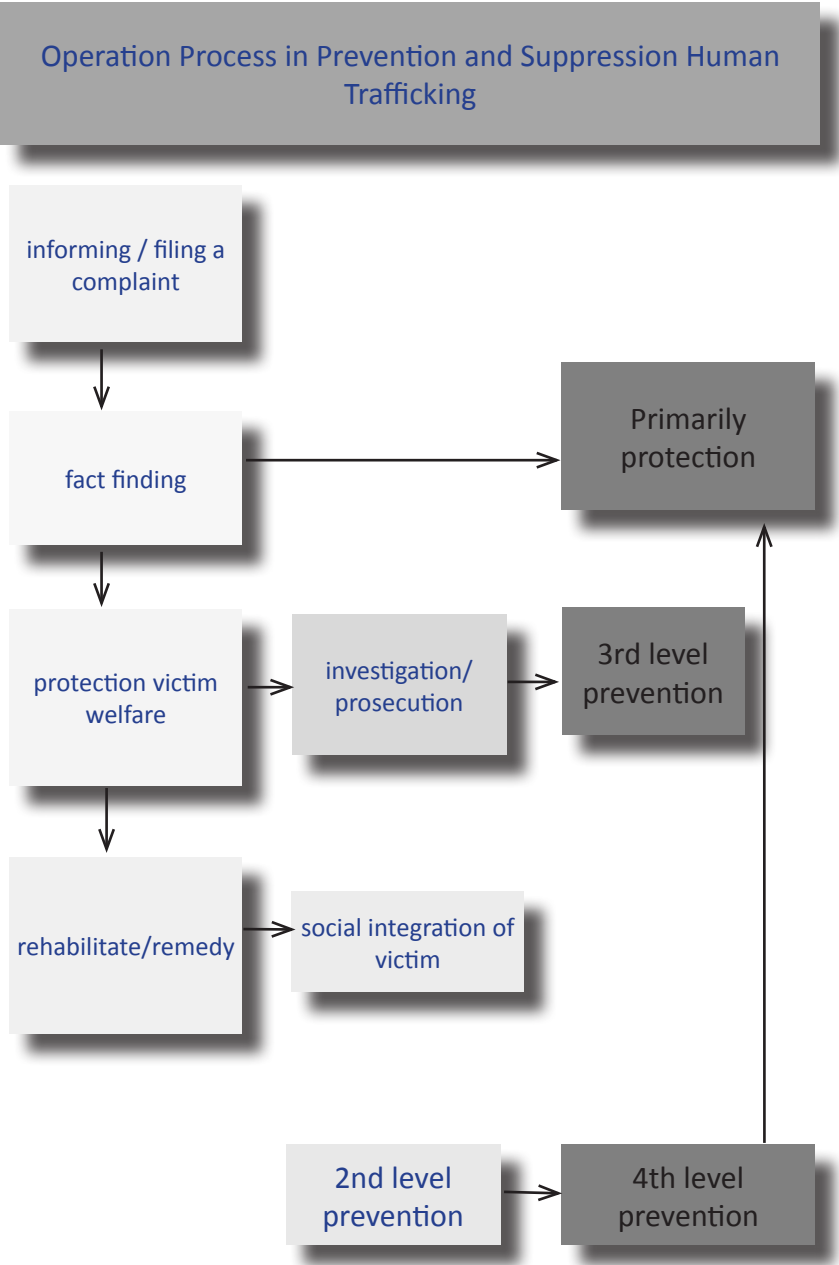
1. If there is a reasonable ground to believe, whether from notifications, surveillance, or victims who seek help by themselves or by the help of others, that persons are in danger of human trafficking, the team must immediately conduct a rescue operation to bring the victim out of the brothel, entertainment place or location, and collect as much evidence as possible in order to prosecute the perpetrators and apprehend others who are involved.

2. After the rescue, the team identifies the victims and submits their recorded comments to the inquiry officer.

3. The inquiry officer verifies who is a victim of trafficking based on the collected evidence and opinions of relevant government agencies and NGOs, especially social workers and psychologists in charge of the potential victims.

4. Provide protection to the victims or potential victims in the protection centers under the Department of Social Development and Welfare, MSDHS-approved NGO shelters, or other shelters.

Chart represents implementation of protection process for victims of trafficking



Available: <http://www.slideshare.net/trafcord/ss-5556977>

Chapter 4

Screening for Victims of Trafficking in Sexual Commerce



If there's a reasonable ground to believe that the victims may be in danger, the head of the protection center or the Provincial Anti-Trafficking in Persons Operation Center's secretary may petition to request police protection as deemed necessary and/or in accordance with the Witness Protection Act B.E. 2546 (2003)

4.1 Screening for Victims of Trafficking in Sexual Commerce

After the rescue of victims or potential victims, the rescue operation team conducts initial identification of victims of trafficking; submits their opinions and observations to the inquiry officer; and provides safe and proper shelters during the victim identification process. Victim identification requires interviews to collect information and find facts. In addition, the officers must observe and look for any indicators of trafficking concerning exploitation from prostitution.

While identifying victims of trafficking in entertainment places, the officers must separate child victims from adults, and prevent the owner or controller of the entertainment place from interfering in the identification process. Interpreters should be used to facilitate the communication and gain trust.

If the trafficked persons have been forced by any means they will be afraid of providing information to authorities. Therefore, interview should be done in places without possible interference. Agents, controllers, as well as those who have already been interviewed, whether they be identified as victims- must be separated.

To identify victims of trafficking, the inquiry officer base his/her decision on facts and evidence, as well as opinions with reasons from relevant agencies involved in the rescue and victim identification process, especially social workers or psychologists.

In case of divergent opinions, the inquiry officer shall submit his/her opinion along with conflicting opinions to the Provincial Anti-Trafficking in Persons Operation Center for decision without delay

and request that the decision and opinion of the Provincial Anti-Trafficking in Person Operation Center be sent to the Provincial Police Commander – as the chief inquiry officer – for consideration. In the meantime, the trafficked persons shall be given protection in accordance with Article 29 of the Anti-Trafficking in Persons Act B.E. 2551 (2008).

4.2 Keys to Consider in Screening Victims of Trafficking

1. Knowing vulnerable groups

Those in charge of identifying victims of trafficking must have knowledge and understanding of groups “at-risk” or vulnerable to exploitation. They may be, for example, children, irregular migrant workers, stateless people, ethnic minorities. Moreover, the nature of work may put some groups of people at risk, such as workers on fishing boats or in such sectors as agricultural sector, small industries or factories, construction work or entertainment. In particular, those working in entertainment places are most at risk of sexual exploitation.

2. Knowing relevant laws

Those in charge of identifying victims of trafficking must understand the laws regarding the forms and elements of crime in accordance with the Criminal Code, the Anti-Trafficking in Persons Act B.E. 2551 (2008), and the Prostitution Prevention and Suppression Act B.E. 2539 (1996).

Articles 282 and 283 of the Criminal Code concern the procurement of a person for sexual intercourse or indecent act. Although the perpetrator does not want to receive benefits for the act of arranging for sexual intercourse or indecent act, the perpetrator is still considered the procurer to arrange a person for the gratification of sexual desire of another person, or indecent act in accordance with the Criminal Code.

However, if the perpetrator solicits money, service fees or other benefits for the act, he/she is liable under the Prostitution Prevention and Suppression Act B.E. 2539 (1996).

If the act involves threatening or forcing a person into prostitution without consent or procuring a child under 18 years of age with or without consent, the act is regarded as “human trafficking” under the Anti-Trafficking in Persons Act B.E. 2551 (2008).

The age of victims of trafficking is of importance in the prosecution against perpetrators and the protection of victims. Even if the victim is over 18 years old when rescued, it is important to find out the age at which she was first exploited to determine whether he/she has become a victim of trafficking when the victim was a child.

If physical appearance cannot help determining whether the person is over 18 years old, physical examination including dental/bone examination will be required for age determination.

3. Knowing the facts and evidence

Interviews and conversations are aimed to acquire information and facts including background, gender, age, education level, identity of agent, trafficking route, nature of work, exploitation, remuneration received (for work), forceful conditions, physical assault and restriction of liberty. These can be used to determine if the person is victim of trafficking. In addition, other evidence from persons, documents and other objects must be collected to verify the information.

4. Knowing what to observe

To identify victims of trafficking, one needs to rely on facts and collected evidence, as well as signs and indications of physical abuse, restriction of liberty, restriction of freedom of decision making, threat, deception, non-payment of wage, confiscation of identification document, debt bondage, or other forms of force.

4.3 Indicators of Coercion in Sexual Exploitation²⁸

Victim identification may require observation and consideration of indicators of exploitation from prostitution. In some cases, only one indicator suffices to indicate human trafficking, whilst in other cases multiple indicators may be required to determine exploitation. Examples of indicators are:

1. Physical and mental violence

- Under 18 years old
- Signs of physical assault
- Signs of anxiety or fear
- Subjected to threat to life, body, liberty or property

2. Restriction of physical liberty



© Soldiers cutting chains of a brothel to rescue women and children who were locked inside the brothel in 2008 from the notification of AAT

- Being detained or confined in place of work
- Being restricted to living in place of work or a place provided by the venue owner
- No freedom to leave place of work or accommodation

3. Restriction on freedom of decision-making



© Supervising CCTV installation to control women and children inside their bedrooms in the brothel

- Being stressed and hesitant to make decisions
- Forced or threatened to work or put up with unwanted work
- Deceived about the amount of remuneration for work
- The venue owner or controller has violent tendencies.
- The owner or controller threatens victims or their family members.

- Being threatened to be handed over to the police or immigration officers if found trying to escape or refusing to work (for those who entered the country illegally)
- Signs of violence in place of work or nearby
- Being prohibited from resigning from work

4. Debt bondage

- Being obliged to pay exorbitant amount of expenses/ fees for the passage, agent, documents
- Being obliged to pay exorbitant amount for accommodation, food or beverage during work

- Having borrowed money from the venue owner or controller
- Receiving an advance payment that incurs a growing debt. So the worker has to work to pay off the debt and, therefore, is unable to quit his/her job due to the incurred debt.
- Having wage deducted to pay off debt
- Having an exorbitant debt that cannot be paid off
- Having been sold to pay off debt

5. Withholding or non-payment of remuneration for work

- Not being paid for work
- Not being paid regularly or normally
- Being remunerated in kind and not in cash
- Not having no evidence of (wage) payment

6. Confiscation of identification document

- The owner or controller has kept the worker/victim's identification document.
- The victim is unable to retrieve or access their identification document.

Note:

Even though the victim consents to (comply with the offender) in the first place, legally enters the country, or possesses valid work permit according to the Working of Aliens Act, it does not mean that that person cannot become a victim of trafficking. As such, questioning and fact findings should be done to identify the offence of human trafficking.

Chapter 5

Protection and Assistance Process for Victims of Trafficking



In the past, the justice system did not give importance to the protection and remedy of victims, but focused on evidence collection and prosecution of perpetrators in criminal cases. However, the government now impose various protection and assistance measures for victims of trafficking including legal aid to ensure that victims access protection justice system; financial assistance; remedy provided by the government for victims' damages caused by, or due to, criminal offenses committed by others; and social support for reintegration into society.

5.1 Protection and Assistance for Victims of Trafficking

Once victims of trafficking enter the MSDHS's protection process, the officials will inform them about the rights that they are entitled to in each stage of protection and assistance (before, during and after); how to behave themselves; and their rights and obligations. The assistance provided in the MSDHS's protection center is listed as follows:

1. Food, clothes, personal effects, education, and occupational training as appropriate to gender, race, religion and tradition/culture.
2. Appropriate housing. The victims who belong to the same family will be housed in the same area.
3. Medical treatment, physical examination, age determination. In the case of serious or contagious illnesses or emergencies, the trafficked person will be hospitalized in a nearby hospital, with all costs waived. If the hospital charges cannot be waived, the trafficked person can apply for assistance from the TIP Fund.
4. Legal aid. The Protection Center officials will request relevant agencies/organizations to provide legal aid such as legal counselling or assistance for criminal prosecution or wage claims in labor cases. Criminal prosecution and labor-related compensation.
5. Unless the Minister of Justice grants a permission, victims of trafficking are exempt from criminal prosecution on the offense directly related to human trafficking such as entering, leaving or

residing in the country without permission; giving false information to officials; forging or using fake passport according to the Criminal Code; prostitution-related offense under the law on prevention and suppression of prostitution , particularly on contacting, persuading, introducing and soliciting a person for the purpose of prostitution and assembling together in the place of prostitution for the purpose of prostitution, or offense of being a migrant working without permission under the law on working of aliens (migrants).

6. Support in claiming compensation for victims. In the case where the victim of trafficking has the right to compensation for damage as a result of the commission of trafficking and expresses his/her intention to claim compensation thereof, the Department of Social Development and Welfare or the Provincial Social Development and Human Security Office shall determine compensation and inform the public attorney for further proceeding.

7. Temporary stay permission in Thailand. In the case of foreign trafficked persons who need to stay in the country for the purposes of prosecution against perpetrators of human trafficking, claiming compensation , medical treatment, physical and mental rehabilitation, relevant officials will coordinate to allow the foreign victims to temporarily stay in Thailand according to the immigration law.

8. Temporary permission to work. If there is no concern for safety, officials may coordinate with relevant agencies to allow the victims to temporarily work in Thailand according to the law on working of aliens (migrants).

9. Witness protection. If the victim who is witness or his/her family is in danger, officials will request witness protection from the police or competent officials under the witness protection law.

10. Repatriation shall be done with the safety of victims in mind. Coordination with local agencies in the victims's domicile is needed to prevent being re-trafficked.

5.1.1 Welfare protection

- After the victim identification process, if it is found that the facts initially obtained are not clear due to language barrier, refusal to give a statement of an individual, illness or other reasons. If it is necessary to have more time to find additional facts in order to be able to identify whether the stated person is a victim of trafficking, the competent official may temporarily take such person into his/her

custody in an appropriate place which shall not be a detention cell or prison, or refer him/her to the responsible units of the MSDHS within twenty four hours. The custody of such person must be reported to the Commissioner-General of the Royal Thai Police, the Director General of the Department of Special Investigation, the Director General of the Department of Social Development and Welfare or the Provincial Governor, as the case may be, without delay.

- In case of necessity for the custody of any person suspicious to be a trafficked person, to any extent longer than 24 hours, the competent official shall file a petition to the Court asking for a permission order. The Court shall grant permission for a period of not more than 7 days and may impose any condition upon such permission.²⁹

- If it remains unclear if the persons are trafficked persons, the competent official can place those persons under the protection of the primary shelter or protection center as follows:³⁰

- In case of necessity for the benefit of fact clarification in relation to the trafficking in person and the security protection of a person, where there is a reasonable ground to believe that he is a trafficked person, the competent official may place the trafficked person in the care of a primary shelter provided by the law on prevention and suppression of prostitution, or a primary shelter provided by the law on child protection, or other government or private protection centers.

- The receiving shelter for temporary custody must be appropriately cared and provided for.

- The temporary custody shall not exceed 24 hours from the time of the competent official's processing temporary custody, unless otherwise ordered by the court

- The competent official shall record the details of the situations, date, time, and location of the temporary custody of the person who may be a victim of trafficking

- If the facts become clear that the person under temporary custody is not a trafficked person, the custody is terminated. Other agencies should be contacted for enforcement of other, if any, relevant laws.

- If the facts become clear that the person under temporary custody is a trafficked person, the competent official shall provide support and welfare protection in accordance with Article 33 of the Anti-Trafficking in Persons Act B.E. 2551 (2008).

- Revealing the name, last name, address, photograph or information concerning persons under temporary custody is prohibited, except for official use.
- The implementation of this regulation must strictly adhere to human rights principles.

5.1.2 Provision of Protection to Victim of Trafficking

After the preliminary victim identification process for Thai and non-Thai adults or children, it may be found that some persons are not victims of trafficking while others are identified as victims of trafficking. Hence, the process and steps to be taken for the provision of protection for each person may vary as follows:

1) Non-trafficked persons

- For those under 18 years old, whether be Thais or non-Thais, if the person is not a trafficked person, nor be charged with committing a crime, nor being prosecuted for other charges with jail terms nor have been given jail term by court, the inquiry officer shall settle the case and place the child to a primary shelter in accordance with child protection law(children and family shelters in 77 provinces.).
- For foreigners over 18 years old who are not trafficked persons and do not wish to be placed in a protection center, the custody shall terminate, and the person shall be placed under custody of the immigration bureau for repatriation.

2) If the person is trafficked person

Exploitation of a child under 18 years of age from prostitution, production or dissemination of pornographic materials, or other forms of sexual exploitation constitutes human trafficking, regardless of the child's consent, and the child shall be protected in a protection center.

If the person is a trafficked person of 18 years old or over and consents to receive protection, the person will be sent to any of MSDHS protection centers at in the central or regional areas as listed below:

2.1 Bangkok Metropolitan Area and perimeter

- Kredtrakarn Protection and Occupational Development Center , Nonthaburi province for girls and women
- Pakkred Reception Home for Boys (Ban Phumiwet) for boys aged over 6 years old but not over 15 years old
- Pathamthani Provincial Protection and Occupational Development Center for Men for male victims over 15 years old and those who are members of the same family.

2.2 Regional areas

- Girls and women (including women along with sons under 6 years old) shall be sent to one of the following:

1. Kredtrakarn Protection and Occupational Development Center, Nonthaburi province

2. Protection and Occupational Development Center (Ban Song Khwae), Phitsanulok province

3. Protection and Occupational Development Center (Baan Nareesawat), Nakorn Ratchasima province

4. Protection and Occupational Development Center (Ban Srisurat), Surat Thani province

- Male victims over 15 years old and those who are members of the same family (husband, wife and children) shall be sent to one of the following:



© AAT social workers implement activities inside the government shelter to prepare protected girls for their repatriation home

1. Protection and Occupational vocational Development Center for Men, Pathumthani province
2. Protection and Occupational Development Center for Men, Ranong province
3. Protection and Occupational Development Center, Chiang Rai province
4. Protection and Occupational Development Center, Songkhla province

For provinces in which there is no protection and occupation center, the trafficked person shall be referred to temporarily stay at the Provincial Child and Family shelter in that province (77 shelters across the country) , before referring to one of the above shelters for victims of trafficking as appropriate.

5.2 Legal Assistance

Victims have been subjected to serious violations of human rights, whether in the forms of labor exploitation, forced labor, forced prostitution or others. To eliminate human trafficking, it is necessary to prosecute traffickers, agents, employers and others involved, as well as claim unpaid wages, compensation and damages for the victims. The provision of legal aid ranges from preparing the victims before court hearings so that the victims understand the process of investigation and witness examination in criminal or labor cases

5.2.1 Assistance in Criminal Cases

The process for assisting trafficked persons in criminal case are as follows:

1. Filing a case and pressing charge against the perpetrators to the competent official, namely, the Anti-Trafficking Division or in the precinct where the crime occurred or is believed to have occurred or where the accused resides or was arrested.

Note:

In sexuality-related, prostitution-related, or human trafficking cases, a fearful victim can request for a separate examination room to avoid confrontation with the perpetrators like the children witness examination , even if the victim is over 18 years old.

2. The victim or witness is required to give a statement to the inquiry officer in the cases offenses relating to sexuality, life and body which are not the offenses arising from affray; the offense relating to liberty; the offense of extortion, robbery and gang robbery according to the Criminal Code; the offense according to the Prevention and Suppression of Prostitution Act; the offense according to the Anti-Trafficking in Persons Act, the offense according to the Entertainment Place Act; or other offenses with jail terms.

The inquiry officer shall examine such victim or witness in a place suitable for a child (aged not over 18), and a psychologist or social worker, a person who is requested by the child and a public prosecutor shall be present in examining the child.

In the case that the psychologist/social worker is of an opinion that examining a child or a question may have a strong mental effect on a child, the inquiry officer shall ask the question through the psychologist/social worker in a way that the child does not hear the inquiry officer. Repeating the same question for many times without reasonable cause is prohibited³¹

In the case that the inquiry officer needs a child aged not more than eighteen years to identify the person, or a picture or a drawing of the accused, agent or related person, the inquiry officer shall use a suitable place for such identification, in such a way that the identified person cannot see the child. A psychologist/social worker, a person requested by the child and the public prosecutor must also be present.³²

In the case of an offense related to sexuality, inquiring a female victim shall be conducted by a female inquiry officer, unless such victim gives consent otherwise or there is other cause of necessity. The victim may apply for allowing any person to be present in the examination.

In the case that the victim or witness is required to identify or confirm the identity of the perpetrator, the inquiry officer shall use a suitable place for such process in a way that the offender cannot see the victim/witness, with due consideration of the safety of the victim/witness.³³

3. For the benefit of the assistance to a trafficked person, the inquiry officer or public prosecutor shall, in the first chance, inform the trafficked person his/her right to compensation for damages resulting from the commission of trafficking in persons and the right to the provisions of legal aid.³⁴

4. At the time of examining the trafficked person in the stages of investigation or pre-trial witness examination, it is required that to investigate or examine witnesses in relation to compensation for damages as a result of the commission of trafficking in persons. . Therefore, the official designated by Permanent Secretary for Social Development and Human Security shall coordinate with the public prosecutor to claim compensation for the trafficked person. In accordance with Section 35 of the Anti-Trafficking in Persons Act. The calculation of the compensation shall be done in accordance with Sections 438 to 448 of the Civil and Commercial Code.

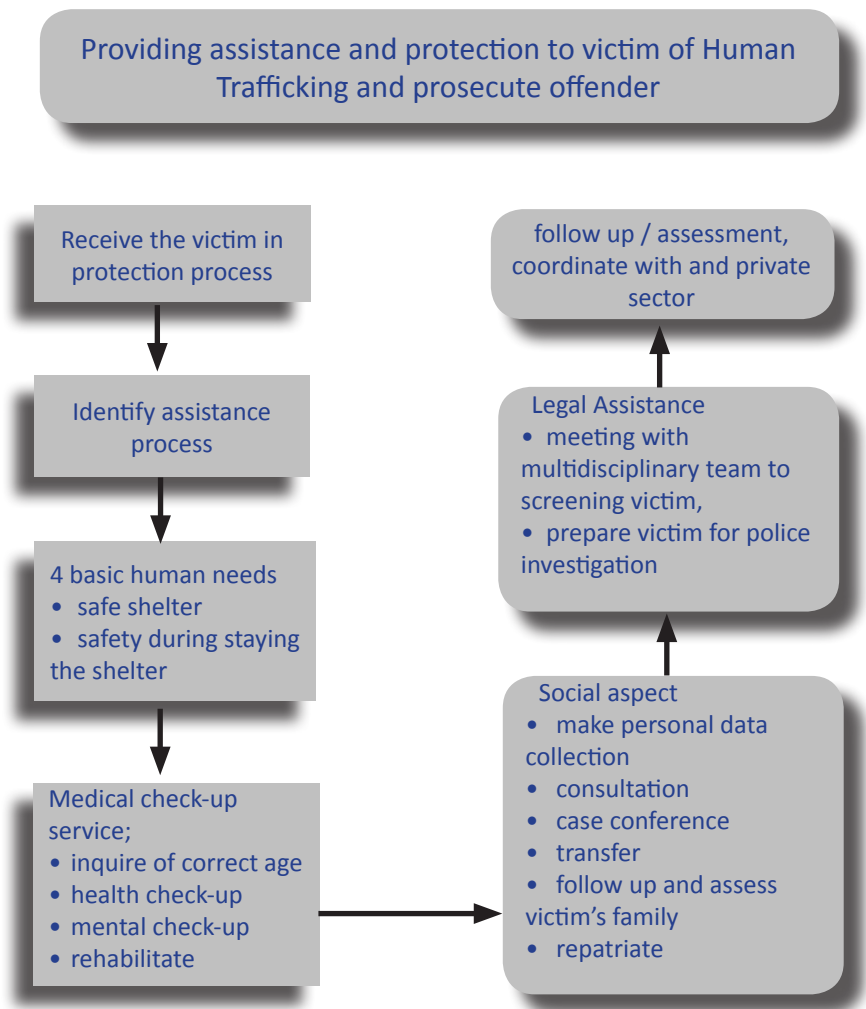
5. The public prosecutor may examine a witness before entering a charge in the Court,³⁵ if there is necessity to safeguard important evidence in a criminal case, in the case where the witness may later be lost or difficult to examine at a later date, for example the witness is leaving the country, doesn't have a fixed address, lives in a very remote area or will be directly or indirectly tampered with.

6. In the case that the victim/witness is under 18 years old, the examination must be conducted in a way that the victim will not face the perpetrator. The child shall be placed in a separate room which is suitable, and the examination will be conducted through closed circuit television, and the questions asked through a psychologist/social worker. In a sexuality-related case, if the victim or witness above 18 years old wishes to have a social worker present during examination in accordance with the Criminal Procedure for children where the inquiry official, public prosecutor, and social worker/psychologist are present.

In the taking of evidence, where the consideration of sex, age, status, health and mental state of a witness or his fear towards the accused has been made, the process may be conducted without direct confrontation between the witness and the accused through the use of closed circuit television. Questions may be asked through a psychologist, social worker or a person that the witness confides in.³⁶

7. In the case where the Court orders the accused to compensate for the trafficked person, the court judgment shall be submitted to the Director-General of the Legal Execution Department in order to execute the judgment.. Once the asset of the accused has been seized and sold in accordance with the court order, the MSDHS shall inform the victim to receive the proceeds or send it to the victim.³⁷

Rescue and victims of trafficking protection chart



Available: <http://slideplayer.in.th/slide/2133012/>

5.2.2 Assistance in Civil Cases³⁸

The Anti-Trafficking in Persons B.E. 2551 (2008) provides remedy for damages incurred to a trafficked person. In the case where a trafficked person has the right to compensation for damages as a result of the commission of trafficking in persons and express his intention to claim compensation thereof, the public prosecutor, shall on behalf of the trafficked person, claim for compensation thereof.³⁹

Compensation can be claimed as follows:

- The Department of Welfare and Social Development or Provincial Social Development and Human Security Office organizes meetings to determine the compensation amount
- The inquiry official, public prosecutor, victim or his/her representative and other persons involved jointly determine the compensation amount by considering the cause of damages and effects in terms of physical and mental aspects, liberty, reputation, property as well as other damages that can be calculated for cash compensation.
- The determined compensation amount shall be reported to the Permanent Secretary of the Ministry of Social Development and Human Security. In case the offense incurred outside Bangkok, the Provincial Governor is empowered to act on behalf of the Permanent Secretary of the Ministry of Social Development and Human Security⁴⁰ in claiming compensation for the victim.
- The Permanent Secretary of the Ministry of Social Development and Human Security or his/her representative informs the Public Prosecutor to claim for compensation.

The conditions for claiming compensation is as follow:

1) Ensure that the compensation is for a human trafficking case

Claiming compensation in accordance with Section 35 of the Anti-Trafficking in Persons Act B.E. 2551 (2008) must be only for human trafficking cases where the victim files a complaint with an inquiry official who records his/her opinion and forwards the case to the public prosecutor who then institutes the prosecution in court.

2) The person who is entitled to make a claim

The public prosecutor who claims compensation for damages on behalf of a victim, following notification from the Permanent Secretary of MSDHS or designated person.

3) Timeframe

The claim for compensation may be brought by the Public Prosecutor either with the criminal prosecution or by way of the motion filed at any time during the trial of the criminal case in the Court of the First Instance, before the Court makes a ruling.

4) Court

The claim must be received by the same court at which the Public Prosecutor prosecutes the criminal case for an offense under the Anti-Trafficking in Persons Act

5) Non-duplication

The claim for compensation for the trafficked person in accordance with the Anti-Trafficking in Persons Act shall allow the trafficked person to make a further claim for compensation on the conditions that the claim must be done before the court ruling, and that the order for compensation shall not cause effects on the rights of the trafficked person to sue a civil case for claiming the remainder of compensation.⁴¹

In the case where the offender commits an act of brutality, confinement, detention, physical assault or oppression against the victim, the court can order the offender to pay more compensation as deemed appropriate. The compensation amount depends on the behaviors of the offender, the extent of damages sustained by the victim, the benefits that the victim should have received, the economic status of the accused and the record of offenses committed in relation to human trafficking.⁴²

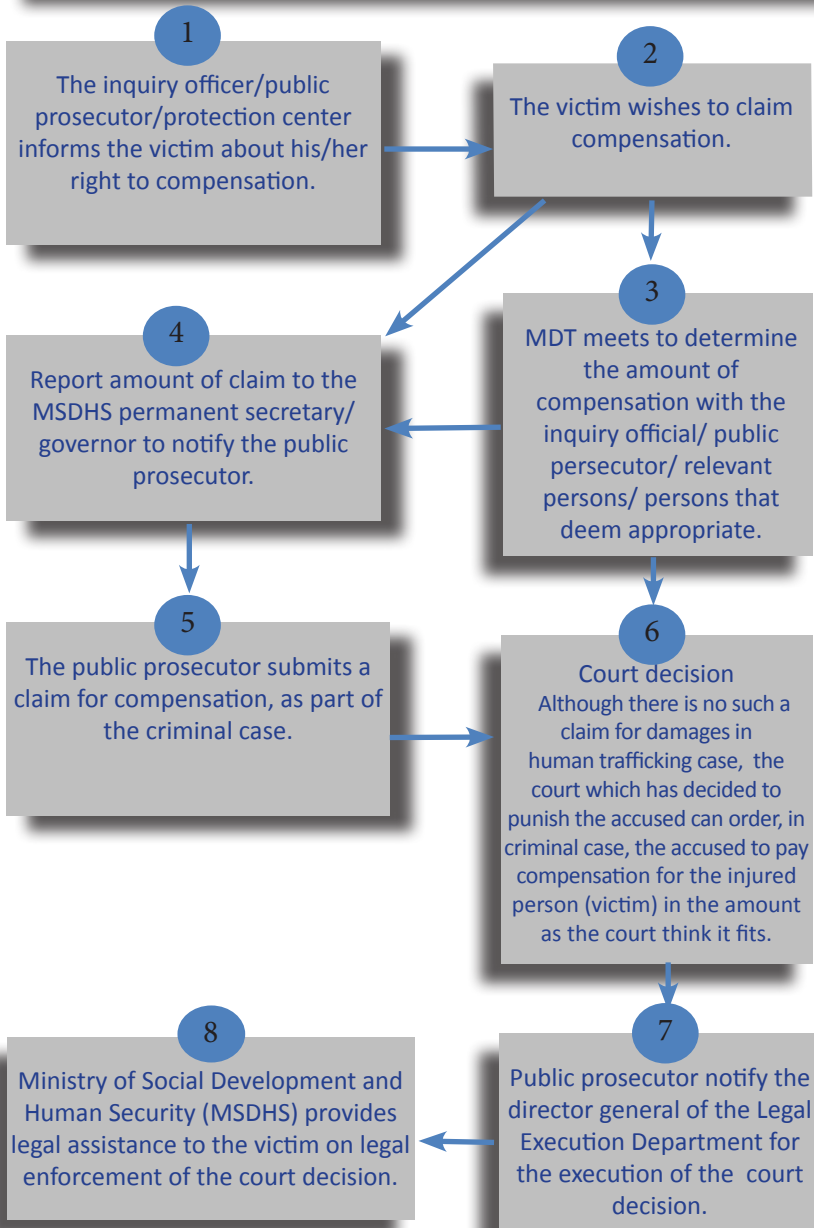
6) Fees and expenses⁴³

The hearing proceeding of claim for compensation under the Anti-Trafficking in Persons Act is exempt from any costs including the fee related to the legal execution.

7) Legal execution

In the case where the Court orders to pay compensation, the trafficked person shall be regarded as the creditor according to the judgment and the Director-General of the Legal Execution Department shall be bound to execute the judgment, and the Ministry of Social Development and Human Security shall provide legal assistance. The fee for legal execution shall not be charged to the victim.

Process of compensation claim for victims of human trafficking



5.3 Financial Assistance

Financial assistance is one of the initial measures to assist and remedy trafficked persons. The responsible government agencies are the Rights and Liberties Protection Department under the Ministry of Justice and the Trafficking in Persons Fund under the MSDHS. This assistance is not compensation on behalf of the perpetrators. Therefore, it does not preclude the victim's rights or benefits from other laws or rights to make a claim for compensation for damages from the perpetrators.

5.3.1 Damages for the Injured Person in Criminal Case paid by the Rights and Liberties Protection Department, Ministry of Justice

Modern justice system gives importance to the guarantee of rights and liberties of people. Thailand's 1997 Constitution protects the victims and the accused by requiring that the government remedy damages of the victims and the accused in criminal cases. The Damages for the Injured Person/Victim and Compensation and Expense for the Accused in Criminal Case Act B.E. 2544 (2001) allows damages and compensation for victims in criminal cases, as well as the accused in criminal cases who are judged by the court to be wrongfully imprisoned when the persons do not have recourse to other remedial measures. However, the rights and benefits from this act do not preclude the rights and benefits from other laws.

Eligibility for claiming damages in criminal case

The process for claiming for damages is as follows:

1) Victim in a criminal case

The eligible victim according to the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act B.E. 2544 (2001) shall be the person who has injuries to his/her life, body or mind as a result of a criminal offense committed by another person. The eligible victim shall not be involved in such criminal offense.

2) The accused in a criminal case

The accused who is entitled to compensation and expense under this Act shall: (1) be the accused prosecuted by the public prosecutor; (2) being in custody during trial; and (3) not being the person who committed the offense upon clear evidence and whose charge has been withdrawn during trial or the final judgment of such case stating

that the fact to the case is conclusive that the accused is not the person who committed the offense or such act is not an offense.

3) Offenses eligible for compensation

The offenses committed against the victim which entitles the victim to request for compensation which is the offense under the Criminal Code are as follows:

- Rape of a person; rape of a child under 15 years old; having a person to commit an indecent act; procuring, seducing or taking away a person for indecent act in order to gratify the sexual desire of oneself or another person; or trading obscene materials (Sections 276-287)
- Intentional murder; causing death to another person by assault or negligence; causing another person to commit suicide; aiding or instigating a child under 16 years old to commit suicide; or causing death to another person in an affray (Sections 288-294)
- Assault on another person causing physical or mental harm; assault on another person causing serious physical or mental harm; causing serious injury to another person in an affray; and causing serious injury to another person by negligence (Sections 295-300)
- Causing abortion (Sections 301-305)
- Abandoning a child, a sick person, or an elderly person (Sections 306-308)

4) Timeframe

The victim, the accused or their heir who sustain injury is entitled to request for damages, compensation or expense under this Act within one year as from the date the committed offense has known to the victim or the date the Court has permitted to withdraw

Note:

The offense on the charge of human trafficking does not entitle the victim to make a claim for damages for the injured person, but the victim can claim compensation for the commission of offenses as specified in the Criminal Code such as offenses against life and body, as well as sexual offense.

the case upon clear evidence that the accused is not the offender or the date the final judgment which stating either the accused is not the offender or the act of the accused is not an offense has been given, as the case may be. (Section 22)⁴⁴

In the case where the victim, the accused or their heir who sustain injury is incompetent and unable to submit the request personally, the legal representative or guardian, ascendant, descendant, husband or wife or other persons appointed in writing by the victim, the accused or their heir who sustain injury, as the case may be, may submit a request for damages, compensation or expense on behalf thereof in accordance with the regulation determined by the Committee. (Section 23)

The deadline by which a claim must be made is the first important question that the Committee must determine. So far, the Committee has decided against awarding compensation to several victims and accused persons, because the claims were made after the one-year deadline.

5) Required documents

- Copies of national identification cards of the victim and claimant
- Copies of house registration of the victim and claimant
- Copy of marriage certificate
- Copy of birth certificate
- Copy of name/surname change record
- Power of attorney, written permissions of other heirs
- Medical bills
- Medical certificate
- Police's inquiry report, record of notifications or daily report
- Copy of death certificate (in case of victim's death)
- Copy of autopsy certificate
- Proof of income (in case of working)
- Proof of compensation from other government agencies

6) Where to submit a claim for compensation

The injured person, accused person or their heirs can claim compensation both in Bangkok and in their home province. Where necessary, such as in the case of illness, they can request that the authority receive the claim at their place of convenience.

Bangkok

The claim can be made at the Office of Financial Assistance for the Injured Person and the Accused in Criminal Case, Rights and Liberties Protection Department, located at the Government Complex 2nd Fl., Ratchaburi Direkrit Building, Chaengwattana Road, Laksi District, Bangkok 10210. Tel 0-2141-2838-99 Fax 0-2143-9665-8.

Other provinces

The claim can be made at the “Justice Clinic” situated in every Provincial Justice Office.

7) False claims

Giving false statement or submitting false evidence for the claim under this Act is prohibited. If this is the case, the Committee shall notify the claimant to return the compensation within 30 days of being notified. In addition, any person who gives or expresses false statement or evidence related to the request for damages, compensation or expense under this Act to the Committee, sub-committee or competent official shall be liable to imprisonment for a term of not exceeding three years, or to a fine of not exceeding 60,000 baht, or to both.

8) Appeals

If the person who makes a request does not agree with the decision of the Committee, such person is entitled to appeal to the Court of Appeal within thirty days as from the date such person has been informed the decision. The decision of the Court of Appeal shall be final. The appellant may, in submitting the appeal, submit the appeal to the Office of Financial Assistance for the Injured Person Victim and the Accused in Criminal Case, Rights or the Provincial Court having jurisdiction over the domicile of the appellant in order to submit the appeal to the Court of Appeal. In adjudicating such an appeal, the Court of Appeal shall have the power to make an inquiry for additional evidence by taking evidence on its own or appointing the Court of the First Instance in so doing on behalf as it thinks fit.

Rates of compensation

Before the enactment of this Act, victims must sue for direct compensation from the perpetrators, with no assistance from the government. Under this Act, however, the government provides the following assistance:

- Medical expenses for treatments including physical and mental rehabilitation
- Compensation in the case of death
- Compensation for lost earning
- Other compensations as the Committee thinks fit.

1) Rates of compensation in the Ministerial Regulation⁴⁵

1.1) General cases

- Medical treatments: actual paid amount but not more than 30,000 baht
- Physical and mental rehabilitation: actual paid amount but not more than 20,000 baht
- Loss of earning: Not more than 20,000 baht per day, and for a duration of no more than one year

1.2) In case of death

- Death compensation from 30,000 to 100,000 baht
- Funeral costs: 200,000 baht
- Compensation for loss of support: no more than 30,000 baht
- Other compensations: as the Committee thinks fit but not more than 30,000 baht

1.3) In the case where the victim or the accused has died before receiving damages, compensation or expense, as the case may be, the right to request for, and receiving of, damages, compensation or expense shall devolve on their heirs in accordance with the regulation determined by the Committee.

1.4) The Committee will determine whether and how much compensation to award to the victim, taking into consideration the behavior, and seriousness of offense, and the damages sustained by the victim, as well as the chance that the victim may be remedied in other ways.

Note:

Under the Criminal Procedure Code, the claim for compensation is exempt of any costs. However, if the claim is inappropriately high or wrongfully made, the court may order to reinstate costs. Although there is no claim for compensation, the court can order the accused to compensate for the trafficked person as deemed appropriate.

Claiming compensation for Trafficked persons

Although human trafficking is not specified under the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act, but the injured person who is the victim of trafficking may claim compensation from injuries that result from the commission of criminal offenses under the Criminal Code.

In the case of foreign injured persons, the injured persons are often repatriated after the end of the legal process. The Committee usually approves their claims after they have been repatriated, so the foreign injured persons find difficult to get compensation for their damages. Therefore, before repatriation, the injured person should give a power of attorney to the director of the protection center or a trusted person to receive the compensation on their behalves.

Reasons for extending the deadline for claim submission

Section 22 of the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act requires that the victim make a claim to the Committee within one year without exception. Therefore, the Committee rejects claims which are made after the one-year deadline.

5.3.2 Financial Assistance from the Anti-Trafficking in Persons Fund

The Anti-Trafficking in Persons Fund is established by the Anti-Trafficking in Persons Act to pay for expenses related to prevention and suppression of human trafficking such as, assistance for trafficked persons and government or NGO-run projects about prevention and suppression of human trafficking.

The assistance provided by the Fund for trafficked persons has the following process: ⁴⁶

1.1) Who is eligible for receiving assistance from the Fund

- (1) providing assistance to the trafficked person;
- (2) providing safety protection of the trafficked person;
- (3) providing assistance to the trafficked person in a foreign country to return to the Kingdom or domicile

Note:

Although the Act requires the claim to be made within one year, if there is reasonable or necessarily ground that renders it impossible, it can be used to extend the deadline.

1.2) Where to apply

- At the National Anti-TIP division if the trafficked person resides in Bangkok.
- Otherwise, at the Provincial Social Development and Human Security Office

1.3) Required documents

- Filled-out form for compensation claim
- Copies of national identification card or house registration
- Other documents such as receipts

1.4) Type of expenses covered

- Living expenses
- Medical expenses
- Expenses for physical and mental rehabilitation
- Repatriation expenses

5.4 Social Assistance

Before returning the trafficked person to family, the protection center official shall inquire personal and family information for the purpose of following up on and assessing the situation of the family. The information will be sent to the locality or country of origin for identity confirmation and assessment of family preparedness including relationships with family members (e.g. parents, guardians, spouse, siblings), factors that may cause the trafficked person to re-enter human trafficking such as poverty and debts, and prevention measures for the protection of the trafficked person returning into his/her family. If there are risk factors such as economic problems or lack of education or unemployment, the trafficked person will be provided with occupational training, education and seed fund, to prevent them from being re-trafficked.

Outcomes from the assistance provision to trafficked persons

1. Perpetrators are prosecuted and punished in criminal cases
2. Victim is remedied
3. Victim has a job.
4. Victim will not be re-trafficked.
5. Victim remains in society.

Chapter 6

Assisting Victims of Human Trafficking in Sexual Commerce



© Testimony interview from DSI officer and AAT psychologist together with the Multi-Disciplinary Team after a rescue operation from a karaoke (disguised brothel) from Narathiwat province

Alliance Anti-Traffic (AAT) is a non-profit organization with an aim to protect women and children in Southeast Asia against sexual exploitation and human trafficking. AAT implements measures to prevent human trafficking, empower, and protect trafficked persons of sexual exploitation, in order to eliminate human trafficking and sexual exploitation and abuse, as well as provide assistance to victims of sexual exploitation and abuse. Although most of AAT's work focus on human trafficking in prostitution, AAT is also involved in other cases of commercialized sexual exploitation such as surrogacy.

AAT has worked in collaboration with many government agencies and NGOs to provide assistance to over 1,140 women and children. The following are case studies which aim to demonstrate the legal framework in order to ensure more effective provision of assistance to trafficked persons. Thus, case studies explore such relevant laws as the Criminal Code, the Prostitution Prevention and Suppression Act, the Anti-Trafficking in Persons Act and the Entertainment Place (amended, no.4).

AAT's working chart



6.1 Legal Assistance to Victims of Trafficking

Case Study: Laotian women and children

Summary of facts

Fourteen Laotian women and children entered Thailand at different times. They were deceitfully recruited by Laotian agents who told them that they would be working at a karaoke shop with good salaries, and they would be able to leave anytime if they wish, and that all expenses will be paid for.

On the departure day, the agent met them and facilitated their immigration formalities and took them by bus to a 3-story karaoke shop in a provincial town in the upper central region. On arrival, the owner paid the agent and threatened them to pay-off for the agent fees and travel expenses. That was when they realized they have been deceived into prostitution. Witnessing the owner hitting a woman in the shop, they became afraid and were forced into prostitution.

They were made to work every day from 8pm until 4am, but sometimes also during the day. They could not reject clients and had to receive 3-5 clients per night. The location was mainly one of the rooms in the shop, but sometimes they were also taken by the controller to hotels in the same province and brought back to the shop.

The shop charged by the hour. Seven hundred baht for thirty minutes and 1,000 baht for one hour, half of which was paid to the trafficked woman. The client was charged 1,200 baht for outside service and 3,500 baht for overnight stay, of which the trafficked woman was paid 350-500 baht. But they never actually received these payments.

There were several controllers in front of the shop. After the shop closed, the front and back doors were padlocked with keys kept by the owner. All windows were fitted with iron grills, and there were four closed circuit cameras to ensure that everyone remained within the building. They were threatened that if they tried to escape or refused to work, they would be taken to the police. There were some who had been hit for rejecting clients or refusing to work. One fell ill and died, without stop working.

On August 2, 2010, the Anti-Trafficking in Persons Division obtained a search warrant and arrested the karaoke owner and controllers. The women found within the shop were sorted and sent initially to the provincial children and family shelter and then to the protection center for further assistance.

Analysis and identification

In this case, although the trafficked persons found themselves at a karaoke as told, the agent did not tell them that they would have to provide sex services – a deception and concealment of facts. The work conditions also differed from what they were told. They were forced into prostitution by fear of being hurt, and could not leave at will – a restriction of freedom to decide. They were also detained and confined within the workplace, and only allowed to leave the premise with controllers – a restriction on physical freedom. They were made to work to pay off their debts such as the agent fee and travelling expenses, and never actually received any payment for their services – a characteristic of debt bondage.

Although they initially crossed the border and entered the country legally, they were taken out of the border area into the country's interior without permission, making them irregular immigrants. They were not taken to obtain legal permit and were threatened of being taken to the police if they tried to escape or refused to work. This is a form of restriction on physical freedom. In addition, some were hit for refusing to work, while at least one died from being forced to work while ill. This shows physical and mental violence.

All of these facts lead to the conclusion that these are cases of human trafficking in prostitution.

Legal aid⁴⁷

After the rescue, the trafficked persons were sent to Kredtrakarn Protection and Occupational and Development Center (Ban Kret Trakarn) in Nonthaburi province. The rescue team assigned Social Responsibility (SR) Law Office to give them legal aid. The lawyers met the trafficked persons at Ban Kret Trakarn to obtain additional facts and inform them of the legal process. They were taken to the Anti-TIP Division to press charges against the karaoke owner. The police later arrested eight more persons involved in the crime including the controllers, touts and money collectors.

As the trafficked persons were deceived from Laos before entering Thailand, the offenses were perpetrated both outside and within the country. Investigating as a case committed outside Thailand,⁴⁸ the Attorney General or designated public prosecutor was responsible for the inquiry. In this case, the Attorney General assigned the public prosecutor to conduct the investigation. The trafficked persons were taken to the public prosecutor and inquiry officer at the Office of the Attorney General in Chatuchak District, Bangkok.

After the inquiry, the public prosecutor filed a case at the Criminal Court⁴⁹ against the eight accused for the charges of human trafficking; procuring, inducing or taking away of a person for prostitution; collaborating in detaining, confining, threatening or using force to make a person into prostitution; collaborating in committing physical or mental abuse against a child; taking away of an underage person; owning a prostitution place with persons over 15 years old and children under 15 years old as women or children in prostitution; and raping women and children. The eight accused plead innocent.

As the 14 trafficked persons were Laotians, Ban Kret Trakarn had to repatriate them to their home country. The public prosecutor petitioned the court for a pre-trial witness examination. Two of the trafficked persons petitioned to become joint-plaintiffs and appointed the SR lawyers to jointly prosecute the case with the public prosecutor.

As the witnesses were female and fearful of the accused, the public prosecutor and joint plaintiff petitioned the court for a non-confrontational witness examination, using a separate examination room and closed circuit television to avoid direct meeting between the witnesses and the accused. After the testimonies, Ban Kret Trakarn repatriated them to Laos.

The trial continued after the witness repatriation. The accused then changed their pleas to guilty as charged. In addition, the karaoke owner paid 50,000 baht compensation to each of the 14 trafficked persons or 700,000 baht in total, and 100,000 baht to the heir of the trafficked person who died - in total 800,000 baht. The lawyers then asked Ban Kret Trakarn director to receive the amount and send it to the trafficked persons through the Laotian Ministry of Labor and Social Welfare.

Criminal Court decision⁵⁰

On July 30, 2013, the Criminal Court made a decision, finding that the eight accused together operated a prostitution place owned by the first accused and ran by the rest of the accused who controlled altogether 15 trafficked persons, maintained order, attracted clients and delivered the women to provide services outside the premises and collected fees from clients, as well as detaining the women within the shop. The first accused forced the women to perform oral sex on him, raped, hit them and forced them to prostitute in and outside the shop. One of the women died, after sustaining physical and mental assaults and abuses. The eight accused, faced with robust evidence, pleaded guilty and withdrew the original innocent plea. In addition, the first accused agreed to pay compensation to the trafficked persons to express remorse.

With the guilty plea, the Court reduced the jail terms by half, sentencing the first accused to 50 years in prison, and the rest to 25 years in prison.



© Fact finding of child victims of trafficking by the Multi-Disciplinary Team including attorney, police, social worker, and psychologist of AAT after rescue in Narathiwat province

6.2 Claiming Damages from the Rights and Liberties Protection Department

Summary of facts

Early September 2005, a Cambodian agent recruited 27-years-old Si (alias) and other Cambodian women aged between 26 and 30 to work at clothes shop or restaurants in Thailand offering good wages. The women were led to cross the natural border without going through immigration checkpoints, before taken to Bangkok where they were passed to a Thai man. The Thai man then took them to Hat Yai by bus and took them to a karaoke bar. The owner of the bar said that the agent had already been paid 30,000 baht and each of the women would have to prostitute themselves to pay off the debts.

Si refused and was hit. The owner also burned a cigarette butt on her stomach, causing a wound that took 10 days to heal. After she recovered from the wound, she was forced to prostitute out of fear for violence. Others were threatened that if they refused they would be sold to a brothel in Malaysia, and had to accept their fate.

The karaoke opened every day from 8.30am until midnight, selling beer and other alcoholic drinks along with karaoke and prostitution. Every day the trafficked person must receive 4-5 clients with no holiday. The owner kept half of what the shop charged the clients, and the other half minus expenses went to the women. At the end of every month, the owner would notify the sum to the women, but they never saw the money.

Si had to receive both Thai and Malay clients. She asked a Malay client to help her escape. He advised her on the escape route and gave her a small sum of money. Si escaped and hid in a temple for one night with help from a monk. The following morning the monk contacted the police to rescue and repatriate her. Si told them about other Cambodian women who were still in the karaoke bar. The police contacted AAT and Friends of Women Foundation for support, before conducting a raid on the karaoke bar and rescued six other Cambodian women.

Together the women pressed charges against the bar owner and other perpetrators for conspiring in procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person; detaining or confining a woman or making woman to commit an act for another person's sexual gratification or for unjust benefits to oneself or another person, regardless of the woman's consent. (Section 7 of the Anti-Trafficking in Persons Act); for procuring, seducing or taking 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 offense are committed within or outside the Kingdom. (Section 9 of the Prevention and Suppression of Prostitution Act); and for procuring, seducing or taking away for indecent act a woman by using deceitful means, threat, doing an act of violence, unjust influence or mode of coercion by any other means (Section 283 of the Criminal Code).

Claiming compensation for victims in a criminal case

Before the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act B.E.2544 (2001) was enacted, the victim must sue for compensation from the perpetrators while the government provided no support. But after the legislation was enacted, it required the government to provide compensation as a mean to remedy the injuries to the victim for its failure to protect them from criminal acts. The compensations are for:

- Medical expenses for treatments as well as physical and mental rehabilitation
- Compensation for death
- Compensation for lost earning
- Other compensations as the Committee thinks fit.



© Witness preparation by explaining the legal process to foreign victims of trafficking

Key problems in this case study

Before this case, all of the victims claiming compensations for crimes that took place in Thailand have been Thai citizens. No foreigners had made such a claim before.

An victim in a criminal case must be a person whom his or her life, body or mind has been injured by the criminal offense committed by other persons whereby such person is not involved in committing such offense.

Some are of the opinion that by entering the country illegally, irregular immigrants are involved in committing the offense perpetrated against them. In addition, as they have not informed on their existence, domicile or residence to the authority, the failure to protect them is not the Thai government's fault, and therefore, the government does not have to pay compensation to them.

The Committee conducted a meeting to review the case and decided that the six claimants had been deceived and forced into prostitution, therefore qualified for the compensation as victims in a crime listed at the end of the Act and related the ministerial regulation pertaining to the criteria, procedure and rates for compensation. It decided to pay compensation to the claimants for 1) medical expenses and 2) other compensations.

Outcomes

The Committee on Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case, under the Rights and Liberties Protection Department, accepted the principle that all persons in the country, whether Thai citizen or foreign regardless of immigration status, have the right to be free from injury to life, body, mind and liberty, and the government has the duty to protect them from criminal activities on an equal basis without discrimination, and in the case where the government fails to do so, it must pay compensation.



© Claiming compensation for victims of trafficking by the lawyer team of SR Law, AAT and Ministry of Social Development and Human Security

1 New Lives : Alliance Anti Traffic

May 2013: The Beginning

AAT received a report from the VFI network organization in Laos that parents of female victims requested them to help their 2 daughters who have been deceived to work at Spa and Karaoke Shop at Sa Dao District of Song Khla Province. AAT later receive additional information that a Laotian-nationality broker has lured L01/2011 and her friend who lived in the same village to go to work together in Thailand. The broker initially persuade them to work as masseuses giving only foot leg and arm massage to customers, and they would receive 200-300 Thai Baht per hourly service. If they agreed to work, the broker would help them get passports. The broker also added that the associated costs are around 10,000 Thai Baht; however, these costs paid in advance by the broker would be deducted later from their wages. L01/2011's passport, which the broker has it made for her, contains the age that does not match her real age. When asked the reason for the incorrect age appearing in the passport she was told by the broker that a child below 18 years old are prohibited from obtaining a passport. When L01/2011 arrived at the brothel, she had to work although she did not want to. She worked for fear that she might be punished like another girl who severely had physical abuse when she denied working. At that time, L01/2011 witnessed the brutal assault that the brothel owner called everyone in the brothel to attack that disobeyed worker; hitting her with chair and mobile phone, for example. After the punishment, the owner also insists firmly that she has to work until she could pay back her debt, and stressed, *"Don't even think of running away because you will never be successful."*



July 2011

AAT worked with Department of Special Investigation (DSI), Song Khla Department of Provincial Administration (DPA), Song Khla Provincial Office of Social Development and Human Security, Children and Family Shelter, and Song Khla Protection and Occupational Development Center in rescue operation

August 2011

AAT worked with the multidisciplinary team to discuss about rehabilitation plan for victims, and legal assistance plan to bring offenders to justice.

November 2011

AAT assisted L01/2011 to sue for damages under civil law.

5 February 2014

- We made a home visit, and delivered 30,000 Thai Baht for compensation of damages received from the Rights and Liberties Protection Department to L01/2011. With this compensation, she could have more money to invest in her business.

November 2013

- AAT gives some grant to L01/2011 to open a grocery shop in her village.

July 2011- July 2012

AAT sends L01/2011 to receive protection service at the Protection Center. At that time, we make her visits, give counseling services, provide skills trainings, and as well as follows up her progress. Meanwhile, we assist her in legal prospect, provide her rehabilitation and empowerment activities, and then assist her in her choice of career after having returned home.

July 2012

- We repatriated L01/2011 back to her hometown.

We prepared her readiness before repatriation. AAT gave her empowerment program to find her occupational needs and skills. After being repatriated, L01/2011 said, "I want to open a small grocery shop in my hometown, but I don't have money for investment. I'm glad that I am back home."

6.3 Claiming Compensation for Victim of Human Trafficking Case

Summary of facts⁵¹

Laotian women and children entered Thailand at different times. They were recruited by Laotian agents who told them that they would be working as traditional masseuses, clothes venders and maids with good salaries, and that all expenses for passports and travel will be paid for by the employers.

They travelled by car, bus or plane to a spa shop in the southern region. When they arrived, the spa owner talked with them and gave them an advance money of 20,000 baht to be sent to their family through the agent. The owner then told them to choose to work whether at the spa shop or at the better-paid karaoke bar where they need to have sex with the client. The victims chose to work as traditional masseuses at the spa. The owner then gave an additional 5,000 baht of advance money and told the agent to take them to buy clothes and other personal effects.

The newly arrived were placed in the spa shop until their “virgin” sex service. After that, they would be moved to the karaoke bar which also acted as a brothel. The owner left the victim at the spa for two days before taking her to the karaoke bar and taking away their passports. She was told that she must pay back 55,000 baht of debts by prostituting herself. The victim did not agree and demanded to leave, but the owner said that her family would have to pay off her debts before she could go. Knowing that her family doesn’t have such money, the victim cried, but the owner kicked and threw a chair at her.

The following morning, the owner’s daughter came to speak with her and persuade her to work at the better-paid karaoke bar so that she can pay off her debts and go home faster. The victim had no choice and accepted her fate. The first client was charged 2,000 baht and the owner kept part of the money and deducted the rest from the debt amount whose balance would be informed every three month. The victim, never received any compensation.

The karaoke bar opens in three two-story shop-house units. The upper floor is living quarter for the employees, while the lower floor is the business part where employees would sit outside waiting to be chosen by a client. It opens from 10 am until midnight. At the opening hour, the controller will buzz the ring for the employees to come down to work.



© Operation of SR Law team and AAT team

When a client arrives, the tout will make recommendations to the client. After choosing a woman, the client pays the agreed fee to the owner at the counter. For a one-hour temporary service at the spa, the client is charged 1,500 baht, of which the employee gets 500 baht. For outside overnight service, the client is charged 2,000-3,000 baht, of which the employee gets 1,000 baht. The client must give the name of the hotel and room number to which the woman will be delivered.

After learning that the victim has been deceived into prostitution in Thailand, her family requested help to the Lao government. On July 26, 2011, the Laotian Embassy in Thailand submitted a letter to the Department of Special Investigation (DSI) requesting assistance.

On July 29, 2011, the police, DSI agents, administrative officers, MSDHS officers and AAT officer conducted a raid to rescue the victim. They arrested 10 suspects, rescued the victims and 40 others.⁵² After two months of forced prostitution, the identified victims was sent to the Ban Sri Surat protection center.

Claiming Damages in human trafficking cases

In the case where the trafficked person has the right to compensation for damages as a result of the commission of trafficking in persons and expresses his/her intention to claim compensation thereof, the Public Prosecutor, to the extent as informed by the Permanent Secretary for Social Development and Human Security or any person designated by him/her, shall, on behalf of the trafficked person, claim for compensation thereof.⁵³

The claim must be for a human trafficking case that is already being prosecuted in court. In this case, the public prosecutor prosecuted the owner and nine others in case number⁵⁴ Black Or 2456/2554 on the charges of human trafficking for the sexual gratification of another person; procuring, inducing or taking away a man or woman aged over 15 but under 18, and a child aged under

15, by means of the threat or use of force, unjust influence, or other means for the sexual gratification of another person; procuring, inducing or taking away a man or a woman aged over 15 but under 18 and a child aged under 15 regardless of consent; detaining or confining a person or using any other means to deprive a person of physical freedom and making the person commit an act for the gratification of another; subsisting, even in part, from a person in prostitution.

On December 16, 2011, the protection center (Ban Sri Surat) invited the multidisciplinary team consisting of the public prosecutor, inquiry officer, Anti-TIP Division representatives, protection center official, AAT, SR Law, and the victim for a meeting to determine compensation for the victim. This was the first ever meeting among the multidisciplinary team for such purpose. The meeting identified compensation for the following:

- **Lost money**

The victim is entitled to claim compensation for money paid by the victim to the agent for the agent fee and travel expenses because without deceitful means the victim would not have to pay for those expenses. The compensation amount is calculated based on the amount of money deducted to pay off debts for the agent fee and travel expense.

- **Injuries to body and mind**

The victim was forced to prostitute to pay off her debts. She had to receive at least one client per day. The shop charged 2,000-2,500 baht per client, half of which was kept by the owner. This act is considered exploitation from prostitution. In this case, the Compensation amount is 100,000 baht.

- **Injury to reputation**

The victim suffered injury to reputation as victim of sexual exploitation. The compensation amount is 50,000 baht.

- **Injury to virginity**

The victim is a virgin female aged 16 who was forced into prostitution. The shop owner charged money from a client in exchange for virginity of the victim. The compensation amount is equal to the amount charged to the client.

■ Compensation for income

The shop owner charged money to the clients in exchange for sexual services provided by the victim who was sexually exploited. The compensation amount is equivalent to the total amount of the sex service fee that the show owner received from the clients.

Claim for compensation for victim of sexual exploitation or forced labor

Compensation categories ⁵⁵	Sexual Exploitation	Forced Labor Exploitation
• Compensation to property loss	✓	✓
• Compensation to loss of life	✓	✓
• Compensation to physical or health injury	✓	✓
• Compensation to loss of working ability, loss of earning	✓	✓
• Compensation to loss of liberties	✓	✓
• Compensation to reputation injury	✓	X
• Compensation to non-monetary injury, Sexual injury	✓	X
• Compensation to non-monetary injury, mental injury, loss of beauty	X	✓
• Compensation to non-monetary injury, endure suffering	✓	✓

Chapter 7

Problems, Obstacles and Recommendations



© Victims' identification at AAT's Coordination Center for women and children in collaboration with the Lao Federation of Trade Union (Lao mass organization) at Wang Tao checkpoint, Champasak province

Anti-TIP efforts in prosecution and assistance often encounter problems and obstacles. These are attributed to individual-level problems or legal problems.

7.1 Individual-Based Problems

1) Women and children often do not realize that they have been victims of trafficking due to lack of knowledge and other social and economic opportunities, lack of career choices, or being under control of human trafficking rings. Often they feel strong gratitude toward the owner of the brothel for allowing them to work, sharing benefits, lending money and paying advances. Therefore, they are unwilling to tell the truth or admit to that they are underage, forced or deceived into prostitution.

2) Human trafficking ring use victims as agents to recruit more women and children in the same village, offering them commissions for successful recruitment. Some underage girls are given false identification documents and taught to lie that they are over 18 years old and working voluntarily without deception. Therefore, it is difficult to get to the truth to prosecute the traffickers and venue owners according to the Anti-Trafficking in Persons Act.

3) Human trafficking involves vested interests of many people in the local area. In some cases, government officials are involved in the exploitation, bribery, forgery of documents, concealment of evidence, and abetment of human trafficking, making it difficult to enforce the law. Moreover, in cases where the job nature specified in women and children's work permits does not match what is actually performed, authorities often prosecute the workers and ask them to pay a fine but fail to prosecute the owners of entertainment places according to law.

4) Police officers or other government officials often have prejudices that all sex workers are working voluntarily, especially those from neighboring countries. During raids, they are the only ones being prosecuted, charged and deported in accordance with the immigration law. Others may be charged with the Prevention and

Suppression of Prostitution Act, and then returned to the venue owner without identifying them as trafficked persons.

5) Officials in the identification of trafficked persons do not observe universally accepted signs of human trafficking such as physical violence, restriction on physical freedom, restriction on freedom of decision, threats, deception, lack of wage payment for work, confiscation of identification documents, debt bondage or other forms of use of force.

6) Immigration officers should conduct identification of trafficked persons in a serious manner. Often it was found that there are trafficked persons among deportees.

7) The justice system is often delayed in prosecuting human trafficking cases. These should be expedited, including the pre-trial witness examination. In addition, perpetrators often get bail and threaten the victims and witnesses after bailout or even during court trial

7.2 Legal Challenges

1) Enforcement of Section 286 of the Criminal Code (subsisting on the earning of a prostitute)

According to the interpretation and the Supreme Court decision, in order to prosecute the entertainment place owner on this charge, it must be demonstrated that the entertainment venue owner has no other income than the earning of a prostitute nor other sufficient means of subsistence. If it is found that the owner can show that he/she earns money from other sources of income, whether from other jobs or other persons such as their spouse or son/daughter, he/she will not be found guilty under this charge.

Therefore, the offense is interpreted as the offender's inability to sustain without the income in whole or part from the earning of a prostitute. This interpretation results in a punishment which hinges on the economic status of the offender. The only offenders punishable under this offense are the poor, while those with better economic status have little chance of being punished for this offense, even when their economic status may be a result of exploitation of prostitutes. Therefore, in reality, no venue owners have ever been punished for this offense.



© Rescuing women victims from the karaoke in Prachinburi province, 2014

2) Enforcement of Prevention and Suppression of Prostitution Act B.E. 2539 (1996)

Section 8 of the Act has problems in terms of interpretation and enforcement. This Section stipulates punishment for the offender who, in order to gratify the sexual desire of oneself or another person, has sexual intercourse or acts otherwise against a person over fifteen but not over eighteen years of age regardless of the person's consent in a prostitution establishment. If such offense is committed in relation to a child not over fifteen years of age, the offender shall be liable to heavier penalties. But if the act is committed against one's own spouse, the offender is not guilty.

The problem is some legal scholars interpret that this offense of "having sexual intercourse with a person under 15 years old but not over 18 years old" must take place only in a prostitution establishment, and the offender cannot be prosecuted if the act takes place outside such a place.

Such interpretation probably goes against the intention of the law to protect individuals. The act of sexual intercourse against a child in prostitution should be considered an offense, regardless of where it takes place. This is for protecting and preventing children and young people from being seduced or taken away for prostitution.

In addition, such interpretation would mean the protection of a place rather than the protection of a child seduced into prostitution. Apart from not providing child protection, such interpretation also supports child prostitution to be perpetrated outside of prostitution establishments, which is not the intention of the law to suppress prostitution

If the law intends to protect the place of prostitution, all sexual intercourses within the prostitution establishment should be an offense, but this is not the case. Evidently, in the third paragraph, sexual intercourse with one's own spouse is not an offense even when it is done in a prostitution establishment. Therefore, the law cannot be interpreted to protect the place.

3) Enforcement of the Anti-Trafficking in Persons Act B.E. 2551 (2008)

Section 29 requires that the identification of trafficked persons must be completed in 24 hours for the purpose of timely protection of the trafficked persons. Although the temporary protection can be extended to another 7 days, , it is difficult to clarify facts especially when the trafficked persons do not trust officials enough to tell the truth such as their true ages, experience of deception, threats or restriction on freedom. As a result, the identification process would fail to identify them as trafficked persons, as vital elements such as age would be the determining factors in prosecution of human trafficking cases. That is to say, in the case where a child is under 18 years old regardless of his/her consent, the establishment owner shall be liable. However, if it happens to a person aged over 18, that person may not be a trafficked person.

Therefore, the fact that the law does not allow further extension after seven days may cause problems in the identification and protection of trafficked persons.

7.3 Recommendations

Amendment of Section 286 of the Criminal Code

Section 286 of the Criminal Code (subsisting on the earning of a prostitute) was last amended in 2007⁵⁶ to cover acts committed against all persons regardless of sex, rather than only those committed against women. However, the essence and elements of offense remains largely the same.

The problem with this provision results from the literal interpretation and Supreme Court decision. If law enforcers interpret the law with both the letters and the intention of the law in mind, they will be able to apply the law appropriately without the need for a new legislation. However, if the court continues to interpret in the

same way, this provision should be amended for clarity so that venue owners can be prosecuted for taking income from prostitutes.

Amendment of Section 8 of the Prevention and Suppression of Prostitution Act

Section 8 of the Prevention and Suppression of Prostitution Act has long been interpreted in a distorted way. The law intends to suppress child prostitution and protects individuals especially children and youth from being deceived or induced into prostitution, rather than protecting a prostitution establishment.

As the letters of the law can be interpreted against its intention, it is recommended that the provision should be amended for clarity and prosecution of those who perpetrate child and youth prostitution wherever it happens.

Amendment of Section 29 of the Anti-Trafficking in Persons Act

Section 29 of the Anti-Trafficking in Persons Act allows only 24 hours for temporary protection of potentially trafficked persons. . Although this period can be extended for another seven days, the law does not allow further extension. In order to ensure uninterrupted protection and identification of trafficked persons, the provision should be amended.



© Picture of a Karaoke in Surin province before AAT rescued victims with the cooperation of the National Operation Center on Prevention and the Human Trafficking and the Special Operating Agency, Department of Provincial Administration

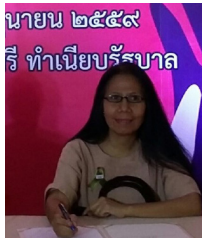
Postscript

Perspectives, Experiences and Recommendations for the Prevention and Suppression of Human Trafficking



© AAT rescued women victims from a massage parlor with the cooperation of the Crime Suppression Division, Kanchanaburi police and Labour Rights Promotion Network foundation (LPN)

Fighting Against Human Trafficking for Sexual Purposes: Perspective of Women Rights Activist



"There are various factors for some of Thai women who work in prostitution, whether poverty, being neglected by husband, unemployed or desire for better life. The government has to find the causes why they do it in order to seek solutions according to the facts. So the government should not assume that they are voluntary to go into enter into prostitution and we cannot do anything to help them. Human trafficking is usually hidden in the form of prostitution."

Thanavadee Thajeen
Director of Friends of Women foundation

Overview

The fight against human trafficking for sexual purposes in Thailand is getting better in terms of raids to catch human trafficking rings. Though there is no continuity or proactive plan to stop the growth of human trafficking networks. For example, there should be more inspection in places or entertainment venues where prostitution is hidden there. Also, there should be restrictions on the location of entertainment venues which should not be close to communities, schools or temples. Even though the Thai government has the system of the operation progress reporting from relevant organizations, it still lacks the in-depth monitoring and evaluation system in target areas. Therefore, we can only see some facts of the operation of organizations under the Anti-Trafficking in Person Act B.E.2551(2008).

Looking from the past to present, it is clearly seen that Thailand is one of the members in this world society and a hub of transportation routes. So human trafficking networks use Thailand as a transit country to send victims of trafficking to many destination countries in the world. Much pressure has been put on Thailand because Thailand is seen as a country that has a high number of human trafficking of women and girls. This leads to stepping up legal measures such as arrests of perpetrators and human trafficking rings, compared to the previous government. There are also more arrests of Thai officials who are involved in human trafficking ring.

Responsible agencies work proactively but only in some areas where authorities are serious and pay attention to the problem. They conduct intensive raids on entertainment venues or have meetings with entertainment venue owners. It can be compared with some areas where officials now and then pay attention to the problem. Or in some areas, officials do not really think this is a problem or a normal thing, and, therefore, neglect it. Thus, we can see that the proactive work more or less depends on the attitudes of officials who work in each area.

From my experience, I found that some authorities do not pay attention to the problem or actively solve the problems as they think that prostitution is necessary and should be made available in the society in order to prevent women from being raped. Or some authorities think that women voluntarily enter prostitution.

We also have to admit that a lot of authorities who work in anti-human trafficking are men who have attitudes that it is normal for men to have sex services freely. Or they themselves go to entertainment places to use the services. Thus, human trafficking for sexual purposes does not receive a lot of attention as people think that this prostitution has long lasted and never been solved. Authorities then do not really work proactively to cope with human trafficking networks and eradicate them.

In some areas, some authorities are involved in sexual exploitation from women by asking some fee from entertainment venue owners or women.. We can see that when there are any rescue operations, there are always the lists of authorities from many government agencies involved in human trafficking. It is also surprising that government agencies outside the areas have to be the ones who do rescue operations. Also, in each operation, these authorities usually found children or adolescents who are under 18 years old in those entertainment venues whereas authorities in the areas claim that they do not find or there is no child in prostitution or entertainment places. This is clear that to fight against human trafficking, apart from toughening law enforcement measures, the government have to add more measures on attitude improvement of relevant authorities so that they understand and do not take benefits of prostitution, money, and gifts. Moreover, they should be active and strictly enforce laws. Inhuman trafficking cases,when women say that they voluntarily come to work in prostitution, officials should ask the women to explore in-depth reasons for their voluntary prostitution. Most of the time, we found that entertainment owners told them that when authorities come in to raid, they have to say that they come voluntarily into prostitution and pay a fine so that they do not have to be in government shelters as they will not be able to go outside or work or contact their families. Also the owners told them to tell authorities that they are over 18 years of age. But in reality, they may be 15 or 16 years old. The victims told authorities that they are voluntary to work because they are forced and threatened that their families will be harmed and they have to work to pay off their debts. Thus,the word “voluntary” is an important meaning and can help authorities trace human trafficking networks.

Even in the groups that officials found that they are actually voluntary to go into prostitution, the officials have to search for reasons if there are any necessities such as unemployment, burdens on taking care of their families or only materialism. This is to use as database to find solutions or measures for assistance or remedy, career support, educational

scholarships according to their abilities as well as help them find solutions in order to reduce the risks of these women who may enter themselves into networks of human trafficking in the long run.

Women in prostitution have various reasons:

Group 1: Women who voluntary work as women in prostitution. It is found that they enter into prostitution even though they do not have any information or facts. They want to seek income or job. They do not know that what problem they would face or that they would be brutally forced to have sex. Some women enter prostitution just to take chances regardless whatever risks they may face.

For this phenomenon, the government has to find the reasons why they do it, whether it is because they are poor, deceived, or forced to do so, or they do not have jobs in Thailand. The government has to look into their reasons in different aspects and they will see their motives in order to fix this problem at the root causes of the problem and reduce factors pushing them to work in prostitution.

It is not right that there is no further action taken after women say that they voluntarily work. This is the weakness of government agencies who usually say that women are voluntary do it. They simply think that there is nothing they can do except for letting the women go without trying to proactively address the problem in the long run.. As a result, we may not be able to differentiate between voluntary groups and victims of human trafficking usually found in the same entertainment places. And there are many times that we are tricked by human trafficking rings.

Group 2: children, adolescents and women who are lured into prostitution or, in legal term, called victims of human trafficking. Rather than solving the problem when it appears in the news or the country is pressured by the international community, the government must have a plan to assist both foreign women who enter Thailand and Thai women who leave Thailand to be able to access information in order to prevent women from being lured, taken advantage of, extorted or exploited in any forms.

Operation under the Anti-Trafficking in Person Act B.E. 2551(2008)

This Act provides government authorities with a framework for law enforcement, victim protection, and suppression and prevention of human trafficking. It is a good thing in legal perspective that victims are protected, offenders including those in massive human trafficking rings who receive benefits from the human trafficking offense are prosecuted.. This is considered as progress in strict law enforcement which becomes more intense in the past two years as Thailand is under pressure of international community. There are more arrests and expanded actions to prosecute officials who are involved in human trafficking. This is considered as more progress. The existence of the law makes officials to take action by enforcing the law. However, the effectiveness of law enforcement depends on law enforcement officers. We can see that the

anti-human trafficking law has been enacted for 8-9 years but its enforcement has been intense for the past two years.

From working experience, it is found that most officials understand laws but whether they pay attention to fighting against human trafficking or not depends on whether they see that prostitution is necessary in the society or not. The operation will not be effective if officials do not pay attention when they have information that women come into prostitution voluntarily, officials then will not do anything further and will not try to find the causes and analyse or solve the problems as they have attitudes that women in prostitution is needed in the society to reduce the rate of women being raped. If they have the effort to search more information, they will see that there are various dimensions involved or any human trafficking acts hidden in the voluntary aspect of women in prostitution.

There is a lack of serious actions against the prosecution of human traffickers. It is noticeable that the intense or strict actions for suppression of perpetrators happen in some areas. There are reports that women in prostitution, victims of human trafficking, entertainment venue owners/managers are arrested, but there has not been any arrest of persons who buy sex services from children. This is still the weakness of law enforcement against human trafficking rings and people who buy sex services from children under 18 years old..

Recommendations on human trafficking solution

Nowadays, various countries join efforts by forming international organizations, platforms to discuss on how to solve the problem of human trafficking, tougher measures for intense law enforcement at national, regional and international levels to give pressure to countries who have the problem of human trafficking.

- Thailand does not have to wait until we get pressure from the international community. We do not have to wait for international laws to control us. Thailand has taken proactive actions, which is a good thing. Proactive Examples are issuing many measures such as nationality verification, migrant labour registration and human trafficking unit in order to expedite the legal procedures. The government should toughen measures on educating law enforcement officers intensively and continuously as well as paying attention to solving the problem of human trafficking. Also, the government should support both financially and technically to relevant authorities to work effectively and efficiently without pressure from the international community.

- There should be the continued monitoring and evaluation of the operation of authorities. There is no monitoring and evaluation system for the legal, prevention and protection procedures. Therefore, there should be external organizations to monitor the operation of authorities in addressing human trafficking in various aspects such as victim protection, suppression of offenders, and prevention of human trafficking.

- Awareness raising should be done in an in-depth approach at community level in order to intensely tackle the problem in an integrated manner. Also, there should be proactive measures for dealing with those who claim that they voluntarily work in prostitution. Authorities should be sensitive when digging into the factors contributing to being trafficked. We can see in the news that often men or women who work abroad are tricked and lured. Many of them say that they do not know the existing laws in the countries they go to work or they do not know organizations who work to protect, assist or give information about human trafficking. These are all the remaining challenges for Thailand.

- Awareness raising should do it in-depth in community level in order to tackle the problem intensely. Also, there should be proactive measures to those who claim that they voluntary work into prostitution. They should be sensitive when searching for reasons of human trafficking, authorities. We can see a lot in the news that some men or women who work abroad are tricked and lured. Many of them say that they do not know the existing laws in the countries they go to or they do not know organizations who work to protect, assist or give information of human trafficking. These are all the challenges of Thailand.

Suggestions from the experience of prevention and suppression operation

“We should begin to search... Today, people who work in anti-human trafficking are tired and already moved away. This guy is bored, that guy is tired. If we don't walk together, these problems will not be correctly solved as we don't discuss among ourselves, we don't talk, we don't go together.... Because if we work together, we will understand each other. And our work can be proceeded.”



Pol.Maj. Jatuporn Arunreuktawin

Position: Director of Human Trafficking Prevention and Suppression unit 2 (Senior Professional Level)

Pol.Maj. Jatuporn Arunreuktawin has been working for the anti-human trafficking unit since the beginning. He has worked in the field of anti-human trafficking for almost 10 years. He also worked with Alliance Anti Trafic (AAT) in various missions to help women and children who are victims of human trafficking by protecting and assisting victims for both investigation and prosecution process as an enforcement officer and a human being who wants to help children and women to not fall into human trafficking.

Analysis

From ten-year work experience in victim assistance, he found that the forms of human trafficking are still the same. There are brokers who lure victims from origin countries into Thailand and they are forced into prostitution. The question is whether the law enforcement mechanism has any procedures to arrest big human trafficking rings after we have rescued victims of human trafficking. After we rescue one case, 3 months later we rescue another case. But the question is why anti human trafficking agencies (e.g. police officers, social development and human security officers, NGO workers such as AAT and other networks) do not organize meetings to share and exchange information. After the rescue operation, there should be information exchange. However, before information exchange we should start from trusting each other.

Nowadays, each organization has different information, and therefore, should share or exchange information.. The Department of Special Investigation (DSI), Anti-Human Trafficking in Persons Division (ATPD), Ministry of Social Development and Human Security (MSDHS) and AAT should share or exchange information for the benefit of the nation in prevention and suppression of human trafficking. When we share all the information, each organization will have more information

for analysing or we may understand the structure of the crime and who are offenders.

Proposal

Today, it is time to integrate our work together and what I would like to propose to every organization involved in moving forward to fight against human trafficking is as follows:

We have to improve our work in order to develop a proactive approach in prevention and suppression of human trafficking (Trafficking in Persons Innovation : TIP INNOVATION)

1. **TIP EXCHANGE** (Trafficking in Persons Exchange). There should be information exchange among relevant organizations which are Thai Royal Police, Ministry of Social Development and Human Security, Ministry of Labour, Ministry of Foreign Affairs, other relevant government agencies and NGOs such as Mirror Foundation, Labour Rights Promotion Network Foundation and AAT should exchange information and summarize all the works together. Also we should exchange, make plans on data collection and decide what level of information can be accessed by the network organizations or the public for particular purposes such as the information that can be published to the public for prevention and suppression; the information that can be accessed only by investigators or the network organizations; and the undesired information e.g. the information of detained women which may not be disclosed; and the information for benefits of all parties.

2. **TIP DATA** (Trafficking in Persons Data). There should be data collection into central database according to the mutual agreement in TIP EXCHANGE in order to support the work of law enforcement agencies, social Development and Human security agencies and NGOs. It should help improve the efficiency and effectiveness of prevention and suppression of human trafficking.

If information is in the hand of a person or persons, and no one will work in anti-human trafficking areas forever. So when they change their jobs or move to other positions or resign, we have to question ourselves where the information from what we did or talked should be kept so that it can benefit all. So there should be data collection in central database or any database. And as for the question about which organization would take care of it, we can talk about that later. In TIP EXCHANGE should be discussions about who will be responsible for the data, what data should be included in the database, which kind of information can be shared among the network organizations, or which information can be accessed by the public.

If there is any information exchange in the database, it should be useful for investigation and inquiry. For example, in the case of Rohinya, each organization did their own work and issued warrants. If there had been TIP DATA and each organization which issued warrants had filled in the database, we could have shown information of traffickers to the victims in the rescue operation to identify whether they know the traffickers or not as some traffickers got arrested 3-4 times already but they were bailed out and escaped.

In the case of fisheries on Ambon Island which DSI opposed the bail of the offenders because the authorities referred to the request form that there were cases of offenses previously committed by the offenders. The court already punished the offenders.

Another example is that in Ambon case, there was a labour worker who was lured to work there for 15 years. He said that the agent was at Mo Chit.. Police used to work there. Eakararak from Mirror Foundation also worked there. They both have information which can be accessed only within their organizations. That means the information has not been used for the maximum benefit. So if there is this kind of data in the central database and the system can be opened to show who are traffickers (e.g. Mr. A, B, E and F) as recorded by both police officers and NGOs. When there are any rescue operations and the database can be accessed to show Mr. A, B, E and F for the victims to identify the traffickers. If they are the same persons as the traffickers identified by the victims, this information can be used to suppress the traffickers. At present, there is no central database. ATPD do their job. DSI do our own jobs, but when the work is done, there is no any exchange of information.

The central database should not be only for law enforcement officers, but it should also be divided into different sections and levels. Law enforcement officers should be able to access information for investigation purposes. In NGOs also have in-depth information, so NGOs should also fill in the information in the database. However, there should be discussion about the security system; and what the database should look like. There should be mutual agreement on the responsibilities if the information is leaked.

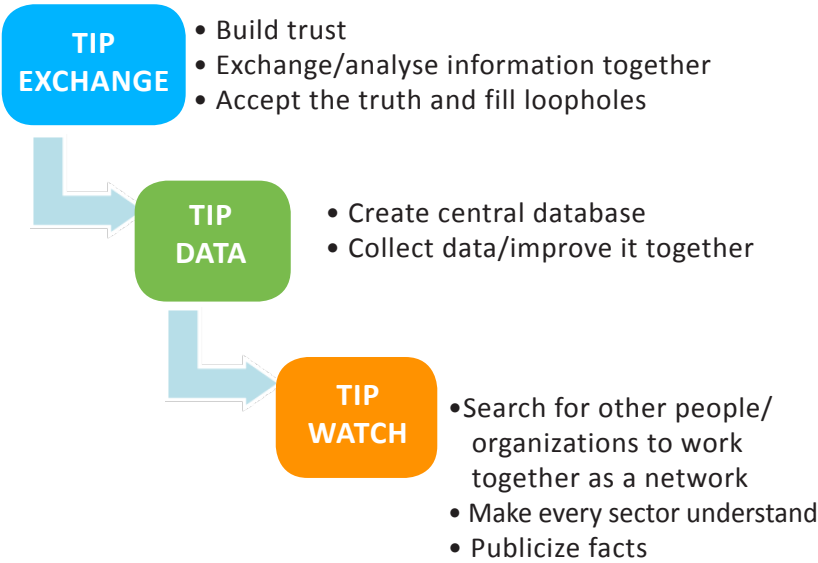
3. **TIP WATCH** (Trafficking in Persons Watch). There should be the collaboration with the watchdog network of human trafficking prevention and surveillance by utilizing the information of TIP DATA which is collected and analysed to make a plan for surveillance of human trafficking in the areas.

After the data are kept in the database and the investigation and rescue operation are done, relevant organizations should analyse in-depth information together to see if there are any loopholes in order

that organizations in Thailand who work on prevention and suppression of human trafficking have the central database to analyse the information together. If there is the central database, relevant organizations have to work together in order to analyse together because rescuing victims of human trafficking is to solve the problem at the end of the trafficking process. When we have database, we can analyse what loopholes are. Each organization then can solve the problems and use the analysed information to do proactive work. Examples of such information is the provinces from which most victims of trafficking are deceived or lured, , the areas where there are a lot of recruiters/agents, and local mechanisms that can join synergies in prevention and surveillance. In addition to government agencies, entrepreneurs should also be engaged in human trafficking prevention. Each organization should have different dimensions of work on prevention, suppression and assistance for victims.

These days, after we rescue women out of an entertainment venue, next month we have to go rescue again, and next year we have to go rescue again. It is like a circle that has no end. It can be difficult as it could be their values, but relevant agencies have to do awareness raising and TIP Watch. We may not able to see the result of doing that today, but we will see it in the future for sure. It is better than we do not do anything.

Table of Structure of Proactive Work for Prevention and Suppression of Human Trafficking TIP INNOVATION



Conclusion

For the issues of human trafficking in sexual commerce, if we work together in a proactive way like TIP INNOVATION, it will shed lights for relevant organizations on different cases. For example, the case of Thai women who are lured into Bahrain differs from that of those lured into South Africa. Therefore, we should look into case studies to see how the processes begin. Many relevant agencies working on assistance and protection of victims in sexual commerce should examine and analyse the causes of the problems that need to be tackled. For instance, the cases where brokers are at large, DSI or police will be involved.

Moreover, there are some delays to the case proceeding after the cases of victims or witnesses have entered into the justice process, sometimes the process of court delays. Laws have loopholes, which are weaknesses when doing human trafficking cases.

After each case has been concluded, we have to analyse the information together through the structure of TIP Exchange. For example, DSI as a law enforcement agency has to do analysis in the law enforcement perspective. The Ministry of Social Development and Human Security analyses in the perspective of assistance for victims. NGOs analyse the information from victims and families or others as the case may be. Some NGOs have the roles in the whole process while some NGOs provide legal assistance only. Therefore, there should be meetings for exchanging facts to check if the information that we receive match with each other or not. If not, that facts need to be checked. The problem cannot be solved if there are conflicting facts. So the facts have to be matched in order to be able to work together as a network.

The question is how we can make everyone understand the objective which is the benefits of the nation and victims. We, including policy makers, NGOs and entrepreneurs, have to work together. Many organizations exchange information with overseas agencies. In Thailand, there is no systematic information exchange among relevant agency which work on human trafficking.



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It is my opinion that the issue of women and child trafficking for sexual exploitation is primarily a problem associated with a sector of men who have a less than human approach towards women and who exhibit indecent sexual behaviours.

Whilst acknowledging the complexities of the issue; there are three main groups that we need to consider in order to find a solution to the problem. 1: Men (who are the customers or potential customers); 2: Perpetrators (e.g traffickers, recruiters, pimps); 3: Girls/Women (potential victims or victims).

Historically; emphasis has been placed on protecting and assisting women and girls, from the risks of human trafficking - in accordance with their human rights and principles and the law. There is no question that their continued support should remain at the top of the priority list!

However, an increased emphasis must be placed on punishing customers and perpetrators without exception and leniency. Organisations need to develop sophisticated programs that establish effective services targeted at this specific group of men. These services should encourage and enable a change in culture and behaviours that result in decent and acceptable sexual behaviours and attitudes to women.

The Thai government has recently made considerable progress in combating human trafficking in Thailand. This has resulted in a strengthened and comprehensive legal framework which has been adapted to the situation. Of note; is the pathway that has been developed that enables increased collaboration and participation of victims, particularly their involvement as witnesses. More efforts should be now placed at practical level as well as in suppression actions by improving participation of victims and especially the ones who are witnesses and by extending the scope of its existing actions to give them a more international dimension.

- Human trafficking legislation should now be extended to develop concrete solutions in response to regional/international possibilities.

- The Thai government should open up pathways for victims which will result in them having a choice as to whether they stay in a government protection shelter or be directly repatriated home.
- Directives should be put in place that ensure non-disclosure of victim personal information at every point of the process. This will respect privacy and build the confidence of women to engage with the support that is available to them.
- Victims should be prepared and given alternatives which include occupational training and/or access to employment opportunities in any country that has ratified the Palermo protocol.
- The Regional and International investigation and suppression of perpetrators should be possible without border limits
- An education program that changes the attitudes of the target group of men should be introduced and rolled out internationally.

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