



MEMORANDUM OF UNDERSTANDING on
Operational Procedures for Concerned Agencies in Combatting
Human Trafficking in 8 Eastern Provinces¹
2006

1. BACKGROUND AND RATIONALE

1.1 In recent years, the situation of human trafficking has been increasing and has become more complicated. The government has recognized the importance of this problem by, establishing on 1 July 2003, a national policy and plan of prevention, suppression and solution to both domestic and transnational trafficking in children and women. Subsequently, on 6 August 2004, the human trafficking problems were declared part of the national agenda, and lately, on 14 June 2005, operational procedures at provincial, national and international levels, were adopted by the council of Ministers to prevent and suppress human trafficking.

1.2 To prevent and solve the human trafficking problem, there must be cooperation between government agencies and non-governmental organizations (NGOs). The 1999 first national Memorandum of Understanding (MOU) on Operational Procedures for Concerned Agencies in Trafficking in Children and Woman was therefore formulated. Later, in 2003, the Second MOU on Operational Procedures among Government Agencies in Anti-Trafficking in Women and Children was signed. In the same year, the 2003 MOU on Operational Procedures between Concerned Government Agencies and Non-Governmental Agencies in Anti-Trafficking in Children and Woman and the 2003 Operational Procedures among Concerned Non-Governmental Agencies were also formulated.

¹ Chanthaburi, Rayong, Trat, Sa Kaeo, Prachin Buri, Chachoengsao, Chon Buri, and Nakhon Nayok

1.3 At bilateral and multilateral levels, 3 MOUs were formulated as follows:

1) The MOU Between The Government of The Kingdom of Thailand and The Government of The Kingdom of Cambodia on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking, signed on 31 May 2003; 2) The MOU Between The Government of The Kingdom of Thailand and The Government of The Lao People's Democratic Republic on Cooperation to Combat Trafficking in Persons, Especially Women and Children, signed on 13 July 2005; and 3) The MOU on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-Region, consisting of the Kingdom of Cambodia, the Lao PDR, the Union of Myanmar, the Socialist Republic of Vietnam, The People's Republic of China and the Kingdom of Thailand, signed on 29 October 2004.

1.4 Based on the MOU between the Kingdom of Thailand and the Kingdom of Cambodia and that between the Kingdom of Thailand and the Lao PDR, the agreements on repatriation procedure, recovery and the reintegration processes have been reached among these countries in 2005 and 2006 respectively.



1.5 The MOU on Operational Procedures for Concerned Agencies in Anti-Trafficking in Children and Women in 9 Northern Provinces, consisting of Chiang Mai, Chiang Rai, Mae Hong Son, Phayao, Phrae, Nan, Lampang, Lamphoon, and Tak, was signed on 21 August 2003. The key was to set up operational mechanisms at the provincial level for assisting and protecting victims of human trafficking and working as a multi-disciplinary team.

1.6 Thailand's effort to resolve the human trafficking problems is shown in the draft of Human Trafficking Prevention and Suppression Act B.E..., which presently is being considered by the Office of the Council of State.

1.7 Because of its geography and continuous and fast economic growth, the eastern region can easily become an origin, transit, or destination place for human trafficking. Its plain area and borders, both land and sea, are adjacent to Cambodia without clear border walls or marks. Furthermore, the region has served as a center for land, water, and air transportations and also flourishes as an



industrial, agricultural, fishery, energy and tourism area. Entering or departing the country is easy and convenient. So it is necessary to have a region-specific MOU addressing human trafficking. Thus, the Sub-committee on Combatting Trafficking in Women and Children and the Ministry of Social Development and Human Security, in association with the provincial operational committees from 8 eastern provinces, consisting of Chachoengsao, Chanthaburi, Chon Buri, Nakhon Nayok, Prachin Buri, Rayong, Sa Kaeo, and Trat jointly formulated the MOU on Operational Procedures for Concerned Agencies in Combatting Human Trafficking in 2006 to coordinate and be common guidelines for governmental agencies and local NGOs to prevent and solve human trafficking problems.

2. SITUATIONS

In addition to situations mentioned above, each one of the 8 provinces has its own specific situations apart from each other (as of April 2006) as follow:

2.1 Chachoengsao

Chachoengsao's economy depends largely on agriculture, fishery and industries. In recent year, its economy and society have grown rapidly creating intense competition and leading to an urgent need for cheap labors. These factors are the incentives for labors from other regions to migrate to Chachoengsao. Some labors that are not employed legally might be lured to become victims of human trafficking in different forms. These also cause an increase in sexual businesses in the area.



2.2 Chanthaburi

Chanthaburi is bordered by the Kingdom of Cambodia. There are both permanent and temporary border checkpoints which allow people from both countries to legally or illegally enter one another country. Migration of labors in fishery and fruit orchards from other regions is another factor creating problems in employments and an increase in foreign child and adult beggars. Due to its convenient transportation, Chanthaburi becomes a transit region of human trafficked victims. Furthermore, increase in entertainment venues, tourism, shopping complexes, and educational institutions attracts groups of youths and children around the areas which might create unwanted behaviors.

2.3 Chon Buri

Chon Buri's tourism and service businesses have also grown rapidly in recent years. Its infrastructure has allowed migrations from other regions and other countries. Part of these labors is illegal. Pattaya, Chon Buri's most famous tourist city, is full of homeless children and beggars, Thai and foreign. They are sexually exploited. Numbers of girls, willingly or not, enter into sexual service businesses.

2.4 Nakhon Nayok

The province is adjacent to Prachin Buri, Chachoengsao, Saraburi and Patum Thani. Its economy relies on agriculture and livestock. There are labors coming to the province for general works and also labors migrating to other more developed provinces, some of these might be illegal migrants or engaged in illegal occupations.

Although human trafficking situation has not been serious in Nakhon Nayok, it still can be an origin, transit or destination place for trafficking. There are some hidden forms of illegal activities which can be seen through restaurants, karaoke restaurants, bungalows or business of forcing homeless persons to be beggars. At present, this situation should be under close observation.

2.5 Prachin Buri

Surrounded by Nakhon Nayok, Sa Kaeo, Nakhon Ratchasima and Chachoengsao, income of the population of the province come from eco-tourism. Labors from other regions and neighboring countries come to Prachinburi to work in large industries in Kabin Buri and Si Maha Phot. Cheap labors are needed for its fast economic and social growth. Some enter into the system legally but some are illegally smuggled into the province. Some are lured into trafficking for prostitution, exploitation of labor, and force to beg. Even though the situation has not been serious, it has a tendency to increase. The more economy in Prachin Buri grows, the more the human trafficking problem becomes intense.



2.6 Rayong

Rayong, with its fast economic growth, has served as a center of principle and continuing/connected industries. High need of labors for its tourism, fishery, livestock, and famous seafood and fruits attracts numbers of labors from other regions and foreign countries, legally and illegally. Some are lured into trafficking. However, the trafficking situation has not been serious and no trafficking cases have caused serious problems to the society.

2.7 Sa Kaeo

Without border walls, Sa Kaeo's plain is bordered by Cambodia, 165 kilometer long. Each day, approximately 6,000 - 10,000 people, mostly homeless children, beggars and labors working in service businesses, enter the country through permanent and temporary border checkpoints and other illegal channels to work in the Thailand's biggest second-hand commodity market, namely Talad Rong Gleua. Evidently, some of them are exploited. Sa Kaeo finds itself as a province of origin, transit and destination for human trafficking.



2.8 Trat

Trat is bordered by the Kingdom of Cambodia, both by land and sea. The economy depends largely on agriculture from fruit orchards, para rubber, palm oil, coastal fishery, marine tourism and eco-tourism. A lot of labors are needed in these industries especially for marine tourism, hotels and resorts on its 52 islands. Illegal labors migrate from other regions and neighboring countries because of the needs for cheaper labors. Some are illegally smuggled into the province. Luckily, some can enter into the system legally but for those who are not they are lured into trafficking.

3. PRINCIPLES

3.1 The operation of human trafficking prevention and solution shall be in compliance with the provisions of this MOU, taking into account the best interest of the victims of human trafficking.

3.2 The principle of human rights shall be in compliance with the 1997 Constitution of the Kingdom of Thailand, the Convention on the Rights of the Child, the Convention on Elimination of All Forms of Discrimination Against Women, and any other international conventions or protocols relating to human rights of which Thailand is a member or to which Thailand is signatory.

3.3 The Penal Code, the Criminal Procedure Code, the 1929 Extradition Act, the 1979 Immigration Act, the 1992 Mutual Assistance in Criminal Matters Act, the 1996 Prevention and Suppression of Prostitution Act, the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act, the 1998 Labor Protection Act, the 1999 Anti-Money Laundering Control Act, the 2001 Act on Compensation to the Injured Person and Restitution and Expenses to the Accused in Criminal Cases, the 2003 Witness Protection Act, the 2003 Child Protection Act and other relevant laws or rules including decisions of the Council of Ministers shall be used as a basis and complied with.

3.4 Any operation relating to combating human trafficking shall take into account the relevant domestic MOUs, and also bilateral and multilateral MOUs.

4. MEANINGS RELATING TO HUMAN TRAFFICKING

4.1 “Human Trafficking” means willful action to a person or persons for the purpose of exploitations for one(s) own or others' unlawful benefits whether such exploited person(s) give consent to do so or not, by the following means:

(1) Recruiting, purchasing, selling, distributing, transporting, detaining, confining, accommodating or harboring of a person or persons; and

(2) By means of threat, use of force, abduction, fraud, deception, abuse of power or a position of vulnerability or inexperience, or giving or receiving of payments or benefits to achieve the consent of a person or persons' parents or caretakers.

Any action taken against children shall be deemed the human trafficking with or without (2).



4.2 “Exploitation” means taking advantage of another person or other persons for unlawful benefits from prostitution; production, distribution or dissemination of pornography materials; other forms of sexual exploitations; forced labor or services; servitude; force a child to commit crimes or similar actions or more violent actions; use of force or deception to remove organs from others without medical indication.

4.3 “Forced Labor or Services” means coercion for another person or other persons to work or give services by putting in fear of injury to life, body, liberty, reputation or property of herself or themselves or other persons, by means of threat, use of force, or when the person is unable to resist.

4.4 “Damaged Party” means a person who suffers from human trafficking.

4.5 “Children” means a person under 18 years old.

5. FOUR CATEGORIES OF HUMAN TRAFFICKED VICTIMS²

5.1 Thais who are victimized by being trafficked inside or outside Thailand's territory;

5.2 Foreigners who legally enter and reside in Thailand but later become trafficked victims;

5.3 Foreigners who illegally enter and reside in Thailand and become trafficked victims; and

5.4 Non-Thais who reside in Thailand or had been or had resided in the country and are victimized by human trafficking inside or outside the country's territory.



² Including offences against children and women by purchasing, selling, distributing, recruiting, or by any means for one(s) own or others' sexual benefits, sexual abuse or unlawful benefits, or by selling, forced begging or working in savage conditions (from principles and rationales of the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act and the 14th Amendment of 1997 Penal Code.

6. OPERATIONS TO ASSIST TRAFFICKED VICTIMS PRIOR TO THE RESCUE

6.1 Creating mechanisms to rescue and protect trafficked victims.

6.1.1 Establishment of Provincial Operation Center on Prevention and Suppression of Human Trafficking (POCHT).

Each province shall establish a Provincial Operation Center on Prevention and Suppression of Human Trafficking (POCHT), chaired by the Provincial Governor or the assigned Deputy Provincial Governor. The POCHT Operation Committee shall be composed of Commander of Provincial Police, Director of Provincial Public Health, Provincial Chief Public Prosecutor, Deputy Governor, Director of Provincial Office, Chief of Provincial Employment Office, Chief of Provincial Labor Protection and Welfare, representative from Immigration Bureau, Chief of Community Development Provincial Office, Director of Provincial Agriculture Office, Director of Provincial Institute for Skill Development, Superintendent of Provincial Welfare Shelter (if any), Director of Educational Service Area, Director of Provincial Office for Local Administration, Chief Executive of the Provincial Administration Organization, Mayor of City Municipality/Mayor of Town Municipality, representative(s) from NGO(s), representative(s) from provincial business sectors, other concerned agencies and individuals, and the Provincial Social Development and Human Security, serving as a committee and secretarial office.

6.1.2 The Provincial Operation Center on Prevention and Suppression of Human Trafficking (POCHT) shall have the following duties:

- a) Coordinating the concerned governmental and non-governmental organizations to receive information, rescue and provide protection, recovery and repatriation to victims of human trafficking.
- b) Providing temporary safe shelters for human trafficked victims.
- c) Taking legal action, investigating and prosecuting offenders engaged in any part of the trafficking process.
- d) Coordinating governmental and non-governmental organizations to enhance the capacity of their personnel in raising knowledge and awareness on trafficking issues, equipping them with technical skills to perform



efficiently in all aspects such as rescue and protection of victims, suppressing and solving the problems of human trafficking.

e) Collecting and storing data, IT system, and trafficking indicators to establish strategies, monitor and assess programs for the purpose of data exchange at national and international level, including individual's report relating to rescue, protection, recovery, social reintegration, repatriation, and legal actions taken against offenders.

f) Establishing provincial strategies and coordinating the operations to protect, suppress, and combat the problems of human trafficking, in accordance with national plans and strategies with participation from every region.

g) Promoting research and dissemination of knowledge to concerned agencies and people who are interested in the issue especially domestic risk groups, and also supporting concerned agencies in countries of origin to do so.

h) Coordinating the provision of funding to support operations on prevention and suppression human trafficking.

i) Monitoring and evaluating the results from the operations and submitting a formal annual report to the national committee.

j) Appointing necessary sub-committees or working groups at different levels.

k) Performing other duties as deemed appropriated by the POCHT.



6.1.3 The Provincial Social Development and Human Security shall serve as a secretariat office for the POCHT and serve as a coordinating center in receiving and disseminating data and knowledge, and carrying out campaigns to increase people's understanding of POCHT's status and duties.

6.1.4 POCHT shall organize a "Multi-disciplinary Operation Team," composed of public prosecutors, police, administrative officers, social workers, psychiatrists (from GOs and/or NGOs), physicians, interpreters and other concerned personnel to rescue trafficked victims in accordance with relating MOUs especially this MOU.

Any province found appropriate to organize the Multi-disciplinary Operation Team in the district level may do so.

The Multi-disciplinary Operation Team shall have the following duties:

- a) Receiving, investigating and collecting data and evidence. If there is a reasonable ground to believe that there is a person or there are persons at risk of or being trafficked, the rescue must be carried out immediately.
- b) Planning and preparing before the rescue as a multi-disciplinary operation team, headed by a police or a person assigned by the POCHT.
- c) Investigating data to identify trafficked victims, collecting data systematically, networking with related agencies and coordinating with the police investigating officers for the prosecution.
- d) Coordinating the delivery of trafficked victims into the protection, assistance, recovery and social reintegration system.
- e) Submitting a summary report to the POCHT.

6.2 Rescue operations for trafficked victims.

6.2.1 In case human trafficking involves more than one province and it is necessary to coordinate the operations in different provinces, the POCHT shall coordinate with the Children, Juvenile and Women Protection Center, Provincial Police Region 2 or other regions or, the Children, Juvenile and Women Protection Center of the Royal Thai Police or any other concerned agencies, depending on each case.

In an urgent case and there is a reasonable ground to believe a trafficked victim may be transported to another location or her safety may be jeopardized, the Multi-disciplinary Operation Team, headed by the police, shall immediately rescue the victim and inform the POCHT as soon as possible.

6.2.2 Prior to any attempt to rescue trafficked victims from an entertainment place or a place where sexual services are provided or any other place, on whom information is reported, through surveillance process or, from any reasonable ground to believe that the person is trafficked, the Multi-disciplinary Operation Team shall immediately investigate and rescue the person. The police shall collect as much evidence as possible to further prosecute traffickers.



6.2.3 During the course of rescuing a person who may be the victim of human trafficking, there shall be restrictions on the following actions:

a) Photographing, disseminating or printing of photographs, recording or disseminating voice of the victim.

b) Advertising or disseminating, by any media, documents relating to the officers' investigation or court's contents which reveals name(s) or surname(s) of the victim or victim's family members.

c) Advertising or disseminating audio or visual documents, by any media, revealing history, place of residence, workplace or educational institution of the victim.

The aforementioned restrictions are not applicable when it is deemed necessary to act in the best interest of the victim or the witness, for protection and rescue, or for official purposes.

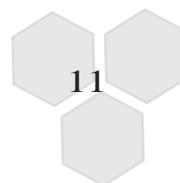
6.2.4 After Article 6.2.2 rescue, it is the Multi-disciplinary Operation Team's duties to screen victims and to coordinate with investigating officers for further operations.

In case the trafficked victim requests rescue by herself or is transported by another person, procedures in Article 6.2.2 shall be taken.

6.2.5 Investigating officers have the duty to identify if the person is a trafficked victim or not according to evidence collected, witnesses, especially opinions and reasoning from social worker(s) and psychiatrist(s) either from GOs or NGOs whose victim is in care of.

In case of conflict of opinions, or if necessary, advice should be sought from the Multi-disciplinary Operation Team, together with the head of investigating officers.

6.2.6 In protecting a witness or any person who may be a witness residing in a reception center, a welfare shelter of the Department of Social Development and Welfare, or a NGO's shelter approved by Ministry of Social Development and Human Security, or elsewhere, when there is a reasonable ground to believe that she may not be safe, the secretary of the POCHT shall request protection from police as necessary or according to the 2003 Witness Protection Act.



6.2.7 Operations on prevention, rescue and protection of the trafficked victim, including assistance during legal actions by any agencies, inside or outside Thailand, shall be in accordance with this MOU by coordinating with the POCHT.

7. OPERATIONAL PROCEDURES FOR THAI TRAFFICKED VICTIMS, INSIDE OR OUTSIDE THAILAND

7.1 In the case where there is a reasonable ground to believe that a person is a trafficked victim, when she is rescued from an entertainment place, a place where sexual services are provided, or when she requests rescue, investigating officers must immediately interrogate the victim for evidence and coordinate with public prosecutors to further request the court to permit further investigation according to Article 237 bis of the Criminal Procedure Code* or Article 12 of 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act**, even where the investigation has not been completed.³

During an interrogation and an investigation, the investigating officers shall notify the Provincial Social Development and Human Security or NGOs to provide or coordinate to provide social workers, psychiatrists and/or any officials experienced in working with children or assisting trafficked victims or, the victim's relatives or trustworthy acquaintances to be observers.

In case the victim is a child, the child investigation section of the Criminal Procedure Code shall be applied.

7.2 The Multi-disciplinary Operation Team shall question the victim for additional detailed information and coordinate in sending this information to the investigating officers for further use in prosecution process.

7.3 The police shall prosecute persons involved in human trafficking on recruitment, deception, accompaniment, purchase, sale, distribution, delivery, harboring, confinement, detention, concealment, lure, threat, violence, abuse of power, or by other means of coercion to another person. Offenders also include

* In case the offenders are not yet brought to court.

** In case the offenders are not yet in custody.

³ Particularly applying to the trafficked woman case only. In case the trafficked victim is a child, the 20th Criminal Procedure Code of 1999 shall be applied.



operators, supervisors, managers, controllers or any provider who has the victim comply with others' sexual desires, sexual abuse, or for other unlawful benefits to himself or others. Also customers for whose sexual services are provided by victims not over 18 years of age in a place where sexual services are provided, are considered criminals according to the Penal Code, laws on prevention and suppression of prostitution, laws on children and youth welfare, laws on prevention and suppression of women and children trafficking, or laws on prevention and suppression of money laundering.

According to paragraph one for the criteria of the age of the children, the time of the first incident is to be used. In the case where the incident took place when the child was not over 18 years old, but it was discovered when she is over 18, the offenders are to be prosecuted for their crime against a child whose age is not over 18 years old.

In the case where labor laws are applicable, concerned officials shall participate in any legal actions by the provisions of the labor laws, including rescue and protection of trafficked victims.

7.4 If Articles 10 and 11 of the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act are to be applied to the case, within 24 hours after the interrogation, the trafficked victim must immediately be transferred to a reception center or a welfare shelter of the Department of Social Development and Welfare, or a NGO's shelter approved by the Ministry of Social Development and Human Security. In all cases, full physical and psychological examinations shall be provided for the victim⁴ and collected as evidence.

In case the initial inquiry or interrogation could not be completed within 24 hours, upon approval of the Governor at a request of the POCHT, the victim shall be transferred to a reception center or a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security.

If there is no such facility available in the said province, an alternative shelter deemed to be most appropriate and safe shall be arranged and provided with the approval of the POCHT.

⁴ In case of children, all operations are to be in accordance with child protection laws.

7.5 In the case where the victim is over 18 years of age, she can voluntarily join the occupational training sessions provided by the Ministry of Social Development and Human Security after the interrogation. In the case where the interrogation is not completed and the prosecution according to Articles 10 and 11 of the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children needs to be proceeded with, the victim shall be transferred to a reception center or a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security.

7.6 The officials of the Ministry of Social Development and Human Security shall examine the population registration, registration of the person's identification card, or examine from concerned agencies in case the victim has no identification (ID) card, the photo on the ID is not identical with the user, or there is a reasonable ground to believe that the ID is not hers, or there is an alteration with the ID, or there is an official temporary ID. The officials then shall inform the investigating officers of the examination results.

7.7 In case the victim claims she is over 18 years of age without any proof of ID card or any other forms of identification, and there is reasonable doubt that she is under 18, the investigating officers or the officials of the Ministry of Social Development and Human Security shall arrange a medical examination, by dental or other physical examinations. In case the officials of the Ministry of Social Development and Human Security arrange the examination, they shall inform the investigating officers immediately of the results.

In case the result of the examination is not completed or is still unclear, it shall be presumed that such person is not over 18 years of age. The investigating officers shall interrogate the person in accordance with the child investigation section of the Criminal Procedure Code.

7.8 While under the custody of the Department of Social Development and Welfare or NGOs, the trafficked victim shall be provided with a safe and appropriate place, food, clothing, as well as physical and psychological recovery and occupational training, and assistance for welfare and legal processes prior to the repatriation to her domicile.



7.9 The Department of Social Development and Welfare's shelters or the NGO's shelters approved by the Ministry of Social Development and Human Security used to care for the trafficked victims shall not be deemed as a detention centre under the authority of either the investigating officers or the court.

7.10 In the repatriation process of the trafficked victim who has a domicile within Thailand's 8 Eastern provinces, when the POCHT of the province where the victim has resided or has requested to be transferred to, is informed about the trafficking incident from other POCHTs, it shall investigate and gather additional information, visit her residence, assess the readiness of her family and community and report to the POCHT of the incident to prepare the victim for the safe repatriation back to her domicile or take other appropriate measures.

When the victim arrives to her domicile, the POCHT shall equip her with the ability to live in the society and prevent her from returning to trafficking, and shall monitor and report results to the POCHT of the incident.

The POCHT, if requested, shall urgently collect additional evidences and information useful for prosecuting the offenders.

7.11 In the repatriation process from another country of trafficked victim who has a domicile within Thailand's 8 Eastern provinces, when the Thai embassy or the consulate has rescued and returned the person to the country, the Ministry of Foreign Affairs shall coordinate with the Immigration Bureau, the Office of the Royal Thai Police, Ministry of Social Development and Human Security, and other concerned agencies to inform about the process and the information about the trafficking. The Ministry of Social Development and Human Security shall send social workers in cooperation with officers from the Royal Thai Police to get the person from the airport or border checkpoint and to preliminarily interrogate, assess the problems, security and needs to prepare for further assistance.

The Ministry of Social Development and Human Security shall co-ordinate to return the victim, together with information so received from preliminary assessment, to the POCHT from the province where her domicile is or as requested, to assist, protect, and provide social reintegration by her consent according to standards. Such information shall be used for setting up prevention and suppression measures. The POCHT shall immediately collect additional evidence or information useful for prosecuting the offenders as requested.

8. OPERATIONAL PROCEDURES FOR FOREIGNERS LEGALLY ENTERING THAILAND AND LATER BECOMING HUMAN TRAFFICKED VICTIM AND FOR FOREIGNERS ILLEGALLY ENTERING THAILAND AND LATER BECOMING HUMAN TRAFFICKED VICTIM

8.1 When there is a reasonable ground to believe that a trafficked foreigner has been rescued from an entertainment place or a place where sexual services are provided, or any other place; or a victim has requested for assistance; or there is evidence the person has been trafficked; or as deemed appropriate by the POCHT, the investigating officers shall immediately interrogate the trafficked victim and coordinate with the public prosecutor to apply to the court for an early deposition according to Article 237 bis of the Criminal Procedure Code* and Article 12 of the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act, though the investigation is not completed.⁵

The investigating officers should notify the Provincial Social Development and Human Security or NGOs to provide or coordinate to provide social workers or psychiatrists or any officials experienced in working with children or assisting trafficked victims, interpreters, or the victim's relatives or trustworthy acquaintances to observe the interview and the investigation.

In a case where the victim is a child, the child investigation section of the Criminal Procedure Code shall be applied.

The interrogation and investigation of the victim shall be completed as soon as possible and the POCHT shall transfer the victim safely back to her country of origin. If the victim has to be detained in Thailand for a period of time for the purpose of tracing the offenders, the process must be done urgently. The victim shall be detained in a reception center, a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security.

8.2 The Multi-disciplinary Operation Team shall question the victim for additional information to assess her physical, mental and social conditions. Officers shall then categorize the victim, systematically collect and store all information about

⁵ Already referred on page 12.



the victim and the trafficking and coordinate to send information so received to the investigating officers for prosecution process.

8.3 The police shall prosecute the offenders involved in human trafficking, persons who recruit, lure, accompany, purchase, sell, deliver, harbor, confine, detain, conceal, threat, harm, abuse his/her authority or other means of coercion to other persons; persons who are entrepreneurs, caretakers, managers, supervisors, controllers or ones who arrange for other persons to commit illegal actions for other persons' sexual desires, sexual abuse, or for one's own or others' unlawful benefits; or persons who receive sexual services from children under 18. These are considered crimes according to the Penal Code, laws on prevention and suppression of prostitution, laws on children and youth welfare, laws on prevention and suppression of women and children trafficking, or laws on prevention and suppression of money laundering.

According to paragraph one for the criteria of the age of the children, the time of the first incident is to be used. In the case where the incident took place when the child was not over 18 years old, but it was discovered when she is over 18, the offenders are to be prosecuted for his crime against a child whose age is not over 18 years old.

In the case where labor laws are applicable, concerned officials shall participate in any legal actions by the provisions of the labor laws, including rescue and protection of trafficked victims.

8.4 After the interrogation of a foreign trafficked victim, the investigating officers shall propose to the law officers⁶ the authority to make legal allowance according to Article 54 of the 1979 Immigration Act and shall rescue the victim according to Article 11 of the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act. The officers shall then transfer the victim to a reception center or a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security. In all cases, the shelter shall arrange physical and mental examinations of the victim⁷ as evidence.

⁶ Means officers according to the Ministerial Announcement of the Ministry of Interior, No. 11, dated 2 June 1998. Authorities and duties of the officers may be modified later to cover works for foreign children and women of human trafficking.

⁷ Already referred on page 13.

In case there is a reasonable cause or the initial inquiry or interrogation could not be completed within 24 hours, the POCHT shall propose to the Governor to transfer the victim to a reception center or a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security.

If there is no such facility available in the said province, a safe and appropriate shelter shall be arranged with the approval of the POCHT.

8.5 In the case where the victim has no ID card or there is reasonable doubt concerning the authenticity of the ID card, the POCHT or the concerned agencies shall check with the embassy of the country to which the victim claims that she belongs. The result of the examination is to be reported to the investigating officers.

8.6 In the case where the victim asserts that she is over 18 years of age without any proof of ID card; or there is a reasonable doubt that her ID card is fake, modified, or not the one issued to her; or there is a reasonable doubt that she is not over 18 years old, the investigating officers or the Ministry of Social Development and Human Security officials shall arrange a dental or physical examination to rule if the victim is 18 years old or younger. In the case where the Ministry of Social Development and Human Security officials arrange the examination, the investigating officers should be informed of the results.

In the case where the examination is not completed or the result is still unclear, it shall be presumed that the person is not over 18 years of age and the officers shall proceed the interrogation according to child investigation section of the Criminal Procedure Code.

8.7 While the foreign victim is under custody of the Department of Social Development and Welfare or NGOs, she shall be provided with a safe and appropriate place, food, clothing, as well as with physical and psychological recovery, occupational training, and assistance for welfare and law procedures prior to the repatriation to her domicile.

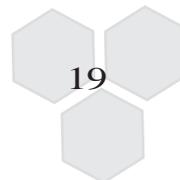


8.8 The Department of Social Development and Welfare's shelter or NGOs' welfare shelters approved by the Ministry of Social Development and Human Security used to care for the victim shall not be deemed as a detention center under the authority of the investigating officers or the court.

8.9 In the case where the nationality of the foreign victim who legally enters the country is unknown, the first place she had resided shall be considered her domicile. If the embassy or government of the country of origin disagrees, verification of nationality is to be conducted instead.

In the case where the officers identify the domicile of the victim who illegally enters the country, the officials of the Provincial Social Development and Human Security shall collect all evidence and interrogation the victim as well as record her testimonials for details needed for the nationality verification.

8.10 The Ministry of Social Development and Human Security, the Royal Thai Police, Immigration Bureau or border checkpoints, the Military Border Affairs Department, Ministry of Foreign Affairs and NGOs shall coordinate to obtain information about the foreign victim as well as details or evidences to detect and prosecute the offenders and shall inform the country of origin to prosecute the offenders. This will help suppressing the organized human trafficking in that country.



8.11 The Ministry of Social Development and Human Security shall coordinate with the Immigration Bureau or border checkpoints, the Military Border Affairs Department, Ministry of Foreign Affairs, and NGOs to safely return the foreign victim to her country of origin or domicile. The Ministry shall also coordinate with concerned government agencies, NGOs of the country of origin or of her domicile for efficient and successful repatriation, harboring and social reintegration according to standards, and also for exchange of information among countries to further assist the victim and prosecute the offenders. The POCHT shall apply the Thailand-Cambodia (or Thailand and other countries') operational procedures, regarding the repatriation and social reintegration of trafficked victim.

9. OPERATIONAL PROCEDURES FOR A NON-THAI WHO LIVES OR USED TO HAVE HER DOMICILE OR RESIDENCE IN THAILAND AND IS VICTIMIZED BY TRAFFICKING BOTH INSIDE AND OUTSIDE THAILAND⁸

9.1 In the case where there is a reasonable ground to believe that a person is a trafficked victim, when she is rescued from an entertainment places or a place where sexual services are provided, or any other place; or a victim has requested for assistance; or there is evidence the person has been trafficked; or is deemed appropriate by the POCHT, the investigating officers shall immediately interrogate the trafficked victim and coordinate with the public prosecutor to apply to the court for an early deposition according to Article 237 bis of the Criminal Procedure Code* and Article 12 of the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children Act, though the investigation is not completed.⁹

The investigating officers shall notify the Provincial Social Development and Human Security or NGOs to provide or coordinate to provide social workers or psychiatrists and/or any officials experienced in working with children or assisting trafficked victims, interpreters, or the victim's relatives or trustable acquaintances to observers.

In a case where the victim is a child, the child investigation section of Criminal Procedure Code shall be applied.

The interrogation and investigation of the victim shall be completed as soon as possible and the POCHT shall transfer the victim safely back to her domicile. If the victim has to be detained for a period of time for the purpose of tracing the offenders, the process must be done urgently. The victim shall be detained

⁸ Including any person belonging to 1 of 15 categories registered and issued of identification documents by the Ministry of Interior, according to the Letter of the Bureau of Registration Administration No. 0310.1/8, dated 31 March 1995. The following are considered non-Thais who have their domicile in Thailand but do not have Thai nationality: 1. hill tribes (blue cards) 2. Former Nationalist Chinese Soldiers (white cards) 3. Civil Chinese Haw Displaced Persons (yellow cards) 4. Independent Chinese Haw (orange cards) 5. Burmese Displaced Persons (pink cards) 6. Illegal Burmese Immigrants (orange cards/with permanent residence) 7. Illegal Burmese Immigrants (purple cards/living with employers) 11. Former Member of Communist Party of Malaya (green cards) 12. Tai Lue (orange cards)13. Mlabri (same as hill tribes/blue) 14. Ethnic Thais from Koh Kong, Kingdom of Cambodia (green cards) 15. persons who are registered from hill tribes survey (green cards with red border).

⁹ Already referred on page 12.



in a reception center or a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security.

9.2 The multi-disciplinary Operation Team shall question the victim for additional information to assess her physical, mental and social conditions. Officers shall then categorize the victim, systematically collect and store all information about the victim and the trafficking and coordinate to send information so received to the investigating officers for prosecution process.

9.3 The police shall prosecute the offenders involved in human trafficking, persons who recruit, lure, accompany, purchase, sell, deliver, harbor, confine, detain, conceal, threat, harm, abuse his/her authority or other means of coercion to other persons; persons who are entrepreneurs, caretakers, managers, supervisors, controllers or ones who arrange for other persons to commit illegal actions for other persons' sexual desires, sexual abuse, or for one's own or others' unlawful benefits; or persons who receive sexual services from children under 18. These are considered a crime according to Penal Code, laws on prevention and suppression of prostitution, laws on children and youth welfare, laws on prevention and suppression of women and children trafficking, or laws on prevention and suppression of money laundering.



According to paragraph one for the criteria of the age of the children, the time of the first incident is to be used. In the case where the incident took place when the child was not over 18 years old, but it was discovered when she is over 18, the offenders are to be prosecuted for their crime against a child whose age is not over 18 years old.

In the case where labor laws are applicable, concerned officials shall participate in any legal actions by the provisions of the labor laws, including rescue and protection of trafficked victims.

9.4 After the interrogation, the trafficked victim must be immediately transferred to a reception center or a welfare shelter of the Department of Social Development and Welfare, or a NGO's shelter approved by the Ministry of Social Development and Human Security. In all cases, full physical and psychological examinations shall be provided for the victim¹⁰ and collected as evidence.

¹⁰ Already referred on page 13.

In case the initial inquiry or interrogation could not be completed within 24 hours, upon approval of the Governor at request of the POCHT, the victim shall be transferred to a reception center or a welfare shelter of the Department of Social Development and Welfare or a NGO's shelter approved by the Ministry of Social Development and Human Security.

If there is no such facility available in the said province, an alternative shelter deemed to be most appropriate and safe should be arranged and provided with the approval of the POCHT.

9.5 In the case where the victim has no ID card or there is a reasonable doubt concerning the authenticity of the ID card, the officials of the Ministry of Social Development and Human Security shall examine the registration evidence or registration of person's ID card (colored cards) or other relating evidence with the Ministry of Interior or other concerned agencies and shall immediately report the results to the investigating officers.



22

9.6 In the case where the victim asserts that she is over 18 years of age without any proof of ID card; or there is a reasonable doubt that her ID card is fake, modified, or not the one issued to her; or there is a reasonable doubt that she is not over 18 years old, the investigating officers or the Ministry of Social Development and Human Security officials shall arrange a dental or physical examination to rule if the victim is 18 years old or younger. In the case where the Ministry of Social Development and Human Security officials arrange the examination, the investigating officers should be informed of the results.

In the case where the examination is not completed or the result is still unclear, it shall be presumed that the person is not over 18 years of age and the officers shall proceed with the interrogation according to child investigation section of the Criminal Procedure Code.

9.7 While the trafficked victim is under custody of the Department of Social Development and Welfare or NGOs, she shall be provided with a safe and appropriate place, food, clothing, as well as physical and psychological recovery, occupational training, and assistance for welfare and law procedures prior to the repatriation to her domicile.



9.8 The Department of Social Development and Welfare's shelter or NGOs' shelter approved by the Ministry of Social Development and Human Security used to care for the victim shall not be deemed as a detention center under the authority of the investigating officers or the court.

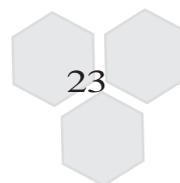
9.9 Operations for a non-Thai trafficked victim, who has had a domicile or residence in Thailand, shall be in accordance with the Resolution of the Thai Cabinet, dated 14 June 2005.

9.10 In the repatriation process of the trafficked victim who has a domicile within Thailand's 8 eastern provinces, when the POCHT is informed about the trafficking incident from POCHT which has given the primary assistance, it shall investigate and gather additional information, visit her residence, assess the readiness of her family and community and report to the POCHT of the incident to prepare the victim for safe repatriation back to her domicile or take other appropriate measures.

When the victim arrives at her domicile, the POCHT shall equip her with the ability to reintegrate into the society according to standards and prevent her from returning to trafficking, and shall monitor and report results to the POCHT of the incident.

9.11 The POCHT shall, as requested, immediately collect additional evidence or information which is useful for prosecuting the offenders.

10. The Provincial Operation Center on Prevention and Suppression of Human Trafficking (POCHT) or other concerned agencies shall arrange the exchange of experiences and trainings among concerned persons to increase their special knowledge and knowledge of cooperation among multi-disciplinary operation teams including networking, for efficient and successful operation according to this MOU.



11. The relevant government agencies shall apply for government funding from the Budget Bureau and other sources for the operational expenses required to implement this Memorandum of Understanding and shall inform the Office of the Permanent Secretary of the Ministry of Social Development and Human Security for due support in applying for funding for each agency.

12. The concerned agencies, both government agencies and NGOs, shall promulgate necessary internal criteria and regulations according to this MOU and related laws.

13. This MOU may be amended if agreed among the Provincial Operation Center on Prevention and Suppression of Human Trafficking (POCHT) from 8 eastern provinces.



Governor

(Mr. Pongsak Semaganit)
Vice Governor of Chanthaburi

(Mr. Arnont Promnart)
Governor of Chachoengsao

(Mr. Thongtawee Phimsen)
Vice Governor of Chon Buri

(Mr. Surpol Saipan)
Vice Governor of Trat

(Mr. Thada Thamniyom)
Vice Governor of Nakhon Nayok

(Mr. Somsak Lertbannaphong)
Vice Governor of Prachin Buri



(Mr. Suwaet Tantiwong)
Vice Governor of Rayong

(Mr. Suwit Watcharothayangkun)
Vice Governor of Sa Kaeo

Provincial Chief Public Prosecutor



(Mr. Thammasak Maneechod)
Chanthaburi Provincial Chief
Public Prosecutor



(Mr. Pirasak Mhawatanangkul)
Chachoengsao Provincial Chief
Public Prosecutor



(Mr. Sirimas Tanjapatkul)
Chon Buri Provincial Chief
Public Prosecutor



(Mr. Kanong Tongnopkun)
Trat Provincial Chief Public Prosecutor



(Mr. Prapat Maneewong)
Nakhon Nayok Provincial Chief
Public Prosecutor



(Mr. Surapon Termprateep)
Prachin Buri Provincial Chief
Public Prosecutor



(Mr. Vitya Dangpradub)
Rayong Provincial Chief Public Prosecutor



(Mr. Wichai Pornduksadeekul)
Sa Kaeo Provincial Chief
Public Prosecutor



Provincial Police Commander

(Pol.Maj.Gen Narong Siwapanih)
Commander of Chanthaburi
Provincial Police

(Pol.Maj.Gen. Bavorn Nuntayawong)
Commander of Chachoengsao
Provincial Police

(Pol.Col. Bundit Kunnajakr)
Deputy Commander of Chon Buri
Provincial Police

(Pol. Col. Piyapon Mokavantana)
Deputy Commander of Trat
Provincial Police

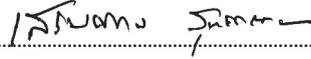
(Pol.Maj.Gen. Kosone Puawade)
Commander of Nakhon Nayok Provincial Police

(Pol.Maj.Gen. Mung Sinchareon)
Commander of Prachin Buri Provincial Police

(Pol.Maj.Gen. Chalernpol Srisompote)
Commander of Rayong Provincial Police

(Pol.Col. Phayap Thongthuen)
Deputy Commander of Sa Kaeo
Provincial Police

Provincial Public Health Director



(Mr. Sermsak Sudthikanawat)
Director of Chanthaburi Provincial Public Health



(Mr. Wattana Kanjanakamol)
Director of Chachoengsao Provincial
Public Health



(Mr. Sonchai Wattana)
Director of Chon Buri Provincial
Public Health

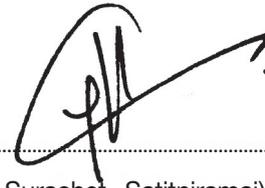


(Mr. Rawee Siriprasert)
Director of Trat Provincial Public Health

28



(Mr. Sompong Jaroongjittanuson)
Director of Nakhon Nayok Provincial
Public Health



(Mr. Surachet Satitniramai)
Director of Prachin Buri Provincial
Public Health



(Mr. Wiwat Wiryakijja)
Director of Rayong Provincial
Public Health



(Mr. Sunthorn Yontrakul)
Director of Sa Kaeo Provincial
Public Health



Provincial Social Development and Human Security

(Mrs. Fuangfar Poosawad)
Chief of Chanthaburi Provincial Social
Development and Human Security

(Ms. Pailin Auesormskul)
Chief of Chachoengsao Provincial Social
Development and Human Security

(Mr. Somchai Sirorat)
Chief of Chon Buri Provincial Social
Development and Human Security

(Mr. Nares Sirinanut)
Chief of Trat Provincial Social
Development and Human Security

(Ms. Warunee Poolcharoen)
Chief of Nakhon Nayok Provincial Social
Development and Human Security

(Mr. Taharn Rienthong)
Chief of Prachin Buri Provincial Social
Development and Human Security

(Ms. Sirima Kunabanchong)
Chief of Rayong Provincial Social
Development and Human Security

(Mr. Prinya Peampratom)
Chief of Sa Kaeo Provincial Social
Development and Human Security