

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM
ON
BILATERAL COOPERATION
FOR
ELIMINATING TRAFFICKING IN PERSONS,
ESPECIALLY WOMEN AND CHILDREN
AND ASSISTING VICTIMS OF TRAFFICKING**

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM (hereinafter referred to as the "Parties")

HAVING SOUGHT to strengthen the bonds of friendship between the two countries and to increase the bilateral cooperation on the suppression of trafficking in persons, especially women and children;

RECOGNIZING that trafficking in persons, especially women and children is a gross infringement of human rights and grievous trampling on the dignity of human beings;

GRAVELY CONCERNED that trafficking in persons, especially women and children has negative impact on individual physical, mental, emotional, and moral development and is detrimental to the social fabric and values of the society;

TAKING INTO ACCOUNT that transnational criminal groups and organisations are actively involved in trafficking in persons, especially women and children and that such transnational organised crimes have affected not only Vietnam and Thailand but also the region and global community at large;

CONFIRMING that the Parties share the common concern against transnational human trafficking as addressed in the Bangkok Declaration on Irregular Migration deliberated in the International Symposium on Migration "Towards Regional Cooperation

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on Irregular/Undocumented Migration” held in Bangkok during 21-23 April 1999, “The Bali Conference on the People Smuggling, Trafficking in Persons and Related Transnational Crime” held in Bali during 26-28 February 2002; the Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region signed in Yangon, Myanmar on 29 October 2004, and related follow-up activities;

CONVINCED that suppressing the crime of trafficking in persons, especially women and children through mutual cooperation in the law enforcement and the criminal procedures is an effective measure to ensure the justice against human trafficking; and

PLEDGING that the Parties shall faithfully cooperate to eliminate trafficking in persons, especially women and children, and to protect and assist them;

HAVE AGREED AS FOLLOWS:

Scope of this Agreement

Article 1

This Agreement shall apply to trafficking in persons, especially women and children as defined in Article 2 of this Agreement.

Definition

Article 2

For the purpose of this Agreement

1. “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of a person, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, of the giving or receiving of payments or benefits to achieve the consent of a person having control over a person, for the purpose of exploitation. Exploitation shall include the exploitation of women and children through prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

2. Women and children who are trafficked for the purpose of exploitation, conducted by any means provided for in paragraph (1) of this article are considered victims whether or not they gave their consent;

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3. A child who has been recruited, transported, transferred, or harbored for the purpose of exploitation, shall be considered "as a victim of trafficking" even if this does not involve any of the means set forth in paragraph (1) of this article; and

4. "Child" shall mean any person less than eighteen years of age.

Article 3

The Parties recognised that examples of the purposes of trafficking in women and children include, but are not limited to, the following:

1. prostitution and other forms of sexual exploitation;
2. forced or exploitative domestic labour;
3. bonded labour and other forms of hazardous, dangerous and exploitative labour;
4. servile marriage or undesired marriage of victims;
5. false adoption;
6. removal of body organs;
7. pornography;
8. begging;
9. slavery by the use of drug on women and children; and
10. other forms of exploitation.

Preventive Measures

Article 4

The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal frameworks in their respective jurisdictions conform with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments which both Parties have ratified or acceded to and are effective in eliminating trafficking in women and children and in protecting all rights of women and children who fall victim to trafficking.

Article 5

The Parties shall make their best efforts to prevent trafficking in women and children through the following preventive measures:

1. Increase of social services such as assistance in job searching and income generating and provision of medical care to women and children, especially those who are vulnerable to trafficking;

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2. Reform educational and vocational training programmes particularly for women and children to increase their job opportunities in order to reduce their risk of being trafficked;

3. Enhancement of public awareness and understanding on the issue of trafficking in women and children; and

4. Dissemination, to the public, of information relating to the risks involved in trafficking of women and children and businesses which exploit women and children.

Protection of Trafficked Women and Children

Article 6

Trafficked women and children shall be considered victims, not violators or offenders of the immigration law. Therefore,

1. Trafficked women and children shall not be prosecuted for illegal entry to the country;

2. Trafficked women and children shall not be detained in an immigration detention centre while waiting for repatriation, but shall be put under the care of the Ministry of Public Security (Vietnam) or the Ministry of Social Development and Human Security (Thailand), and shelter and protection shall be provided to the victims according to the policy of each country;

3. The relevant authorities shall ensure the security of trafficked women and children; and

4. Victims shall be treated humanely throughout the process of protection, repatriation, and the judicial proceedings.

Article 7

The Parties shall take appropriate measures, which may include legal reform and legal aid, to ensure support for victims.

1. Victims have rights to claim restitution of any undisputed personal properties and belongings that have been confiscated and obtained by authorities in the process of detention or any other criminal procedure;

2. Proceeds of the crime of trafficking shall be liable for confiscation and managed according to the laws of the relevant country;

3. Victims have rights to claim compensation from the offender of any damages resulting from having been trafficked;

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4. Victims have rights to claim payment for unpaid services; and
5. Victims shall have access to the due process of law in obtaining criminal justice, recovery of compensation and damages as well as any other judicial remedies.

Article 8

The relevant governmental agencies where appropriate, in cooperation with non-governmental organisations, shall provide trafficked children, women, and their immediate family, if any, with safe shelter, health care, access to legal assistance, and other imperatives for their protection.

Cooperation in the Prevention and Suppression of Trafficking in Persons especially Women and Children

Article 9

The law enforcement agencies in both countries, especially at the border, shall work in close cooperation to uncover, and investigate offenders of domestic and cross border trafficking in persons, especially women and children, in a timely manner.

Article 10

1. The law enforcement process shall be streamlined so as to combat the crime of trafficking in persons, especially women and children effectively;
2. The investigation and the prosecution of offenders and criminal syndicates in trafficking cases shall be intensified; and
3. The Parties shall organise training programmes unilaterally and bilaterally concerning the applicable legal rules and skills of investigation and protection in trafficking cases for law enforcement personnel, emphasising the rights of persons, especially women and children, with reference to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, other international human rights standards and the relevant domestic laws.

Article 11

1. The Parties shall, in accordance with their respective laws and regulations, cooperate in the judicial proceedings against trafficking, e.g., prosecution of transnational traffickers, extradition arrangement, mutual judicial assistance in the criminal procedures.

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2. The Parties shall afford one another the most effective measure of mutual legal assistance in investigation, prosecution and judicial proceedings in relation to trafficking in persons especially women and children, on the basis of existing relevant agreements.

Article 12

The police and other relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places of trafficking, identification of traffickers, network of trafficking, methodologies of trafficking, and data on trafficking.

Article 13

1. The two Parties shall, through their relevant governmental agencies, along with other relevant governmental, non-governmental organisations and international organisations, cooperate in collecting information and exchanging evidence and information relating to trafficking in persons, especially women and children.

2. The information and evidence obtained in accordance with the paragraph (1) of this article shall duly be delivered to the Central Authority, as defined in Article 19(1), for transmitting to relevant agencies for further action.

Article 14

The police and other appropriate authorities of each Party shall take protection measures, as necessary, to secure the safety of victims and eyewitness from retaliation or menace during and after the judicial proceedings.

Repatriation

Article 15

Women and children identified as victims of trafficking shall not be deported. The repatriation of victims will be conducted as follows:

1. The authorities in charge of repatriation shall use diplomatic channels of communication to inform the other Party in advance of repatriation arrangements of trafficked women and children; and

2. Repatriation of trafficked women and children shall be arranged and conducted in their best interest.

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Article 16

Each Party shall designate a Focal Point to coordinate the repatriation process of trafficked women and children. The Focal Point shall have following duties;

1. conduct family tracing, family assessment;
2. arrange and implement the repatriation of trafficked women and children;
3. provide security for trafficked women and children in the repatriation process;
4. endeavor to coordinate with the concerned agencies to conduct preventive measures and monitor trafficking in women and children; and
5. establish informational networks concerning the practice of trafficking in persons, especially women and children among the national and international law enforcement authorities and relevant civil society organisations.

Reintegration

Article 17

The Parties shall make all possible efforts towards the safe and effective reintegration of victims of trafficking into their families and communities in order to restore their dignity, freedom and self-esteem. For this purpose, the Parties shall take appropriate measures to fulfill the following objectives;

1. Trafficking victims shall not suffer any further victimisation, humiliation, stigmatisation or traumatising in the judicial procedure;
2. Continuous social, medical, psychological and other necessary support shall be provided to women and children who are victims of trafficking and their families, particularly to those who are infected with sexually transmitted diseases including HIV/AIDS;
3. Women and children who are victims of human trafficking shall not be discriminated against or stigmatised socially, and
4. Child victims of school age shall be ensured appropriate educational opportunities.

Article 18

The Parties shall provide the following training programmes for the purpose of effective reintegration;

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1. Vocational training programmes for victims of trafficking to enhance their opportunity to acquire alternative livelihood means; and
2. Training programmes to sensitise those working for victims of trafficking in regard to child development, child rights and child/gender issues with reference to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and other relevant human rights instruments to which both Parties are parties.

Central Authority and Joint Task Force of the Parties

Article 19

1. Central Authority: For the purpose of implementing this Agreement, each Party will designate an implementing agency. The Implementing Agency of the Socialist Republic of Vietnam will be the Ministry of Public Security and the implementing agency of the Kingdom of Thailand will be the Ministry of Social Development and Human Security.
2. The Joint Task Force shall comprise competent representatives from both Parties.
3. The Joint Task Force shall be called to meet as the need arises. The date and venue of the meeting of the Joint Task Force shall be agreed by both Parties.
4. The Joint Task Force shall have the following duties:
 - a. To initiate the establishment of strategies, the implementing guidelines and other necessary frameworks to implement this Agreement.
 - b. To make recommendations of coordination measures toward further development of the mutual cooperation against trafficking in persons, especially women and children.
 - c. To monitor and assess the implementation of this Agreement.
 - d. To review the implementation of this Agreement every 5 years.

Final Provisions

Article 20

Settlement of disputes

Any differences arising from the interpretation or application of this Agreement shall be settled amicably through the diplomatic channels.

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Article 21

Entry into force

Each Party shall notify the other through diplomatic channels, in writing, of the completion of its internal legal requirement for the entry into force of this Agreement. This Agreement shall enter into force on the date of the receipt of the latter written notification.

Either Party may terminate this Agreement at any time by giving written notice to the other Party through diplomatic channels. The termination shall be effective six months after the date of receipt of such notice.

Article 22

This Agreement may be amended by an agreement in writing of both Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.


DONE at Hanoi, in duplicate in the English language, on this 24th day of March 2008.

**FOR THE GOVERNMENT OF
THE KINGDOM OF
THAILAND**



**Mr. Sutha Chansaeng
Minister of Social Development and
Human Security**

**FOR THE GOVERNMENT OF
THE SOCIALIST REPUBLIC OF
VIETNAM**



**Mr. Le The Tiem
Deputy Minister of Public Security**

Napa Suktakom

