

Measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 (1997)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 14th Day of November B.E. 2540 (1997)

Being the 52nd Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on trafficking in women and girls;

Be it, therefore, enacted by the King, by and with the advice and consent of the Parliament, as follows:

Section 1

This Act shall be called "the Measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 (1997)."

Section 2

This Act shall come into force on and from the day following the date of its publication in the Royal Gazette.

Section 3

The Trafficking in Women and Girls Act, B.E. 2471 (1928) shall be repealed.

Section 4

In this Act:

"child" means a person whose age is not over eighteen years;

"official" means a government official not lower than the third level, or the superior administrative or police official appointed by the Minister for the execution of this Act;

"Minister" means the Minister in charge of controlling the execution of this Act.

Section 5

In committing an offence concerning the trafficking in women and children, buying, selling, vending, bringing from or sending to, receiving, detaining or confining any woman or child, or arranging for any woman or child to act or receive any act, for sexual gratification of another person, for an indecent sexual purpose, or for gaining any illegal benefit for his/herself or another person, with or without the consent of the woman or child, which is an offence under the Penal Code, the law on prostitution prevention and suppression, the law on safety and welfare of children and youths, or this Act, the official is authorized to enforce power under this Act.

Section 6

Whoever makes preparations for committing any of the offences as specified in Section 5 shall receive the same punishment as attempting to commit such offence.

Section 7

Whoever, from two persons upwards, conspire to commit any of the offences as specified in Section 5 shall be punished with imprisonment not exceeding five years, or a fine not exceeding ten thousand Baht, or both.

If any one of the offenders in the first paragraph has committed the conspired offence, all the offenders in the conspiracy shall be punished, as an additional count, with the punishment as stipulated for the committed offence.

In the case that the commission of the offence is in process, but because of the opposition by the conspirator, the offence cannot be carried through, or the offence is carried through but does not achieve its goal, the conspirator, opposing the wrong doing act, is liable only to the punishment as stipulated in the first paragraph.

If the offender, according to the first paragraph, changes his/her mind and provides information on the conspiracy to the official before the conspired offence is committed, the court may punish such offender less than the punishment specified, or may not punish such offender at all.

Section 8

The official shall inspect, examine, and monitor at airports, seaports, railway stations, bus stations, entertainment establishments, factories and public places to prevent the offence specified in Section 5 from being committed.

]In the execution of his/her function according to paragraph one, the official may request any person for help in accordance with the regulation provided by the Minister and published in the Royal Gazette.

Section 9

In order to prevent and suppress the commission of the offence as specified in Section 5, the official shall have authority as follows:

- (1) issue a summons to any person to give statement, deliver documents or evidence;
- (2) examine the body of a woman or child, with a reason to believe that she/he is the victim of the offence as stipulated in Section 5, if the victim is a woman or girl the examiner shall be another woman.
- (3) search any place or vehicle, but the search shall be done between sunrise and sunset; in case there is a reason to believe that if the action is not immediately taken the woman or child may be assaulted, or the offender may relocate or conceal that woman or child, the official may search the place at night with the permission of the Director General of the Police Department or person designated by the Director General in the jurisdiction of Bangkok, or the provincial governor or person designated by the provincial governor in the provincial jurisdiction for the search in such province.

Section 10

For the benefit of prevention and suppression of the offence as specified in Section 5, or for rescuing a woman or child who may be the victim of such offence, the official has authority to detain the woman or child for factual clarification, or checking documents or evidence, but the detention shall not be over half an hour. In case of necessity for longer detention, after the detention is recorded in an official report, the woman or child can be detain not over twenty-four hours, but the detention must be reported to the Director General of the Police Department in the Bangkok jurisdiction or the provincial governor of such provincial jurisdiction without delay.

If there is a necessary cause, the detention may be longer than twenty-four hours but not exceeding ten days, but the permission must be granted by the Director General of the Police Department or the provincial governor as the case may be.

In detaining the woman or child in accordance with this Section, the woman or child shall stay in an appropriate place, which shall not be a detention cell or prison.

The report, record, and grant of permission shall be in accordance with the regulation provided by the Minister and published in the Royal Gazette.

When the woman or child has testified in court in accordance with Section 12, it shall be deemed that the cause for detention of such women or child is ended.

Section 11

The official shall use his/her judgement in giving appropriate assistance to the woman and child, who is the victim of the offence as specified in Section 5, in providing food, shelter and repatriation to her/his original country or residence.

In providing assistance according to the first paragraph, the official may arrange for the woman or child to be in the care of a "primary shelter" provided by the law on prostitution prevention and suppression, a "primary shelter for children" provided by the law on child and juvenile safety and welfare, or other governmental or non-governmental welfare institutions.

In case it is expedient, the Minister may issue a regulation on the assistance according to this Section by publication in the Royal Gazette.

The repatriation of the victim, whose residence is in a foreign country, shall be done in accordance with the agreements set forth in a treaty with the state party, or a convention of which Thailand is an acceding state.

Section 12

When it is known that an offence as specified in Section 5 has been committed, even though the offender is not arrested, a public prosecutor, by oneself or by receiving an application from an inquiry official, may bring the victimized woman or child to file a petition, specifying all the acts allegedly committed and the necessary cause why the testimony must be immediately taken, to a court.

In case the initiation to testify in court is of the victimized woman or child, and she/he informs the public prosecutor, a petition to the court shall immediately be filed by the public prosecutor.

The court shall instantly provide the examination of the witness when the petition is filed. In such examination, if any interested person in the case files a petition to the court citing a reason or necessity to cross-examine or to appoint a counsel for cross-examination, the court may grant permission to do so when deemed appropriate.

The testimony of such witness shall be read to the witness.

If the offender is indicted later as a defendant with the charge of committing the offence as specified in Section 5, the deposited testimony of the witness shall be used as an evidence in the trial and in making decision of that case.

Section 13

In the case that the victimized woman or child, spouse, relative, or person with related interests to the woman or child, perceiving that the detention of such woman or child according to Section 10, or the assistance provided to such woman or child according to Section 11 is wrongful, the woman, child, spouse, relative or interested person may appeal to the Director General of the Police Department for Bangkok jurisdiction, or to the provincial governor for such provincial jurisdiction.

The competent authority, authorized to consider the appeal as specified in paragraph one, shall examine the facts and render judgement without delay. If the Director General of the Police Department or the provincial governor considers that the detention of the woman or child is lawful, the case shall be reported to the Minister of Interior for final judgement.

The timeframe for consideration of the appeal, the form or timeframe of the report to be submitted to the Minister of Interior for the final judgement shall be in accordance with the regulation established by the Minister of Interior and published in the Royal Gazette.

Section 14

In executing duties in this Act, the official shall be the "superior administrative or police official" as stipulated in the Criminal Procedure Code.

Section 15

The Minister of Interior and Minister of Labor and Social Welfare shall have duty and control of the execution of this Act and shall have power to appoint the official for the execution of this Act.

Countersigned by

Gen. Chavalit Yongjaiyuth

Prime Minister

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