

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

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 30 Day of January B.E. 2551 (2008);

Being the 63rd 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 the Measures in Prevention and Suppression of Trafficking in Women and Children;

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29, in conjunction with Section 32, Section 33, Section 34, Section 35, Section 36, Section 41 and Section 45 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

His Majesty the King, by and with the advice and consent of the National Legislative Assembly, is graciously pleased to enact an Act as follows:

Section 1

This act is called the "Anti-Trafficking in Persons Act, B.E 2551 (2008)".

Section 2

This Act shall come into force after one hundred and twenty days from the date of its publication in the Government Gazette.

Section 3

The Measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 (1997) shall be repealed.

Section 4

In this act:

"Exploitation" means 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.

"Forced labor or service" means compelling the other person to work or provide service by putting such person in fear of injury to life, body, liberty, reputation or property, of such person or another person, by means of intimidation, use of force, or any other means causing such person to be in a state of being unable to resist.

"Organized Criminal Group" means a structured group of three or more persons, notwithstanding being formed permanently or existing for a period of time, and no need to have formally defined roles for its members, continuity of its membership or a developed structure, acting in concert with the aim of committing one or more offences punishable by a maximum imprisonment of four years upwards or committing any offence stipulated in this Act, with the aim to unlawfully obtain, directly or indirectly, property or any other benefit.

"Child" means any person less than eighteen years of age.

"Fund" means the Anti-Trafficking in Persons Fund.

"Committee" means the Anti-Trafficking in Persons Committee.

“Member” means a member of the Anti-Trafficking in Persons Committee.

“Competent Official” means a superior administrative or police official including a government official holding a position not lower than level 3 of an ordinary civil servant, appointed by the Minister, from the person who possesses qualifications specified in the Ministerial Regulation, to perform the duty under this Act.

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5

The President of the Supreme Court and the Minister of Social Development and Human Security shall have charge and control of the execution of this Act, in relations to their respective authorities.

The President of the Supreme Court shall have the power to issue Standing Orders and the Minister of Social Development and Human Security shall have the power to appoint competent officials and issue Ministerial Regulations and Rules for the execution of this Act.

The Standing Orders issued by the President of the Supreme Court, Ministerial Regulations and Rules shall come into force upon their publication in the Government Gazette.

CHAPTER 1 **General Provision**

Section 6

Whoever, for the purpose of exploitation, does any of the following acts:

- (1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or
- (2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child;

is guilty of trafficking in persons.

Section 7

Whoever commits any of the following acts shall be punished likewise as the offender of an offence of trafficking in persons:

- (1) supporting the commission of an offence of trafficking in persons;
- (2) aiding by contributing property, procuring a meeting place or lodge, for the offender of trafficking in persons;
- (3) assisting by any means so that the offender of trafficking in persons may not be arrested;
- (4) demanding, accepting, or agreeing to accept a property or any other benefit in order to help the offender of trafficking in persons not to be punished;
- (5) inducing, suggesting or contacting a person to become a member of the organized criminal group, for the purpose of committing an offence of trafficking in persons.

Section 8

Whoever prepares to commit an offence as aforesaid by Section 6, shall be liable to one-third of the punishment stipulated for such offence.

Section 9

Whoever, from two persons upwards, conspires to commit an offence as aforesaid by Section 6 shall be liable to no more than one-half of the punishment stipulated for such offence.

If any one of the offenders in paragraph one has committed in furtherance of the conspiratorial objective, each member of the conspiracy shall be liable, as an additional count, for the punishment stipulated for the committed offence.

In case the commission of an offence is carried out up to the stage of commencement, but because of the intervention of any conspirator, the offence cannot be carried through, or the offence is carried through but does not achieve its end, the conspirator so intervening is liable to the punishment as stipulated in paragraph one.

If the offender, under paragraph one, reverses his position by providing a true statement in relation to the conspiracy to the competent official before the conspired offence is committed, the court may not inflict punishment or inflict less punishment upon such person to any extent than that prescribed by the law for such offence.

Section 10

In case where an offence stipulated in Section 6 is accrued by the commission of person as 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.

Whenever an offence provided in Section 6 is committed by any member of an organized criminal group, everyone being the member of such organized criminal group at the time of the commission of such offence, knowing and conniving at such commission, shall be liable to the punishment prescribed for such offence, even though he has not personally committed such offence.

If an offence under paragraph one is committed in order that the trafficked person taken into or sent out of the Kingdom to be under the power of the other person unlawfully, the offender shall be liable to twice of the punishment prescribed for such offence.

Section 11

Whoever commits an offence mentioned in Section 6 outside the Kingdom shall be liable for the punishment stipulated in this Act in the Kingdom. The provision of Section 10 of the Penal Code shall apply *mutatis mutandis*.

Section 12

Whoever commits the offences under this Act 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 offence.

Section 13

Whoever, in the capacity as a 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, commits an offence under this Act shall be liable to twice the punishment stipulated for such offence.

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, committing an offence under this Act, shall be liable to thrice the punishment stipulated for such offence.

Section 14

All offences under this Act shall be predicate offences under the Anti-Money Laundering Act, B.E. 2542 (1999).

CHAPTER 2

Anti-Trafficking in Persons Committee

Section 15

There shall be an Anti-Trafficking in Persons Committee to be called "ATP Committee" in brief, consisting of the Prime Minister as chairman, the Deputy Prime Minister, who acts as Chairman of the CMP Committee, as vice chairman, the Minister of Defense, the Minister of Foreign Affairs, the Minister of Tourism and Sports, the Minister of Social Development and Human Security, the Minister of Interior, the Minister of Justice, the Minister of Labor, and four qualified persons appointed by the Prime Minister from experts who have had no less than seven years demonstrable professional experiences in the fields of prevention, suppression, rehabilitation and international cooperation on the issues of trafficking in persons, one from each field, provided that not less than one half appointed from the private sector, as members, and the Permanent Secretary for Social Development and Human Security shall be the secretary and the Director-General of the Department of Social Development and Welfare and the Director-General of the Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups shall be the assistant secretaries.

No less than one half of the qualified members in paragraph one must be female.

Section 16

The Committee shall have powers and duties as follows:

- (1) to make recommendations to the Cabinet concerning the policy on prevention and suppression of trafficking in persons;
- (2) to make recommendations to the Cabinet on the revision of laws, rules, regulations or the restructuring of any governmental agency responsible for the prevention and suppression of trafficking in person to enable a more effective implementation of this Act;
- (3) to lay down strategies and measures for the prevention and suppression of trafficking in person;
- (4) to prescribe guidelines and monitor the implementation of international obligations, including cooperating and coordinating with foreign bodies in relation to the prevention and suppression of trafficking in persons;
- (5) to direct and supervise the arrangements of study or research projects and the development of an integrated data base system for the benefit of prevention and suppression of trafficking in persons;
- (6) to issue regulations relating to the registration of a nongovernmental organization with a view to preventing and suppressing of trafficking in person, and to prescribe rules for assistance such organization in carrying out its activities;
- (7) to lay down rules, with the consent of the Ministry of Finance, concerning the receipt, payment, keeping, fund raising and the management of Fund;
- (8) to lay down rules concerning the report on financial status and the administration of the Fund for the purpose of implementing this Act;
- (9) to give instruction and supervise the performance of duties of the CMP Committee.
- (10) to perform any other acts as entrusted by the Cabinet.

Section 17

A qualified member shall hold office for a term of four years.

Vacating member may be re-appointed but shall not hold office in excess of two consecutive terms.

Section 18

Apart from the vacation of office upon the expiration of the term, a qualified member shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Prime Minister on account of the deficiency, dishonesty or misbehavior;
- (4) being declared bankrupt;
- (5) being declared an incompetent or quasi-incompetent person;
- (6) being imprisoned by a final judgment, except for a negligent or petty offence;
- (7) absenting from the meetings for three consecutive occasions without reasonable cause.

Section 19

In case where a qualified member vacates office prior to the expiration of his term of office, the Prime Minister shall appoint another person of the same qualification to fill the vacancy; except when such remaining period of the term is less than ninety days, in which case a new appointment may not be required. The appointed member shall hold office for the remaining period of the term of office of the member replaced.

Section 20

In case where a qualified member vacates office at the expiration of the term of office and a new member has not been appointed, such member shall continue in office until a new member has been appointed to assume office.

Section 21

For a meeting of the Committee, the presence of not less than one-half of the total number of members is required to constitute a quorum.

In case where the chairman of the Committee is not present or is unable to perform the duty, then the vice-chairman of the Committee shall preside over the meeting. If the vice-chairman is also not present or is unable to perform the duty, the members present shall elect one among them to act as chairman of the meeting.

The decision of a meeting shall be made by majority of votes. Each member shall have one vote. In the case of a tie, the chairman of the meeting shall have an additional vote as a casting vote.

The Committee shall hold a meeting at least three times a year.

Section 22

There shall be a Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee to be called "CMP Committee" in brief, consisting of the Deputy Prime Minister, being assigned by the Prime Minister, as chairman, the Minister of Social Development and Human Security, as vice chairman, the Permanent Secretary for Foreign Affairs, the Permanent Secretary for Tourism and Sports, the Permanent Secretary for Social Development and Human Security, the Permanent Secretary for Interior, the Permanent Secretary for Justice, the Permanent Secretary for Labor, the Permanent Secretary for Education, the Permanent Secretary for Public Health, the Attorney General, the Commissioner-General of the Royal Thai Police, the Director-General of the Department of Provincial Administration, the Director-General of the Department of Special Investigation, the Secretary-General of the Anti-Money Laundering Board, the Secretary-General of the National Human Rights Commission, the Secretary-General of the National Security Council, the Governor of Bangkok Metropolitan Administration, and eight qualified persons appointed by the Minister from experts who have had no less than seven years professional experiences in the fields of prevention, suppression, rehabilitation and international cooperation on the issues of trafficking in persons, two from each field,

provided that not less than one half appointed from the private sector, as members, and the Deputy Permanent Secretary for Social Development and Human Security shall be a member and the secretary.

The CMP Committee shall have power to appoint a government official or anyone from the private sector to serve as assistant secretary of the Committee.

The qualified members in paragraph one must be female not less than one half.

Section 23

The CMP Committee shall have powers and duties as follows:

- (1) to prepare and monitor the performance according to the implementation and coordination plans of the agencies concerned, whether they be at the central, regional or local level, or in the community and civil society, to ensure the consistency with the policies, strategies and measures on the prevention and suppression of trafficking in persons;
- (2) to prepare and monitor the implementation of plans and guidelines regarding the capacity building for personnel responsible for prevention and suppression of trafficking in persons;
- (3) to formulate and monitor campaigns to inform and educate the public in relation to the prevention and suppression of trafficking in persons;
- (4) to monitor, evaluate and report to the Committee the performance according to the policies, strategies, measures, together with the performance under this Act;
- (5) to follow up, and report to the Committee the performance under the international obligations, cooperation and coordination with the foreign bodies on the issues of the prevention and suppression of trafficking in persons;
- (6) to lay down rules and approve the payment and disposal of property of the Fund under Section 44 (4);
- (7) to prepare and monitor the implementation plans under this Act with a view to achieve the highest efficiency of law enforcement and to be in line with the law on anti-money laundering, the law on the national counter corruption and any other related laws, including international obligations.
- (8)** to perform any other acts as entrusted by the Committee.

Section 24

Section 17, Section 18, Section 19, Section 20, and Section 21 shall apply *mutatis mutandis* to the assumption of office, vacation of office, and meetings of the CMP Committee.

The CMP Committee shall hold a meeting at least six times a year.

Section 25

The Committee and the CMP Committee may appoint a sub-committee or a working group to consider, give advice and execute any matter entrusted by the Committee and the CMP Committee.

The provision of Section 21 paragraph one, two and three shall apply *mutatis mutandis* to the meetings of any sub-committee or working group.

Section 26

The Office of the Permanent Secretary for Social Development and Human Security shall be the secretariat of the Committee and the CMP Committee and shall have powers and duties as follows:

- (1) to perform administrative tasks of the Committee and the CMP Committee;
- (2) to be a focal agency for coordinating and co-operating with other government agencies, and public and private organizations concerned, both within and outside the country, in connection with the execution of this Act;

- (3) to develop system of prevention and suppression of trafficking in persons, including to effectively provide services and safety protection to the trafficked person;
- (4) to compile, study and analyze data for the benefit of prevention and suppression of trafficking in persons and to conduct a research for the benefit of the execution of this Act;
- (5) to develop information technology database system for the prevention and suppression of trafficking in persons and to establish the links thereof;
- (6) to implement the decisions of the Committee and the CMP Committee or perform any other acts as entrusted by the Committee and the CMP Committee.

The Office of the Permanent Secretary for Social Development and Human Security shall be responsible for preparing the due appropriations of the annual budget and personnel for carrying out the duties prescribed in paragraph one.

CHAPTER 3

Powers and Duties of the Competent Official

Section 27

For the purpose of prevention and suppression of the commission of the trafficking in persons, the competent official shall have the following powers and duties:

- (1) to summon any person to give statements, or submit documents or evidence;
- (2) to search the body of any person, with his consent, where there is a reasonable ground to believe that such person is a trafficked person, in case such person is a woman, the searcher shall be another woman;
- (3) to search any conveyance with a reasonable ground to suspect that there is an evidence or a person falling the trafficked person therein;
- (4) to enter any dwelling place or a premise, to search, seize or attach, when there is a reasonable ground to believe that there is an evidence of the commission of trafficking in persons, or to discover and rescue a trafficked person therein, and that by reason of delay in obtaining a search warrant, such evidence is likely to be removed, concealed or destroyed, or such person is likely to be assaulted, relocated or concealed.

When exercising the power under (4), the competent official must manifest that he has nothing concealed prior to the search as well as report reason and result of the search in writing to his superior. He shall also make a copy of such report and give it to the occupier of the searched dwelling place or premise. In case no one is there, the competent official shall deliver the copy of such report to the occupier as soon as possible. If the search takes place between sunset and sunrise, the competent official who leads the search must, at least, be a Chief District Officer, or a Deputy Superintendent, or an ordinary civil servant holding a position not lower than level 7. The competent official who leads the search shall submit a copy of report describing reason and result of the search to the Provincial Court having jurisdiction over the searched area or the Criminal Court within forty-eight hours after the completion of the search, as evidence.

In exercising the powers under (2) and (3), the competent official may order his subordinate to perform the duties thereof.

While performing the duties under this Act, the competent official may request the assistance from any person nearby, but will be unable to compel such person to assist if the danger may occur to him.

Section 28

In performing the duties under this Act, the competent official shall present his identification card to the person concerned.

The competent official's identification card shall be in conformity with the form stipulated by the Minister as published in the Government Gazette.

Section 29

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 temporarily take such person into his custody, but the custody shall not be over 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 that provided in paragraph one, 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.

The custody of person suspicious to be a trafficked person according to this Section must be placed in an appropriate place which shall not be a detention cell or prison, in accordance with the regulations prescribed by the Minister.

The performance of the duties under this Section shall take into account all human rights principles seriously.

Section 30

In case where there is a reasonable ground to believe that any other document or information sent by post, telegram, telephone, facsimile, computer, communication device or equipment or any information technology media has been or may be used to commit offence of trafficking in persons, the competent official, approved by the Commissioner-General of the Royal Thai Police or the Director General of the Department of Special Investigation or the Provincial Governor in writing, as the case may be, may submit an ex parte application to the Criminal Court or the Provincial Court of competent territorial jurisdiction asking for an order to permit him to obtain such document or information.

In granting permission under paragraph one, the Court shall consider the effect on individual rights or any other rights in conjunction with the following reasons and necessities:

- (1) There is a reasonable ground to believe that an offence of trafficking in persons has been committed or is going to be committed;
- (2) There is a reasonable ground to believe that an access to the information will result in getting the information of offence of trafficking in persons;
- (3) There is no other appropriate or more efficient method.

The Court shall grant permission under paragraph one for each period of not more than 90 days and may impose any condition upon such permission. Any person involved in the document or information under such order is required to co-operate in compliance with the provision of this Section. After the permission, if it appears that the fact or a necessity is not as provided, or if there is any change in circumstances, the Court may change such permission order as appropriate.

While executing the Court order, the competent official may request any person to assist him in performing the duties. In addition, after the competent official has executed according to the permission, he shall make a report detailing the result of the execution and submit such report to the Court issuing the permission without delay.

The document or information acquired under paragraph one shall be kept and used only for the benefit of investigation and as evidence in the proceedings of trafficking in person offence, according to the regulations prescribed by the Minister.

Section 31

In case of necessity for the benefit of prevention and suppression of trafficking in person, before entering a charge in the Court, the public prosecutor, by himself or by receiving a request from an inquiry official, may bring the trafficked person or a witness to the Court and file a petition specifying all the facts alleged to have been committed and the necessary cause why the testimony must be taken promptly.

In case the initiation to testify in Court is of the trafficked person or witness, after such person informed his intention to the public prosecutor, a petition to the Court shall immediately be filed by the public prosecutor.

When having received the petition under paragraph one or two, the Court shall take the testimony of witness promptly. During the testimony, if an 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 and Section 237 bis paragraph three and four of the Criminal Procedure Code shall apply *mutatis mutandis*.

If the alleged offender is indicted later as a defendant with the charge of any offence stipulated in Chapter 1, the deposited testimony of the witness shall be used as evidence in the trial and in making decision of that case.

Section 32

In performing the duties under this Act, the competent official shall be officials under the Penal Code.

CHAPTER 4

Provisions of Assistance and Protection of Safety to the Trafficked Person of Trafficking in Persons

Section 33

The Ministry of Social Development and Human Security shall consider to provide assistance as appropriate to a trafficked person on food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin or domicile, the legal proceedings to claim compensation according to the regulations prescribed by the Minister, providing that human dignity and the difference in sex, age, nationality, race, and culture of the trafficked person shall be taken into account. The right to receive protection, whether it be prior to, during and after the assistance providing, including the timeframe in delivering assistance of each stage, shall be informed the trafficked person. In this connection, the opinion of trafficked person is to be sought.

The competent official, in providing assistance under paragraph one, 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 welfare centers.

Section 34

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

Section 35

In case where the 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, to the extent as informed by the Permanent Secretary for

Social Development and Human Security or any person designated by him, shall, on behalf of the trafficked person, claim for compensation thereof.

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

The judgment in the part of the claim for compensation shall be given as one part of the judgment in the criminal case. In case where the Court orders to compensate for 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 of such.

The hearing proceedings of claim for compensation under paragraph one and the execution of judgment under paragraph three are exempt from any costs. The provisions of the Criminal Procedure Code shall apply *mutatis mutandis* as far as they do not contravene to any provisions stipulated in this Act.

Section 36

The competent official shall provide for the safety protection to the trafficked person under his care regardless of where such person stays, whether it be prior to, during or after the proceeding. In so doing, the safety of the family members of trafficked person shall also be taken into account.

In case where the trafficked person will make statement or testify as a witness in the offense of trafficking in persons under this Act, the trafficked person, as a witness, shall be under the protection according to the law on the protection of witness in a criminal case in all respects.

If the trafficked person has to return to the country of residence or domicile or if the family members of the trafficked person live in other country, the competent official shall coordinate with the agency in such country whether it be a government or a private agency and whether it be done via the embassy or consular office of such country, with a view to continuously provide safety protection for the trafficked person and family members in that country.

Section 37

For the purpose of taking proceedings against the offender under this Act, or providing medical treatment, rehabilitation for the trafficked person, or claiming for compensation of the trafficked person, the competent official may assist the trafficked person to get a permission to stay in the Kingdom temporarily and be temporarily allowed to work accordance with the law. In so doing, the humanitarian reason shall be taken into account.

Section 38

Subject to Section 37, the competent official shall undertake to have the trafficked person who is an alien return to the country of residence or domicile without delay except such person is allowed the permanent residence in the Kingdom according to the immigration law or has been granted a relief, in an exceptional case, to stay in the Kingdom from the Minister of the Interior, with evidence and documents under the law on census registration or the law on alien registration.

In the undertaking under paragraph one, the security and welfare of such person shall be taken into account.

Section 39

In case where a person of the Thai nationality falls an trafficked person in a foreign country, and wants to return to the Kingdom or residence, the competent official shall undertake to clarify whether such person is a Thai or not. In case where such person is a Thai national, the competent official shall undertake, whatever as necessary, to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person.

In case where the trafficked person in a foreign country is an alien being allowed a residence in the Kingdom under the immigration law, or being granted a relief, in an exceptional case, to stay in the Kingdom from the Minister of the Interior, and prior to leaving the Kingdom, the status of being granted a temporary residence has not yet terminated, once the facts in relation to such person are verified, should he want to return to the Kingdom, the competent official shall undertake whatever necessary to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person, and the same shall be granted a permission to resume a stay in the Kingdom according to the status quo prior to leaving the Kingdom.

In case where the trafficked person in a foreign country is an alien and has no any identity document, but there is a reasonable ground to belief that such person has, or used to have a domicile or residence in the Kingdom lawfully, once the status of domicile or residence of the said person has been verified, should he wish to return to the Kingdom, the competent official shall undertake whatever necessary to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person, and the same shall be granted a permission to resume a stay in the Kingdom according to the status quo prior to leaving the Kingdom.

Section 40

The Ministry of Social Development and Human Security shall prepare an annual report in connection with the situation, number of cases, the performance of various agencies concerned and guidelines for the future performance in relation to the prevention and suppression of the trafficking in persons and submit it to the Cabinet.

Section 41

Unless the Minister of Justice grants a permission in writing, the inquiry official is barred from taking criminal proceeding against any trafficked person on the offence of entering, leaving, or residing in the Kingdom without permission under the law on immigration, giving a false information to the official, forging or using a forged travel document under the Penal Code, offence 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 offence of being an alien working without permission under the law on working of the alien.

CHAPTER 5

The Anti Trafficking in Persons Fund

Section 42

There shall establish a Fund in the Ministry of Social Development and Human Security to be called "the Anti Trafficking in Persons Fund" to be used as capital for the prevention and suppression of trafficking in persons and the management of the Fund.

The Fund shall consist of;

- (1) initial capital contributed by the Government;
- (2) subsidy from the Government, distributed from the annual budget;
- (3) money or property received as a donation;
- (4) money contributed internationally or by an international organization;
- (5) interest or other benefits accruing to the Fund;
- (6) money received from the sale of property of the Fund or received by means of fund raising;
- (7) money or property vested in the Fund or received by the Fund under the other law.

Section 43

Money and interest received by the Fund under Section 42 shall not be required to be remitted to the Ministry of Finance as state revenue.

Section 44

Money and property of the Fund shall be used for the following purposes:

- (1) providing assistance to the trafficked person under Section 33;
- (2) providing safety protection of the trafficked person under Section 36;
- (3) providing assistance to the trafficking person in a foreign country to return to the Kingdom or domicile under Section 39;
- (4) preventing and suppressing of trafficking in persons according to the regulations prescribed by the CMP Committee;
- (5) managing the Fund.

Section 45

There shall be a Fund Management Committee to be composed of the Permanent Secretary for Social Development and Human Security as the chairman, the Permanent Secretary for Foreign Affairs, the Permanent Secretary for Justice, a representative from the Bureau of the Budget, representative from the Comptroller General's Department, and three qualified persons appointed by the Committee, provided that at least two qualified persons must be the representatives from the private sector active in social development, social work, prevention and suppression of trafficking in persons, or financing, as members, and the Deputy Permanent Secretary for Social Development and Human Security assigned by the Permanent Secretary shall be a member and the secretary.

Section 46

Section 17, Section 18, Section 19, Section 20, Section 21 and Section 25 shall apply *mutatis mutandis* to the assumption of office, vacation of office of a qualified member, meetings of the Fund Management Committee and appointment of any sub-committee of the Fund Management Committee.

Section 47

The Fund Management Committee shall have powers and duties as follows:

- (1) to consider the approval the payments stipulated in Section 44;
- (2) to manage the Fund in accordance with regulations specified by the Committee;
- (3) to report to the Committee on the financial status and performance of the Fund in accordance with regulations prescribed by the Committee.

Section 48

The receipt, payment, keeping, fund raising, and management of the Fund shall follow the regulations set forth by the Committee, with the consent of the Ministry of Finance.

Section 49

There shall be a Monitoring and Evaluation of Fund Performance Committee consisting of five persons, comprising a chairman of the Committee and qualified members appointed by the Committee from those with knowledge and experiences in the field of finance, social work and evaluation, one from each field, and the Deputy Permanent Secretary for Social Development and Human Security assigned by the Permanent Secretary shall be a member and the secretary.

Section 17, Section 18, Section 19, Section 20 and Section 21 shall apply *mutatis mutandis* to the assumption of office, vacation of office and meetings of the Monitoring and Evaluation Committee.

Section 50

The Monitoring and Evaluation of Fund Performance Committee shall have powers and duties as follows:

- (1) to monitor, inspect and evaluate the performance of the Fund;
- (2) to report to the Committee on the performance of the Fund, together with any recommendations;
- (3) to have the power to request the provision of documents or evidence in connection with the Fund from any person or to summon any person to give statements to further complement its evaluation of the Fund.

Section 51

The Fund Management Committee shall present balance sheet and accounts to the Office of the Auditor-General of Thailand for audit and certification within one hundred and twenty days from the end of a financial year.

The Office of the Auditor-General of Thailand shall prepare a report on the findings and certification of the Fund's accounts and finances for submission to the Committee, within one hundred and fifty days from the end of a financial year, for submission to the Cabinet for information.

The Minister shall present the audit report under paragraph two to the Prime Minister for submission to parliament for information and publication in the Government Gazette.

CHAPTER 6

Penalties

Section 52

Whoever commits an offence of trafficking in persons shall be liable to the punishment of an imprisonment from four years to ten years and a fine from eighty thousand Baht to two hundred thousand Baht.

If the offence under paragraph one is committed against a child whose age exceeds fifteen years but not yet reaching eighteen years, the offender shall be liable to the punishment of an imprisonment from six years to twelve years and a fine from one hundred twenty thousand Baht to two hundred forty thousand Baht.

If the offence under paragraph one is committed against a child not over fifteen years of age, the offender shall be liable to the punishment of an imprisonment from eight years to fifteen years and a fine from one hundred sixty thousand Baht to three hundred thousand Baht.

Section 53

Any juristic person commits an offence of trafficking in persons shall be liable to the punishment of a fine from two hundred thousand Baht to one million Baht.

In case where the offender is a juristic person, if the offence 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 shall be liable to the punishment of imprisonment from six years to twelve years and a fine from one hundred twenty thousand Baht to two hundred forty thousand Baht.

Section 54

Whoever obstructs the process of investigation, inquiry, prosecution or criminal proceedings on the offence of trafficking in persons so that the process is unable to be

conducted in a well-manner, by doing any of the following acts, shall be liable to the punishment of an imprisonment not exceeding ten years and a fine not exceeding two hundred thousand Baht:

- (1) giving, offering or agreeing to give property or other benefit to a trafficked person or other witness for inducing such person not to visit the competent official, inquiry official, public prosecutor or not to attend the court for giving facts, statement or testimony, or inducing such person to give facts, statement or testimony that is false, or not to give facts, statement or testimony at all, in the criminal proceedings against the offender under this Act;
- (2) using of force, coercing, threatening, compelling, deceiving, or using any other means causing a trafficked person or other witness not to visit the competent official, inquiry official, public prosecutor or not to attend the court to give facts, statement or testimony, or inducing such person to give facts, statement or testimony that is false, or not to give facts, statement or testimony at all, in the criminal proceedings against the offender under this Act;
- (3) damaging, destroying, losing or rendering useless, taking away, altering, changing, concealing or hiding any document or evidence, or fabricating, making or using any document or evidence that is false in the criminal proceeding against the offender under this Act;
- (4) giving, offering or agreeing to give property or other benefit to the Committee member, the CMP Committee member, subcommittee member, any member of the working group or to the competent official under this Act, or to judiciary official, public prosecutor, or inquiry official or demanding, accepting, or agreeing to accept a property or any other benefit in order to induce such person to do or not to do any act, or to delay the doing of any act contrary to the duty of such person under this Act;
- (5) using of force, coercing, threatening, compelling or using any other wrongful means to the Committee member, the CMP Committee member, sub-committee member, any member of the working group or to the competent official under this Act, or to judiciary official, public prosecutor, or inquiry official to induce such person to do or not to do any act, or to delay the doing of any act contrary to the duty of such person under this Act.

Section 55

Whoever commits the following act shall be liable for the punishment of imprisonment not exceeding five years and a fine not exceeding one hundred thousand Baht, except it is a disclosure in the performance of the duties or according to the law;

- (1) knowing that an application to obtain documents or information under Section 30 is making and disclosing to any other person, who has no duties in connection with that capacity, to know that an application thereof is making or is about to be made, which is likely to prejudice the applicant in obtaining such documents or information; or
- (2) knowing or obtaining the documents or information under Section 30 and disclosing such documents or information to any other person, who has no duties in connection with that capacity.

Section 56

Whoever commits or undertake to have the following acts been committed shall be liable for the punishment of imprisonment not exceeding six months or a fine not exceeding sixty thousand Baht, or both;

- (1) taking a picture, circulating a picture, printing a picture, recording or airing voice of any person, at any stage, which may lead to the identification of the trafficked person;

- (2) publishing or disseminating the content appearing in the course of inquiry of the inquiry official or the course of hearing of the court, which may make the other person to know the first name and last name of the trafficked person, or the family members of such trafficked person, through whatever type of information communication media;
- (3) publishing or disseminating the content, picture or voice, through whatever type of information communication media, disclosing history, place of living, place of work or place of education of the trafficked person.

The provision of paragraph one shall not be applied to the acts committed for the interest of government affairs in protecting and assisting the trafficked person or the trafficked person honestly gives the consent thereto.

Transitory Provision

Section 57

The assistance capital for the prevention and solving the problem of trafficking in persons according to the regulation, prescribed by the Anti-Trafficking in Persons Committee, on the performance and payment for prevention and solving the problem of trafficking in persons, B.E. 2550 (2007), shall be transferred to be an initial capital for the Fund under this Act.

Countersigned by

Gen. Surayud Chulanont

Prime Minister

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