

MEMORANDUM OF UNDERSTANDING**ON****Operations between State Agencies and Non-Governmental Organizations (NGOs)
Engaged in Addressing Trafficking in Children and Women 2003****1. Definition of children and women eligible for assistance**

- 1.1 Eligible for help are children or women who are procured; traded; bought; sold; brought from or sent to wherever; harbored/received, confined, detained or hidden by means of deception, intimidation, violence, abuse of authority, or other forms of coercion by individuals, groups of individuals or organizations. Such actions, regardless of whether they take place within the Kingdom of Thailand or outside it, are considered as trafficking in persons so long as they place children and women in coercive situations to perform or accept any illegal activities, such as sex services, action under duress, abusive employment, or other forms of labor exploitation including unfair wages, forced begging and inhuman treatment.
- 1.2 The children or women under 18 years of age who are covered by the activities described in Article 1.1—irrespective of whether they consent prima facie to or acknowledge such actions—are considered victims of trafficking.

2. General PRINCIPLES

- 2.1 This Memorandum of Understanding (MOU) is principally aimed at promoting joint operations between state agencies and NGOs in combating trafficking in children and women, as well as reducing any obstacles arising from practical operations.
- 2.2 The operations according to the provisions of this MOU will bear in mind as a priority the best interests of the trafficked children and women so that they will be provided with legal assistance and be offered protection of their rights and interests duly reflecting to the principles of human rights of children and women.
- 2.3 The signatory state agencies and NGOs agree to establish a sub-committee, appointed by the National Committee for the Promotion and Coordination of Youth Affairs, to lay down operational guidelines pursuant to this MOU – “Operational Manual”- and to focus on coordinating and monitoring the operational work. The sub-committee will also be expected to help improve the cooperation between state agencies and NGOs to combat trafficking in children and women.

3. COOPERATION BETWEEN STATE AGENCIES AND NGOs

- 3.1 To discover the trafficked children or women and the relevant facts, as well as to pursue legal proceedings:
 - 3.1.1 The Royal Thai Police shall be responsible for deciding if the children or women are injured persons in a case (regardless of whether or not they are aliens) by taking into account the facts, evidence, and opinions of concerned agencies—whether state agencies or NGOs—which are taking care of the children and women. In the case where the opinions of the investigating officers differ from those of the concerned agencies, the chief of the police station responsible for that district shall be the person to make the decision. In the case where a dissenting opinion arises, the chief of the

police station shall also document the reasons and viewpoints and send them to the concerned agencies.

- 3.1.2 In the case where the children or women are aggrieved persons or witnesses to the case of trafficking in children and women, the concerned agencies will assist and cooperate with the agency looking after the children and women to provide them with protection while legal proceedings are pursued and also for the purpose of safe repatriation to their domicile or residence.
 - 3.1.3 In relation to the investigation of the case of trafficking in children and women, if the agency looking after the children and women has facts, evidence, and comments instrumental in advancing the investigation, it shall deliver them to the Royal Thai Police, which will then take further action. If no further proceedings are pursued, the Royal Thai Police will inform the agency of its reasoning.
 - 3.1.4 In the case where more than one agency — whether or not they are state agencies or NGOs--are involved, in regard to receipt of a complaint and search for facts, such agencies can initiate consultations to work out specific operational guidelines for mutual fact finding, collection of evidence, protection of witnesses and judicial procedures.
- 3.2 Protection, rehabilitation and accommodation:
- 3.2.1 The decision on where to send the target children and women for protection, rehabilitation and accommodation, as well as whose responsibility and for how long, shall be made in a meeting of concerned agencies, with appropriate speed. The agency which was informed of the case will be considered as the first qualified agency for this responsibility, regardless of whether it is a state agency or an NGO, where the agency has appropriate location and personnel to provide protection, supervision, rehabilitation and accommodation pursuant to paragraph one.
 - 3.2.2 If necessary, the agency currently looking after the children and women can turn over its responsibility, in accordance with Article 3.2.1, to another more suitable and willing agency while it either maintains the overall responsibility or transfers all of it to the second agency, depending on the interests of the service recipients and an agreement made between the agencies.
 - 3.2.3 In the case where the agency with the overall responsibility and the agency looking after the children and women are not the same agency, any concerned agency can initiate meetings to evaluate the situation of the target groups and their families; to work out ad hoc mutual guidelines periodically; and to hold meetings so as to monitor the results, follow up the situation, evaluate and review the plans, agreements or any operational guidelines.
 - 3.2.4 The joint working group on budgetary search and allocation shall support the participating state agencies and NGOs providing help.
- 3.3 Reception of children and women into and repatriating them out of the Kingdom:
- 3.3.1 In the case where help is provided for the Thai children or women whose domicile or residence is in Thailand, the embassies and consulates shall send the depositions of the children or women (only in the case of trafficked victims) to the Consular Affairs Department so that coordination with relevant agencies will be arranged to receive and assist the children or women upon their arrival. The Department of Social Development and Welfare shall coordinate with the Royal Thai Police to interview them so that assistance and protection can be proceeded with, and the traffickers prosecuted. Whether an investigation or an interrogation is needed

depends on the circumstances. In the case of children, procedures pursuant to the 1999 Amendment of the Criminal Procedure Code (No. 20) will be followed. The agencies according to paragraph two shall then be consulted so that the reception and the sending of the victims to a welfare home or rehabilitation center to have their physical and psychological health restored will be coordinated. Further coordination is needed for repatriation to home areas and protection as well as occupational training so as to re-integrate these Thai children and women into society and prevent them from being lured into traveling overseas again.

- 3.3.2 In the case where the children and women are to be repatriated to their domicile or residence out of the Kingdom of Thailand, concerned state agencies and NGOs will contact the embassies and consulates of the countries where the children and women have their domicile and residence. Those embassies and consulates will be asked to acknowledge the repatriation and they will inform relevant agencies in their countries to take over the overall responsibilities from the Thai counterparts in providing protection, care, rehabilitation and accommodation for those children and women. Accordingly, the responsibilities according to paragraph one may be requested by or entrusted to any organizations—state-operated or NGOs—that are deemed relevant or appropriate to take over the duties in accordance with paragraph one.
- 3.3.3 The Royal Thai Police will coordinate in order to facilitate a convenient journey to and from Thailand for the children and women pursuant to Articles 3.3.1 and 3.3.2. In the case where the repatriation of the children and women to their domicile will threaten their lives, the Office of the United Nations High Commissioner for Refugees shall be contacted to take part in the provision of assistance.

4. EVALUATION

- 4.1 The sub-committee established according to Article 2.3 will monitor and evaluate the implementation of this MOU, as well as the 2003 MOU on Common Operational Guidelines for Government Agencies Engaged in Addressing Trafficking in Children and Women and the 2003 MOU on Operational Guidelines for NGOs Engaged in Addressing Trafficking in Children and Women.
- 4.2 In the case where concerned agencies cannot follow this MOU's provisions and the operational guidelines laid down by the sub-committee, such agencies shall report to the sub-committee on problems and obstacles, as well as provide suggestions to the sub-committee, in order to revise the MOU.
- 4.3 In the case where the agencies responsible for the operations fail to fulfill their duties pursuant to this MOU, the concerned agencies shall report to the sub-committee to find out the causes and ways to solve these problems.

5. STATE AGENCIES AND NGOs PARTICIPATING in the MOU

The names of state agencies and NGOs engaged in addressing trafficking in children and women who agree to participate in the MOU appear at the end of this MOU and they shall be revised by the sub-committee every two years.

The listed NGOs that provide refuge for trafficked children and women are deemed not to commit intentionally an offence under the 1979 Immigration Act and are exempted accordingly. This exemption also includes the case where the children and women run away from their shelter.

This MOU was signed on 24 March 2003.

Representatives of the state:

Signed by Mrs. Panit Nitithanpraphas, Permanent Secretary of the Ministry of Social Development and Human Security

Signed by Mr. Pensak Chalaraksa, Deputy Permanent Secretary of the Ministry of Foreign Affairs

Signed by Dr. Thawat Soontaracharn, MD, Deputy Permanent Secretary of the Ministry of Public Health

Signed by Mr. Thapabutr Chomsewim Director-General of the Department of Labor Protection and Welfare, Acting Permanent Secretary of the Ministry of Labor Affairs

Signed by Mr. Wichian Wiriyaprasit, Attorney-General

Signed by Pol. Gen. Sant Saruttanonda, Commissioner-General, Royal Thai Police

Representatives of NGOs:

Signed by Mrs. Srisak Thai-aree, Chairperson of the Coordinating Committee on Foreign Children

Signed by Mrs. Siriporn Skrobaneek, Network on the Prevention and Combat of Trafficking in Women and Children

Signed by Mr. Sappasit Khumraphan, The Center for the Protection of Children's Rights Foundation

Signed by Miss Khemporn Wiroonraphan, Foundation for Children's Development

Signed by Mrs. Carmen Madrinan, ECPAT International Foundation

Signed by Miss Pitsawart Sukhonthaphan, The Mekong Subregion Law Center

Signed by Mrs. Sudarat Sereewat, Foundation for the Development of Child Protection

Signed by Miss Ramchai Chai-choi, Development and Education Program for Daughters and Communities Center

Signed by Miss Mattana Chetmee, Foundation for Women

Signed by Dr. Wilasinee Pipitkul, Foundation for Women

Signed by Mrs. Chanarat Oi-warn, Gratitude House

Signed by Mr. Amarin Pleng-rassamee, The Community Theatre Project

Signed by Miss Ussara Saengwattana, Friends on the Street Project

Signed by Mr. Ben Robert Svasti, Project of Agencies against Trafficking in the Upper Northern Region

Signed by Miss Pajama Palakes, Meesit Law and Accounting Co., Ltd.

Signed by Mrs. Chantawipa Apisuk, Empower Foundation

Signed by Miss Chiraporn Sae Tang, Alliance against Traffic in Women Foundation

Signed by Miss Natamon Khongcharoen, Foundation for Women, Law and Rural Development

Signed by Dr. Sutheera Wichitranon, Association for the Promotion of the Status of Women

Signed by Miss Sopaporn Saranim Catholic Migration Commission/Women's Desk

Signed by Miss Suwan Limsamphan, Bangkok Y.M.C.A. Foundation

Signed by Mr. Choosak Wutthiwarophas, World Vision Foundation of Thailand

Signed by Mrs. Srisak Thaiarry, National Council for Children and Youth Development

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