

**MEMORANDUM OF UNDERSTANDING
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**

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA (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 children and women,

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

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

TAKING INTO ACCOUNT that transnational criminal groups and organizations are actively involved in trafficking in children and women and that such transnational organized crimes have affected not only Cambodia and Thailand but also the region and the 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 on Irregular/Undocumented Migration” held in Bangkok during April 21-23, 1999 and “The Bali Conference on the People Smuggling and Trafficking in Person” held in Bali during February 26-28, 2002,

RECALLING the Agreed Minutes of the Third Meeting of the Joint Commission for the Bilateral Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand in Siem Reap Province of the Kingdom of Cambodia during January 31 – February 1, 2000 with regards to the intensification of cooperation in suppressing cross border trafficking in human beings, especially in women and children,

REFERRING to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,

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

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

HAVE AGREED AS FOLLOWS:

I-Scope of This Memorandum of Understanding

Article 1

This Memorandum of Understanding shall apply to trafficking in children and women as defined in Article 2 of this Memorandum.

II-Definition

Article 2

For the operational purpose of this Memorandum,

(a) “Trafficking in Children and Women” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, 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 or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include the exploitation of others through prostitution or other forms of sexual exploitation, forced labor or service, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in children and women to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) 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 subparagraph (a) of this article; and

(d) “Child” shall mean any person under eighteen years of age.

Article 3

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

- (a) prostitution;
- (b) forced or exploitative domestic labor;
- (c) bonded labor and other forms of hazardous, dangerous and exploitative labor;
- (d) servile marriage;
- (e) false adoption;

- (f) sex tourism and entertainment;
- (g) pornography;
- (h) begging; and
- (i) slavery by the use of drugs on children and women.

III-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 children and women and in protecting all rights of children and women who fall victims to trafficking.

Article 5

The Parties shall undertake educational and vocational training programs, in particular for children and women, to increase the opportunity for employment and hence reduce vulnerability to trafficking.

Article 6

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

- (a) Increase of social services such as assistance in job searching and income generating and provision of medical care to children and women vulnerable to trafficking;
- (b) Reform of educational and vocational training programs to improve their linkage with job opportunities;
- (c) Enhancement of public awareness and understanding on the issue of trafficking in children and women; and
- (d) Dissemination of information to the public on the risk factors involved in trafficking of children and women and on the businesses that are exploitative to children and women.

IV-Protection of Trafficked Children and Women

Article 7

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

- (a) Trafficked children and women shall not be prosecuted for illegal entry to the country;
- (b) Trafficked children and women shall not be detained in an immigration detention center during the times awaiting the official repatriation process, but shall be put under the care of the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (Cambodia) or the Department of Social Development and Welfare (Thailand), and shelter and protection shall be provided to the victims according to the policy of each state;
- (c) The relevant authorities shall ensure the security of trafficked children and women; and

(d) Victims shall be treated humanely throughout the process of protection and repatriation and the judicial proceedings.

Article 8

The Parties shall undertake appropriate measures, which may include legal reform and legal aid, to ensure the effective legal remedies to victims of trafficking as follows:

- (a) Victims may claim restitution of any undisputed personal properties and belongings that have been confiscated or obtained by authorities in the process of detention or any other criminal procedure;
- (b) Proceeds of crime of trafficking shall be liable for confiscation and managed according to the laws of relevant country;
- (c) Victims may claim compensation from the offender of any damages caused by trafficking in children and women;
- (d) Victims may claim payment for unpaid services from the offender; and
- (e) Victims shall have access to the due process of law to claim for criminal justice, recovery of damages, and any other judicial remedies.

Article 9

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

V-Cooperation in Suppression of Trafficking in Children and Women

Article 10

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