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## مجلس حقوق الإنسان

الدورة العشرون

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

### تقرير المقرر الخاصة المعنية بالاتجار بالأشخاص، لا سيما النساء والأطفال، جوي نغوزي إيزيلو

إضافة

البعثة إلى تايلند\*

موجز

قامت المقرر الخاصة المعنية بالاتجار بالأشخاص، لا سيما النساء والأطفال بزيارة إلى تايلند في الفترة من ٨ إلى ١٩ آب/أغسطس ٢٠١١، بدعوة من الحكومة. وتسلط المقرر الخاصة الضوء في هذا التقرير على التزامات البلد وما أحرزه من تقدم في مجال مكافحة الاتجار بالأشخاص، على نحو ما يتجسد في تشريعاته المتعلقة بمكافحة الاتجار والمتفقة مع المعايير الدولية، وفي شراكته الفعالة مع منظمات المجتمع المدني في سياق التحقيق في قضايا الاتجار، وفي تعاونه الكبير على الصعيدين الإقليمي ودون الإقليمي في مكافحة الاتجار بالأشخاص. ومع ذلك، تُعرب المقرر الخاصة عن قلقها إزاء أمور منها عجز سلطات إنفاذ القانون وإحجامها عن تحديد الأشخاص المتجر بهم، وما يتعرض له الأشخاص المتجر بهم من توقيف واحتجاز ومن ترحيل بإجراءات موجزة، والافتقار إلى

\* يُعمَّم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير ذاته فيرد في مرفق الموجز ويعمَّم باللغتين التي قُدِّمَ بها فقط.

الدعم المناسب المقدم في مراكز الإيواء لتعافي الأشخاص المتجر بهم، وتدني معدلات الملاحقة القضائية والتأخير في الفصل في قضايا الاتجار، وقصور الجهود المبذولة في سبيل التصدي للأسباب الأساسية لهذه الظاهرة مثل سياسات تقييد الهجرة، وانتهاك حقوق الإنسان للمهاجرين. وبناءً عليه، تقدم المقررة الخاصة عدداً من التوصيات إلى الحكومة، منها زيادة أنشطة بناء قدرات الموظفين الحكوميين المعنيين، وتزويد مراكز الإيواء بأخصائيين في علم النفس ومرشدين اجتماعيين ومهنيين في مجال الصحة و مترجمين شفويين، وتعزيز الحماية المقدمة إلى جميع العمال، بمن فيهم العمال المهاجرون، وزيادة فرص الهجرة الآمنة للعمال.

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### Report of the Special Rapporteur on trafficking in persons on her mission to Thailand

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## I. Introduction and methodology

1. The Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, conducted an official visit to Thailand from 8 to 19 August 2011, at the invitation of the Government. The objectives of the visit were to examine prevalent forms of trafficking in persons in the country and to assess the effectiveness of measures taken by the Government to combat trafficking in persons and to protect the human rights of trafficked persons.

2. During her mission, the Special Rapporteur visited Bangkok, Chiang Mai, Mae Sot, Samut Sakorn and Songkhla. She met high-level officials of the Ministry of Foreign Affairs, the Ministry of Social Development and Human Security, the Ministry of Labour, the Ministry of the Interior and the Ministry of Justice. She also met with the Deputy Commissioner-General of the Royal Thai Police, prosecutors of the Office of the Attorney-General and members of the judiciary. She also met with representatives of the National Human Rights Council in Bangkok. At the provincial level, she engaged with the Provincial Operation Centres on Human Trafficking in Chiang Mai, Samut Sakorn, Songkhla and Tak Provinces. The Special Rapporteur also met representatives of civil society organizations working in the field of trafficking in persons. Lastly, she visited immigration detention centres in Bangkok and Mae Sot, as well as shelters for trafficked persons, managed by the Government or civil society organizations. The Special Rapporteur expresses her gratitude to the Government for its invitation and cooperation, and to the civil society organizations for their valuable inputs.

## II. Main findings

### A. Migration trends in the Greater Mekong Subregion

3. Thailand has achieved remarkable economic growth over the past 30 years. With rapid industrialization, its labour market faced a serious shortage of low-skilled labour, which was filled by a large influx of migrants from neighbouring countries, most notably Cambodia, the Lao People's Democratic Republic and Myanmar. Many also fled these countries owing to internal conflict, political instability and human rights violations. Today, Thailand is the largest destination country in the Subregion for migrant workers from the above-mentioned countries.<sup>1</sup>

4. The majority of migrants in Thailand have irregular migration status, having entered the country through irregular means or subsequently become irregular. The entry, recruitment and employment of low-skilled migrant workers are poorly regulated under Thai law. Migrants are often recruited by unscrupulous brokers, who lure them to Thailand with false promises of lucrative employment opportunities.

5. In order to promote legal labour migration, the Government entered into bilateral memorandums of understanding with Cambodia, the Lao People's Democratic Republic and Myanmar, which facilitate recruitment of migrant workers from these countries. To date, 106,733 migrant workers (74,399 Cambodians, 24,464 Laotians and 7,870 Myanmar

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<sup>1</sup> As at the end of 2009, the total number of registered migrants from these countries was 1,314,382, comprising 124,761 from Cambodia, 110,854 from the Lao People's Democratic Republic and 1,078,767 from Myanmar. These figures do not account for irregular migrants, those completing nationality verification or those brought in through memorandums of understanding.

nationals) have been recruited on the basis of this arrangement. Furthermore, in an attempt to regularize the situation of irregular migrant workers already in the country, the Government launched a nationality verification process for Cambodian and Laotian nationals in 2006 and for Myanmar nationals in 2009, whereby registered migrants from these countries already in Thailand may obtain regular migration status and a work permit for two years upon verification of their nationality by the Government of their country of origin. However, the process has been fraught with difficulties owing to a range of factors, including its complexity, its high cost, the lack of adequate information about the process and tight deadlines. As a result, while 1,310,690 migrants were said to be eligible under the scheme, only 518,831 migrants completed the process as at July 2011. Approximately 300,000 migrants did not even apply for registration by the initial deadline of 31 March 2010. While the Government of Thailand approved in 2011 the opening of a new migrant registration period for all workers from Cambodia, the Lao People's Democratic Republic and Myanmar, it is currently unclear whether, how or when these workers will go through the nationality verification process.

6. Irregular migrants are in a vulnerable position owing to their migration status, and are often exposed to abuse and exploitation, including physical or psychological abuse, poor working or living conditions, withholding or non-payment of wages, and excessive working hours, as well as arbitrary arrest and extortion by law enforcement authorities. The lack of opportunities for safe migration for low-skilled labour, inadequate, ineffective regulations in recruitment of migrant workers, deep-rooted discrimination against migrants and the absence of mechanisms to protect migrants' human rights are main factors contributing to trafficking in persons in Thailand.

## **B. Forms and manifestations of trafficking in persons**

7. Thailand faces significant challenges as a source, transit and destination country. As a source country, Thai nationals are trafficked to countries in different regions, including Australia, Bahrain, China, Germany, Israel, Japan, South Africa and the United States of America. Conversely, as a destination country, it receives trafficked persons, mainly from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. Trafficked persons may also transit through Thailand to destination countries, especially Malaysia and Indonesia.

8. In the present report, the Special Rapporteur focuses on prevalent forms of trafficking in Thailand as a destination and transit country and assesses the effectiveness of its counter-trafficking responses within the country. On the basis of this framework of analysis, the Special Rapporteur observed that the below forms of trafficking in persons are particularly widespread in Thailand.

### **1. Trafficking for labour exploitation**

9. The trafficking of men, women and children for labour exploitation is growing in scale in various sectors, including agricultural, construction, fishing, seafood processing, manufacturing and textile industries. In particular, the trafficking of migrant men and boys for labour exploitation on fishing boats is notoriously widespread. Migrants from neighbouring countries, most notably Cambodia and Myanmar, are often recruited by brokers and trafficked onto fishing boats, which travel throughout South-east Asia and beyond. Many of them arrive in Thailand through informal and often clandestine channels, such as by crossing rivers by boat or walking through the jungle for days. They often agree to have the broker's fee deducted from their wages, as they are unable to pay the fee upfront. They are commonly unaware of or misinformed about the type of job that they

would engage in or their working conditions. Once in Thailand, they are trapped and forced to work on fishing boats to pay off their debts.

10. Typical working conditions on fishing boats are inhumane and degrading. The Special Rapporteur spoke to a number of migrants from Myanmar, who reported that they were forced to work on fishing boats for as long as 18 to 20 hours per day for seven days a week, were physically and verbally abused, given very little or inedible food, and were not paid at all or paid a meagre amount of money, contrary to what they had been promised. Many of the trafficked fishermen allegedly witnessed the killing of their fellow fishermen by the boat captains and threatened with death if they did not work hard. Furthermore, they complained of lack of access to medical services on the boats, and those who fell ill were either beaten so that they would continue working or left to die and thrown overboard. As one trafficked fisherman stated, they were treated as “reusable merchandise rather than as human beings”.

11. The Special Rapporteur also met with migrant women who had been trafficked from Myanmar to work in seafood processing, garment and manufacturing factories. The women came to Thailand with promises of well-paid jobs on the understanding that they would pay back the broker’s fee with their wages. They inevitably fell into situations of debt bondage after their arrival in Thailand. This pattern of abuse is exemplified by a well-reported case in which more than 60 migrant workers from Myanmar were trafficked for forced labour in a garment factory in the Din Daeng area of Bangkok. Although the migrant workers were promised a monthly wage ranging from 7,000 to 10,000 baht ((\$223 to \$319), they were paid only 200 baht (\$6.40) per month, as they allegedly owed the employer debts of 15,000 baht (\$479) each for the costs of recruitment. The workers were locked inside the factory and forced to work from 8 a.m. until midnight.

12. The Special Rapporteur noted with great concern that, in many cases, victims of labour trafficking include children from Cambodia, the Lao People’s Democratic Republic and Myanmar. The information received suggests that children are trafficked and forced to work in a variety of sectors, including agriculture, manufacturing and domestic work. Even in the fishing sector, where the work is too strenuous for children, reports suggest that migrant children, even those under the age of 15 in some instances, are trafficked to work on fishing boats. The Special Rapporteur met with a 15-year-old boy from Myanmar who was trafficked to work on fishing boats at the age of 12. His job consisted of lifting boxes of fish and pulling the fishing net from dusk until dawn, seven days a week, until he was cast off the boat for being too weak to work.

## **2. Trafficking for sexual exploitation**

13. Thailand reportedly remains a hub in the Greater Mekong Subregion for trafficking in women and children for the purpose of sexual exploitation, although reports suggest that it has been significantly reduced over the past decade. The prevalence of tourism and the continuing demand for sexual services are some of the underlying factors contributing to trafficking in women and children for sexual exploitation. A large number of women and children from neighbouring countries, in particular Cambodia, the Lao People’s Democratic Republic and Myanmar, and from hill tribes in North and North-eastern Thailand, are lured to urban areas of Thailand with the promise of a well-paid job and forced into prostitution. The Special Rapporteur learned of a case of nine Shan women from Myanmar who were trafficked to Thailand for prostitution. They were told by the broker in Myanmar that they would be employed in a sewing factory in Bangkok. Upon arrival in Thailand, however, they were detained and told that they would have to provide sexual services.

### 3. Other forms of trafficking in persons

14. The Special Rapporteur observed that trafficking for forced marriage is also emerging in Thailand. For example, she interviewed a widowed woman from Myanmar who was sold and trafficked to Thailand to work on a construction site. She was subsequently transferred by her brokers to a Myanmar man living in Thailand who locked her up in a room, forced her to marry him and treated her as his sex slave.

15. Another form of trafficking brought to the attention of the Special Rapporteur is trafficking for surrogacy. She was informed that 15 Vietnamese women were reportedly brought to Thailand by a Taiwanese company that offered surrogacy services online for childless couples. The women reportedly came to Thailand on the promise of a well-paid job. Upon arrival in Thailand, the women's passports were reportedly withheld and they were confined to the company's premises against their will. When the authorities raided the premises in March 2011, two of the 15 women had already given birth and seven of them were pregnant.

16. In addition, children from neighbouring countries, in particular Cambodia, are known to have been trafficked for the purpose of forced begging. In 2010, the authorities identified two cases of trafficking for forced begging; the traffickers were arrested in both cases. In one case, two Cambodian children, both aged 10 years, were promised jobs as apple pickers in Thailand, but were forced to work as beggars. They were physically assaulted and abused if they did not earn enough to satisfy the traffickers.

## C. Legislative, policy and institutional framework

### 1. Legislative framework

17. Thailand is party to a number of key international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. It has also ratified the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105) and the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO). Regrettably, Thailand has signed but not yet become party to the Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Furthermore, it is not party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

18. Despite delaying its accession to the above-mentioned Trafficking Protocol, the Government has made conscientious efforts to establish a domestic legal framework that clearly defines trafficking in persons and seeks to prevent and combat trafficking in persons. Section 6 of the Anti-Trafficking in Persons Act (2008) defines trafficking in persons as the following acts committed for the purpose of exploitation:

procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring 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.

19. In accordance with the Trafficking Protocol, it is considered a trafficking offence in cases involving children, even when none of the specified means is used. The Anti-Trafficking in Persons Act is an important step forward, as it is the first legislation that

explicitly recognizes trafficking for the purposes of exploitation other than sexual exploitation. The crime of trafficking is punishable by imprisonment for a period ranging from four to 10 years and a fine from 80,000 to 200,000 baht (\$2,557 to \$6,393). The Act also provides for important protection and remedial measures, including the rights of trafficked persons to receive assistance, to seek compensation for damages and to temporarily regularize their legal status.

20. In addition to the Anti-Trafficking in Persons Act, other legislation may be invoked to prosecute trafficking or trafficking-related offences. The Penal Code punishes offences that may amount to trafficking and other forms of exploitation, such as sexual exploitation and slavery. Most notably, section 283 punishes anyone who “procures, seduces or takes away” a person by using deceitful means, threats, violence, unjust influence or coercion in order to “gratify the sexual desire of another person”. Furthermore, section 312 prohibits “bringing into or sending out of the Kingdom, removing, buying and selling, disposing, accepting or restraining any person” for the purpose of slavery.

21. Section 9 of the Prevention and Suppression of Prostitution Act (1996) prohibits procuring, seducing or taking away any person for the purpose of prostitution, even with his or her consent; offenders are punishable by imprisonment for a term of one to 10 years and a fine of 20,000 to 200,000 baht (\$639 to \$6,393). The Act also prohibits prostitution per se and punishes anyone who solicits a person in public places (sect. 5) or who “associates with another person in a prostitution establishment” for the purpose of prostitution (sect. 6). While the person is not guilty of the offence if prostitution is coerced (sect. 6), this exemption has not been consistently applied to protect trafficked persons forced into prostitution from prosecution.

22. The Labour Protection Act (1998) sets out minimum labour protection standards, including minimum wages, the limitation of working hours, and the provision of paid leave and overtime pay. The Act also prohibits the recruitment of children under the age of 15 years (sect. 44) and imposes certain safeguards when a child over the age of 15 years is hired (sects. 45-52). A major weakness of the Act is that it does not apply to certain informal sectors in which trafficked persons are often exploited, such as agriculture and domestic work.<sup>2</sup> With regard to the fishing sector, the Act does not protect workers on a fishing vessel with fewer than 20 crew members or those on a vessel that is outside Thai territorial waters for more than one year.<sup>3</sup>

23. The Child Protection Act (2003) establishes the minimum standards for treatment of children and provides for welfare assistance available to children in need. The Act prohibits exploitative acts often committed in the process of trafficking, such as using or employing a child in a way that may be physically or mentally harmful to the child or affect the child’s growth or development.

## 2. Policy framework

24. Since 2004, Thailand has addressed the fight against trafficking in persons as a priority on its national agenda. On 11 May 2010, the Cabinet approved the second National Policy, Strategy and Measures for the Prevention and Suppression of Trafficking in Persons for the period 2011-2016, which focuses on five target areas: prevention, prosecution, protection and assistance, development of policy mechanisms, and development and effective administration of information. While the policy is a positive initiative and clearly sets out aims, target groups and responsible agencies in each target area, it lacks specific

<sup>2</sup> Ministerial regulation 9.

<sup>3</sup> Ministerial regulation 10.



performance indicators and timelines, which will make effective monitoring and reporting very difficult.

25. The Government has also concluded numerous memorandums of understanding at the domestic level to promote effective coordination and implementation of measures to combat trafficking in women and children. Unfortunately, the memorandums are now out of date and out of step with the new legislative framework, as they only cover trafficking in women and children.

26. Memorandums of understanding have also been concluded at the provincial levels on operational procedures for concerned agencies in combating trafficking. The significance of these memorandums is that they establish and set out the functions and duties of two important coordination mechanisms: Provincial Operation Centres for the Prevention and Suppression of Human Trafficking, and the multidisciplinary team (see paragraph 27 below). There is, however, a critical need to streamline the memorandums with the Anti-Trafficking in Persons Act, as they do not adopt a consistent definition of trafficking in persons or ensure their proper implementation.

### **3. Institutional framework**

27. Thailand has consistently adopted a multidisciplinary approach in combating trafficking in persons, and established Operation Centres for the Prevention and Suppression of Human Trafficking at the provincial and national levels, which coordinate activities among the public sector, the private sector and communities, and develop policies and measures on prevention and suppression of human trafficking. At the provincial level, there are 75 operation centres, each comprising officials of such relevant governmental authorities as the Provincial Police, the Provincial Public Prosecutor and the Provincial Labour Office, as well as representatives from civil society organizations. Under the provincial operation centres, a multidisciplinary team has been established for the purpose of conducting rescue operations to release and assist potential or actual victims of trafficking. The team comprises public prosecutors, police, administrative officers, physicians, social workers, psychologists, lawyers and interpreters.

28. The Anti-Trafficking in Persons Act further strengthened the institutional framework by establishing two inter-agency committees at the national level. The Anti-Trafficking in Persons Committee, chaired by the Prime Minister, is responsible for formulating strategies and measures for the prevention and suppression of trafficking in persons. The Committee comprises ministers of key agencies in the fight against trafficking, namely the Minister for Foreign Affairs, the Minister for Social Development and Human Security, the Minister for the Interior, the Minister for Justice, the Minister for Labour and the Minister for Tourism and Sports, as well as four experts in the fields of prevention, suppression, rehabilitation and international cooperation on trafficking.

29. The Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee, chaired by the Deputy Prime Minister, is primarily responsible for monitoring the implementation of operational and coordination plans of relevant Government agencies. The Committee comprises high-ranking officials of various Government agencies, including, inter alia, the Permanent Secretaries of the Ministry of Social Development and Human Security, the Ministry of Foreign Affairs, the Ministry of Tourism and Sports, the Ministry of the Interior, the Ministry of Justice and the Ministry of Labour, as well as the Attorney General, the Commissioner-General of the Royal Thai Police and the Director-General of the Department for Special Investigations.

30. The lead governmental agency in this plethora of multidisciplinary structures is the Ministry of Social Development and Human Security, which acts as a secretariat to the operation centre at the national and provincial levels, the Anti-Trafficking in Persons

Committee and the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee, besides being responsible for providing trafficked persons with assistance pursuant to the Anti-Trafficking in Persons Act. The Ministry is not adequately equipped with financial or human resources to support such high demands, which raises a critical need to either simplify and streamline the existing multidisciplinary structures or to allocate more resources to the Ministry and build its capacity.

31. The Special Rapporteur found it difficult to evaluate how the above-mentioned structures work in practice and to what level of effectiveness and efficiency they operate. Certainly there are no procedures or systems in place to properly monitor how the State's various anti-trafficking mechanisms perform. In addition to rationalizing the current top-heavy and complex structure, consideration should be given to how the country's anti-trafficking machinery can be made more accountable.

#### **D. Identification of trafficked persons**

32. Investigating officers of the Royal Thai Police have primary responsibility for identifying trafficked persons in collaboration with other agencies in the multidisciplinary team. The Special Rapporteur found that trafficked persons are often misidentified as irregular migrants and, as a result, often arrested, detained and summarily deported. Official figures show that only 85 people were identified in 2010 as having been trafficked. On any reading of the scope of the problem in Thailand, it is clear that this number represents a tiny fraction of the total number of victims.

33. The Special Rapporteur heard allegations of deep-rooted corruption at all levels of law enforcement, which often hampers the effective identification of trafficked persons. She was informed of numerous cases in which police officers at the provincial or local level were directly implicated in trafficking in persons or turned a blind eye to the situations of trafficked persons. The prevalence of corruption results in deep mistrust of law enforcement officers by trafficked persons and those at risk of being trafficked, such as migrants and ethnic minorities.

34. Moreover, the inadequate capacity of police officers to apply the law and operational procedures is also a significant obstacle to the proper identification of trafficked persons. While a checklist for identification of trafficked persons exists, it is not explained in a simple language and there was no evidence that it is used consistently and systematically by law enforcement officials. This problem extends to other governmental authorities that are likely to encounter trafficked persons, such as immigration officials. The Special Rapporteur found that no effective identification procedures in immigration detention centres exist. In many cases, trafficked persons detained in the centres are briefly interviewed and summarily deported to their country of origin without any proper assessment of whether or not their return would be safe.

35. Furthermore, while there is increasing recognition of trafficking for labour exploitation, trafficking in persons is still viewed primarily as a problem concerning women and children. The information gathered suggests that the majority of trafficked persons identified by law enforcement officers are women and girls trafficked into commercial sex venues. According to a report of the Anti-Human Trafficking Division of the Royal Thai Police supplied by the Government, in 2010, 73 victims of trafficking for prostitution were identified, while only 10 and two victims were identified for the purpose of forced labour and forced begging, respectively, and none was identified for other forms of exploitation.

36. The general failure to identify victims of trafficking for labour exploitation may also be due, at least in part, to the fact that labour inspectors are not well equipped to identify such victims and have not been included in the multidisciplinary team. Many trafficked

persons stated that they had never seen any 1 inspectors in their workplaces. While it is reported that the Department of Welfare and Labour Protection of the Ministry of Labour inspected as many as 5,299 establishments in 2011, it is apparent that the Ministry faces challenges in conducting inspections in a comprehensive manner, given the lack of resources and the proliferation of small establishments, which are difficult to monitor. There is also an apparent unwillingness by the Ministry of Labour to intervene in situations of trafficking for labour exploitation on the grounds that violence and abuse in workplaces should be addressed by the Royal Thai Police rather than by the Ministry of Labour, which is exclusively concerned with working conditions.

37. In addition, there is a lack of appropriate infrastructures and services designed to facilitate the identification of trafficked persons, such as hotlines. The Ministry of Social Development and Human Security maintains a “1300” hotline, which is open 24 hours a day, seven days a week to take reports on a variety of social concerns, such as physical and sexual abuse and exploitation, including human trafficking. Regrettably, the hotline is available only in Thai and English, notwithstanding the fact that the trafficked persons in Thailand mostly speak other languages, such as Khmer, Burmese, Laotian or Vietnamese.

## **E. Protection, recovery and reintegration of trafficked persons**

38. While an adequate legal framework exists to protect trafficked persons from further harm and to assist trafficked persons in achieving full recovery, the Special Rapporteur found that the implementation of the framework remains weak, causing many trafficked persons to fall through protection gaps.

### **1. Non-criminalization of trafficked persons**

39. Section 41 of the Anti-Trafficking in Persons Act provides that trafficked persons must not be prosecuted for the offence of irregular entry and stay in Thailand, giving false information, forging and using a forged travel document, and engaging in prostitution or in employment without a work permit. As discussed above, however, the reality is that the majority of trafficked persons are routinely misidentified as irregular migrants or criminals, and arrested, detained and deported to their countries of origin if they are foreigners.

### **2. Rescue operations**

40. The Special Rapporteur noted that the multidisciplinary teams in different provinces have successfully carried out a number of rescue operations in entertainment venues, such as karaoke bars. While active investigation of trafficking cases is encouraged, the Special Rapporteur was concerned that rescue operations often do not fully respect victims’ human rights. In particular, organizations working with trafficked persons noted with concern that virtually no interpretation or translation services are offered to the victims with regard to why they have been apprehended or what their rights are at the time of the raid and in subsequent interviews and detention. Furthermore, it is reported that rescue operations often have a discriminatory impact on migrant workers who, when apprehended in raids, are often detained against their will in police cells or shelters as witnesses for the prosecution of trafficking cases.

41. In addition, there are related concerns that media fail to respect the privacy of trafficked persons following rescue operations. The Special Rapporteur was informed that, notwithstanding the prohibitions under the Anti-Trafficking in Persons Act to publish information or photographs identifying trafficked persons, pictures and details of police raids on entertainment venues showing “rescued” trafficked persons regularly appear in mainstream printed media, television and online.

### 3. Support for trafficked persons in recovery and reintegration

42. The Ministry of Social Development and Human Security has established nine shelters, which primarily accommodate Thai and non-Thai trafficked persons throughout the country. Four of the shelters were recently specifically designated for men. There are also 77 temporary homes throughout the country, where trafficked persons may be accommodated for a short period of time before they are remanded to the shelters.

43. The Special Rapporteur visited two of the nine shelters: Kredtrakarn Protection and Occupational Development Centre in Nonthaburi Province, and the Songkhla Protection and Occupation Development Centre for Men in Songkhla Province. The Kredtrakarn Centre is the largest shelter in the country and accommodates up to 550 trafficked or otherwise exploited women and girls. At the time of the Special Rapporteur's visit, there were 416 residents in total, of these, 186 residents – 29 Thais, 105 Laotians, 42 people from Myanmar and 10 Cambodians – were identified as victims of trafficking. The Centre provides accommodation in dormitories, three meals per day, basic medical care and counselling services. The Centre also provides vocational training, such as weaving, dress-making, handcrafts and massage.

44. The recently established Songkhla Centre accommodates trafficked men of all nationalities over 18 years of age. To date, most of the residents have been Myanmar victims of trafficking for labour exploitation on fishing boats. The Centre provides residents with accommodation in dormitories, three meals per day, basic medical care and counselling services. The Songkhla Centre also provides vocational training; however, unlike Kredtrakarn, it allows residents to work in construction outside the Centre if they wish not to take vocational training in it.

45. The Special Rapporteur was impressed by the standard of these facilities, which were modern and clean. She is, however, concerned that the shelters, particularly Kredtrakarn, are tantamount to detention centres and impede the exercise of the right to movement and the right to earn income and live a decent life. Other rights potentially implicated include the right to leave any country and return to one's own country, and the right to freedom from sex discrimination and arbitrary detention.

46. The stay at Kredtrakarn is often long for the women and girls involved, owing to delays in investigation and the prosecution of trafficking cases. Even in cases where a trafficked person chooses to be repatriated, the processes of family tracing and repatriation may be lengthy. As there is no option for trafficked persons to reside outside the shelter or leave Thailand before the authorities repatriate them, trafficked persons are obliged to stay at the shelter for a long time, which can be as long as two to three years. Moreover, the Kredtrakarn Centre is located on an island and accessible only by boat, which may exacerbate the feeling of isolation and loneliness for trafficked persons.

47. There is also inadequate professional staffing to provide trafficked persons with comprehensive support. Despite the fact that the vast majority of trafficked persons staying at the Kredtrakarn Centre are from Cambodia, the Lao People's Democratic Republic and Myanmar, there are no on-site interpreters available to assist trafficked persons on a daily basis. Furthermore, there are only five social workers and three psychologists at the Kredtrakarn Centre, which seems utterly insufficient for a shelter with a maximum capacity of 550 residents. It is also reported that the Centre is not equipped with appropriate health professionals able to provide comprehensive health care, including specific medical care for women who have been subjected to sexual violence, such as access to emergency contraception, examination for sexually transmitted infections and counselling.

48. Furthermore, trafficked persons are not provided with suitable educational, vocational or employment opportunities while staying at the shelters, notwithstanding the fact that their stay may last for years. The children at the Kredtrakarn Centre, for instance,

only have access to informal education inside the Centre, which effectively precludes them from receiving further education after they leave the shelters. The women and girls at the Kredtrakarn Centre are provided with vocational training traditionally associated with women, such as weaving and massaging, which may not correspond with their ambitions and talents, or the needs of the labour market. In addition, trafficked women are deprived of opportunities to earn income while staying in the shelter. At the Kredtrakarn Centre, products made by the residents are sold at a shop inside the Centre. Trafficked persons are said to earn 75 per cent of the price of their products; however, the information received suggests that, at most, they only receive 200 baht (\$6.40) upon departure. The fact that they are unable to leave and the inability of trafficked persons to work and earn a living outside the shelter are reported to create a strong disincentive among trafficked persons in Thailand to be identified as such. In particular, there have been a number of cases where trafficked fishermen refused to be recognized as a trafficked person and/or escaped from the shelters so that they could return to work and continue to send back money to their families. In this regard, the Special Rapporteur recognizes that section 37 of the Ant-Trafficking in Persons Act provides trafficked persons with the right to temporarily stay and work in Thailand, and the Thai Cabinet passed a resolution on 4 May 2010 to give effect to this right. This right has not yet, however, been implemented in practice.

49. Effectively detained in shelters against their will, many trafficked persons become desperate and seek to be repatriated immediately to their countries of origin. This pattern is well illustrated by the case of Din Daeng (see paragraph 11 above). While the “rescued” trafficked women were initially sent to the Kredtrakarn Centre for protection and recovery, they were unable to tolerate the conditions at the Centre, and in particular their inability to work, and consequently sought desperately to be repatriated immediately to Myanmar. As a result, they were transferred to the Bangkok Immigration Detention Centre; at the time of the visit of the Special Rapporteur, they were awaiting repatriation. This poses a dilemma for the effective prosecution of cases, as trafficked persons may not wish to stay in Thailand to give evidence, preferring immediate repatriation.

## **F. Investigation, prosecution and punishment**

50. Local police may investigate trafficking cases of a local nature, whereas those of an interprovincial or transnational nature are investigated by the Anti-Human Trafficking Division of the Royal Thai Police at the national level. Where the case concerns a transnational organized crime of a complex nature, the Department for Special Investigations under the Ministry of Justice may be assigned to investigate the case in lieu of or jointly with the Royal Thai Police. In cases of trafficking at sea, the Royal Thai Marine Police have authority to board and search vessels in coastal waters, although they do not have power to formally investigate and refer cases for prosecution. Once they identify cases of trafficking on fishing boats, they refer cases to the local police for further investigation and prosecution.

51. A number of factors hamper effective and swift investigation of trafficking cases by the Royal Thai Police. At the local level, police officials often do not have a comprehensive understanding of trafficking in persons and are not adequately trained to identify trafficked persons. Furthermore, the investigation and arrest of offenders in trafficking cases seem to be skewed towards cases involving prostitution rather than labour exploitation, as mentioned above.

52. At the local level, the Royal Thai Police are also susceptible to corruption and may be directly implicated in the crime of trafficking or shield traffickers from investigation and arrest for personal gain. At the national level, while some members of the Anti-Human Trafficking Division of the Royal Thai Police have adequate expertise, they are said to

suffer from low morale and motivation, as there is no rewarding career path for specialists in human trafficking. As a consequence, well-trained officers often transfer to another division to seek career advancement, which prevents the institutionalization of experience and expertise, which is vital for effective investigation.

53. With regard to trafficking on fishing boats, investigation of such cases is practically non-existent, as the Marine Police are extremely underresourced and unable to maintain and operate patrol boats. Even where the Marine Police report cases of human trafficking to the local police, the matters are often not further investigated.

54. In the light of the limited capacity of the Royal Thai Police, some stakeholders expressed views that the Department for Special Investigations has more appropriate expertise and should thus play a more active role in investigating trafficking cases. Another advantage of the Department's involvement is that it investigates cases in close cooperation with prosecutors from an early stage, thereby facilitating effective prosecution. Recognizing the increasing role for the Department in the field of trafficking, the Government recently assigned 50 new staff members thereto to create an anti-human trafficking department. It is not yet clear how this new entity will operate in practice and coordination with Royal Thai Police. Also, the issue of overlapping responsibility will need to be resolved.

55. A corollary of the limited level of investigation of trafficking cases is the equally low rate of prosecution. For example, of the 79 cases prosecuted in 2010, 56 are still ongoing (of the remainder, 18 guilty verdicts were secured and five cases were dismissed). While the total prosecution number represents a significant increase over the 22 prosecutions conducted in 2009, it still appears to be very low vis-à-vis the accepted prevalence of trafficking in persons in the country. The low prosecution rate is due to a combination of factors, including the relative absence of structures that would encourage effective witness cooperation. The lack of adequate training of prosecutors is also a contributing factor, although the training is progressively being scaled up. The OAG conceded that prosecutors are still in the process of familiarizing themselves with the new definition of trafficking in persons under the Anti-Trafficking in Persons Act. Prosecutors reportedly have difficulties in applying the concept of "exploitation" under the Act given that there is no precedent to guide the interpretation of this concept.

56. Delays in prosecution and conclusion of trials are of great concern, as is the significant backlog of cases. Trials may also take as long as a few years until a final verdict is reached. As an illustration, the Special Rapporteur was informed of a case concerning the domestic servitude of a 14-year-old Thai girl. While the defendant was found guilty in 2006, the verdict was appealed and upheld three years later, in 2009. The verdict was further appealed to the Supreme Court; today, the case is still pending. While the Special Rapporteur acknowledges that pretrial deposition is possible so that trafficked persons may be repatriated before the trial begins, this procedure is not systematically applied in practice; indeed, this case illustrates the potential plight of victim-witnesses, who must remain in Thailand while their cases make their way through the overburdened legal system. Such delays can also act as a strong disincentive to investigators and prosecutors to pursue justice against traffickers.

## **G. Redress**

57. While mechanisms for trafficked persons to seek compensation exist, victims of trafficking rarely receive adequate compensation, or indeed any at all. In the vast majority of cases, trafficked persons, if identified, opt not to seek compensation, given the expected delays and the small likelihood of success. Trafficked persons rarely have access to the

necessary support and measures to seek compensation, such as legal aid and interpretation services.

58. Section 35 of the Anti-Trafficking in Persons Act explicitly recognizes the right of trafficked persons to compensation, and allows prosecutors to seek compensation on their behalf in criminal proceedings. It is also notable that the right to temporary stay under section 37 of the Act applies to trafficked persons for the purpose of initiating proceedings against the trafficker or for claiming compensation. These are important provisions and the Special Rapporteur commends them as an example of good practice in the region. To date, however, she has not heard of any cases in which compensation has been successfully awarded under the Act owing, at least in part, to the fact that prosecutors are not yet familiar with the procedures for seeking compensation under the Act.

59. Trafficked persons may also seek compensation in criminal proceedings under the Criminal Procedure Code. For instance, in the case of the 14-year-old Thai domestic worker referred to above (see paragraph 56), the abusive employer was ordered to pay 200,000 baht (\$6,392) in compensation. However, compensation through criminal proceedings is still rare and the Special Rapporteur was not informed of any other cases in which victims of trafficking were awarded compensation in criminal proceedings.

60. In comparison, labour proceedings have been relatively more successful and some compensation has been awarded to victims of trafficking. In many of these cases, however, the victims of trafficking for labour exploitation receive a woefully inadequate amount of compensation for lost wages that does not correspond to the minimum wage. For example, in a case concerning nine migrant workers from Myanmar who were trafficked to work on a fishing boat in Patani and rescued by a raid on 24 February 2011, the victims were awarded a total of 270,000 baht (\$8,650) by the Labour Court – 30,000 baht (\$961) each, or an average of \$50 per month, which is below the minimum wage and does not compensate the victims for any other damages incurred.

61. It is also noted that cases resulting in the awarding of compensation are limited to cases of labour exploitation in sectors other than sexual services. Concerns have been voiced that trafficked persons forced into prostitution are often not properly informed of their right to compensation, as prostitution is illegal and they thus are considered to be undeserving victims.

62. In certain circumstances, permanent or temporary residence in itself may be a necessary and appropriate form of remedy. This consideration is particularly pertinent in the case of Thailand, where trafficked persons returned to their country of origin can be at serious risk of being re-trafficked to Thailand or of severe violations of their human rights. The Special Rapporteur was particularly concerned about numerous reports that trafficked persons from Myanmar are often deported through informal checkpoints at the Thai-Myanmar border to an area controlled by the Democratic Karen Buddhist Army (DKBA). It is reported that the DKBA demand money from the deportees, which reportedly varies between 1,000 and 2,000 baht (\$32 to \$64). Persons unable to pay are subjected to violence and forced labour at the hands of the DKBA, or are sold to unscrupulous brokers for re-trafficking back to Thailand. Credible reports suggest that corrupt Thai immigration officials are implicated in this process and that the proceeds collected from the deportees are shared among the brokers, the DKBA and the Thai immigration officials. Where such risks exist, the Special Rapporteur is of the view that trafficked persons should be provided with the opportunity to remain in Thailand on a temporary or permanent basis, as well as with appropriate support to be effectively integrated into Thai society.

## H. Prevention

63. The Government has taken a number of measures aimed at preventing trafficking in persons, primarily in the form of awareness-raising campaigns and publications. It has launched several campaigns through such mass media as radio, television and publications to raise public awareness about trafficking issues, and distributed information about trafficking in Burmese, Lao and Khmer at border checkpoints. Some stakeholders, however, expressed concern that these awareness-raising efforts are not appropriately targeted at trafficked persons, those at risk of being trafficked or otherwise exploited, their employers or workplaces. Furthermore, trafficked persons or those at risk of being trafficked or otherwise exploited are not consulted in preliminary analysis, design, monitoring or evaluation of these efforts.

64. While the Government has made efforts to address some of the root causes of trafficking, it has not devoted sufficient attention and resources to this end. Demand for cheap and exploitative labour provided by migrant workers, fuelled by the lack of effective regulations in recruitment and protection of the work rights of migrant workers, is recognized as one of the major causes of trafficking in persons in Thailand.

65. Furthermore, while the Special Rapporteur recognizes that the nationality verification process (see paragraph 5 above) contains positive elements, the process is poorly implemented and has not had the effect of providing protection to many irregular migrant workers in Thailand. One positive development in this regard is that, at the time of the Special Rapporteur's visit, the ad hoc subcommittee for studying the labour employment centre for fishery vessels under the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee was considering the establishment of a fishery labour coordinating centre to regulate the recruitment of labour in the fishing industry. In fact, the Ministry of Labour and the of Social Development and Human Security announced several days after the conclusion of the Special Rapporteur's visit that seven fishery labour coordinating centres would be established in Samut Sakhon, Trat, Rayong, Chumphon, Songkhla, Ranong and Satun Provinces. Under the new system, the National Fisheries Association would be responsible for assessing demands for labour in the fishing sector and liaising with the Ministry of Labour, which would formally recruit suitable workers from neighbouring countries. This initiative should be monitored carefully, most particularly to assess its impact on exploitative labour practices in the Thai fishing industry.

66. In addition, the Special Rapporteur observed that a significant number of ethnic minorities and children of irregular migrants do not have Thai citizenship or identification documents, which increases their vulnerability to trafficking. The lack of citizenship significantly restricts their enjoyment of the rights to education, employment opportunities, health services and freedom of movement, which encourages them to resort to unsafe migration in search of a better life, at the risk of being trafficked. The Government has made progressive efforts to address this situation and amended the Nationality Law to grant Thai nationality to certain categories of ethnic minorities. Furthermore, the Civil Registration Act was amended in 2008 in such a way that all children born in Thailand, whether born to Thai citizens or foreigners, receive birth registration, and anyone residing in Thailand may request an identification number regardless of their citizenship or migration status. While these legislative amendments are positive developments, the implementation of the laws needs to be strengthened.



## **I. Cooperation and partnership**

### **1. Cooperation with civil society**

67. The Special Rapporteur commends the robust partnership between the Government and the civil society organizations working in the field of trafficking, particularly in the context of rescue operations. She was informed of a number of successful rescue operations that were led by such organizations with experience and expertise in assisting trafficked persons. Some stakeholders, however, claimed that the partnership with the Government was limited to just a few organizations. In particular, membership of the Anti-Trafficking in Persons Committee and the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee is only open to few selected organizations, and the selection criteria lack transparency.

### **2. International, regional and bilateral cooperation**

68. Thailand has concluded four memorandums of understanding with Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. All memorandums provide for the protection of victims of trafficking, victims' right to seek compensation, bilateral cooperation in the investigation and prosecution of traffickers, the return and reintegration of victims of trafficking, and the prevention of trafficking. Pursuant to these bilateral agreements, specific plans of action and operational procedures have been developed; for example, the Lao People's Democratic Republic and Thailand have endorsed a bilateral plan of action and set of guidelines on procedures of victim return and victim rehabilitation, especially for women and children. While these memorandums, plans of actions and guidelines are certainly important steps, implementation remains weak.

69. A positive example of bilateral cooperation is the 5-year project on strengthening the capacity of the multidisciplinary team, which is implemented in cooperation with the Japan International Cooperation Agency. As part of this project, in June 2011, the Government launched multidisciplinary team operational guidelines, which set out the role of the team and procedures to be followed in protecting and assisting trafficked persons.

70. At the regional level, Thailand is one of the six States of the Greater Mekong Subregion participating in the Coordinated Mekong Ministerial Initiative against Trafficking. Activities of the Initiative process are based on subregional plans of action, which are implemented by a task force comprising Government officials, at the national level, in partnership with civil society organizations. In addition, Thailand has signed the Declaration against Trafficking in Persons, Particularly Women and Children of the Association of Southeast Asian Nations (ASEAN), which affirmed regional commitments to preventing and combating trafficking in persons. Following the adoption of the Declaration, ASEAN took concrete steps in combating trafficking, principally through its Senior Officials' Meeting on Transnational Crime, which pledged to end impunity for traffickers and secure justice for victims. Through the Meeting, ASEAN Member States have developed a range of common training materials and resources for criminal justice officials, including front-line law enforcement, specialist investigators and prosecutors. Thailand has participated actively in the development and finalization of these materials and resources and is a member of the ASEAN Heads of Specialist Trafficking Units Process, which operates under the Senior Officials' Meeting on Transnational Crime. While more work needs to be done in Thailand to integrate ASEAN principles and standards into work practices and national training, some important steps have already been taken. For

example, Thailand has issued a manual of standard operating procedures on trafficking for prosecutors, using the Meeting's specialist prosecutor programme materials.<sup>4</sup>

### III. Conclusions and recommendations

#### A. Conclusions

71. The Government of Thailand has shown a high level of commitment to combating trafficking in persons, as revealed by the domestic legal framework, which is comprehensive and meets international standards, and the multidisciplinary approach in combating trafficking in persons, which involves all key Government agencies and civil society organizations with appropriate expertise. The partnership between the Government and such organizations, particularly in the context of investigating trafficking cases, is effective and should be further encouraged. Thailand has been also actively promoting bilateral and regional cooperation with other countries in the Greater Mekong Subregion.

72. The Special Rapporteur remains concerned that the implementation of the policy and legal framework on human trafficking remains weak and fragmented, resulting in a gap between laws and policies and the actual experience of trafficked persons in Thailand. There is also a lack of understanding among public officials about the forms, manifestations and key elements of trafficking, which results in the inability of law enforcement officers to identify cases of trafficking effectively and, in some cases, to distinguish trafficking and prostitution. Trafficking in persons is still viewed primarily as a problem concerning women and children, even though the Anti-Trafficking in Persons Act correctly identifies trafficking as a problem affecting men, women and children. Furthermore, corruption in law enforcement, particularly at the provincial and local levels, is deep rooted and has diluted the efficacy of Government policies and programmes in combating human trafficking. As a result, many trafficked persons are not properly identified, leading to cases of wanton arrest, detention and deportation throughout the country. In addition, the infrastructure and services required to detect trafficking cases and refer the victims to appropriate services (such as hotlines available in languages commonly spoken by trafficked persons in Thailand) is weak and insufficient for the scale of the problem.

73. Investigation of trafficking cases is often slow, owing to a variety of factors, including the lack of capacity of police officers to identify trafficking cases properly, corruption and low morale among investigators. In the case of trafficking in the fishing sector, the Marine Police are extremely underresourced and do not, in any case, have a mandate to formally investigate possible cases of trafficking. The rate of prosecution of trafficking cases remains very low, perpetuating the impunity of traffickers and obstructing victims' access to justice.

74. Delays in investigation and prosecution of trafficking cases in courts contribute to the long stay in shelters experienced by many foreign victims of trafficking in Thailand, which are invariably women and children. In shelters, trafficked persons are not provided with adequate support in their recovery process, such as health care,

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<sup>4</sup> See ASEAN, Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region, July 2011 (available from [www.artipproject.org/progress-report/Progress%20Report\\_Criminal%20Justice%20Responses%20to%20TIP%20in%20the%20ASEAN%20Region\\_2011.pdf](http://www.artipproject.org/progress-report/Progress%20Report_Criminal%20Justice%20Responses%20to%20TIP%20in%20the%20ASEAN%20Region_2011.pdf)), p. 74.

psychological counselling, information about their rights in a language they understand, interpretation services, legal aid and suitable educational and vocational opportunities. The Special Rapporteur has serious concerns that the stay in the shelters amounts to detention and, in addition to infringing fundamental human rights relating to freedom of movement and protection from arbitrary detention, presents a risk to the well-being of trafficked persons. She is also concerned that rescue operations are not sufficiently victim-centred and may have an adverse impact on the human rights of trafficked persons and others, such as migrant workers.

75. Trafficked persons in Thailand very rarely enjoy the right to compensation. They are not routinely provided with adequate information about their rights in a language they understand and the necessary support to exercise them, such as legal aid and interpretation services.

76. While the Government has actively engaged in awareness-raising campaigns as part of efforts to prevent trafficking in persons, the root causes of trafficking, particularly the demand for cheap and exploitative labour provided by migrant workers and the lack of legal protection for these persons, are not being effectively addressed. This has perpetuated the abuse, exploitation and extortion of migrants by brokers, employers and law enforcement agents. In particular, the Government is doing not enough to protect irregular migrants, who are frequently exploited and face serious violations of their human rights.

## **B. Recommendations**

77. On the basis of the above conclusions, the Special Rapporteur recommends that the Government of Thailand:

(a) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the International Convention on the Rights of All Migrant Workers and Members of Their Families and the recently adopted ILO Domestic Workers Convention, 2011 (No. 189);

(b) Develop and build capacity for systematic data collection, disaggregated by age and gender. There is a need to design human trafficking interventions on the basis of accurate data and evidence, as well as to closely monitor and evaluate their impact and effectiveness;

(c) Ensure that the national policy has specific targets, performance indicators and timelines for implementation, as well as a mechanism that is able to review and evaluate implementation. Trafficked persons should be consulted and involved in designing, monitoring and evaluating policies, measures and activities aimed at combating trafficking in persons and protecting their human rights;

(d) Review existing domestic memorandums of understanding to ensure they are in line with the Anti-Trafficking in Persons Act and take steps to improve their implementation with a view to maximizing their contribution to ensuring that the rights of trafficked persons are protected, respected and enforced;

(e) Allocate sufficient financial and human resources to allow the Ministry of Social Development and Human Security to perform its functions, including those relating to coordination, effectively and efficiently; alternatively, streamline existing multidisciplinary bodies in order to reduce the demands for coordinating these bodies;

(f) Commit to large-scale capacity-building for all relevant public officials, including law enforcement, the marine police, naval and immigration officials, judges, prosecutors and labour inspectors, with special focus on increasing the knowledge and skills of front-line officials to identify, protect and assist trafficked persons. ASEAN training materials and resources for criminal justice agencies should be integrated into current systems and institutions. The existing checklist for identifying trafficked persons should be revised with more simple language, and relevant officials should be adequately trained in its use through case studies and examples. Such case studies and examples should also illustrate the differences between trafficking, migrant smuggling, illegal migration and prostitution, which are often confused;

(g) Strengthen the capacity of the Anti-Human Trafficking Division of the Royal Thai Police to undertake high-quality, ethical and effective investigations; and take steps to address problems within the Division, such as the current rotation policy, that prevent the accumulation of expertise and experience. The role of the Department for Special Investigations in investigating trafficking cases should be strengthened, and the Government should consider adding the Anti-Trafficking in Persons Act to the Department's mandated area of work, while establishing a clear and efficient division of labour with the Royal Thai Police;

(h) Strengthen the capacity of prosecutors to effectively prosecute trafficking cases with due attention to the rights of accused persons to a fair trial and the rights of victims/witnesses to protection and support; explore ways of enhancing cooperation between investigators and prosecutors in order to improve the criminal justice response; consider the introduction of a system to fast-track trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims/witnesses; and consider the establishment of a specialist prosecutorial capacity aimed at delivering effective, coordinated and timely prosecution of cases of trafficking in persons;

(i) Further strengthen informal (police-to-police) cooperation with other countries with a view to improving the identification and protection of victims and the apprehension of suspects. The ASEAN Heads of Specialist Trafficking Units process is an important mechanism for such cooperation and should be actively supported. Thailand should also take the lead in promoting more effective legal cooperation arrangements (mutual legal assistance and extradition) with other countries in the area of trafficking in persons;

(j) Commit firmly to a policy of zero tolerance of trafficking-related corruption and complicity by public officials. The Government should prosecute and adequately punish offenders with a view to dissuade such practices;

(k) Extend protection under the Labour Protection Act to persons working in sectors known to often employ trafficked persons, such as agriculture, domestic work and fishing;

(l) Strengthen the role of labour inspectors in identifying trafficked persons in workplaces and preventing exploitative working conditions. Inspectors should be fully involved in the multidisciplinary team in detecting trafficking cases and protecting the labour rights of all workers;

(m) Specifically mandate the Marine Police to provisionally identify trafficked persons on fishing boats; initiate essential investigative and victim protection actions; and refer cases to the special units of the Royal Thai Police and/or the Department for Special Investigations, as appropriate. The Marine Police should be thoroughly trained on issues of trafficking in persons in the fishing industry and provided with adequate resources to carry out its mandate and ensure close

cooperation with its counterparts in the Royal Thai Police and the Department for Special Investigations;

(n) Establish a national hotline dedicated to taking information on potential cases of trafficking. It should be staffed by personnel who are adequately trained in trafficking issues and able to speak languages commonly spoken by trafficked persons and those who are likely to be in contact with such persons, such as Cambodian, Laotian, Burmese and ethnic minority languages in Thailand and neighbouring countries;

(o) Ensure that the national referral mechanism is properly understood by all stakeholders, including law enforcement and the civil society organizations involved in Government anti-trafficking initiatives;

(p) Ensure that raids and rescue operations are victim-centred and do not cause any discriminatory impact on victims and those who are not victims of trafficking. Upon being rescued, trafficked persons should be provided with information about their rights and appropriate counselling in a language they understand. Furthermore, in accordance with the Anti-Trafficking in Persons Act, victims should not be criminalized or penalized, including through detention for status-related offences such as violations of immigration laws and other crimes that directly result from their situations as trafficked persons;

(q) Ensure that shelters provide safe space for trafficked persons' recovery and reintegration, and that the Ministry of Social Development and Human Security provides comprehensive and individually tailored assistance, including language support, access to medical and psychological care and suitable educational and vocational opportunities. All victims in shelters should have access to independent legal advice, and to social workers, psychologists and interpreters who are trained to work with trafficked persons;

(r) Give trafficked persons the choice of remaining in a shelter. In the case of child victims of trafficking, the Government should make available alternative care arrangements, such as staying with foster parents;

(s) While seeking to fast-track trafficking-related prosecutions, encourage prosecutors to take pretrial depositions so that trafficked persons are not required to stay in shelters for prolonged periods;

(t) Ensure that trafficked persons are provided with the necessary support and assistance to seek remedies, such as legal aid and interpretation assistance;

(u) Consider providing permanent or temporary residence as a form of remedy where there are risks that the trafficked person may be re-trafficked, face reprisals or be subjected to violations of human rights upon repatriation;

(v) Intensify efforts to raise awareness of trafficking in persons among journalists, and train them in accurate reporting and respect for the privacy of trafficked persons, so that the media do not disseminate information that distorts the realities of human trafficking and increases stigma for victims;

(w) In conducting awareness-raising activities, appropriately target specific groups at higher risk of being trafficked, such as migrants and ethnic minorities, as well as employers and brokers;

(x) Intensify its efforts to address the root causes of trafficking in Thailand. In particular, the Government should review its labour and migration laws to accommodate the demands for cheap, low- or semi-skilled labour and provide for safe migration options, as well as eliminate vulnerabilities of migrant workers and their

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families to all forms of human trafficking. In this regard, the Government should consider further extending the nationality verification process to irregular migrant workers without valid work permits and to those who did not complete the process before the previous deadline, and ensure that the process is efficient, transparent and cost-effective;

(y) Uphold the principles of equality and non-discrimination in all matters, including in the provision of support and assistance to trafficked persons, and ensure that the principle of the best interests of the child, enshrined in the Convention on the Rights of the Child, underlines every policy and individual decision relating to child victims of trafficking;

(z) Strengthen cooperation with neighbouring countries, in particular Cambodia, the Lao People's Democratic Republic, Malaysia and Myanmar, in preventing and eliminating clandestine movements that result in or contribute to trafficking in migrant workers and their families, while at the same time ensuring options for safe migration. The Government should ensure the effective implementation of any bilateral and regional memorandums of understanding that provide migrants with proper protection, prevent trafficking and ensure the recovery and reintegration of trafficked persons, including having specific targets, performance indicators and timelines to monitor implementation.

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