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**Thailand's Anti-Trafficking in Persons Act B.E. 2551 (2008): A New
Development in Human Rights Protection and Justice**

Son Ninsri

Naresuan University, Thailand

Centre for Peace and Reconciliation Studies, Coventry University, United Kingdom

In response to the problem of trafficking in persons, the twin tasks are to protect including prevent the victims and to punish the perpetrators. Both require critical transdisciplinary framework; the first with respect to the principle of human rights, the second with respect to the norm of law. Thailand's previous 1997 anti-trafficking law is counter productive. Concerted efforts have been advocated to the promulgation of *Anti-Trafficking in Persons Act 2008*. This comparative study between the two laws will focus on new developments in human rights protection of victims and bringing justice to them in four main areas; 1. Definition, 2. Measures on protection of human rights of victims, 3. Mechanisms for implementation, and 4. Penalties.

Human trafficking, a modern form of slavery, is one of serious human rights violations; it is also an example of transnational organised crime - a new type of global slave trade. It is estimated that approximately 500,000 – 2,000,000 people worldwide per year fall prey of traffickers, approximately 80 percent are women and children being exploited in prostitution and forced labour¹. Thailand has long been the country of origin, transit, and destination for human trafficking. Thailand attracts a great number of illegal migrants from poorer, neighbouring countries who are trafficked to the country. It is also an important transit route for people being trafficked in the East Asian region and other parts of the world. The Thai government enacted an anti-trafficking law in 1997, the *Measures in Prevention and Suppression*

¹ <http://www.unescobkk.org> (Selected estimated figures by the author.)

of *Trafficking in Women and Children Act B.E.2540*, but it proved to be ineffective as the police often refused to recognise those abused migrants as victims of trafficking. The police argued that they were illegal immigrants, jailed and then deported them.

The United Nations defines a trafficking victim as anyone who is transported for purposes of exploitation. The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* adopted by the United Nations in Palermo, Italy in 2000, defines 'Trafficking in persons' as:

'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or 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.'²

Exploitation in the Trafficking Protocol include, at a minimum, the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. According to the definition set forth by this Protocol, the migrants who are smuggled and abused in Thailand are considered as victims of human trafficking.

Thailand has come under strong international pressure, especially from the United States, to improve its treatment of migrants and its practice on anti-trafficking. Both concerted external pressure and domestic efforts have led to the promulgation of new anti-trafficking law. In response to criticism that it is too lenient in cracking down on human trafficking, Thailand introduces the *Anti-Trafficking in Persons Act B.E. 2551* which came into force on 5 June 2008.³ This law strengthens protection for victims of trafficking and complies with the Trafficking Protocol to prevent and combat trafficking in persons, also protect and assist the victims of such trafficking with full respect for their human rights.

Human trafficking relates to various issues for instances; globalisation; labour migration; human rights of migrant workers, women, and children; child labour; sexual exploitation, HIV/AIDS and other communicable diseases; security and crime; citizenship; corruption; environment; labour standard, and wage issues, etc. Trafficking in persons is one of the most important transnational crimes which post a significant threat to peace, human development and human security in the country, the region, as well as the world. As Thailand is the country of origin, transit, and destination of the trafficking, the problem has become very challenging and complex and solution is very difficult to reach.

Conceptual Framework

This paper will depict human trafficking in the context of a global capitalist economy. In order to achieve economic growth, the freedom of movement of capital, finance, labour, and information are indispensable.⁴ Businesses try to gain more profits by enhancing outputs and minimizing their production cost. One way of cost reduction is

² <http://www.ungift.org/ungift/en/humantrafficking>

³ <http://www.humantrafficking.go.th>

⁴ summary of seminar on 'Human Trafficking', Chulalongkorn University, Thailand, May 2008

to seek cheap labour, especially in the labour intensive industry. In this case, the free movement of cheap labour is important for economy in globalisation milieu. State's failure to address appropriate policy on freedom of movement of labour will result in trafficking in human beings.

Another competing concept to globalisation is the concept of national sovereignty. Since globalisation creates the cross - border issues or circumstances which require transnational action, the state may sense that its sovereignty is under threat. As a result, the state will impose strict control over its land and subjects on the issues of nationality, citizenship, national security, and freedom of movement or migration for fear of national security being threatened by ethnic minorities. If the state gives emphasis to national security, it may jeopardize economic interests and lead to human rights violations of persons being trafficked.⁵

Trafficking in persons is a transnational organised crime which violates the human rights of victims. The fight against this malpractice requires international cooperation and international law. Transnational and local perspectives must be employed. Human traffickers involve many people in large and highly influential networks with an enormous amount of money. In response to the problem of trafficking in persons, the twin tasks are to protect the victims and punish the perpetrators. Both require a critical transdisciplinary framework; the first with respect to the principle of human rights, the second with respect to the norm of law.

Methodology

This study is qualitative. The method of research is documentary and textual analysis. It is a comparative study between the two Thailand's anti-trafficking laws which are the *Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997)* and the *Anti-Trafficking in Persons Act B.E. 2551 (2008)*. The focus highlights new developments for the protection of victims and bringing perpetrators to justice.

Background on Human Trafficking in Thailand

1. Causes of Human Trafficking

Thailand has long realized the importance of the problem and been working to curb with human trafficking. However, in the Trafficking in Persons Report 2008 launched by the Department of State, United States of America, on 4 June 2008, Thailand is grouped in the Tier 2 country which does not fully comply with the minimum standards for the elimination of trafficking.⁶ There are many factors contributing to this predicament. Those factors can be categorized as pull factors and push factors. In the case of Thailand, pull factors for trafficking in persons are economic incentives and demand of labour. As for push factors, armed conflict, statelessness, and corrupted state officials are major causes for human trafficking problem in Thailand.

On economic incentives, poverty and lack of economic opportunity are largely contributed to human trafficking. Many Thais fall prey to false promises of job

⁵ summary of seminar on 'Human Trafficking', Chulalongkorn University, Thailand, May 2008

⁶ <http://www.state.gov/g/tip/rls/tiprpt/2008>

opportunities, which may appear legitimate in other countries, but turn out to traps designed to strip them of their documentation to impose debts that they have no ability to repay.⁷ Women and girls from Thailand are trafficked for sexual exploitation internally, as well as externally to Japan, Malaysia, South Africa, Bahrain, Australia, Singapore, United Kingdom, Europe, Canada, and the United States. In addition, regional economic disparities drive significant illegal migration into Thailand. Women and children are trafficked from Myanmar, Cambodia, Laos, People's Republic of China (P.R.C.), Russia, and Uzbekistan for sex industry in Thailand. It is found that a considerable number of women and girls from Myanmar, Cambodia, and Vietnam transit through Thailand's Southern border to Malaysia for sexual exploitation primarily in Johor Bahru, across from Singapore.⁸ Widespread sex tourism in the region encourages trafficking of women and young girls for sexual exploitation. Massive profit from trading in persons is also incentive for traffickers and transnational criminal or terrorist groups.

As for the demand of labour especially in low paying, dirty, and dangerous work, there have been a great number of economic migrants, both males and females, young and old, from the neighbouring countries – mostly from Myanmar - to do the job which Thai people disapprove of. Following voluntary migration to Thailand, they however end up being forced or trafficked into involuntary servitude in agricultural work, sweatshop factories, construction, commercial fisheries, domestic work, and begging. The biggest group of victims is women and children. Many of whom are forced into indentured servitude or the sex industry, bounded by debt or physical constraints. Children from Myanmar, Laos, and Cambodia are trafficked to Thailand for begging and labour exploitation under physical constraint in sweatshops that restrict their freedom.⁹ It is also reported that Thai labourers working abroad in Taiwan, South Korea, Malaysia, Israel, the United States, and the Middle East countries often pay excessive recruitment fees prior to departure, which tie them to debt bondage - another form of trafficking.¹⁰ Some are subjected to conditions of forced labor and debt bondage after arrival.

Traffickers usually promise victims lucrative legitimate employment or make false agreements regarding wages, working conditions, or the nature of the work. Once they are with “employers” in another country, their travelling documents, if any, are often confiscated. Employers repeatedly force them to work in order to pay off their “purchase” or debt and their own living expenses. Victims are constantly threatened and abused or fined for “misbehaviors”.¹¹ There are many cases reporting that the working and living conditions are deplorable.

Moving on to push factors, the armed conflict in Thailand’s neighbouring country, Myanmar, accounts for an essential push factor on massive group of people fleeing to seek refuge and employment for the betterment of their lives in Thailand. Military suppression in Myanmar also adds on its people being trafficked. Some vulnerable minority groups in Myanmar such as Rohingya are inevitably victims of trafficking in

⁷ International Organization for Migration Report 2007, Bangkok, Thailand

⁸ <http://www.state.gov/g/tip/rls/tiprpt/2008>

⁹ International Organization for Migration Report 2007, Bangkok, Thailand

¹⁰ <http://www.state.gov/g/tip/rls/tiprpt/2008>

¹¹ International Organization for Migration Report 2007, Bangkok, Thailand

persons. Other groups of victims who suffer from political suppression such as Hmong minority from Laos and people from North Korea have also been reported. Statelessness is another significant cause of trafficking in persons.¹² Ethnic minorities in Northern Thailand are not allowed to hold Thai nationality. They are not citizen of Thailand which results in the violation of Thailand's *Immigration Act B.E. 2522 (1979)*. They will be arrested and deported if they fail to present the Thai National Identity Card. Also, they are not eligible to have access to basic public services such as healthcare and education. However, recently a change in the law has granted eligibility for basic public education to stateless children. Moreover, they are deprived of the freedom of movement, which prohibits them from taking employment. The loss of protection of their human rights makes them prone to exploitation by traffickers. The denial of Thai citizenship to ethnic minority women and girls who reside in Thailand's northern hills makes them more vulnerable to trafficking and delays repatriation due to lack of citizenship.¹³

The most common phenomenon in less - developed countries is corruption. Corrupted state officials add up to the serious problem of human trafficking in Thailand. Since the trafficking in persons is a transnational organised crime, it connects with massive amount of money and influential networks. Sometimes corrupted police force which activists say is itself involved in the business of trafficking illegal migrants.¹⁴

2. Thailand's Response on Human Trafficking

Thailand has been attempting to fight against trafficking in persons over the past decades. However, there are tremendous cases of victims being mistreated by law enforcement agencies who perceive them as criminals or violators of Thailand's immigration law. As illegal immigrants, victims are often detained or deported. It is actually important that victims are provided assistance: appropriate housing, counseling, medical treatment, employment training, and opportunities to facilitate transition and reintegration. Protection of their privacy, identity, and safety measures are crucial to effective prosecution of human traffickers.¹⁵ As the problem grows severe, Thailand has been condemned by international community due to its poor practice on anti-trafficking and pressed for improvement.

In 1997, the country had enforced the *Measures in Prevention and Suppression of Trafficking in Women and Children Act*. International cooperation plays a vital role in reaching a viable solution. Thailand has signed some international treaties concerning the matter so far, including:

- UN Convention on Transnational Organised Crime
- UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- UN Protocol Against the Smuggling of Migrants by Land, Sea and Air¹⁶

¹² <http://www.vitalvoices.org/files/docs/VitalVoicesStatelessandVulnerabletoHumanTrafficking>

¹³ <http://www.state.gov/g/tip/rls/tiprpt/2008>

¹⁴ <http://www.news.bbc.co.uk/2/hi/asia-pacific/7437016.stm>

¹⁵ International Organization for Migration Report 2007, Bangkok, Thailand

¹⁶ Ibid.

However, Thailand has not yet ratified the Trafficking in Persons Protocols¹⁷ which means that the Thai state is not legally bound by those protocols.

Since 2004, Thai government agencies have signed a series of Memorandum of Understandings with domestic Non Governmental Organisations (NGO) to provide some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. Officers have been trained to treat trafficked people as victims rather than illegal migrant workers. However, due to insufficient control and misunderstanding among authorities, the implementation of the Memorandum of Understandings has not been most effective.¹⁸ Under the 1997 anti-trafficking law, children and women victims of trafficking are rescued by Thai authorities and transferred to one of seven shelters for trafficking victims run by Thai government. Thailand has also collaborated with various NGO partners to provide counseling and support services such as shelters, educational and vocational training, job placement, and financial assistance for women and children who have been victims of trafficking, especially those involved in prostitution. But most boys or male victims are deported as illegal migrants.¹⁹

These days not only women and children are trafficked, but also men are increasingly at risk. Many cases have been reported in the fishing industry, as men are deceived to work in extremely harsh and inhumane conditions on fishing vessels.²⁰ The *Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997)* only imposes penalties on trafficking for sexual exploitation. The measures to combat labour trafficking and to provide protection for male victims have been lax.

In October 2007, a draft law to allow prosecution of all forms of trafficking in persons and provide greater protection and compensation to the trafficked persons in Thailand was proposed and considered by the National Legislative Assembly during the interim government following September 2006 military coup. The bill appeared to be the country's first comprehensive anti-trafficking legislation, outlawing all forms of trafficking and also providing protection to male victims of trafficking. Thailand passed new comprehensive anti-trafficking legislation, *Anti-Trafficking in Persons Act B.E. 2551*, in November 2007 which came into force on 5 June 2008.

Thailand's Anti-Trafficking in Persons Act B.E. 2551 (2008)

The new law will criminalize all forms of trafficking in persons, covering labor forms of trafficking and prescribes penalties that are sufficiently stringent. This new legislation complies with the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons in that it addresses protection of the human rights of victims and measures for the physical, psychological, and social recovery of victims of trafficking. The new law will broaden the definition of victims to include men, for the first time, and make it easier to prevent them from being deported. The comparative study between two Thailand's anti-trafficking laws, *Measures in*

¹⁷ <http://www.unodc.org>

¹⁸ International Organization for Migration Report 2007, Bangkok, Thailand

¹⁹ <http://www.state.gov/g/tip/rls/tiprpt/2008>

²⁰ Ibid.

Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997) and *Anti-Trafficking in Persons Act B.E. 2551 (2008)*²¹ is detailed in the table.

Overall, the *Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540*, which will be referred to in this paper as the “Anti-Trafficking Act 1997”, consists of 15 sections. The *Anti-Trafficking in Persons Act B.E. 2551*, which will be referred to as the “Anti-Trafficking Act 2008”, consists of 6 chapters and 57 sections. These two anti-trafficking laws will be compared on four main areas; 1. Definition, 2. Measures on protection of human rights of victims, 3. Mechanisms for implementation, and 4. Penalties.

Anti-Trafficking Act 1997	Anti-Trafficking Act 2008
<p>1. Definition</p> <p>(i) This Act does not provide definition and scope of human trafficking. It provides definition of child, competent official, and minister, and covers only women and children on sexual exploitation.</p> <p>Section 4. “Child” means any person under eighteen years of age.</p> <p>“Competent Official” means a government official holding a position not lower than level 3 of an ordinary civil servant or a superior administrative or police official, appointed by the Minister, to perform the duty under this Act.</p> <p>“Minister” means the Minister having charge and control of the execution of this Act.</p>	<p>1. Definition</p> <p>(i) This Act provides definition and scope of human trafficking which includes women, children, and men and covers all forms of exploitation according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime.</p> <p>Section 4. “Exploitation” means seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labour or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion, regardless of such person’s consent.</p> <p>“Forced labour or service” means compelling the other person to work or provide service by putting such person in fear of injury to life, body, liberty, reputation or property of such person or another person, by means of intimidation, use of force, or any other means causing such person to be in a state of being unable to resist.</p> <p>“Organised Criminal Group” means a structured group of three or more</p>

²¹ http://www.no-trafficking.org/content/Laws_Agreement/thailand.htm
 In Factis Pax 2 (2) (2008): 335-364
<http://www.infactispax.org/journal/>

<p>(ii) Even though this Act does not clearly define trafficking, it states that whoever does the followings is guilty on trafficking ground.</p> <p>Section 5. In committing an offence concerning the trafficking in women and children, buying, selling, vending, bringing from or sending to, receiving, detaining or confining any woman or child, or arranging for any women or child to act</p>	<p>persons, notwithstanding being formed permanently or existing for a period of time, and no need to have formally defined roles for its members, continuing of its membership or a developed structure, acting in concert with the aim of committing one or more offences punishable by a maximum imprisonment of four years upwards or committing any offence stipulated in this Act, with the aim to unlawfully obtain, directly or indirectly, property or any other benefit.</p> <p>“Child” means any person under eighteen years of age.</p> <p>“Fund” means the Anti-Trafficking in Persons Fund.</p> <p>“Committee” means the Anti-Trafficking in Persons Committee.</p> <p>“Member” means a member of the Anti-Trafficking in Persons Committee.</p> <p>“Competent Official” means a superior administrative or police official including a government official holding a position not lower than level 3 of an ordinary civil servant, appointed by the Minister, from the person who possesses qualifications specified in the Ministerial Regulation, to perform the duty under this Act.</p> <p>“Minister” means the Minister having charge and control of the execution of this Act.</p> <p>(ii) This Act states clearly the acts which are guilty of trafficking in persons.</p> <p>Section 6. Whoever, for the purpose of exploitation, does any of the following acts: (1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving</p>
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<p>or receive any act, for sexual gratification of another person, for an indecent sexual purpose, or for gaining any illegal benefit for his/herself or another person, with or without the consent of the woman or child, which is an offence under the Penal Code, the law on prostitution prevention and suppression, the law on safety and welfare of children and youths, or this Act, the official is authorized to enforce power under this Act.</p>	<p>any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or</p> <p>(2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child;</p> <p>is guilty of trafficking in persons.</p>
<p>2. Measures on protection of human rights of victims</p> <p>(2.1) Provision of assistance</p> <p>(i) This Act provides basic assistance on food, shelter, and repatriation for trafficked woman and child. If there is need to confine trafficked woman and child for the purpose of preventing and suppressing of trafficking or providing assistance to such person on legal proceedings against the offender of this Act, appropriate shelter must be provided.</p> <p>Section 11. (paragraph 1 and 2)</p> <p>The official shall use his/her judgement in giving appropriate assistance to the woman and child, who is the victim of the offence as specified in Section 5, in providing food, shelter and repatriation to her/his original country or residence.</p> <p>In providing assistance according to the first paragraph, the official may arrange for the woman or child to be in the care of a “primary shelter” provided by the law on prostitution prevention and suppression, a “primary shelter for children” provided by the law on child and juvenile safety and welfare, or other</p>	<p>2. Measures on protection of human rights of victims</p> <p>(2.1) Provision of assistance</p> <p>(i) This Act develops measures to protect and help victims of trafficking regarding physical, psychological, and social recovery. Moreover, this Act allows participation from trafficked person on legal proceedings with full respect of such person’s decision. In addition, the victims will be fully informed of their right to compensation for damages resulting from the commission of trafficking in persons and the right to the provision of legal aid. Also their dignity and principle of human rights will be taken into account.</p> <p>Section 33.</p> <p>The Ministry of Social Development and Human Security shall consider to provide assistance as appropriate to a trafficked person on food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin or domicile, the legal proceeding to claim compensation according to the regulations prescribed by the Minister, providing that human dignity and the difference in sex, age, nationality, race, and culture of the trafficked person shall be taken into account. The right to receive protection, whether it be prior to,</p>

governmental or non-governmental welfare institutions.

Section 10. (paragraph 3)

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

(2.2) Protection of safety

(i) This Act does not provide measures to ensure that the safety of victims and their family members has been met both in Thailand and in the country of residence of such persons.

during and after the assistance providing, including the time frame in delivering assistance of each stage, shall be informed the trafficked person. In this connection, the opinion of trafficked person is to be sought.

The competent official, in providing assistance under paragraph one, may place the trafficked person in the care of a primary shelter provided by the law on prevention and suppression of prostitution, or a primary shelter provided by the law on child protection, or other government or private welfare centers.

Section 34.

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

Section 35.

In case where the trafficked person has the right to compensation for damages as a result of the commission of trafficking in persons and express his intention to claim compensation thereof, the Public Prosecutor, to the extent as informed by the Permanent Secretary for Social Development and Human Security or any person designated by him, shall, on behalf of the trafficked person, claim for compensation thereof.

(2.2) Protection of safety

(i) This Act develops measures to ensure that the physical safety of victims and their family members has been met both in Thailand and in the country of residence of such persons. If the trafficked persons are aliens, this Act permits them to stay and work in Thailand temporarily for legal proceedings and rehabilitation on humanitarian ground.

Section 36.

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

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

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

Section 37.

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

Section 38.

Subject to Section 37, the competent official shall undertake to have the

<p>(ii) This Act does not establish procedures on safety return from abroad to country of residence of the trafficked person.</p> <p>(iii) This Act does not protect trafficked victims especially aliens from being charged on the offence of immigration, labour, or prevention and suppression of prostitution laws.</p>	<p>trafficked person who is an alien return to the country of residence or domicile without delay except such person is allowed the permanent residence in the Kingdom according to the immigration law or has been granted a relief, in an exceptional case, to stay in the Kingdom from the Minister of Interior, with evidence and documents under the law on census registration or the law on alien registration.</p> <p>In the undertaking under paragraph one, the security and welfare of such person shall be taken into account.</p> <p>(ii) This Act establishes procedures on safety return from abroad to country of residence of the trafficked person.</p> <p>Section 39. (paragraph 1) In case where a person of the Thai nationality falls as trafficked person in a foreign country, and wants to return to the Kingdom or residence, the competent official shall undertake to clarify whether such person is a Thai or not. In case where such person is a Thai national, the competent official shall undertake, whatever as necessary, to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person.</p> <p>(iii) This Act protects trafficked victims especially aliens from being charged on the offence of immigration, labour, or prevention and suppression of prostitution laws.</p> <p>Section 41. Unless the Minister of Justice grants a permission in writing, the inquiry official is barred from taking criminal proceeding against any trafficked person on the offence of entering, leaving, or residing in the Kingdom without permission under the law on immigration, giving a false information to the official, forging or using a forged travel document under the</p>
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<p>(iv) This Act does not protect privacy and personal identity of the trafficked person from being disclosed or exploited by the media.</p>	<p>Penal Code, offence under the law on prevention and suppression of prostitution, particularly on contacting, persuading, introducing and soliciting a person for the purpose of prostitution and assembling together in the place of prostitution for the purpose of prostitution, or offence of being an alien working without permission under the law on working of the alien.</p> <p>(iv) This Act protects privacy and personal identity of the trafficked person from being disclosed or exploited by the media. The offender of individual rights will be imprisoned up to 6 months and a fine up to sixty thousand Thai Baht, or both.</p> <p>Section 56. Whoever commits or undertake to have the following acts been committed shall be liable for the punishment of imprisonment not exceeding six months or a fine not exceeding sixty thousand Baht, or both;</p> <ol style="list-style-type: none"> (1) taking a picture, circulating a picture, printing a picture, recording or airing voice of any person, at any stage, which may lead to the identification of the trafficked person; (2) publishing or disseminating the content appearing in the course of inquiry of the inquiry official or the course of hearing of the court, which may make the other person to know the first name and last name of the trafficked person, or the family members of such trafficked person, through whatever type of information communication media; (3) publishing or disseminating the content, picture or voice, through whatever type of information communication media, disclosing history, place of living, place of work or place of education of the
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	<p>trafficked person.</p> <p>The provision of paragraph one shall not be applied to the acts committed for the interest of government affairs in protecting and assisting the trafficked person or the trafficked person honestly gives the consent thereto.</p>
<p>3. Mechanisms for implementation (3.1) Anti-Trafficking in Persons Committee (i) This Act does not establish mechanism for working on prevention and suppression of human trafficking at national level.</p>	<p>3. Mechanisms for implementation (3.1) Anti-Trafficking in Persons Committee (i) This Act establishes mechanism for working on prevention and suppression of human trafficking. The Anti-Trafficking in Persons Committee is the national entity overseeing and directing the policy on this issue. The gender balance is taken into consideration.</p> <p>Section 15. There shall be an Anti-Trafficking in Persons Committee to be called “ATP Committee” in brief, consisting of the Prime Minister as chairman; the Deputy Prime Minister, who acts as Chairman of the CMP Committee, as vice chairman; the Minister of Defense; the Minister of Foreign Affairs; the Minister of Tourism and Sports; the Minister of Social Development and Human Security; the Minister of Interior; the Minister of Justice; the Minister of Labour; and four qualified persons appointed by the Prime Minister from experts who have had no less than seven years demonstrable professional experiences in the fields of prevention, suppression, rehabilitation, and international cooperation on the issues of trafficking in persons, one from each field, provided that not less than one half appointed from the private sector, as members; and the Permanent Secretary for Social Development and Human Security shall be the secretary and the Director-General of Department of Social Development and Welfare and the Director-General of the Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups shall be the</p>

assistant secretaries.

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

Section 16.

The Committee shall have powers and duties as follows:

- (1) to make recommendations to the Cabinet concerning the policy on prevention and suppression of trafficking in persons;
- (2) to make recommendations to the Cabinet on the revision of laws, rules, regulations or the restructuring of any governmental agency responsible for prevention and suppression of trafficking in persons to enable a more effective implementation of this Act;
- (3) to lay down strategies and measures for prevention and suppression of trafficking in persons;
- (4) to prescribe guidelines and monitor the implementation of international obligations, including cooperating and coordinating with foreign bodies in relation to the prevention and suppression of trafficking in persons;
- (5) to direct and supervise the arrangements of study or research projects and the development of an integrated data base system for the benefit of prevention and suppression of trafficking in persons;
- (6) to issue regulations relating to the registration of a non-governmental organisation with a view to preventing and suppressing of trafficking in persons, and to prescribe rules for assistance such organisation

<p>(ii) This Act does not develop mechanism for monitoring and cooperating all organisations working on prevention and suppression of human trafficking.</p>	<p>in carrying out its activities;</p> <p>(7) to lay down rules, with the consent of the Ministry of Finance, concerning the receipt, payment, keeping, fund raising, and the management of the Fund;</p> <p>(8) to lay down rules concerning the report on financial status and the administration of the Fund for the purpose of implementing this Act;</p> <p>(9) to give instruction and supervise the performance of duties of the CMP Committee;</p> <p>(10) to perform any other acts as entrusted by the Cabinet.</p> <p>(ii) This Act develops mechanism for monitoring and cooperating all organisations working on prevention and suppression of human trafficking. The Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee is the national entity to liaise and follow up the implementation on this issue. The gender balance is taken into consideration.</p> <p>Section 22. There shall be a Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee to be called “CMP Committee” in brief, consisting of the Deputy Prime Minister, being assigned by the Prime Minister, as chairman; the Minister of Social Development and Human Security, as vice chairman; the Permanent Secretary for Foreign Affairs; the Permanent Secretary for Tourism and Sports; the Permanent Secretary for Social Development and Human Security; the Permanent Secretary for Interior; the Permanent Secretary for Justice; the Permanent Secretary for Labour; the Permanent Secretary for Education; the Permanent Secretary for Public Health; the Attorney General; the Commissioner-General of the Royal Thai Police; the</p>
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Director-General of the Department of Provincial Administration; the Director-General of the Department of Special Investigation; the Secretary-General of the Anti-Money Laundering Board; Secretary-General of the National Human Rights Commission; Secretary-General of the National Security Council; the Governor of Bangkok Metropolitan Administration; and eight qualified persons appointed by the Minister from experts who have had no less than seven years professional experiences in the fields of prevention, suppression, rehabilitation, and international cooperation on the issues of trafficking in persons, two from each field, provided that not less than one half appointed from the private sector, as members; and the Deputy Permanent Secretary for Social Development and Human Security shall be a member and the secretary.

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

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

Section 23.

The CMP Committee shall have power and duties as follows:

- (1) to prepare and monitor the performance according to the implementation and coordination plans of the agencies concerned, whether they be at the central, regional or local level, or in the community and civil society, to ensure the consistency with the policies, strategies and measures on the prevention and suppression of trafficking in persons;
- (2) to prepare and monitor the implementation of plans and guidelines regarding the

<p>(iii) This Acts does not address that the Committee and the CMP Committee may set up any sub-committee or working group for the purpose of preventing and suppressing of trafficking.</p>	<p>capacity building for personnel responsible for prevention and suppression of trafficking in persons;</p> <ol style="list-style-type: none"> (3) to formulate and monitor campaigns to inform and educate the public in relation to the prevention and suppression of trafficking in persons; (4) to monitor, evaluate and report to the Committee the performance according to the policies, strategies, measures, together with the performance under this Act; (5) to follow up and report to the Committee the performance under the international obligations, cooperation and coordination with the foreign bodies on the issues of the prevention and suppression of trafficking in persons; (6) to lay down rules and approve the payment and disposal of property of the Fund under Section 44(4); (7) to prepare and monitor the implementation plans under this Act with a view to achieve the highest efficiency of law enforcement and to be in line with the law on anti-money laundering, the law on the national counter corruption and any other related laws including international obligations; (8) to perform any other acts entrusted by the Committee. <p>(iii) This Acts allows that the Committee and the CMP Committee may set up any sub-committee or working group for the purpose of preventing and suppressing of trafficking in persons.</p> <p>Section 25. The Committee and the CMP Committee may appoint a sub-committee or a working group to consider, give advice,</p>
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<p>(iv) This Act sets up competent official to perform duties on preventing and suppressing of trafficking in women and children.</p> <p>Section 9. In order to prevent and suppress the commission of the offence as specified in Section 5, the official shall have authority as follows:</p> <ol style="list-style-type: none"> (1) issue a summons to any person to give statement, deliver documents or evidence; (2) examine the body of a woman or child, with a reason to believe that she/he is the victim of the offence as stipulated in Section 5, if the victim is a woman or girl the examiner shall be another woman; (3) search any place or vehicle, but the search shall be done between sunrise and sunset; in case there is a reason to believe that if the action is not immediately taken the woman or child may be assaulted, or the offender may relocate or conceal that woman or child, the official may search the place at night with the permission of the Director General of the Police Department or person designated by the Director General in the jurisdiction of Bangkok, or the provincial governor or person designated by the provincial governor in the provincial jurisdiction for the search in such province. <p>(v) This Act does not address the Anti-Trafficking Fund.</p>	<p>and execute any matter entrusted by the Committee and the CMP Committee.</p> <p>(iv) This Act sets up competent official to perform duties on preventing and suppressing of trafficking in persons.</p> <p>Section 27. For the purpose of prevention and suppression of the commission of trafficking in persons, the competent official shall have the following powers and duties:</p> <ol style="list-style-type: none"> (1) to summon any person to give statements, or submit documents or evidence; (2) to search the body of any person, with his consent, where there is a reasonable ground to believe that such person is a trafficked person, in case such person is a woman, the researcher shall be another woman; (3) to search any conveyance with a reasonable ground to suspect that there is an evidence or a person falling the trafficked person therein; (4) to enter any dwelling place or a premise, to search, seize or attach, when there is a reasonable ground to believe that there is an evidence of the commission of trafficking in persons therein, and that by reason of delay in obtaining a search warrant, such evidence is likely to be removed, concealed or destroyed, or such person is likely to be assaulted, relocated or concealed. <p>(v) This Act initiates the Anti-Trafficking in Persons Fund to be used for any activities on assisting and rehabilitating</p>
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the victims, preventing, and suppressing of trafficking in persons.

Section 42.

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

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

Section 44.

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

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

<p>(viii) This Act does not address mechanism to review and monitor the overall achievement of prevention and suppression of trafficking.</p>	<p>Section 49. There shall be a Monitoring and Evaluation of Fund Performance Committee consisting of five persons, comprising a chairman of the Committee and qualified members appointed by the Committee from those with knowledge and experiences in the field of finance, social work and evaluation, one from each field, and the Deputy Permanent Secretary for Social Development and Human Security assigned by the Permanent Secretary shall be a member and the secretary.</p> <p>Section 50. The Monitoring and Evaluation of Fund Performance Committee shall have powers and duties as follows:</p> <ol style="list-style-type: none"> (1) to monitor, inspect, and evaluate the performance of the Fund; (2) to report to the Committee on the performance of the Fund, together with any recommendations; (3) to have the power to request the provision of documents or evidence in connection with the Fund from any person or to summon any person to give statements to further complement its evaluation of the Fund. <p>(viii) This Act lays down mechanism to review and monitor the overall achievement of prevention and suppression of trafficking in persons in Thailand. The annual report must be produced by the Ministry of Social Development and Human Security.</p> <p>Section 40. The Ministry of Social Development and Human Security shall prepare an annual report in connection with the situation, number of cases, the performance of various agencies concerned, and guidelines for future performance in relation to the prevention and suppression</p>
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	of trafficking in persons and submit it to the Cabinet.
<p>4. Penalties</p> <p>(i) This Act imposes punishment for the offence of trafficking in woman and child. The offender will be liable to imprisonment for up to 5 years, or a fine of up to ten thousand Thai Baht, or both. The conspirators will be punished as the offenders of the Act.</p> <p>Section 6. Whoever makes preparations for committing any of the offences as specified in Section 5 shall receive the same punishment as attempting to commit such offence.</p> <p>Section 7. Whoever, from two persons upwards, conspire to commit any of the offences as specified in Section 5 shall be punished with imprisonment not exceeding five years, or a fine not exceeding ten thousand baht, or both.</p> <p>If any one of the offenders in the first paragraph has committed the conspired offence, all the offenders in the conspiracy shall be punished, as an additional count, with the punishment as stipulated for the committed offence.</p> <p>In the case that the commission of the offence is in process, but because of the opposition by the conspirator, the offence cannot be carried through, or the offence is carried through but does not achieve its</p>	<p>4. Penalties</p> <p>(i) This Act evidently imposes punishment for the offence of trafficking in persons and intends to prosecute offenders seriously. The offender of this Act will be liable to imprisonment for 4 – 10 years and a fine from 80,000 – 200,000 Thai Baht. The maximum of 12 years imprisonment and 1,000,000 Baht fine is imposed on offender who is juristic person. Moreover, the conspirators and supporters in offence of trafficking in persons will be punished severely as the offenders of this Act. The maximum of 10 years imprisonment is imposed on the conspirators and supporters in offence of trafficking in persons.</p> <p>Section 52. (paragraph 1) Whoever commits an offence of trafficking in persons shall be liable to the punishment of an imprisonment from four years to ten years and a fine from eighty thousand Baht to two hundred thousand Baht.</p> <p>Section 53. Any juristic person commits an offence of trafficking in persons shall be liable to the punishment of a fine from two hundred thousand Baht to one million Baht.</p> <p>In case where the offender is a juristic person, if the offence of such juristic person is caused by an order or an act of any person, or the omission to issue an order or perform an act which is the obligation of the managing director, or any person who is responsible for carrying out the business of the said juristic person, such person shall be liable to the punishment of imprisonment from six years to twelve years and a fine from one hundred twenty thousand Baht to two hundred forty thousand Baht.</p>

goal, the conspirator, opposing the wrong doing act, is liable only to the punishment as stipulated in the first paragraph.

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

Section 54.

Whoever obstructs the process of investigation, inquiry, prosecution or criminal proceedings on the offence of trafficking in persons so that the process is unable to be conducted in a well-manner, by doing any of the following acts, shall be liable to the punishment of an imprisonment not exceeding ten years and a fine not exceeding two hundred thousand Baht:

- (1) giving, offering or agreeing to give property or other benefit to a trafficked person or other witness for inducing such person not to visit the competent official, inquiry official, public prosecutor or not to attend the court for giving facts, statement or testimony, or inducing such person to give facts, statement testimony that is false, or not to give facts, statement or testimony at all, in the criminal proceedings against the offender under this Act;
- (2) using of force, coercing, threatening, compelling, deceiving, or using any other means causing a trafficked person or other witness not to visit the competent official, inquiry official, public prosecutor or not to attend the court for giving facts, statement or testimony, or inducing such person to give facts, statement testimony that is false, or not to give facts, statement or testimony at all, in the criminal proceedings against the offender under this Act;
- (3) damaging, destroying, losing or rendering useless, taking away, altering, changing, concealing or hiding any document or evidence that is false in the criminal proceedings against the offender under this Act;

<p>(ii) This Act lays down that punishment for the offender of trafficking in women is as same as that of the offender of trafficking in children.</p>	<p>(4) giving, offering or agreeing to give property or other benefit to the Committee member, the CMP Committee member, sub-committee member, any member of the working group or to the competent official under this Act, or to judiciary official, public prosecutor, or inquiry official or demanding, accepting, or agreeing to accept a property or any other benefit in order to induce such person to do or not to do any act, or to delay the doing of any act contrary to the duty of such person under this Act;</p> <p>(5) using of force, coercing, threatening, compelling or using any other wrongful means to the Committee member, the CMP Committee member, sub-committee member, any member of the working group or to the competent official under this Act, or to judiciary official, public prosecutor, or inquiry official to induce such person to do or not to do any act, or to delay the doing of any act contrary to the duty of such person under this Act.</p> <p>(ii) This Act evidently lays down the offence of trafficking in children and intends to prosecute such offenders seriously. The heavier punishment is imposed on the offence of trafficking in younger children. The offender of trafficking in children will be liable to imprisonment from 6 – 15 years and a fine of 120,000 – 300,000 Thai Baht. The conspirators and supporters in offence of trafficking in children will be punished severely as the offenders of this Act.</p> <p>Section 6. Whoever, for the purpose of exploitation, does any of the following acts:</p> <p>(1) procuring, buying, selling, vending, bringing from or</p>
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sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or

- (2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child;

is guilty of trafficking in persons.

Section 52. (paragraph 2 and 3)

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

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

Section 7.

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

- (1) supporting the commission of an offence of trafficking in persons;
- (2) aiding by contributing property, procuring a meeting place or lodge, for the offender of

<p>(iii) This Act does not address heavier punishment for member of an organised criminal group on the offence of trafficking.</p>	<p>trafficking in persons;</p> <p>(3) assisting by any means so that the offender of trafficking in persons may not be arrested;</p> <p>(4) demanding, accepting, or agreeing to accept a property or any other benefit in order to help the offender of trafficking in persons not to be punished;</p> <p>(5) inducing, suggesting or contacting a person to become a member of the organised criminal group, for the purpose of committing an offence of trafficking in persons.</p> <p>Section 8. Whoever prepares to commit an offence as aforesaid by Section 6, shall be liable to one-third of the punishment stipulated for such offence.</p> <p>Section 9. Whoever, from two persons upwards, conspires to commit an offence as aforesaid by Section 6 shall be liable to no more than one-half of the punishment stipulated for such offence.</p> <p>If anyone of the offenders in paragraph one has committed in furtherance of the conspiratorial objective, each member of the conspiracy shall be liable, as an additional account, for the punishment stipulated for the committed offence.</p> <p>In case the commission of an offence is carried out up to the stage of commencement, but because of the intervention of any conspirator, the offence cannot be carried through, or the offence is carried through but does not achieve its end, the conspirator so intervening is liable to the punishment as stipulated in paragraph one.</p> <p>(iii) This Act addresses heavier punishment for member of an organised criminal group on the offence of trafficking in persons.</p>
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<p>(iv) This Act does not address that the offenders commit trafficking outside the Kingdom will be punished inside to the Kingdom.</p> <p>(v) This Act does not address that heavier punishment will be imposed on state officials who commit an offence under this Act.</p>	<p>Section 10. In case where an offence stipulated in Section 6 is accrued by the commission of person as from three persons upwards or of the member of an organised criminal group, such offenders shall be liable to heavier punishment than that prescribed in the law by one-half.</p> <p>Whenever an offence provided in Section 6 is committed by any member of an organised criminal group, anyone being the member of such organised criminal group at the time of commission of such offence, knowing and conniving at such commission, shall be liable to the punishment prescribed for such offence, even though he has not personally committed such offence.</p> <p>If an offence under paragraph one is committed in order that the trafficked person taken into or sent out of the Kingdom to be under the power of the other person unlawfully, the offender shall be liable to twice of the punishment prescribed for such offence.</p> <p>(iv) This Act adopts that the offenders commit trafficking in persons outside the Kingdom will be punished once return to the Kingdom.</p> <p>Section 11. Whoever commits an offence mentioned in Section 6 outside the Kingdom shall be liable for the punishment stipulated in this Act in the Kingdom. The provision of Section 10 of the Penal Code shall apply mutatis mutandis.</p> <p>(v) This Act lays down that heavier punishment will be imposed on state officials who commit an offence under this Act.</p> <p>Section 13. Whoever, in the capacity as a member of the House of Representatives, member of</p>
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<p>(vi) This Act does not refer that the offence of trafficking is considered as the offence under the Anti-Money Laundering Act B.E. 2542 (1999).</p>	<p>the Senate, member of a Local Administration Council, Local Administrator, Government Official, employee of the Local Administration Organisation, or employee of an organisation or a public agency, member of a board of any organisation under the Constitution, commits an offence under this Act shall be liable to twice the punishment stipulated for such offence.</p> <p>Any member of the Committee, member of Sub-Committee, member of any working group and competent official empower to act in accordance with this Act, committing an offence under this Act, shall be liable to thrice the punishment stipulated for such offence.</p> <p>(vi) This Act refers that the offence of trafficking in persons is considered as the offence under the Anti-Money Laundering Act B.E. 2542 (1999).</p> <p>Section 14. All offences under this Act shall be predicate offences under the Anti-Money Laundering Act B.E. 2542 (1999).</p>
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Conclusion

In summary, the *Anti-Trafficking in Persons Act B.E. 2551 (2008)* provides better protection of human rights of the victims covering children, women, and men. It imposes more serious punishment on the offenders of trafficking in persons. The mechanisms and governing bodies are established to ensure that the prevention and suppression of trafficking in persons is effective. The new law demonstrates transdisciplinary, such as human rights, justice, gender, human security, and human development. This new anti-trafficking legislation focuses on the victims in all aspects including protection, assistance, rehabilitation, and reintegration. The intention is to help them back home to resettle, start a new life and become, once again, productive members of their communities.

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