

Prevention and Solution in Problems of Human Trafficking in Thailand and Cooperation with Neighboring Countries in ASEAN* การป้องกันและแก้ไขปัญหาการค้ามนุษย์ในประเทศไทยและความร่วมมือ กับประเทศเพื่อนบ้านในอาเซียน

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บทคัดย่อ

การวิจัยเรื่อง “การป้องกันและแก้ไขปัญหาการค้ามนุษย์ในประเทศไทยและความร่วมมือกับ ประเทศเพื่อนบ้านในอาเซียน” เป็นการวิจัยเชิงคุณภาพซึ่งประกอบด้วยการศึกษาสนธิสัญญาระหว่างประเทศและกฎหมายที่เกี่ยวข้องกับการค้ามนุษย์ การสัมภาษณ์เชิงลึกผู้แทนของหน่วยงานภาครัฐ ภาคประชาสังคม ในประเทศไทย และในประเทศเพื่อนบ้าน 5 ประเทศ การศึกษาเกี่ยวกับการค้ามนุษย์ 31 กรณี

ผลการศึกษาพบว่า ประเทศไทยมีบันทึกความร่วมมือแบบทวิภาคีกับประเทศเพื่อนบ้านในการป้องกันและแก้ไขปัญหาการค้ามนุษย์ อย่างไรก็ตาม ปัญหาการค้ามนุษย์ยังคงมีความรุนแรง ซึ่งเกิดจากปัญหาสำคัญ 5 ประการ คือ (1) การบังคับใช้กฎหมายในแต่ละประเทศที่ไม่มีประสิทธิภาพ (2) บันทึกข้อตกลงระหว่างประเทศยังไม่เป็นแบบเชิงรุกเท่าที่ควร (3) ไม่มีกฎหมายในระดับภูมิภาคในเรื่องการค้ามนุษย์ (4) ไม่มีหน่วยงานกลางที่ทำหน้าที่ประสานงานซึ่งทำให้แต่ละประเทศทำงานแบบแยกส่วน และ (5) ไม่มีองค์กรภาคประชาสังคมเข้ามาเกี่ยวข้อง สำหรับปัญหาภายในประเทศไทย มีปัญหาการบังคับใช้กฎหมายป้องกันและปราบปรามการค้ามนุษย์ พ.ศ. 2551 ซึ่งเกิดขึ้นในช่วงการคัดกรองผู้ตกเป็นเหยื่อ

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การค้ามนุษย์ ปัญหาคือ เจ้าหน้าที่มักจะมองข้ามปัจจัยที่ทำให้เกิดปัญหาการตกเป็นเหยื่อของการค้ามนุษย์ รวมทั้งการตีความกฎหมายที่ทำให้ผู้ตกเป็นเหยื่อต้องเผชิญกับปัญหาคดีอาญาในคดีเข้าเมืองผิดกฎหมาย ซึ่งทำให้ล้มเหลวในการได้รับข้อมูลเชิงลึกเกี่ยวกับเครือข่ายการค้ามนุษย์ที่อยู่เบื้องหลัง นอกจากนี้ กระบวนการทางกฎหมายในการได้รับค่าชดเชยทั้งคดีแพ่งและคดีอาญาสำหรับการค้ามนุษย์ต้องใช้เวลายาวนานและใช้เงินเป็นจำนวนมากทำให้เหยื่อของการค้ามนุษย์ไม่ต้องการสู้คดีความ

จากข้อค้นพบดังกล่าว ผู้วิจัยมีข้อเสนอแนะให้รัฐบาลปรับปรุงข้อตกลงความร่วมมือในการแก้ปัญหาการค้ามนุษย์กับประเทศเพื่อนบ้าน ข้อตกลงใหม่ควรครอบคลุมความร่วมมือระหว่างประเทศในการป้องกัน และการให้ความช่วยเหลือแก่เหยื่อการค้ามนุษย์ การส่งกลับประเทศต้นทาง และการฟื้นฟูโดยควรได้รับความช่วยเหลือจากองค์กรภาคประชาสังคมด้วย

คำสำคัญ

การค้ามนุษย์ สิทธิมนุษยชน ข้อตกลงทวิภาคี การบังคับใช้กฎหมาย

Abstract

“Prevention and Solution in Problems of Human Trafficking in Thailand and Cooperation with Neighboring Countries in ASEAN” was a qualitative research which included the documentary study on international conventions and related domestic laws, in-depth interview the representative of governmental organizations, civil society organizations in Thailand and in five neighboring countries, and 31 cases study.

The findings were Thailand has coordinated with the neighboring countries to prevent and combat human trafficking by implementing the bilateral MOU. However, the human trafficking still rigorous problem. There are five issues that should be addressed for improvement i.e. (1) lack of efficiency on law enforcement in each country, (2) Memorandum of Agreement between countries is not proactive, (3) lack of legal instruments in the regional level on human trafficking (4) lack of central agency to act as a coordinator which makes each country separately works on the issue and (5) lack of involvement of civil society organizations.

For Thailand, the internal problem was law enforcement of Anti-Trafficking in Persons Act B.E. 2551 (2008) (Thailand Law Library, 2008) occur during the victim screening process. The problem was the authorities often overlook the factors that make an individual a victim of human trafficking including the interpretation of the law also cause to combat human trafficking as some victims have to face a criminal trial against them as illegal migrants which make the authorities fail to receive in-depth information about the human trafficking network behind the incident. Moreover,



the legal proceedings to receive compensation in both civil and criminal cases for trafficking in persons victims often take too long and require a high amount of expense influencing the victim of human trafficking do not want to fight a lawsuit.

Based on the findings, suggestions include the government should amend the bilateral agreements with neighboring countries. The new agreements should cover cooperation between the countries in terms of preventing, protecting and helping victims of human trafficking, sending victims back to the origin countries and rehabilitation with help from civil society organizations.

Keywords

Human Trafficking, Human Rights, Bilateral Agreements, Law Enforcement

Introduction

Trafficking in persons is a notorious global issue involving people around the world. The meaning of trafficking in persons (UNODC, 2016) is a crime that includes three elements: 1) the act of recruiting, transporting, transferring, harbouring or receiving a person; 2) by mean of e.g. coercion, deception or abuse of vulnerability; 3) for the purpose of exploitation. Forms of exploitation specified in the definition of trafficking in persons include, sexual exploitation, slavery and forced labour, among others. Slavery and forced labour are also addressed in distinct international treaties. According to a global report of the United Nations on Drugs and Crime (UNODC) on “Trafficking in Persons 2016”, a total of 63,251 victims were detected in 106 countries and territories between 2012 and 2014. Based on the 17,752 victims detected in 85 countries in 2014 for which sex and age were reported, a clear majority were females – adult women and girls – comprising some 70 per cent of the total number of detected victims. Females have made up the majority of detected victims since UNODC started collecting data on trafficking in persons in 2003. The share of men among detected trafficking victims is increasing. Although women still comprise a majority of detected victims, there has been an overall decrease in the share of female victims over the past decade, from 84 per cent in 2004 to 71 per cent in 2014. The trend for detections of men, in contrast, has been increasing over the same period, and more than 1 in 5 detected trafficking victims between 2012 and 2014 were men. (UNODC, 2016) These are minimum figures as they are based on official data reported by national authorities. These official figures represent only the visible part of the trafficking phenomenon and the actual figures are likely to be far higher.



Thailand is located in a prime area of Southeast Asia region which is convenient for a huge number of migrants from the neighboring countries. The economic growth in the country attracts migrants moving to Thailand both legally and illegally for better economic opportunity. Thailand itself also needs a lot of labors to work on unpopular tasks for Thai people such as construction and fishery. A huge number of Thai workers also would like to work abroad for better economic opportunities. This creates an opportunity for traffickers in both the source country and the destination country.

The trafficking in person in Thailand was confirmed by the US State Department's Trafficking in Persons Report (TIP) in 2014 - 2016 (US Department of State, 2016) that Thailand still a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. Thai victims of trafficking and some of the estimated three to four million migrant workers in Thailand are forced, coerced, or defrauded into labor or sex trafficking. Some labor trafficking victims are exploited in commercial fishing and related industries, factories, agriculture, and domestic work, or forced into street begging. Sex trafficking remains a significant problem in Thailand's extensive commercial sex industry. Consequently, Thailand was ranked as TIER 3 in 2014 and 2015 (countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.) and moved to TIER 2 WATCH LIST in 2016 (Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.)

The critical problem of trafficking in persons in Thailand over last 3 years leads to the research on "Prevention and Solution to Trafficking in Persons in Thailand and the Cooperation with Neighboring Countries in ASEAN."

Objectives

The research has three objectives as follow:

1. To study trafficking in persons patterns in the labour migration;
2. To find guidelines to make cooperation on preventing and combating human trafficking between Thailand and neighboring countries;
3. To make recommendations at the policy level including measurement to investigate human rights violations regarding trafficking in persons.



Literature Review

1. The United Nations Convention against Transnational Organized Crime and the Protocols

The United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in fighting against transnational organized crime. It opened for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy, on 12-15 December 2000 and entered into force on 29 September 2003. The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Countries must become parties to the Convention itself before they can become parties to any of the Protocols.

The Convention represents a major step forward in the fight against transnational organized crime and signifies the recognition by Member States of the seriousness of the problems posed by it, as well as the need to foster and enhance close international cooperation in order to tackle those problems. States that ratify this instrument commit themselves to taking a series of measures against transnational organized crime, including the creation of domestic criminal offences (participation in an organized criminal group, money laundering, corruption and obstruction of justice); the adoption of new and sweeping frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by General Assembly resolution 55/25. It entered into force on 25 December 2003. It is the first global legally binding instrument with an agreed definition on trafficking in persons. The intention behind this definition is to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.

The Protocol against the Smuggling of Migrants by Land, Sea and Air, adopted by General Assembly resolution 55/25, entered into force on 28 January 2004. It deals with the



growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders. A major achievement of the Protocol was that, for the first time in a global international instrument, a definition of smuggling of migrants was developed and agreed upon. The Protocol aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterize the smuggling process. (UNTOC, 2000)

On 17 October 2013, HRH Princess Bajrakitiyabha Mahidol, Ambassador Extraordinary and Plenipotentiary of the Kingdom of Thailand to the Republic of Austria and Permanent Representative of Thailand to the United Nations in Vienna, deposited on behalf of Thailand the two instruments of ratification for the United Nations Convention against Transnational Organized Crime (UNTOC) and for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime with the representative of the Secretary-General of the United Nations. (Ministry of Foreign Affairs of Thailand, 2013)

In accordance with Article 38 of the Convention and Article 17 of the Protocol, the Convention and the Protocol will enter into force for Thailand on 16 November 2013. Thailand signed the Convention on 13 December 2000 and the Protocol on 18 December 2001 respectively.

By ratifying the Protocol, Thailand made a commitment to adopt the legislative and other necessary measures to establish the conduct of trafficking in persons, when committed intentionally, as criminal offences, to protect the privacy and identity of victims of trafficking in persons, including by making legal proceedings related to such trafficking confidential, to provide for the physical, psychological and social recovery of victims of trafficking in persons and to facilitate the return of victims of trafficking in persons to their country of origin. Thailand became the 158th party to the Protocol, which entered into force on 25 December 2003.

At present, Thailand has enacted implementing legislation to ensure effective compliance and cooperation under the Convention and its Protocol, namely the Anti-Transnational Organized Crime Act of 2013 and the Anti-Trafficking in Persons Act of 2008.

The ratifications of the Convention and its Protocol mark an important milestone for Thailand in its efforts to fight transnational organized crimes in particular, by providing its law enforcement agencies with additional tools to assist in their investigation and prosecution of offenders, which in turn will help strengthen long-term economic and social stability.



2. The ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)

The ACTIP was formulated in the wake of the grave humanitarian crisis surrounding migration in Southeast Asia. International outcry began in 2014 amid the horror stories of thousands of Burmese Rohingya refugees and Bangladeshi migrants crossing the Andaman Sea and Straits of Malacca. These groups' inherent vulnerability led to trafficking on a massive scale. Particularly, reports of mass graves of Rohingya along the Thai-Malaysia border in 2015 were a catalyst for ACTIP's creation. Due to the international nature and the immense scope of the crisis, countries have been unable to address this crisis on an individual or internal level. While ASEAN had previously created the "Declaration Against Human Trafficking, Especially in Women and Children" in 2004, this declaration is nonbinding and unenforceable – leaving ASEAN members without operable mechanisms to facilitate cooperation on anti-trafficking efforts.

Indonesia, Malaysia, and Thailand in particular have had to bear the brunt of the trafficking problems surrounding the displaced Burmese and Bangladeshi people. Southeast Asia currently lacks governance channels for regulating regional transnational trafficking. The region's strict adherence to sovereignty and national autonomy have also rendered external intervention into countries like Burma impossible. These conditions have allowed countries of origin of trafficking victims to ignore the human rights atrocities driving people to flee, and subsequently fall into conditions of trafficking, without repercussion. Even worse, due to their statelessness Rohingya trafficking victims are often stranded in detention centers indefinitely after being rescued. As of October 2015, Thailand alone had to provide shelter and services to more than 600 rescued Rohingya who were barred from returning to Burma.

The ACTIP was adopted during Malaysia's ASEAN chairmanship, and was officially approved at the 27th ASEAN Summit in 21 November 2015. It is ASEAN's first regional legally binding instrument to combat trafficking in persons, with the aim of strengthening regional cooperation against trafficking in persons among ASEAN Member States. The purposes of this Convention are (1) to prevent and combat trafficking in persons, especially women and children (2) to protect and assist victims of trafficking in persons and (3) to promote cooperation among the parties in order to meet these objectives.

It aims to "effectively address these challenges so as to progressively prevent, suppress and punish all forms of trafficking in persons including the protection and assistance to victims of trafficking in the region and work towards an enhanced comprehensive and coordinated



regional approach to achieve this objective”. Its three main goals are to strengthen the rule of law and border control, prosecute more traffickers, and strengthen regional cooperation. The format of ACTIP closely follows the structure of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children (known as the Palermo Protocol) (ASEAN, 2016). It is a legally binding action plan that would be enacted 30 days after its ratification by six ASEAN member countries.

Thailand deposited the Instrument of Ratification for the ACTIP on 24 July 2016. The ratification of the Convention affirms Thailand's continued commitment to combating trafficking in persons and is consistent with the Government's policy which declared fighting human trafficking as a national agenda. It also underscores the Government's commitment to cooperate with ASEAN Member States to jointly combat this crime. In addition to this regional legal instrument, the Thai Government also played a leading role in developing the ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children (APA) which took effect on 21 November 2015. Thailand is the third country to have ratified the Convention, reflecting the importance that the country attaches to combating trafficking in persons.

Methodology

This research employed the qualitative methodology to collect data which includes both primary and secondary sources.

The primary source is in-depth interview the representatives of 8 governmental organizations includes (1) Immigration Bureau, (2) Ministry of Social Development and Human Security, (3) Ministry of Foreign Affairs, (4) Ministry of Labour, (5) Ministry of Interior, (6) Anti – Human Trafficking Division, Royal Thai Police (7) Department of Special Investigation, Ministry of Justice, (8) Anti-Money Laundering Office, and 10 civil society organizations in Thailand namely (1) Mirror Foundation, (2) Human Rights and Development Foundation, (3) Foundation for Promoting Quality of Workers Life, (4) Development and Education programme for Daughters and Communities, Chiang Rai, (5) Lawyer Council, (6) Women Foundation, (7) Rohingya Association in Thailand, (8) End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes Foundation, (9) Alliance Anti Traffic, Thailand, (10) International Organization for Migration. Moreover, in-depth interview was conducted with representative of civil society organization in five neighboring countries namely (1) Law and Development Consortium in Laos, (2) Alliance Anti Traffic in Vietnam, (3) United Against Child Trafficking in Myanmar, (5) Tenaganita (Women's Force) in

Malaysia. The content of in-depth interview was their roles in helping victims of human trafficking, obstacles, and limitations to combat trafficking in persons. Apart from the interview, the research also explored 31 case studies to study the pattern of human trafficking and cooperation between Thailand and its neighboring countries to combat and prevent trafficking in persons.

The secondary sources are consisted of documentary study i.e. the United Nations Convention against Transnational Organized Crime and the Protocols conventions, and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children.

Scope of this research focus on patterns of human trafficking in Thailand and its neighboring countries in ASEAN including the process and mechanism to prevent and suppress human trafficking in the international conventions, protocol, domestic laws of Thailand, and laws in neighboring countries. The research was conducted during February 2015- September 2017.

Findings

1. **Forms of Human Trafficking:** The study found that the immigration offices at the borders are efficient in terms of their work. However, there are some people who cross the border to Thailand and do not return within the time given. The situation can be interpreted that those people might involve with human trafficking. There are also people who illegally cross the border through nature channels. The study found that trafficking in persons occurs from economic, cultural and social factors of the source countries. The economic factors include poverty and unemployment, while the cultural and social factor is the social value that prefers high-income work with low skills.

Those who are part of the trafficking in person network usually find victims within the same villages or their own relatives. They then cooperate with middlemen in Thailand to find customers that need “the service” and work as a network to bring the victims to meet the customers. The locations are various and it can be restaurants, karaoke shops, or even houses.

The ways these people enter Thailand for the purpose of commercial sex are various. They can enter (1) through middlemen and report to be their relatives (2) with a proper and legal travel documents and enter Thailand through nature channels and (3) cross the border on a daily basis (cross in the morning and return in the evening) for sexual service at hotels near the borders.

Regarding the forced labor in factories and fishing industry; middlemen from Myanmar, Laos, Cambodia, and Vietnam would recruit victims according to the demand of middleman from Thailand. The middlemen include (1) those in the community that act like a temporary stop area in which they would help with transporting the victims (2) those who help the victims to cross the borders



(3) the middlemen to transfer the victims to appointed locations according to demand of customers (4) those who transport the victims to factories (5) those who negotiate with government authorities (6) those that work on false documents (7) those who transport the victims to receive medical care (8) those who handle loan (9) those who help with sending money back home and (10) those who act as sub-contractors.

The victims often cross the border through the nature channel and being transported to the city with the arranged vehicles such as van, car, truck, and a bus. They can also cross the border by hiding in trucks that transport vegetables, fruits, and other items for sale.

Children who are forced to beg in Thailand are mostly from Cambodia in which the cause is the economic factor. They usually arrive in Thailand by a train (Aranyaprathet – Bangkok) under the control of middlemen in which the children will be transferred to agents in Bangkok. The children will be forced to sell flowers or beg for money. The children stay together in a sub-urban area of Bangkok and will be transported to various spots (4-5 children for each spot). They are forced to beg from 6 am – 7 pm and will have to sell flowers later from 10 – 11 pm before going home. The children will be watched from distant by those who control them when they work. Each child receives 2 meals a day and is usually threatened that they will be killed if they escape. The children are required to make 3,000 baht a day and will be beaten if they fail to reach the amount.

Regarding the Rohingya people, they are usually deceived by middlemen. Thailand is usually a transit country for them, while the destination is Malaysia. The human trafficking network for Rohingya people is very systematic from the origin to destination. They enter Thailand by boats in which middlemen will receive them when they reach the shores. It is found that violence is used against them and they will be murdered if they attempt to escape. The trafficking in persons for Rohingya is a transnational organized crime that the network is very efficient.

Regarding Thai people who are victims of trafficking in persons in foreign countries, the cause is usually economic factors. The victims are usually deceived by middlemen who are their relatives or acquaintances that working abroad will provide them high income. The receiving countries are Singapore, Malaysia, Japan, Korea, and Taiwan because these countries do not require visa. Middlemen will assist them from Thailand, while another group of middlemen will receive them when they arrive. The victims are deceived that they will be working in restaurants, hotels, or massage parlors but instead they will be forced to work as sex workers in hotels or luxury condominium or apartments. Their passports will be seized, and the working condition is horrible. They will have to work in order to pay debt to middlemen in which they later learn that it is not possible way to pay back all the debt in which leads to an escape.



Trafficking in persons in the fishing industry remains a significant concern. Thai, Burmese, Cambodian, and Indonesian men are subject to forced labor on Thai and foreign-owned fishing boats. Some remain at sea for several years, are paid very little or irregularly, work as much as 18 to 20 hours per day for seven days a week, or are reportedly threatened, physically beaten, drugged to work longer, and even killed for becoming ill, attempting to escape, or disobeying orders. Some trafficking victims in the fishing sector had difficulty returning home due to isolated workplaces, unpaid wages, and the lack of legitimate identity documents or safe means to travel.

2. Problems, Obstacles, and Law Enforcement: The study found that Thailand has used both international and national law to solve the trafficking in persons problems. The national laws and regulations are related to human trafficking in Thailand are (1) The Immigration Act B.E. 2522 (1979) (2) The Prevention and Suppression of Prostitution Act B.E. 2539 (1996) (3) Measures in the Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997) (4) The Penal Code Amendment Act (No. 14) B.E. 2540 (1997) (5) The Criminal Procedure Code Amendment Act (No. 20) B.E. 2542 (1999) (6) The Anti-Money Laundering Act B.E. 2542 (1999) (7) Memorandum of Agreement on Guidelines for related organizations to work on women and children victims B.E. 2542 (1999) (8) Anti-Trafficking in Persons Act B.E. 2551 (2008).

The problems in law enforcement on trafficking in persons occur during the victim screening process. What happened is often that the authorities overlook the factors that make an individual a victim of human trafficking but think that the situation occurs solely from the will of the victim. The interpretation of the law by the authorities also cause a challenge to combat human trafficking as some victims have to face a criminal trial against them as illegal migrants which make the authorities fail to receive in-depth information about the human trafficking network behind the incident.

Moreover, the legal proceedings to receive compensation in both civil and criminal cases for trafficking in persons victims often take too long and require a high amount of expense. The victims also fear of being hunted by human traffickers and they often do not trust the authorities. These issues are considered as obstacles for victim of trafficking in person to receive justice.

3. Coordination on preventing and combating trafficking in persons between Thailand and the neighboring countries: Thailand has coordinated with Laos, Cambodia, Vietnam, Myanmar, and Malaysia to prevent and combat human trafficking by implementing the MOU between two parties and multi-parties. After having the Anti-Trafficking in Persons Act B.E. 2551 (2008), the use of the word “Memorandum of Understanding” has been replaced with “Memorandum of Agreement” and the word “Trafficking in women and children” has been replaced with “Trafficking in Persons” to cover male victims.



However, there are five issues in the coordination that should be addressed for improvement which are (1) lack of efficiency on law enforcement in each country (2) Memorandum of Agreement between countries is not proactive enough (3) lack of legal instruments in the regional level on human trafficking (4) lack of central agencies to act as a coordinator which makes each country separately works on the issue and (5) lack of involvement of civil society organizations.

4. Mechanisms to Prevent Trafficking in Persons: The research found that mechanisms to prevent trafficking in persons at the local level are still overlooked while the mechanisms at the national and regional levels have always received attention. Therefore, there are four issues to address regarding the implementation of local mechanisms which are (1) empowering knowledge and capability of those working against human trafficking such as providing knowledge on the issue for community and for those seemed vulnerable to trafficking in persons as well as those authorities who are responsible for the issue (2) building the watchdog network for human trafficking by having local people to participate in preventing human trafficking and providing solutions for the issue in their own community (3) building a network of organizations that work on anti-human trafficking and encouraging them to exchange their working experience to combat human trafficking (4) creating database with efficient detail about trafficking in persons.

Finding Discussion

Based on the findings, it is quite clear that many foreign trafficking victims migrate willingly to Thailand seeking employment, often with the assistance of relatives and community members or informal recruitment networks. Most migrate through irregular channels without identity documents or travel documents from their countries of origin. Instances of trafficking in persons, smuggling, abduction, and extortion of migrants occur as migrants move between Thailand and neighboring countries. Traffickers, including registered and unregistered labor brokers of Thai and foreign nationalities, bring foreign victims into Thailand through both formal migration and smuggling routes and serve as intermediaries between job-seekers and employers. Some brokers charge substantial fees or collaborate with corrupt law enforcement officials, and some migrant workers incur significant debts to obtain employment and are subjected to debt bondage. A number of brokers and employers continue to confiscate identity documents. Thai men and women who migrate overseas also rely on registered and unregistered labor brokers to facilitate acquisition of low-skilled contract work or agricultural labor and are sometimes subjected to conditions of forced labor and debt bondage.



Even though Thailand had signed the United Nations Convention against Transnational Organized Crime and the Protocols in December 2000 and the Protocol in December 2001 including the ASEAN Convention Against Trafficking in Persons, Especially Women and Children in July 2016, but the situation of trafficking in persons in Thailand still ongoing. Thailand is a transit country for victims subjected to sex trafficking and forced labor. Children from Thailand, Burma, Laos, and Cambodia are victims of sex trafficking in brothels, massage parlors, bars, karaoke lounges, hotel rooms, and private residences. Brokers force children from Cambodia and Burma to sell flowers, beg, or work in domestic service in urban areas.

The trafficking in persons happening in Thailand had violated 5 conventions and the protocols including decorations that Thailand ratified i.e. (1) United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; (2) Convention on the Rights of the Child; (3) Convention on the Elimination of All Forms of Discrimination Against Women; (4) ASEAN Human Rights Declaration; (5) ASEAN Declaration Against Trafficking in Persons Particularly Women and Children.

The trafficking in persons against basic human rights namely the right to life, the right to liberty and security, the right not to be submitted to slavery, the right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment, the right to be free from gendered violence, the right to freedom of association, the right to freedom of movement, the right to the highest attainable standard of physical and mental health, the right to just and favorable conditions of work, the right to an adequate standard of living, the right to social security, the right of children to special protection. (United Nation, 2014)

The Charter of the United Nations and the Universal Declaration of Human Rights confirm that rights are universal: they apply to everyone, irrespective of their race, sex, ethnic origin or other distinction. Trafficked persons are entitled to the full range of human rights. Even if they are outside their country of residence, international law is clear that trafficked persons cannot be discriminated against simply because they are non-nationals. In other words, with only some narrow exceptions that must be reasonably justifiable, international human rights law applies to everyone within a State's territory or jurisdiction, regardless of nationality or citizenship and of how they came to be within the territory. International human rights law recognizes that certain groups require additional or special protection.



A core component of a human rights approach is ensuring equal protections to all victims of trafficking, regardless of their gender, age, or field of work. All victims are entitled to equal access to aid mechanisms, protection, and justice, as well as the choice to access these services in the way that they choose so as not to have their agency compromised (ie, not being obligated to testify in criminal proceedings). Therefore policy responses must take into consideration the often gendered nature of trafficking and sufficiently compensate for any gender-based discrimination in terms of access to aid and justice. In addition to actively ensuring these rights to trafficking victims, other anti-trafficking policies involving criminal prosecutions and migration regulations must not compromise human rights in the process.

The High Commissioner for Human Rights have recommended principles and guidelines on human rights and human trafficking that: (1) The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims; (2) States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons; (3) Legal and other assistance shall be provided to trafficked persons for the duration of any criminal, civil or other actions against suspected traffickers; (4) Child victims of trafficking shall be provided with appropriate assistance and protection; (5) Safe (and, to the extent possible, voluntary) return shall be guaranteed to trafficked persons by both the receiving State and the State of origin; (6) States shall adopt appropriate legislative and other measures necessary to establish, as criminal offences, trafficking, its component acts and related conduct; (7) States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors; (8) States shall cooperate to ensure that the appropriate extradition procedures are followed in accordance with international law; (9) Effective and proportionate sanctions shall be applied to individuals and legal persons found guilty of trafficking or of its component or related offences; (10) States shall ensure that trafficked persons are given access to effective and appropriate legal remedies (OHRC, 2016)

Therefore, there is a need to have strong international cooperation and a comprehensive regional approach to prevent, suppress, and punish trafficking in persons, especially women and children, in all forms.



Conclusions

Based on research objectives, the conclusion of findings is Thailand being as destination and transit country for men, women, and children subjected to forced labor and sex trafficking. Victims from neighboring countries migrate willingly to Thailand to seek employment, often with the assistance of relatives and community members or through the use of informal recruitment and smuggling networks. The majority of the trafficking victims within Thailand are migrants from Thailand's neighboring countries who are forced, coerced, or defrauded into labor or exploited in the sex trade, commercial fishing, fishing-related industries, low-end garment production, factories, and domestic work. Some victims are forced to beg on the streets. Burmese, Cambodian, and Thai men are subjected to forced labor on Thai fishing boats that travel throughout Southeast Asia and beyond and remain at sea for up to several years, are paid very little, are expected to work 18 to 20 hours per day for seven days a week, or are threatened and physically beaten. The smuggling of Rohingya asylum seekers from Myanmar and Bangladesh (who transit through Thailand in order to reach Malaysia or Indonesia) and were complicit in their sale into forced labor on fishing vessels.

The guidelines to make cooperation on preventing and combating human trafficking between Thailand and neighboring countries should be based on the United Nations Convention against Transnational Organized Crime and the Protocols (2000) and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (2014).

The findings on problems, obstacles of Anti-Trafficking in Persons Act B.E. 2551 (2008) and related laws enforcement leading to recommendations at the policy level including measurement to investigate human rights violations regarding trafficking in persons.

Recommendations

Based on the findings and conclusions, the author would like to recommend the Royal Thai Government to implement the following policies and programs:

1. Increase awareness campaigns to educate all levels of society on trafficking in persons and its linkage to human rights violation, targeting those most at risk with effective involvement of mass media, relevant non-governmental organizations, private sectors, and community leaders;
2. Continue capacity building of law enforcement, immigration, education, social welfare, labour and other relevant officials in the prevention of trafficking in persons, taking into account the need to respect human rights, child and gender-sensitive issues, and encourage cooperation, where appropriate, with civil society, non-governmental organizations and other relevant organizations;



3. Put in place effective mechanisms and ensure their proper implementation to effectively prevent the movement of traffickers and victims of trafficking in persons through appropriate border control systems, issuance of identity papers and travel documents, and through measures that prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents;

4. Enhance cross-border cooperation with neighboring countries and sharing of intelligence and exchange of information to disrupt the operations of traffickers;

5. Develop and utilize an appropriate procedure for the rescue, protection, recovery, repatriation, and reintegration of the victim into his or her family and community, in accordance with domestic laws, with particular attention to child victims;

6. Develop pro-active investigation methods and where appropriate, to conduct surveillance and other pro-active measures to gather evidence to establish a case to prosecute trafficking in persons cases even without the testimony of victims;

7. Develop national data collection systems in relation to trafficking in persons and methods of exchange of such data between and among ASEAN Member States with a view to developing a regional database for trafficking in persons;

8. Increase and support prevention efforts in each ASEAN Member State by focusing on discouraging both the demand and supply that fosters the exploitation of persons, especially women and children that leads to trafficking;

9. Strengthen the operational cooperation between ASEAN Member States, in accordance with their domestic laws and bilateral or multilateral agreements, joint investigation teams to be put together by the concerned ASEAN Member States, where appropriate;

10. Utilize international cooperation, including through mutual legal assistance in accordance with the provisions of the Treaty on Mutual Legal Assistance in Criminal Matters, and consistent with domestic laws and regulations of each ASEAN Member State, to ensure the effective investigation, prosecution and confiscation of assets relating to trafficking in persons.

11. Law enforcement and combination of the Anti-Trafficking in Persons Act B.E. 2551 (2008) and the Immigration Act B.E. 2522 (1979) should be considered during the screening process to identify the victims of trafficking in persons. The victims should not be punished as illegal migrants if they were deceived by the human trafficking gangs.



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