



No. 52101/ 494

PERMANENT MISSION OF THAILAND
GENEVA

26 July 2012

Dear Mr. Crépeau, Ms. Chandrakirana, Ms. Ezeilo and Ms. Manjoo,

I wish to refer to your communication dated 19 July 2012 drawing the attention of the Royal Thai Government to the proposal by the Minister of Labour to introduce a regulation to deport pregnant migrant workers from Thailand. I have the honour to inform you that the Permanent Mission of Thailand has already forwarded your communication to the authorities concerned for their consideration. The Permanent Mission of Thailand will send you clarification on this matter as soon as it is received.

In the meantime, I wish to reassure you that the Royal Thai Government spares no effort to promote and protect the rights of all migrant workers in Thailand. I also take this opportunity to address some of the questions raised in your joint communication as follows.

Mr. François Crépeau,
Special Rapporteur on the human rights of migrants,
Ms. Kamala Chandrakirana,
Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice;
Ms. Joy Ezeilo,
Special Rapporteur on trafficking in persons, especially women and children;
Ms. Rashida Manjoo,
Special Rapporteur on violence against women, its causes and consequences;
Office of the High Commissioner of Human Rights,
Palais des Nations,
1211 GENEVA.

Fax: 022 917 9006, 022 917 9008

Reference: UA G/SO 214 (106-10) Trafficking (2004-5) G/SO 214 (89-15)
THA 3/2012Enclosure.

OHCHR REGISTRY

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Recipients: SPD

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First, regarding the recommendations of the Special Rapporteur on trafficking in persons, especially women and children, the Royal Thai Government took the visit by the Special Rapporteur last year seriously and has already implemented a number of the recommendations. Further information on the implementation of these recommendations can be found in the following documents: the full version of my statement at the interactive dialogue with Ms. Ezeilo during the 20th Session of the Human Rights Council; and the Addendum submitted by Thailand, also at the 20th Session of the Council, to Ms. Ezeilo's report of her visit to Thailand (A/HRC/20/18/Add.5). Both documents are enclosed here for your convenience.

Second, concerning the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), as mentioned during our Universal Periodic Review process, Thailand will initiate a study on its content and, subsequently, the possibility of becoming its Party. However, the Government cannot prejudge the results of the study at this time. Although Thailand is not a Party to the ICRMW, it is committed to protecting the rights of all migrant workers in Thailand through various domestic laws and regulations. Indeed, the results of the study could be used, as appropriate, to enhance the country's relevant laws to be more in line with the international standards set out in the ICRMW.

Lastly, please rest assured of our continued commitment to cooperating with all Special Procedures in order to promote and protect the human rights of migrant workers.

Sincerely yours,



(Pisanu Chanvitan)

Ambassador

Permanent Representative

Please check against delivery.

Enclosure 1

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**Statement by the Delegation of Thailand,
H.E. Mr. Pisanu Chanvitan,
Ambassador and Permanent Representative,
Item 3 Interactive dialogue with the Special Rapporteur
on Trafficking in Persons, especially women and children
20th Session of the Human Rights Council
22 June 2012**

Madame President,

The Thai Delegation thanks the Special Rapporteur on Trafficking in Persons for her presentation and report, which focuses on criminal justice responses to human trafficking, as well as for her comments relating to her mission to Thailand during 8 – 19 August 2011 at the invitation of the Royal Thai Government.

The invitation to the Special Rapporteur reflected Thailand's readiness to cooperate with the Council's Special Procedures, as well as our commitment and determination to face up to the challenges posed by human trafficking in our country. Thailand's geography as well as the multi-faceted nature of the issue within a dynamic regional context demands that we take this issue seriously. As such, we placed high importance on the Special Rapporteur's visit. She was able to hold fruitful discussions with various responsible government agencies, civil society, and the private sector, particularly on how to further improve the protection, prosecution, assistance and rehabilitation efforts.

We are pleased that the report of the visit to Thailand highlighted the effective partnership between Government and civil society organizations. Indeed, a victim-centred approach and multi-disciplinary teamwork has helped to galvanize efforts to address the issue. Other good practices identified included the enactment of the Anti-Trafficking in Persons Act, the inter-agency memoranda and provisions in the laws to protect the privacy of victims and witnesses. Challenges were also identified. We took those observations seriously and offered comments where we thought there was a misstatement of the facts or an incorrect understanding of the situation.

Since the Special Rapporteur's visit we have remained engaged with follow-up, and have been able to provide additional comments as well as updated information which is contained in an Addendum to the report. The

concerned Thai agencies have met several times to consider the report and to reflect upon the recommendations contained therein.

Madame President,

Thailand's comments as contained in the Addendum of May 2012 already provided updates on developments since the Special Rapporteur's visit, including on ways that some of the recommendations are already being implemented. Following the submission of the comments, there have been further developments, some of which respond to the Special Rapporteur's recommendations. For instance, the Ministry of Labour has extended the nationality verification process as part of the regularization of illegal migrant workers until mid December this year. The regularization process is being conducted in parallel with legal labour recruitment through bilateral MoUs, with 106,733 migrant workers from neighbouring countries already recruited through this channel. Moreover, trafficking crime has recently been included in the list of criminal cases to be investigated by the Department of Special Investigation of the Ministry of Justice. This is in addition to the Anti-Trafficking in Persons Police Unit set up under the Royal Thai Police for law enforcement on human trafficking cases.

Progress is also ongoing in a number of areas, with further advances to be recorded during 2012-2013, including in accordance with a special action plan which complements the existing six-year national policy, strategies and measures to prevent and suppress trafficking in persons. Among others, these activities will help address recommendations on the legal framework, victim identification, investigation and prosecution, assistance to trafficked victims, as well as specific concerns regarding the fishery industry.

First, groundwork is being laid for more effective criminal justice responses in combating transnational organized crime, including trafficking in persons. The drafting of Anti-Transnational Organized Crime Act is under way in order to pave the way for the ratification of the UN Convention against Transnational Organized Crime (UNTOC) and the Trafficking Protocol. In addition, Thailand is planning to host activities on the ratification and implementation of the UNTOC later this year to help build our own capacity and that of other countries in the region on the matter.

Secondly, implementation of the six-year national policy, strategies and measures in combating trafficking in persons will now integrate more concrete performance indicators. For example:

- The Ministry of Social Development and Human Security (MSDHS) will develop a handbook on victim assistance and rehabilitation,

improve medical services at the occupation and training centres, and enhance its interpretation services to assist trafficking victims who are foreign nationals;

- The Department of Labour Protection and Welfare (DLPW) of the Ministry of Labour will beef up labour inspection in small establishments. Last year, 44,093 establishments nationwide were inspected with 1,756,745 workers, 5,299 of which employ migrant workers. In addition, the Marine Police, tasked as labour inspectors, will also conduct an intensive inspection of marine vessels; and

- Progress towards a labour recruitment centre for the fishery industry is being made by the Department of Fisheries of the Ministry of Agriculture and Cooperatives and the Ministry of Labour in close consultation with the National Fisheries Association. This is being undertaken in parallel to the improvement of work standards in the seafood industry;

Thirdly, Thailand recognizes the value of reliable data and statistics on trafficking related crime prosecution, assistance, rehabilitation, return and reintegration of trafficking victims. We note the difficulties faced by various agencies, particularly the lack of resources and different systems used in data collection, and will soon launch the first phase of an anti-trafficking database project.

Lastly, the Royal Thai Police, the Office of the Attorney General, the Ministry of Justice and the Court of Justice, will strengthen training for their respective officials on trafficking related crimes and the use of relevant legislation, as well as capacity building for law enforcement officials. A national seminar will be organized to examine how to expedite trafficking cases, which may contribute to the consideration of a special division within the Office of the Attorney General and the Court to conduct such cases.

Madame President,

There is certainly no quick-fix or one-size-fits-all solution to eliminate human trafficking. In dealing with the problems in each country, one has to factor in the geographical and socio-economic contexts, push and pull factors, as well as different legal and administrative systems. Close coordination and information sharing is needed between the host country, the OHCHR and the Special Rapporteur prior to a country visit. The Special Rapporteur may then have a good prior understanding that enhances opportunities for constructive dialogue with all stakeholders concerned as well as more effective recommendations.

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Madame President,

Where problems exist and the human rights and human security of people are at stake, Thailand is committed to working with partners in the fight against human trafficking. We will continue our dialogue and close cooperation with the OHCHR and the Special Rapporteur in ensuring the rights, dignity and protection of persons at risk and trafficking victims.

Thank you for your kind attention.

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Enclosure 2

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A/HRC/20/18/Add.5



General Assembly

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Human Rights Council

Twentieth session

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo

Addendum

Mission to Thailand: comments by the State on the report of the Special Rapporteur*

* Reproduced in the annex as received.

Annex**Thailand's comments on the report of the Special Rapporteur on trafficking in persons, especially women and children**

1. Thailand takes note of the findings and appreciates the recommendations made by the Special Rapporteur (SR) on trafficking in persons, especially women and children. In general, these reflect the current situation of trafficking in persons in the country.
2. As part of the ongoing dialogue with the SR, Thailand notes that some of the recommendations made during the visit and in the SR's report have already been taken up by the Thai side, including improving service provision and protection for both regular and irregular migrant workers; structural and legal reforms in anti-corruption; and expansion of the regularization period for migrant workers, among others. Other recommendations will be considered in due course. Thailand will continue the dialogue and remain in close coordination with the SR and the Office of the High Commissioner for Human Rights.
3. Nevertheless, Thailand notes that the report contains inaccuracies or errors concerning relevant laws, policies and processes. Where specific incidents or cases are mentioned, the report also provides insufficient information for the relevant Thai agencies to take further action. In this regard, Thailand wishes to provide comments regarding these errors of fact or law as well as information on recent developments since the visit of the SR in August 2011 as follows:

Summary

4. Comments on the low rate of and delays in prosecution may be misleading. "Prosecution" must be understood to include several processes, involving case filing for court consideration, court proceedings and court ruling. We would thus appreciate the SR's further clarifications on specific processes she sees as causing the delays. In fact, all trafficking in persons cases were filed for prosecution by the Office of the Attorney General (OAG) in 2010, with only 1 case dropped in 2011, representing 100 percent and over 95 percent prosecution rate, respectively. Moreover, in the Court of First Instance, ruling decisions have already been made for all human trafficking cases.
5. Comments on insufficient efforts to tackle the root causes and on restrictive immigration policies fail to acknowledge the fact that in many countries, including Thailand, immigration policies do facilitate regulated migration, while also forming a part of national security mechanisms and preventive measures against the exploitation of the facilitation of people movement.

I. Introduction and methodology

6. (No. 2) Corrections need to be made on the venue of field visits and on the agencies involved. In this regard, the SR visited Mae Sot District in Tak Province and also met with representatives of the National Human Rights Council (NHRC) in Bangkok.

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II. Main findings

A. Background: Migration trends in the Greater Mekong Sub-Region

7. (No. 4) Thailand is aware of migrant workers being recruited by unscrupulous brokers. Therefore, we have fostered close cooperation with neighbouring countries in setting up and promoting a legal labour recruitment system. So far, 106,733 migrant workers (74,399 Cambodians, 24,464 Laotians and 7,870 Myanmar nationals) have been recruited through bilateral MOUs on labour migration management. The MOUs provide migrant workers with social welfare, rights protection and safe migration. Bilateral meetings with Cambodia, Lao PDR and Myanmar are also convened on a regular basis to promote dialogue on policy implementation.

8. (No. 5. and Recommendation X) As of February 2012, 631,773 migrants have completed their nationality verification process (NV process). As for the latest developments, the Cabinet approved on 13 February 2012 the extension of the NV process until 14 June 2012 for the remaining 300,482 migrant workers from Cambodia, Lao PDR and Myanmar, who registered during 2010 and are awaiting the verification. Included in the waiting list are an additional 1,047,612 migrant workers registered during June – July 2011, the number of which comprises 253,722 Cambodians, 17,116 Laotians and 686,774 Myanmar. Should the NV process be completed within the extended deadline, there will be a total of 1,979,867 regularized migrant workers. To further facilitate the process, Thailand and Myanmar have jointly set up 5 new NV centres which came into operation in March 2012 in Chiang Mai, Surat Thani, Samut Sakhon, Samut Prakan Provinces and Bangkok. There are now 8 NV centres in total. Meanwhile, Thailand and Cambodia have set up 2 additional NV centres in Bangkok, located at the Cambodian Embassy and the MOL.

9. Regarding comments on the high costs and inadequate information on the NV process, the government has reduced for the duration of 2011 - 2014, visa application fees for migrant workers who have completed the NV process from 2,000 Baht (approximately USD 66) to 500 Baht (approximately USD 16). Information on the NV process including the reduced application fee, as well as migrants' rights, are widely and constantly disseminated to migrant workers through pamphlets (in the Khmer, Laotian and Myanmar languages) and migrant networks.

10. (No. 6) Thailand rejects that there is deep-rooted discrimination against migrants. Thai laws provide protection to all persons living in the country on an equal basis. The Department of Labour Protection and Welfare (DLPW), Ministry of Labour (MOL) is tasked to ensure that migrant workers, notwithstanding their immigration status or nationality, receive benefits, safety and social welfare in accordance with the 1998 Labour Protection Act.

B. Forms and manifestations of trafficking in persons

11. (No. 9) Despite the fact that government agencies have vigorously carried out the prevention and suppression of trafficking in persons, there exists a correlation between the economic disparities between Thailand and its neighbouring countries and the growing in demand for low-skilled labour. Therefore, other factors, including root causes of migration, alternative development options in the countries of origin, awareness raising campaigns on immigration procedures at the destination country and promotion of legal migration, should also be taken into consideration in order to project a balanced view on the situation of labour exploitation in the country.

12. (No. 11) Regarding comments on compensation for debt bondage and forced labour migrants, Thailand wishes to underline that all migrant workers are entitled to compensation according to the 1998 Labour Protection Act. In 2011, in the Bangkok area alone, the DPLW filed 3 cases for compensation. In the first case, the entrepreneur of a jewelry factory was charged for the use of child labour (Laotian national) under 18 years old, without paying adequate overtime and minimum wages. In the second case, a pickle business owner in Nonthaburi Province was charged for employing child labour under the age of 15 without informing the Labour Inspection Unit and for paying wages lower than the minimum rate. And in the third case, a case was filed against a garment factory seeking compensation for 43 Myanmar migrant workers that were earlier rescued by the Thai authorities. Based on victim identification, it was found that 15 (5 men, 10 women) of the rescued migrant workers were victims of trafficking. The other 28 persons (7 men, 21 women) were, however, illegal immigrants without work permits.

13. In response to comments on the Din Daeng case, the Anti-Trafficking in Persons Police Unit raided and rescued Myanmar labour migrants from a garment factory in Din Daeng District on 19 April 2011. Following an investigation, the DPLW fined the entrepreneur 781,013.43 Baht (USD 26,033) for monthly wages. However, since the entrepreneur refused to comply, the DPLW is currently in the process of filing a case against the entrepreneur.

14. (No. 10, 12, 22) Thailand is concerned with the information presented by the SR on forced labour in fishing boats, particularly the reference to the use of child labour. We would appreciate it if detailed information and references to these cases could be shared, in order to allow relevant agencies to conduct follow-up investigations and bring the perpetrators to justice, as well as help prevent further persons at risk from falling prey to traffickers.

15. The 1998 Labour Protection Act prohibits the use of child labour under 15 years old. A newly drafted MOL Regulation, repealing Ministerial Regulation No.10 and due to come into effect soon, prohibits the employment of children under 18 years of age to work on fishing boats, except for children at the age of 15 years whose father/mother/parents work on that particular fishing boat. It also provides more protection to workers in sea fishery by applying protection to fishing boats with one worker or more (instead of twenty or more workers in the previous regulation), whether or not the fishing boats operate in Thai territorial waters.

16. The National Policy and Plan (NPP) for the Elimination of the Worst Forms of Child Labour (2009 -2014) also called for a review of the list of hazardous work (for children under the age of 18) in accordance with 1998 Labour Protection Act and Ministerial Regulation No. 6 to include work in fishing boats, among others. The list defines the types of hazardous work that cannot be performed by children under 18 years of age. The list is awaiting submission to the Cabinet and is expected to be issued during the course of 2012.

17. In addition to prioritizing cooperation with Cambodia, Lao PDR and Myanmar, the Thai government is currently considering the proposal of the Government of Bangladesh to establish an MOU on Recruitment and Employment of Labour in the Fishery Industry in light of possible bilateral cooperation to help solve the labour shortage. Such an arrangement will further help ensure migrant workers' possession of seaman books and protect migrant labour against debt bondage and illegal brokers.

18. (No. 15) Investigation of the case in which 15 Vietnamese women were rescued and 8 alleged offenders were arrested (4 Taiwanese, 1 Chinese and 3 Myanmar) is ongoing. The Thai and Vietnamese authorities worked in close coordination to assist the return of all Vietnamese women. This was the only case of this nature thus far identified.

C. Legislative, policy and institutional framework

19. (No. 17) As a signatory to the UN Convention against Transnational Organized Crime (UNTOC), the relevant Thai agencies are expediting internal legal processes for the ratification of the UNTOC, including in particular passing of the draft Anti-Transnational Organized Crime Act. Thailand will organize an inter-agency seminar and a Workshop on the Ratification and Implementation of UNTOC and its two Protocols in 2012 under the auspices of the Bali Process on People Smuggling, Trafficking in Persons & Related Transnational Crime. These activities aim to explore ways to support countries, such as Thailand, that in the process of signing or ratifying the UNTOC in pushing forward their respective national processes, overcoming potential obstacles, and to exchange experiences between government agencies and international organizations, such as IOM and UNODC.

20. (No. 18 – 23) In addition to legislation related to anti-human trafficking mentioned in the report, it is pertinent to mention other significant legal measures. A case in point is the 1979 Immigration Act, which is an important instrument in preventing illegal entry and in undermining trafficking networks.

21. (No. 21) In clarification of inaccurate references to legal measures against forced prostitution, the 1996 Prevention and Suppression of Prostitution Act, in fact, criminalizes the detention, deprivation of liberty, assault, threat of force imposed on another person to commit prostitution with a punishment of imprisonment. It also punishes the owner, supervisor or manager of a prostitution business, while providing protection for victims of forced prostitution from punishment via a system of victim referral to centres for protection and occupational development.

22. (No. 22) Regarding the role of the 1998 Labour Protection Act in protecting labour in the informal sector, the Labour Protection Act prescribes guidelines on working conditions and environment, types of hazardous work, wages and leave entitlement, and sanitation. Its provisions also include protection for full time workers in the agricultural sector. Furthermore, the Social Security Act of 1990 provides overarching protection for workers in the informal sector, while the Ministerial Regulation on protection of labour in the agricultural sector of 2004 protects seasonal workers. The draft Ministerial Regulation on Domestic Service will prohibit children under the age of 15 years from working as domestic workers, and provide details on suitable working conditions, wages and leave entitlements, as well as protection from discrimination and sexual harassment.

23. (No. 23) Instead of mentioning only the Child Protection Act (2003), other measures of the country to protect Children's rights, particularly the right to education and birth registration, should also be noted.

D. Identification of trafficked persons

24. (No. 32, 34) Inaccuracies could be found in the mention of the role of the Royal Thai Police (RTP). Instead of assuming the role of the sole victim identification agency, the RTP collaborates with other agencies in what is known as a multi-disciplinary team to identify victims. Composed of police officers, social workers, IGOs and NGOs, doctors and psychologists, among others, the multi-disciplinary team works together to ensure fair treatment and protection for victims. Victim protection mechanisms reach out to both at-risk persons and vulnerable groups. Victims under protection are accommodated at 77 temporary shelters and 9 Protection and Occupational Development Centres throughout the country. They are also guaranteed access to legal and judicial procedures services, interpretation facilities, medical treatment and return and reintegration assistance.

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25. (No. 33) The comment on deep-rooted corruption at all levels of law enforcement is too sweeping and an unfair generalisation. Combating corruption has long been recognized as a significant step towards sustainable development and, in turn, towards the elimination of human trafficking. Thailand ratified the UN Convention against Corruption (UNCAC) in March 2011. The government has tasked 3 agencies to implement obligations under the Convention: 1) Office of the National Anti-Corruption Commission (NACC) for overseeing the implementation; 2) Office of the Attorney-General (OAG) for asset recovery; and, 3) Office of the Public Sector Anti-Corruption Commission (PACC) for cases involving public officials below the level of Director and local administration. Thailand is currently undertaking legal and structural reforms in compliance with the UNCAC, which will enhance the effectiveness of actions against corrupt officials.

26. (No. 36) On labour inspection, the MOL, through the Department of Welfare and Labour Protection (DWLP) and the Department of Employment (DOE), conducts labour inspection in an integrated manner with the RTP, the Ministry of Interior (MOI), the MSDHS, and the military.

27. Labour inspections conducted by the DWLP targets all employees irrespective of their nationality and focuses on two aspects: employment agreement and working condition according to the 1998 Labour Protection Act; and occupational safety and health of the 2011 Occupational Safety, Health and Environment Act. In 2011, 5,299 establishments with 158,381 migrant workers were inspected. 13,891 out of 16,334 employees who filed petitions for benefits under the 1998 Labour Protection Act in 2011, received compensation of 378,225,550.27 Baht (USD 12,607,518) in total.

28. Meanwhile, the official inspections conducted by the DOE focuses on establishments employing or citizens providing accommodation for or illicit networks smuggling illegal migrant workers, particularly from Cambodia, Lao PDR and Myanmar, in accordance with the 1978 Alien Employment Act and the 1979 Immigration Act. In 2011, 29,434 establishments with 237,016 migrant workers and 967 employers were charged as a result of the inspections.

29. Comments on the MOL's unwillingness to intervene in situations of trafficking in migrant workers are unfair. Once a labour inspector finds such a case, the RTP and the MSDHS will lead a multi-disciplinary team in conducting identification of potential trafficked victims. The DOE will assist migrant workers in filing for compensation from employers. In 2011, 15,171 employees filed petitions to call for their benefits according to the Labour Protection Act while 12,253 cases were considered leading to a total compensation of 240,569,960 Baht (USD 8,018,999)

30. (No. 37) Comments on the lack of appropriate infrastructures and services to facilitate victim identification should recognize the difference between hotline detection and victim screening. Prior to the conclusion of the victim identification process, the screening mechanism requires well-trained officials to present affirmative and sound arguments and a thorough evaluation of situation drawing upon evidential proof. Moreover, the MSDHS has equipped the hotline Phone No. 1300 with interpretation resources in collaboration with the IOM by adding Myanmarese interpreters, through a teleconference system, to the existing services in 3 languages (Thai, English, and Laotian).

31. In addition, the Operational Centres of the MOL were set up in 3 hot spot provinces where migrants predominantly work (Ranong, Tak and Samut Sakhon Provinces) with interpretation service to facilitate communication between migrant workers and authorities.

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E. Protection, recovery and reintegration of trafficked persons

32. (No. 38, 40) On the standards of victim assistance and interpretation service accessibility, Thailand has put in place interpreters for the Laotian, Khmer and Myanmar languages, notably in the 9 main Protection and Occupational Training Centres, to help social workers facilitate interviews with migrant workers. Legal aid, medical services, and non formal education from the Ministry of Education are also provided in the shelters.

33. The allegation of detention of trafficked victims in police cells for case prosecution is inaccurate. Once migrant workers are identified as trafficked victims, they will be assisted by social workers and provided accommodation at shelters while they go through a 3 month rehabilitation process and pre-trial deposition. For those screened out and considered illegal immigrants, they will be deported at their point of entry at the earliest opportunity.

34. (No. 41) Comments on the failure of media to respect trafficking victims' privacy may reflect a misunderstanding. The Anti-Trafficking in Persons (ATIP) Act prohibits the publication or promotion of information and pictures of trafficking victims. There is no media, as of present, which has transgressed the said provision.

35. (No. 46) On prolonged stay and delayed return, the return of trafficking victims is evaluated on the basis of a victim-centered approach. Relevant agencies have to complete the process of evaluating psychological readiness, pending witness hearing, filing for compensation, and tracing for and contacting victim's family. This process is crucial to prevent re-victimization and ensure safe return and reintegration.

36. (No. 47) On professional staffing at Kredtrakarn shelter, it should be noted that the Laotian language is very similar to Thai, and thus the need for interpreters to assist Laotian residents may be less. Regarding on-site medical services, the government has put in place nurses and psychologists on a 24-hour service basis. Part-time doctors will also check up on victims once a week. Besides a public health centre in the proximity of the shelter, trafficking victims in need of emergency treatment will be referred within 15 minutes to one of the many hospitals nearby.

37. (No. 48) On the implementation of section 37 of the ATIP Act, the MOI issued, in February 2011, a Ministerial Regulation on Permission for victims of trafficking in persons to stay in the country. In November 2011, 8 trafficking victims (7 Myanmar and 1 Chinese) were granted a renewable permission for temporary stay in Thailand for a period of 6 months. In addition, the other 14 persons (12 Laotians and 2 Cambodians) were granted a temporary stay permit in January 2012.

38. As for trafficking victims' right to work, the MOL has, on 29 February 2012, issued the Ministerial Regulation on occupations allowed for trafficking victims. These occupations comprise domestic workers and labourers, including at least 24 types of labour work/industries. Concurrently, the MSDHS is establishing guidelines for the issuance of work permits to enable the MOL to fully implement the Ministerial Regulation.

39. Despite the fact that Section 37 has not yet been fully implemented, in practice, trafficking victims in two shelters (the Protection and Occupational Development Centre for male victims in Pathumthani and Ranong Provinces), are already allowed to work in 2011. Approximately 60 male trafficked victims currently work outside the shelters during the day and return to the shelters at night. In addition, residents at the shelters are offered vocational training which includes dress-making, beautician training, traditional weaving, wickerwork, arts and crafts, cooking, batik painting and traditional massage.

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F. Investigation, prosecution and punishment

40. (No. 55) While training is being scaled up, comments on a low prosecution rate due to the lack of adequate training of prosecutors are unjustified. During the visit, the SR had productive discussions with representatives from the OAG on the training of prosecutors in cooperation with the ASEAN Regional Trafficking in Persons Project (ARTIP) and the US Government. Over 550 prosecutors and 100 government officials have received such training to upgrade their capacity. Moreover, the OAG published the first trafficking in persons prosecution guidelines for the use of prosecutors nationwide.

41. On prosecutors using other related legislation instead of the ATIP Act, there are two factors that must be borne in mind. First, the "no crime without law" principle is applied on trafficking crime committed prior to the enactment of the ATIP Act. Secondly, as the trafficking crime is multi-faceted in nature, this has resulted in the employment of other related legislation in parallel with the ATIP Act.

42. (No. 56) Regarding comments on the delays in prosecution and conclusions of trials, Thailand has put in place deposition and pre-trial discovery in the Court of First Instance to allow trafficking victims to return home in a timely fashion. However, Thailand is bound by its obligations to international practice to ensure the safety and security of victims. Their return requires nationality confirmation, household registration and risk assessment, which may take some time for the verification of victim's origin in his/her home country, as earlier clarified in paragraph 25.

G. Redress

43. (No. 57) On difficulties in seeking compensation, prosecutors and police officers are required to inform trafficking victims of their rights in seeking compensation. Interpretation service is also provided during the course of investigation.

44. (No. 58) On compensation cases filed under the ATIP Act, Thailand provides training for all prosecutors on civil proceedings for compensation solicitation on a regular basis. A compensation case filed under the ATIP Act may be channeled through three possibilities: 1) the victim shall be asked whether to avail himself/herself of the possibility for civil case compensation; 2) compensation under the ATIP Act shall be submitted through the MSDHS; and, 3) other civil proceedings, which do not duplicate with filing for compensation under the ATIP Act (since Thai law does not support the practice of "ambulance chasing").

45. (No. 59) Seeking compensation in criminal proceedings by the trafficked persons may be done under the "Criminal Procedure Code," not the Penal Code. During 2009 – 2011, the Department of Rights and Liberties Protection, the Ministry of Justice has filed altogether 53 cases for compensation, of which 17 cases were approved, 22 are under consideration of the committee, while 14 were rejected due to lack of evidence and ill intention in entering the country. Victims were awarded compensation ranging from 400,000 to 600,000 Baht (USD 13,333–20,000) per person. In addition, the OAG has started, since 2011, filing for compensation for trafficking victims in sexual exploitation cases under the ATIP Act.

46. (No. 60) On the comment that the rate of success in labour proceedings is higher than that in trafficking crime, Thailand wishes to underline the different nature between labour laws and the anti-trafficking law. Labour laws are aimed at promoting good relations between employers and employees. Hence, compromising between the two parties, including paying compensation, is commonly found as a way to settle disputes.

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H. Prevention

47. (No. 62) Comments on the deportation of trafficked victims may reflect a misunderstanding. Prior to their return, trafficked victims must go through an evaluation process as stated in paragraph 25. The return of trafficked victims facilitated by the Thai Immigration Bureau (TIB) is upon request and through coordination between the MSDHS and local Myanmar authorities to ensure the safety and security of the returnees. At present the Democratic Karen Buddhist Army (DKBA) has collaborated with the Myanmar government in the role of border guard force. Thus, should there be concern about security issues for returning migrants, Myanmar authorities would investigate the case. For comments on temporary stay, please refer to paragraph 27.

48. (No. 64) On the lack of effective recruitment regulations, please see paragraph 7.

49. (No. 66) Comments on the restriction of the rights of ethnic minorities and children of irregular migrants requires further clarification. Thailand reaffirms the rights to education and access to medical and health services for all, including the children of ethnic minorities and migrant workers.

I. Cooperation and partnership

50. (No. 70) The latest developments on cooperation since the SR's visit has been the signing of the "2nd Declaration of the Coordinated Mekong Ministerial Initiative Against Human Trafficking" in February 2012. The Declaration reaffirms member countries' efforts to combat trafficking in persons in line with the third Sub-Regional Plan of Action, and reiterates the commitment to work towards a set of common legal guidelines within ASEAN to combat trafficking in persons.

III. Conclusions and recommendations

A. Recommendations

51. As mentioned earlier, some of the recommendations in SR's report are already being taken up, for instance:

52. (No. 77 (g)) On adding the ATIP Act to the Department of Special Investigation (DSI) of the Ministry of Justice's mandate, the Cabinet already approved on 19 December 2011 the draft Ministerial Regulation on the inclusion of trafficking crime in the list of criminal cases to be investigated by the DSI. The draft law is currently being considered by the Council of State and will be enacted shortly.

53. (No. 77 (h)) On fostering cooperation between investigators and prosecutors, the DSI has requested the OAG to appoint prosecutors for joint investigation with the DSI in the deposition process. In this regard, the DSI and the OAG conducted joint investigations in labours trafficked for working in fishing boat in Trang Province and Laotian women trafficked for prostitution in Narathiwat Province in the South of Thailand.

54. (No. 77 (i)) On promoting legal cooperation arrangements, the Bilateral Meeting between the Myanmar Police Force and the Thailand DSI has been established since 2009 to facilitate investigation, and exchange information on prevention and suppression of trafficking. Its sixth meeting took place during 23 – 26 January 2012.

55. (No. 77 (k)) On protecting workers in informal sectors, please refer to paragraph 17.

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56. (No. 77 (l)) On labour inspectors involving the multi-disciplinary team, inspections are currently conducted in a multi-disciplinary manner with the involvement of various agencies. Please also refer to paragraph 19.
57. (No. 77 (m)) On mandating the marine police to identify trafficked persons, the MOL has mandated the marine police and the navy labour inspectors with the authority to search and assist labour in fishing boat in Thai territorial waters.
58. (No. 77 (n)) On hotline assistance services, please refer to paragraph 22.
59. (No. 77 (p)) On victim-centred approach in rescuing trafficked person, please refer to paragraph 19 and 23. In addition, the ATIP Act stipulates that victims will not be criminalized or penalized.
60. (No. 77 (q)) On providing safe space for trafficked victims' recovery, please refer to paragraph 19.
61. (No. 77 (s)) On pre-trial deposition to fast track trafficked-related prosecutions, please refer to paragraph 23 and 29.
62. (No. 77 (t)) On providing necessary support for trafficked victims, please refer to paragraph 19 and 23.
63. (No. 77 (v)) On trafficking awareness raising among journalists, the Thai and Lao PDR governments organized, within the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) framework, a joint training on media development and dissemination of Human Trafficking in September 2008 to enhance knowledge and exchange experiences among radio, newspaper and TV journalists on how to disseminate trafficking in persons news and establish a code of conduct for journalists.
64. (No. 77 (w)) On targeted awareness raising campaigns for migrant workers, Thailand has published and distributed booklet in three languages aiming at providing migrant workers from Cambodia, Lao PDR and Myanmar the knowledge on employment welfare and rights of migrant workers according to Thai labour laws.
65. (No. 77 (x)) On the NV process, please refer to paragraph 8.
66. (No. 77 (y)) On principles of equality and rights of the child, please refer to paragraphs 9 and 18, respectively.
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