

Human Trafficking in Thailand

Submission for the UN Universal Periodic Review
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Introduction

1. The Helena Kennedy Centre for international Justice is a human rights centre based at Sheffield Hallam University in the UK.¹ The Centre supports a range of research and scholarship activity including supervised work by our students. This submission is the product of undergraduate students studying with the Human Rights Law Clinic.
2. This report will critically analyse and report on the factors that contribute to the prohibition and prevention of human trafficking in Thailand, focussing particularly on the sex trafficking of women and children as well as other forms of child exploitation such as for agriculture and as child soldiers.

Economy

3. The global pandemic has had a significant impact upon Thailand's economy, with a 12% GDP plunge in their second quarter during 2020, which was the steepest since the Asian crisis in 1998.² Coupled with the recent period of political unrest, the Thai Baht is one of Asia's worst performing currencies. According to the Thailand Economic Monitor, the Thai economy was projected to contract by 5% in 2020, which is among the sharpest declines in the East Asia and Pacific Region. Economic growth is projected to pick up in 2021, by 4.1%, and a projected recovery to pre-Covid output levels in around two years, providing some hope for the future.³

Constitutional framework

¹ See <https://www.shu.ac.uk/helena-kennedy-centre-international-justice>.

² It has been reported that the pandemic has hit the Thai economy's two main drivers: exports and tourism. See Thailand macro update – Sinking into recession, Prakash Sakpal, <https://think.ing.com/articles/thailand-macro-update-sinking-into-recession>.

³ Thailand Economic Monitor June 2020: Thailand in the Time of COVID-19, <https://www.worldbank.org/en/country/thailand/publication/thailand-economic-monitor-june-2020-thailand-in-the-time-of-covid-19>. Further hope is provided for by the Asian Development Bank who announced in August 2020 that it will provide a \$1.5bn loan to Thailand to aid its response to the coronavirus pandemic. See ADB to lend Thailand \$1.5 billion to aid virus response, by Busaba Sivasomboon Associated Press, 4 August 2020, at [https://apnews.com/article/virus-outbreak-bangkok-thailand-asia-ecf366366e8a769d72b78cbf1c7efe4b#:~:text=BANGKOK%20\(AP\)%20%E2%80%94%20The%20Asian,spokeswoman%20Ratchada%20Thanadirek%20announced%20separately](https://apnews.com/article/virus-outbreak-bangkok-thailand-asia-ecf366366e8a769d72b78cbf1c7efe4b#:~:text=BANGKOK%20(AP)%20%E2%80%94%20The%20Asian,spokeswoman%20Ratchada%20Thanadirek%20announced%20separately).

4. Thailand is a constitutional monarchy with the monarch as the head of state.⁴ The king is the Chief of State and the Monarchy is hereditary.⁵ Power is exercised by the bicameral National Assembly, the Council of Ministers and the courts in accordance with the provisions of the constitution and laws passed by the National Assembly.⁶ Primary sources of law include the Constitution, which is the supreme law, legislation such as Codes and Acts, decrees and custom. Judicial decisions are not binding, but in practice Supreme Court decisions are persuasive, have some presidential value, and are often used as secondary authoritative sources of law.⁷

Sex trafficking of women

5. Thailand is a country which is acknowledged to some extent for human trafficking, in particular trafficking of women whereby “60% of those rescued last year were women.”⁸ Women are targeted for trafficking to Thailand often for the “seafood industry or sex trade”⁹ and are usually trafficked from bordering countries of Thailand.
6. Through the exploitation and dehumanising of women – it can be displayed through the statistics from the “Thai Ministry of Public Health and from NGOs indicate that there are more than 120,000 people working in the Thai sex industry.”¹⁰ This astonishing statistic portrays how this is an ongoing issue within Thailand which needs to be deterred from proceeding.
7. It can be suggested that women engage in sex work as they simply have “no other way to make money, others have been forced into the industry, and many are trafficked to Thailand from other countries.”¹¹ Along with trafficking comes neglectful circumstances; little to no money, starvation and unsanitary conditions. Many are left mentally unstable from their experiences and the treatment of conditions they were summoned to – trafficking of women for sexual exploitation is a detriment for Thailand and an in-depth extreme analysis needs to be functioned within for the safety and security for those most vulnerable and susceptible to be exploited

Sex trafficking of Children

8. The number of child victims trafficked worldwide for sexual exploitation or cheap labour on an annual basis is 1.2 million.¹² Human trafficking is believed to be worth billions of dollars each year. Driving the trade is the demand for commercial sexual exploitation. Seventy-nine percent of all global trafficking is for sexual exploitation.¹³

⁴ Government and Society, <https://www.britannica.com/place/Thailand/Government-and-society>.

⁵ The Political Framework of Thailand <https://www.nordeatrade.com/no/explore-new-market/thailand/political-context>.

⁶ *Supra*, fn 4.

⁷ Southeast Asian Legal Research Guide (ARCHIVE): Introduction to Thailand & its Legal System <https://unimelb.libguides.com/c.php?g=402982&p=4832968>.

⁸ Reuters, ‘Thailand hit by record number of human trafficking cases’ The Guardian (7 July 2020), <https://www.theguardian.com/world/2020/jan/07/thailand-hit-by-record-number-of-human-trafficking-cases>.

⁹ *Ibid*.

¹⁰ Ashton Kobler, ‘Escaping the clutches of sex trafficking in Thailand’ (Aljazeera, 30 July 2017), <https://www.aljazeera.com/features/2017/7/30/escaping-the-clutches-of-sex-trafficking-in-thailand>.

¹¹ *Ibid*.

¹² UNICEF, 2007. http://www.unicef.org/media/media_40002.html.

¹³ UNODC, 2009. <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.htm>.

9. A survey conducted by the International Organisation for Migration (IOM) on 548 Cambodian women and children returnees from Thailand¹⁴ indicates that two percent of the child victims were trafficked for prostitution.¹⁵ According to the Ministry of Social Development and Human Security, numbers of foreign children being trafficked to Thailand for sexual exploitation is on the increase.¹⁶ They are trafficked from neighbouring countries such as Cambodia, China, Laos, Myanmar and Vietnam while Thai children are trafficked into sex businesses abroad, such as in Japan and Australia via Malaysia and Hong Kong.¹⁷ For internal trafficking, the majority of the trafficked victims are hill tribe girls aged around 12 to 16 years old from the north and north eastern part of the country. They are usually sent to closed brothels, which operate under prison-like conditions.¹⁸ The demand for sex drives child sex trafficking globally, while poverty, domestic violence and abuse, discrimination and the desire for a better life makes children vulnerable. Children are especially vulnerable to being trafficked because they are often less educated, easy to overpower and easy to convince that they must do what an adult tells them to do.¹⁹
10. One of the most prominent reasons that young women and girls may be trafficked into prostitution is because of the demand of the sex industry clientele. A lot of the time it advertises promises of youth, virginity, and innocence. This has led to an increased demand for children in the global sex trade, especially young girls. Over the last decade, the illegal transport of human beings, in particular women and children, has expanded for the purpose of selling them or exploiting their labour. It is estimated that in the last 30 years, trafficking in women and children in Asia for sexual exploitation alone has victimized over 30 million people. In comparison, 12 million Africans were sold as slaves to the New World between the sixteenth and nineteenth centuries.
11. While there are different patterns of exploitation in different parts of the world, children are trafficked for a number of purposes, including: sexual exploitation. The children most likely to be trafficked are girls, those from tribal groups and ethnic minorities, stateless people and refugees (according to the UN special rapporteur). Some children, or their parents are lured by promises of education, a new skill or a "good job"; other children are kidnapped outright, taken from their home villages or towns and then bought and sold like commodities. If they reach their destination, they end up in situations of forced labor, forced prostitution and more. Boys who are trafficked in armed conflicts are usually used as soldiers, while girls are usually forced to be servants who are often used sexually by the soldiers as well. An estimated 10,000 women and girls from neighboring countries have been lured into commercial sex establishments in Thailand. Recent Thai Government policy to eradicate child prostitution means that fewer girls

¹⁴ The women and children participated in the program "Return and Reintegration of Trafficked and other vulnerable women and children between selected countries in the Mekong Subregion" between 1 Sept. 2000 and 31 March 2003.

¹⁵ International Organisation for Migration. Database report on children trafficked from Cambodia to Thailand, November 2003. At <http://203.146.233.12/culture/WebTraffickingV2/ShowPub.aspx?pubID=3105>.

¹⁶ ECPAT International. Global Monitoring Report on the Status of Action against Commercial Sexual Exploitation of Children: Thailand. ECPAT International. Bangkok. 2006. <http://www.ecpat.net>.

¹⁷ *Ibid*.

¹⁸ Coalition against Trafficking in Women Asia Pacific. Trafficking in Women and Prostitution in the Asia Pacific cited in Factbook – Thailand. Accessed on 19 March 2009 from: <http://www.catwinternational.org/factbook/Thailand.php>.

¹⁹ ECPAT, https://www.ecpat.org/wp-content/uploads/2016/04/Factsheet_Thailand.pdf.

are being trafficked from northern Thailand and more girls and women are being brought from Myanmar, southern China, Laos and Cambodia.²⁰ In the research, the majority of young women and children were trafficked into sex work, marriage, domestic work, or begging. It was found that the majority of girls from migrant communities along the Thai-Myanmar border left their border villages for jobs further inside Thailand. Typically, girls were recruited during the fifth and sixth grade.²¹ Thailand is a source, transit and destination country for children trafficked for commercial sexual exploitation and forced labour. Thai children are also trafficked within Thailand.

Other forms of child exploitation (agricultural + child soldiers)

12. Thailand has become a popular destination for child trafficking, with expansive criminal networks funnelling children in and out of the country. Child trafficking is the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation²². Children are taken out of their protective environment and exploited because of their increased vulnerability. Although no exact figures exist, the ILO estimated that in 2005, 980,000-1,225,000 children were in forced labour as a result of trafficking²³. The majority of such trafficking is for the purposes of sexual exploitation, but children are also exploited in many other ways which may be overlooked due to the overwhelming size of the sexual tourism industry in Thailand.
13. Agricultural forced labour is common, with many children being forced to work in the largely hazardous fishing industry. In particular, Shrimp and seafood processing work. This consists of late hours and heavy lifting. Children in this industry are subject to physical injuries and chronic diseases due to the work load, dangerous machinery, exposure to pesticides and the sun²⁴. In 2012, Samut Sakhon, one of the biggest seafood industry hubs in Thailand, was found to have an average child labour prevalence rate of 12.7% in the age group of 5-17 years²⁵. Unfortunately for these children, Thailand is one of the top ten fishing nations in the world and consequently, the fishing industry is of vital importance to Thailand's economy. As a result, the illegal trafficking of children for these purposes may be ignored slightly due to the significant financial advantages of child labour in this industry.
14. Many children are also recruited by armed groups and used as child soldiers. More specifically, Thailand's southernmost provinces, with the ongoing violence between the Malay-Muslim majority and the Thai State causing an increased demand for child soldiers. Armed groups operating in Southern Thailand, such as the BRN (Barisan Revolusi National Malayu Patani), have

²⁰ Ruchira Gupta, Trafficking of Children for Prostitution and the UNICEF Response, <https://asiasociety.org/trafficking-children-prostitution-and-unicef-response>.

²¹ Supang Chantavanich, Recent Research on Human Trafficking in Mainland Southeast Asia, <https://thailand2009.blogspot.com/2007/06/recent-research-on-human-trafficking-in.html>.

²² United Nations Convention against Transnational Organised Crime (adopted 15 November 2000, entered into force 29 September 2003) 147 UNGA 190 art 3.

²³ Ms Birgitte Krogh-Poulsen, 'Combating the Worst Forms of Child Labour in Shrimp and Seafood Processing Areas in Thailand' (International Labour Organisation, 31 March 2016), https://www.ilo.org/asia/projects/WCMS_161095/lang--en/index.htm.

²⁴ 'Child Labor and Forced Labor Reports' (Bureau of International Labor Affairs, 2019) <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/thailand>

²⁵ Ms Birgitte Krogh-Poulsen, 'Combating the Worst Forms of Child Labour in Shrimp and Seafood Processing Areas in Thailand' (International Labour Organisation, 31 March 2016) https://www.ilo.org/asia/projects/WCMS_161095/lang--en/index.htm.

been found to recruit children as young as 14²⁶. There is also evidence that children from the age of 16 may participate directly in militant attacks. Credible reports also indicate that children aged 13 are delayed in secondary roles such as acting as lookouts, spraying graffiti messages and destroying state property²⁷.

15. Overall, it is evident that children across Thailand are extremely vulnerable to child trafficking and being exploited for a wide range of cruel purposes. These children should not be forced into labour or militant attacks where their health and safety is at such large risk. It is vital that the Thai government acts to implement measures to prevent child trafficking in order to provide these children with the correct childhood.

Some of the progress of Thailand in regards to human trafficking

16. It is asserted that Thailand does not meet the minimum standard for the elimination of trafficking. However, it has made progress towards its elimination.

17. Some of the progress of Thailand's laws can be seen from the Anti-Trafficking Act that was amended in March 2015 and January 2017. Relevant amendments include the following:

- The introduction of more severe penalties where a victim of human trafficking is severely injured (8 to 20 years imprisonment and a THB800,000 to THB2,000,000 fine)²⁸
- The introduction of life imprisonment or the death penalty where a victim of human trafficking dies²⁹
- Granting authorities the power to temporarily shut down workplaces and suspend operating licenses of businesses (and vehicles) where human trafficking is identified; the violation of the order for shutting down or operational suspension shall result in the owner or business operator being liable to 6 months' imprisonment or a fine from THB10,000 to THB100,000³⁰
- The provision of protection and immunity from prosecution to persons who provide information that leads to the discovery of human trafficking, even if the person was involved in the crime at an earlier stage. This includes the removal of civil liability for persons who report suspected human trafficking or arrest persons for suspected human trafficking (both of which were seen as deterrents to making reports/arrests); and
- Offering incentives, including protection from intimidation and immunity from prosecution, to encourage witnesses to human trafficking to provide information to authorities.

18. The Ministry of Social Development and Human Security (MSDHS) also created hotlines for citizens to report human trafficking in Thailand anonymously where operators spoke 12 different

²⁶ 'Southern Thailand Ongoing Recruitment and Use of Children by Armed Groups' (Child Soldiers International, 19 September 2014), <https://resourcecentre.savethechildren.net/node/8836/pdf/southernthailandreportenglishfinal6138555.pdf>.

²⁷ *Ibid.*

²⁸ Section 53/1 (1) of the Anti-Trafficking Act of 2008 (amended in 2015 and 2017)

²⁹ Section 53/1 (2) of the Anti-Trafficking Act of 2008 (amended in 2015 and 2017)

³⁰ Section 16/2 and 53/2 of the Anti-Trafficking Act of 2008 (amended in 2015 and 2017)

languages. In 2018, the MSDHS prosecuted 63 cases from the 161 calls related to possible trafficking crimes.³¹

Some problems in Thailand in relation to human trafficking as a result of Covid

19. As a result of Covid-19 according to the Bangkok Thomson Reuters Foundation police found that they had launched the lowest number of human trafficking investigations as a total of 131 cases were filed in 2020 compared to 288 cases in 2019.³²
20. Furthermore, trafficking convictions in 2020 fell to 141 a drop by 35% from 2019 as less cases were in court as a result of Covid.³³

Recommendations for action by the State under Review

21. Following our report, it is recommended that Thailand:

- **Raise awareness of the trafficking of child soldiers, particularly on the implications it can have and the consequences this type of trafficking can have on victims. We recommend that Thailand does this nationwide and extends further than just to children in schools. One way this can be done is through workshops in villages where parents in particular are educated on how to recognise signs of false promises and are encouraged to pass on what they have learned to others. This increased knowledge to individuals in Thailand will help to reduce the trafficking of child soldiers as they learn the reasons why it can be so dangerous and this will prevent potential harm.**
- **Provide more awareness and help for at risk families, businesses could provide jobs, internships and other opportunities to trafficking survivors.**
- **Establish an increased border security between surrounding countries in Thailand for example more border security between Malaysia and Laos. Further checkpoint and controls over the checkpoint that specialise in helping victims of trafficking.**
- **Use social media apps to help spread awareness about human trafficking as the younger population will be easier to reach on social media.**

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³¹ See <https://borgenproject.org/combating-human-trafficking-in-thailand/>.

³² See <https://www.reuters.com/article/us-thailand-trafficking-idUSKBN29Q00R>.

³³ *Ibid.*