

# Summary of Thailand's Trafficking in Persons Report 2015

The year 2015 has been a pivotal year in the Royal Thai Government's ongoing drive to radically reform Thailand's anti-human trafficking efforts. The government's "zero tolerance for human trafficking" policy, elevated as a top national agenda in 2014, is central to the Thai government's endeavors. Throughout the year 2015, the focus has been to translate this policy directive into **concrete outcomes** by further **equipping all government agencies** - at all levels - with the financial, legal informational and operational tools necessary to effectively combat human trafficking. The aim is not just in terms of delivering immediate results to send a strong signal to the perpetrators but also to create an environment where change is likely to be sustainable through promoting greater public confidence in our national efforts to fight against human trafficking and also through **closer cooperation with our partners**: namely, foreign governments, the private sector, international organizations and civil society organizations both in and outside Thailand.

**More budget** has been allocated and **more actors** are now involved in order to deliver concrete results in combating human trafficking. The government has, for the first time, instituted a **newly integrated budgeting mechanism** controlled by an interagency Budget Steering Committee that allows resources to be transferred among agencies much more efficiently to respond to real needs according to changes in the trafficking context throughout each fiscal year. In 2015, **the government allocated a 69.33% increase in the total budget for combating human trafficking** (i.e. from 1,529.68 million THB (49.5 million USD) to 2,590.31 million THB (71.95 million USD), reflecting the importance it attaches to eradicating human trafficking. Out of this total budget, 19% or 508,405,700 THB (14 million USD) of this total budget, was allocated to setting up a better system to regulate Thailand's fisheries sector and eradicating labor trafficking in commercial fishing, fishing-related industries and factories.

**New policies and mechanisms** have been put in place and **new legislation passed in order to fix problems encountered on the ground**. On combating official complicity, this year witnessed an unprecedented push in expediting cases that involved officials who were either complicit in human trafficking or corrupt or both. In particular, 29 officials are facing *both* disciplinary and criminal sanctions for complicity in trafficking. In addition, one former member of the Satun Provincial Administration Organization

was already sentenced on August 25, 2015 by the Songkhla Provincial Court to 22 years and 6 months of imprisonment and ordered to provide indemnity to a Rohingya victim of human trafficking for the amount of 126,900 THB (3,494 USD) for violation of the 2008 Anti-Trafficking in Persons Act and on offences against life, body and liberty under the Thai Penal Code 1955, as well as the 1979 Immigration Act. This case was rendered judgment within 4 months. Other cases, some of which involve senior government officials, such as the Hua Sai-Padung Besar case that was transferred from the Nathawee Court in Songkhla to the Special Human Trafficking Division within the Criminal Court in Bangkok, are still concluding investigation.

Aside from expediting cases that involve officials, the government repeated a **strong message with the passage of “Administrative Measures to Prevent Public Officials’ Involvement in Human Trafficking,”** to place strict obligations on all officials across the country to constantly monitor and report instances of suspected complicity in their units. Essentially, any official who wishes to use his/her official title to apply for bail either for himself/herself or someone else will need to seek an official permission from his/her immediate boss who will also be liable for any damages caused or in case of the defendant jumping bail.

In 2015, Thailand also became the first country in Southeast Asia to have **specialist trafficking agencies in every step of the criminal justice process:** namely, the Special Human Trafficking Division within the Criminal Court in Bangkok and the new Department of Anti-Human Trafficking at the Office of the Attorney General (OAG). The Anti-Human Trafficking Center within the Department of Special Investigation (DSI) will also be elevated to the level of a bureau in 2016, meaning more officials with expertise in dealing with human trafficking cases and more budget for special cases, particular those involving ‘big fish’ traffickers and trafficking rings. All this is in addition to having the Anti-Human Trafficking Division under the Royal Thai Police (RTP) who oversees human trafficking cases across Thailand.

Another significant progress in terms of ensuring closer coordination across agencies was the establishment of a new **interagency human trafficking database system.** This is now fully operational and serves as a centralized platform for all related government agencies, namely the Ministry of Social Development and Human Security (MSDHS), the RTP, the DSI and the OAG to share information on all human trafficking cases, monitor progress, and take appropriate action across the anti-trafficking continuum in law enforcement and victim protection.

To tackle legal loopholes related to combat human trafficking, a number of pieces of legislation and amended ministerial orders have now been passed with more severe penalties for convicted offenders and also to better protect victims. For instance, the amended Anti-Human Trafficking Act 2015 has imposed stricter 8-20 years imprisonment in cases where trafficking results in serious bodily injured victims and punishments up to life imprisonment or capital punishment where trafficking results in death, and fine raised from 80,000-200,000 THB to no more than 400,000 THB (11,112 USD) fine. It also empowers authorities to immediately shut down workplaces or suspend operating licenses of factories where evidence of human trafficking are found, as well as guaranteeing the safety of any whistleblowers to reduce the fear of reprisal for reporting suspected cases.

The government also succeeded in passing the new **Royal Ordinance on Fisheries B.E. 2558 (2015)**, which establishes a comprehensive regulatory and law enforcement system to ensure that anyone who still uses forced labor or trafficking victims in the fishing industry shall face much more severe penalties. Furthermore, the government has amended the **Anti-Money Laundering Act 2015** by inserting specific language on human trafficking offences and clarifying the scope of the act to ensure that it can be easily utilized to cripple the operations of trafficking organizations and arrest those reaping any financial reward. The Anti-Money Laundering Office (AMLO) has, to date, confiscated over 210 million THB (5.8 million USD) worth of assets gained through the trafficking of the Rohingyas case in 2015 alone.

In addition, the Prime Minister specifically appointed an *ad hoc* **Special Legal Committee** to be in charge of drafting new legislations and recommending key policy measures to enhance the efficiency and effectiveness of the judicial process in coping with human trafficking and related issues. Key progress includes drafting a new “**Human Trafficking Criminal Procedure Act**” that will institute a number of key procedural measures to make the adjudication process less burdensome for victims: expediting the judicial process for trafficking cases, allowing video testimony, increasing witness protection<sup>2</sup> and providing other support to victims to ensure their rights are fully protected. More importantly, it mandates more stringent consideration of bail for trafficking offenders to decrease their ability to flee. This Draft has now

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<sup>2</sup> Including special protection for two victims of the Ambon case and 4 from the Rohingya cases

been approved by the Cabinet and is awaiting passage by the National Legislative Assembly (NLA) by the first quarter of 2016.

Additionally, this *ad hoc* Special Legal Committee is working on further amending the Anti-Human Trafficking Act to **classify serious forms of child labor under the age of 15 as human trafficking offenses**. This is a significant move by the government, making Thailand the first country in ASEAN to do so. This new provision will specifically state that the “exploitation” of “child labor below the age of 15” in “dangerous occupations” and “under extreme working conditions that pose physical and/or mental threats”, including working in the sea fishing and seafood processing sectors, shall be classified as human trafficking offenses. This provision also aims to help law enforcement to more easily identify victims of child labor and help them understand how to apply the law in difficult borderline cases. It is expected that this new amendment to the definition of the Anti-Human Trafficking Act 2008 will be passed by the NLA before the end of 2016.

Last but not least, the *ad hoc* Special Legal Committee has also worked with the Ministry of Labor to **resolve any disagreements over key legal terms, such as “forced labor” and “bonded labor”** which used to result in some operational problems in the past, such as the difficulty in correctly distinguishing between labor trafficking and other labor offenses. Today, the Ministry of Labor (MOL) has already published two new guidelines, based on these better clarified key legal terms, and begun training officials based on these newly clarified definitions, which are based on ILO indicators, ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), and other international laws.

In the area of **prosecution**, the government has shifted its approach to a proactive, intelligence-led enforcement model and greater coordination with domestic and international partners. As a result, in 2015, the numbers of cases investigated, rescued victims and arrested suspects have all increased. The RTP investigated a total of 317 human trafficking cases, compared to 280 in 2014, **representing a 13% increase from last year**. **The number of suspects who have been arrested and charged is 547 compared to 412 in 2014, an increase of 33%**. 720 trafficking victims have been identified, compared to 595 in 2014, an increase of 21%.

In 2015, about 65% of the convictions increased to jail sentences of over 5 years, with more than 35% of the convictions resulting in jail sentences of more than 10 years. Out of the total of 317 human trafficking cases, 176 cases were already submitted to the

prosecutor, with the recommendation to prosecute 174 cases (99% of 176 cases) and recommendation not to prosecute 2 cases (1% of 176 cases). Currently, 141 cases are under investigation by police. The prosecutor issued the order to prosecute 107 cases and not to prosecute 7 cases, while 62 cases are still under consideration. The court already convicted 43 cases investigated in 2015, while 64 cases are still under the court proceedings. It is important to note that the increases in these figures manifest our intensified efforts to address human trafficking in a comprehensive manner and should not be mistakenly interpreted as problems of human trafficking in Thailand having worsened.

On top of faster and higher rate of prosecution, our efforts on **protection** as well as **prevention** have intensified. One of the key priorities in **protection** in 2015 was an overhaul of the **victim identification process**, including a **more detailed identification form** (developed with broad participation from stakeholders from a variety of sectors) that provides guidance to officials about the kind of information necessary to make an accurate determination and to serve as a source of data to monitor official performance. Additionally, the government has sought to provide better assistance incentives both to the witnesses and victims in testifying in court. This involves assistance - both financially and in kind - during their shelter stays and also a possibility of allowing them to stay on as legal workers in Thailand, should they wish to, after the verdicts have been reached. Especially, during their shelter stays, the government has increased its efforts in facilitating victims' ability to earn income either by granting more permits for those who wish to - and are able to - work outside shelters or, for those who are unable to go outside the shelters due to security reasons, by helping them to learn to develop products while in shelters and finding markets to sell these products outside.

On **prevention**, several significant changes have been addressed in 2015. First, more fishing vessels and factories, for example, have now been inspected both in order to prosecute those who broke the laws as well as to deter others from becoming involved in human trafficking and other surrogate crimes. The newly established **Command Center for Combating Illegal Fishing (CCCIF)** set up in May 2015, has led interagency inspections consisting of officials from key relevant ministries to inspect 92% of Thai fishing vessels (i.e. 39,129 out of the total of 42,512 vessels). While 8,024 illegal fishing vessels and unfound vessels had its vessels registrations revoked in November 2015.

Furthermore, with the strict control of PIPO procedure, the vessels with incorrect documentation for the crews will be forbidden to leave the port. As of today, 5,609 fishing vessels greater than 30GT were reported through PIPO centers, which are accounted for 85% of the total number of 7,188 vessels<sup>3</sup>. This means that not only illegal vessels but also fishing vessels with incorrect documentation and suspicious activities are prevented from committing any wrongdoing with their business in Thailand from now on.

Through the VMS with the monitoring watch floor operating 24/7, together with the stricter port-in/port-out controls, a better regulatory system is now in place, allowing us to constantly monitor all fishing vessels in real time and take appropriate action as needed. It also allows us to monitor and arrest any vessel which might have trafficking victims or child labor on board. According to the CCCIF, 150 factories related to seafood processing have been inspected, including 35,842 workers<sup>4</sup>. It found one factory employing child labor under 15 years old and 5 factories violated the employment of child labor over 15 years old but less than 18 years old. Moreover, a new **Ministerial Regulation of the MOL that effectively bans workers between the age of 15 and 18 to work in the fishery sector and seafood industry** has become effective since January 18, 2016. This is to complement the ban that was already in place on the use of child workers below the age of 15 in fishery sector and seafood industry.

Secondly, the year 2015 also saw intensified efforts in reducing vulnerabilities for a number of groups of people. Starting with eradicating child sexual exploitation, the RTP has now set up a special task force, consisting of police officials who specialize in dealing with child sexual exploitation cases. For the first time in Thailand's history, to provide a comprehensive and specific definition of child pornography and criminally sanction all acts related to child pornography, including possession, the **Penal Code Amendments No. 24 (2015) on Child Pornography Offences** has been effective since 7 December 2015. Two cases have already been prosecuted after its recent passage. In addition, the RTP has established the Internet Crime against Children Center (ICAC) to serve as a specialized inter-agency body to effectively tackle the increasing complexity of online (as well as offline) offenses against children under the Act.

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<sup>3</sup> To date, 5,250 vessels are equipped with vessel monitoring system (VMS), consisting of 2,076 vessels greater than 60GT (62% of 3,329 vessels) and 3,174 vessels between 30 - 60 GT (82% of 3,859 vessels).

<sup>4</sup> 21,531 Thai, 11,249 Myanmar, 119 Laotian, 2,929 Cambodian and other 14 nationalities

To reduce the vulnerability of migrant workers to human trafficking and increasing their access to legal rights and social services, the government's continued push to regularize all migrant workers in Thailand has now resulted in over 2.5 million registrations (out of approximately 3.5 million migrant workers<sup>5</sup>) currently residing in Thailand. Additionally, to facilitate migrant workers in Thailand's fishery and seafood processing sector's bargaining power and the ability to walk away from employees who might be paying or controlling them unfairly, **all migrant workers in Thailand's fishery and seafood processing sector are now entitled to change their employers without any restriction.** Since 2 November 2015, according to the MOL, there are 1,412 migrant workers in seafood processing sector and 1,341 in fishery sector having already changed their employers under this policy.

As for protecting irregular migrants, particularly the Rohingyas, Thailand has also prioritized collaborating with our partner countries to identify solutions to the Rohingya migration crisis, earning the praise of UNHCR for its efforts. In particular, twice in 2015, Thailand played a leading role in convening governments with a stake in the ongoing Rohingya migration crisis to identify a sustainable multilateral strategy for reducing the vulnerability of Rohingya people to trafficking. Last but not least, by recognizing that statelessness can be a key vulnerability factor for human trafficking, the government has increased its efforts to grant Thai nationality to stateless populations in Thailand, granting citizenship to 8,038 stateless persons in 2015 (a 42% increase from 5,667 persons in 2014) though expediting nationalization process.

Finally, recognizing that human trafficking cannot be solved by the Thai government alone, the government has deepened and broadened its partnerships with foreign governments, the private sector, a number of international organizations and civil society organizations both in and outside Thailand<sup>6</sup>. The government has finalized and revised a significant number of bilateral MOUs with key strategic countries to better regularize migrant workers coming to work in Thailand and to also significantly reduce the possibility of labor trafficking victims. In addition, as part of an all-out effort of the government to combat IUU fishing and human trafficking in the fishery sector and seafood processing industry, on January 15, 2016 the CCCIF signed an MoU with 36 organizations, including 12 government agencies (such as the Marine Department and

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<sup>5</sup> Thailand Migration Report 2014 by United Nations Thematic Working Group on Migration in Thailand estimated that there are around 3,500,000 migrant workers in Thailand.

<sup>6</sup> This includes the Environmental Justice Foundation (EJF), Labor Rights Promotion Network (LPN), SR Law, and Stella Maris, to name but a few.

the Department of Fisheries), 21 seafood private sectors (such as the Thai Tuna Industry Association and the Thai Frozen Foods Association (TFFA) and 3 organizations, namely the Labor Rights Promotion Network (LPN), the International Labor Organization. Together, they pledged to combat IUU fishing and human trafficking in the fishery sector. In addition, the Chairman of the Joint Standing Committee on Commerce, Industry and Banking announced on the same day that the committee and the Thai Fishery Producers Coalition (TFPC), which consists of 8 associations: the Thai Frozen Food Association, the Thai Food Processors' Association, the Thai Shrimp Association, the Thai Tuna Industry Association, the National Fishery Association of Thailand, the Thai Overseas Fishery Association, the Thai Fishmeal Association and the Thai Fishmeal Producer, pledged to be in strict compliance with the Royal Ordinance on Fisheries B.E. 2558 (2015), along with international standards, and to also ensure clean supply chain, with no risk of materials derived from IUU fishing contaminating the production chain and no use of child labor, human trafficking or labor exploitation. This MOU serves as a framework for our public, private and civil society partnership (PPCP).

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