

INTRODUCTION

This NGO submission to the Universal Periodic Review is made by a faith-based NGO, the Congregation of Our Lady of Charity of the Good Shepherd. <http://rgs.gssweb.org/en/jp>

This is an international non-governmental organization with Special Consultative Status with ECOSOC since 1996. The NGO is providing services in 72 countries and is advocating for women and children, especially those who are trafficked, forced to migrate or in poverty

The submission focuses on three interrelated areas:

- A. Protection of Children and Youth**
- B. Prevention of violence against Children and Youth**
 - B.1 Child Marriage**
- C. Anti-trafficking mechanisms**

METHODOLOGY

The submitting NGO, the Congregation of Our Lady of Charity of the Good Shepherd, is working directly with survivors of human trafficking. The NGO runs Training Center/Homes for disadvantaged women, girls and children in Thailand, providing education, skills training and scholarships. We run shelters for pregnant mothers and mothers in abusive relationships providing formation and earning for their livelihood. We run a village development program and work in the red-light district of two tourist areas, running support centers for women and children to provide education and skills training, targeting mainly socially disadvantaged women, girls, and children especially those exploited by the tourism industry, prostitution, and trafficking. We are as well working with migrant groups in Thailand.

Data and information for this submission were given by the staff in the centers of the NGO working directly with people concerned, reporting about their effort to help those groups.

- A. Protection of Children and Youth**

RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON

Right to be protected from all forms of physical and mental abuse (CRC Article 19) and from all forms of sexual exploitation (CRC, Article 34)

In the 2nd cycle of the UPR, Thailand accepted a recommendation to multiply efforts to combat child sex tourism, especially by adopting a comprehensive regular framework (A – 158.93 from Turkey).

There are measures in force and a real effort is made but there is a possibility for further improvement.

In accordance with MOU on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking,¹ Thailand authorities work in close cooperation with Cambodia, Laos, Vietnam and Myanmar on prevention and tackling the human trafficking at both bilateral and multilateral levels of operation.

Any victim of all human violence is to be protected by a competent official who is required to use the authority to enforce the law and has sufficient knowledge and understanding of the procedure and law enforcement. The law is strict and equally applied to everyone with no discrimination, regardless of the operator of the offense or the recipient.

Only government can enforce the legal provision regarding the criminals pleaded guilty, including the process of prosecution and investigation, allowing only licensed officials to take participate. NGO are not allowed or extremely limited to contribute to the anti-trafficking.

TICAC (Thailand Internet Crimes Against Children)² has coordinated cooperation between the police and specialized agencies on issues related to child sexual abuse, on both domestic and regional levels, South East Asia and countries around the world.

All the agencies listed below work to prosecute and arrest those who committed crime and are guilty of child sexual abuse and pornography. In the implementation, there will be several agencies responsible for both.

TICAC and TICAC – Task Force “Thailand Internet Crimes Against Children Task Force”; Immigration Office of the Forensic, Proof Office, Police Division of the Suppression of Offenses Regarding technology crime (BMA)³, Human Trafficking Prevention and Suppression Division (AHTD), Sub-division in the provinces of Phuthon, all over the country. The National Police Office, the Office of Foreign Affairs and cases of international crime with the Department of Special Investigation in foreign countries which are of great importance, such as International Criminal Police Organization, Federal Bureau of Investigation (FBI), Homeland Security Intelligence (HIS), National Crime Agency (NCA), Australian Federal Police

¹Memorandum of Understanding between the Government of Malaysia and the Government of the Kingdom of Cambodia on the Recruitment and Employment of Workers
Bilateral agreement between Cambodia and Malaysia establishing a framework for the recruitment, employment and repatriation of labour migrants (Governments of Cambodia and Malaysia, 2015) http://un-act.org/wp-content/uploads/2017/01/MOU_Cambodia_Malaysia_Labour_Migration.pdf, accessed 16. March 2021

² Thailand’s Country Report on Anti-Human Trafficking Response (1 January – 31 December 2016) https://ccpl.mol.go.th/wp-content/uploads/sites/4/2020/01/article_20190329092741.pdf page 54, accessed 16. March 2021

³ <https://tcsd.go.th/?lang=en>

(AFP)⁴.

However, considering all local and international agencies working in the field, the **effort made is not enough** because many organizations do not have the direct legal right to deal with sexual exploitation problems, social issues and online crimes in a timely and relevant manner. It is difficult to reach out children and the youths, victims, parents, and schools, considering insufficient amount of police officers having specialized knowledge and skills to detect, and track offenders.

On the regional level, government can play an important role in raising the significance of the issue of Child sexual abuse, for example a workshop of the AEC or ASEAN Inter-Parliamentary Assembly (AIPA).⁵ “Regional Parliamentary Workshop on Strengthening Legal Frameworks to Protect Children from Sexual Exploitation in Travel and Tourism” which took place between 25-28 July 2018 at Denpasar, Bali Island Indonesia. The event was attended by representatives from Thailand - ASEAN Framework for Protection of Children from Various Forms of Sexual Exploitation and Abuse and Global and Regional Trends of Sexual Exploitation of Children in Travel and Tourism: SECTT.

During the “Regional Parliamentary Workshop on Strengthening Legal Frameworks to Protect Children from Sexual Exploitation in Travel and Tourism” workshop, the registration of sex offenders against children took place and the government, with accordance to the crime record database, has immediately denied providing a passport for offender to travel out of the country.

Within the international legal system of ASEAN members, there is a regional cooperation in the field of legislation and operation on sex crimes against children and online materials proposals tracking on the sexual exploitation of children in tourism industry.

Currently, Thailand has no specific legislation covering these issues, but many laws are applied in a manner to protect children, such as the Child Protection Act, Computer Act, Criminal Code, Offenses about Life and Body etc.

Despite having a legal provision protecting children from every form of sexual abuse, the current legislation cannot be held as sufficient as it does not provide enough preventing measures on raising awareness, social support, education, mental health issues tracking and unable to keep up with the situation to prevent the crime before it even committed.

Thailand lacks organizations working specifically on the prevention measures and suppression of sexual abuse against children. Many organizations do not have the direct legal right to deal with sexual exploitation problems, social issues and online crimes in a timely and relevant manner. It is difficult to reach out children and the youth, victims, parents, and schools, considering insufficient amount of police officers having specialized knowledge and skills to detect, and track offenders.

⁴ <https://www.afp.gov.au/>

⁵ <https://aipasecretariat.org/>

B. Prevention of violence against Children and Youth

There is a diversity of measures and strategies introduced to prevent violence against children and youth.

According to the Department of Child and Youth Affairs Strategic Plan Project No. 1 (2017 - 2021) (Revised version), there are 13 implementation strategies introduced.

- Convention on the Rights of the Child Strategic Plan
- Department of Children and Youth Affairs
- Convention on the Rights of the Child (Convention - National Child Protection Strategy 2017-2021 on the Rights of the Child)
- Policies and strategies to prevent and tackle violence against children and youth.
- Promotion and protection strategy for children and youth in the use of online media 2017-2021
- Strategy, Ministry of Social Development and Human Security
- National Child and Youth Development Plan 2012-2016
- Child Development Plan and National Youth Vol. 2 2017-2021
- 12th National Economic and Social Development Plan (2017-2021)

The 20-Years National Strategy (2018 - 2037)

Prevention and mitigation policies and strategies regarding the problems of violence against children and youth. Developing policies and measures on children and youth protection as well as promoting support of children and youth through life skills development to become a worthy member of society.

Social Safety Network introduced

- Policy and Strategy for the Prevention and Solution of Violence Against Children and Youth - Strategy to promote prevention of crimes against and protection of children and youth in the use of online media 2017-2021
- The 20-Years National Strategy (2018 - 2037) Situation of Children and Youth in 20 Years National Child Protection Strategy 2017- 2564
- Issue 12 (2017 - 2021) Convention on the Rights of the Child National Child Protection Strategy 2017 - 2021 including related strategic plans, especially regarding the child and youth development plan.
- National No. 2 (2017 - 2021) in the past Department of Child and Youth Affairs has set Strategic Plan emphasizing the importance of the promotion and development of the potential.
- Protection rights and welfare promotion for children, youth, and families with a focus on children and Youth.

All the measures conducted are aiming to secure youth and children acceptable standard of living, financial stability, healthcare, and educational opportunities.

There are agencies and organizations operating in Thailand that are responsible for the protection of children, youth, and women rights in many fields, but the main problem remains the same – there is a lack of measures preventing the crimes from happening, and this creates a huge obstacle to the protection of children at all levels - national, provincial and local.

Organizations and agencies working to protect children's rights are listed below.

- Civil Service Center Ministry of Social Development and Human Security.
Call Center 1300
- Center for the Promotion and Protection of Children and Youths in the Use of Online Media
- Ban Pak Kret Boys Home

B.1 Child marriage

Despite the taken measures to prevent violence of Children there are concerns about Child Marriage in Thailand.

According to the legal provision marriage cannot be registered, until a person is 17 years old. A court petition can be made, if the person is under 17 years old, in under special circumstances with both parents consent necessary, considering both parents are Thai nationals.

In cases involving under 15 years old children, different legislation is applying. According to the Section 277, whoever offends a child under 15 years old, who is not his wife or husband, with the child consenting or not - shall be punished with imprisonment from 4 to 20 years and fined from 80,000 to 400,000 bath.

Thailand has no legal provision allowing lowering the marriage age to 13 years old in case where children were sexually abused and could consequently marry their perpetrators. However, the problem appears in Sothern Thailand region, where there is a strong Muslim community of nationals residing. The decisions are made based on Islamic law, which does not require a minimum age of marriage for women what creates many problems in that area, as the imams use loopholes to cause the marriage of under 15 years old children.

Last year, the Central Islamic Council of Thailand acknowledging the issue of marriage, has passed the case allowing 11-years old girl to marry, claiming that now this case law is to be a

part of the Civil Commercial Code. This creates big problems as does not comply with the general legislation and evidentially the reform is an urge need.

The current law has conflicts. Parents can ask to marry their girls earlier, if they are pregnant and they can ask to marry their children even under 17 years. This legal framework does not stop child marriage effectively. Traditional or religious laws can take precedence over statutory legislation because exceptions give parents the right to approve marriages.

To implement the statutory legislation systematic efforts to raise awareness of such legislation in communities, where cultural or religious traditions are and obstacle to apply to the legislation.

C. Anti-trafficking mechanisms

There are organizations both governmental and non-governmental working on anti-human trafficking

- ANTI TRAFFICKING IN PERSONS DIVISION. ATPD POLICE.
- Department of Employment and Department of Labor Protection and Welfare (Ministry of Labor)
- Department of Social Development and Welfare (DSDW) (Ministry of Social Development and Human Security)

Non-Governmental (NGO)

- A21 Organization

The budget allocation for the prevention and suppression of human trafficking is the country's

top amount and equals to 3,208 million baht annually.

1. For the development of policy and mechanisms to drive the prevention and suppression of human trafficking the budget allocated in fiscal year 2018 amounted to 103.0890 million baht.
2. For improving the law enforcement processes, investigation, prosecution against the offenders, court procedures and the culprit cross-border transfers the budget allocated in the fiscal year 2018 amount to 207.2953 million baht.
3. For the provision of protection, assistance, rehabilitation, treatment, return and return to the social life for victims of human trafficking the budget allocated in 2018 amounted to 799.17 million baht.
4. For the preventive measures, such as public relations and the capacity building, raise of awareness and correct understanding of the threat of human trafficking the budget allocated for the fiscal year 2018 amount to 2,491.5384 million baht.
5. For the development of cooperation with networking partners, for example, promoting the participation of the organization or various networks including government, private sector, international organizations including the government

representatives the budget allocated in the fiscal year 2018 amount to 43.8395 million baht.

Overall Challenges

Despite progress made on the development of comprehensive legislation protecting children and youth, preventing trafficking crimes, and promoting human rights; there is a need for further development and strengthening of related legislation and policies especially in a context of the conflict of laws situations.

Controversial legislation cases appear in matters of the early age marriage of children in regions where the law of traditions or religious rules are taken to considered being primary over the statutory legislation. The contradiction creates uncertainty and leads to ambiguity when it comes to deciding on children's marriages, which might further lead to cases of violation of human rights. We suggest that there is an urgent need to revise and reform the statutory legislation to enable its effective enforcement in every region of Thailand, with no regard to cultural and traditional norms. The provision of community-based awareness-raising activities, together with the strengthening of monitoring and enforcement mechanisms at all levels and implementing robust civil registration and vital statistics systems - all combined would be considered as sufficient measures to adapt when overcoming the conflict of laws problem.

The shortage of organizations working on the measures preventing and suppressing sexual abuse against children represents one of the main challenges when obviating crimes. We suggest that greater effort needs to be put in to strengthen the prevention measures on raising awareness, establishing a larger amount of social support programs for vulnerable groups, and putting up more funds in both education and mental health issues tackling.

The situation can be improved significantly by the enforcement of legislation and training staff in accordance with international standards, which would allow taking proactive measures on the prevention of crimes against children and youth. We suggest that private and public organizations operating in Thailand, both local and international, need to reinforce the preventive measures as well as introduce and adapt more sufficient prevention and crime reduction mechanisms conforming with the international framework.

Strict regulations applied to enable organizations to gain a direct legal right to tackle trafficking, sexual exploitation, and/or other acts of violent crimes - become a serious obstacle to dealing with criminal cases, social issues, and online offenses in a timely and the most effective way. We suggest that there is a need for revision of these regulations to help organizations to gain a legal right to take preventive measures within a sufficient timeframe and manner.

The number of police officers dealing with the related crimes cannot be considered sufficient, which makes the process of reaching out to the youth, children, victims, parents, and schools very complicated and time-consuming, creating an even greater problem when

it comes to tackling sex exploitation, trafficking, acts of violence and gender-based crimes. We suggest that there is a need to increase the number of police officers according to the number of crimes committed. It is important to make sure that the police officers not only having sufficient knowledge, expertise and skills to detect and track offenders but also go through the training, to constantly improve the level of qualification to conforming with international standards.