

Thailand's Efforts in the Prevention and the Elimination of Child Labor

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Promoting and protecting children's rights and welfare has consistently been one of Thailand's main national priorities. In 1987, the Royal Thai Government set up the Commission for the Protection of Child Labor. In 1992, Thailand ratified the Convention on the Rights of the Child. While in 2001, the Royal Thai Government ratified the International Labor Organization (ILO) Convention No. 182 on the Elimination of All Worst Forms of Child Labor.

The 2007 Constitution ensures the promotion and protection of children's rights and also recognizes the rights and freedoms set forth in the international conventions to which Thailand is party. It also guarantees twelve years of free education including those in need of special support such as the disadvantaged group, including the disabled and those with financial difficulties. In 2009, the Royal Thai Government put into effect the 15-year free education program, which is even beyond what is stipulated in the 2007 Constitution.

In 2006, the Ministry of Labor appointed the National Committee for the Elimination against the Worst Forms of Child Labor to more effectively resolve the child labor problem and eliminate the worst forms of child labor. In 2008, the National Committee approved the National Plan of Action for the Elimination of the Worst Forms of Child Labor with substances in line with the ILO Convention No. 182. This national plan aims to prevent and suppress the use of child labor especially the worst forms of child labor through a wide range of relevant parties' network.

I. Laws, Regulations and National Plan of Action

1) Constitution of 2007

- Section 84 (7): Promote people at working age to obtain employment; protect child and woman labor; organize labor relations systems and tripartite arrangement (in which workers have rights to elect their own representatives to deal with employers); provide social security system; protect workers, whose work is of similar value, to ensure that they receive wages, fringe benefits, and welfare equally and impartially.

- Section 40 (6): Children, youths, females, the handicapped and permanently infirmed shall be duly protected in the course of investigations into cases of sexual violence.

2) **Labor Protection Act: LPA of 1998** is the current law that includes preventive and protective measures for child labor as follows:

- LPA prohibits employment of a child under 15 years of age, and compulsory education is 9 years which prevents early entry into the labor market.
- LPA states that persons of age 15 or above are able to be engaged in the workforce, whereas employment of a person under 15 is considered to be illegal. Employment of a child below 15 years carries a penalty of up to 1 year imprisonment or fine of up to 200,000 baht or both.
- It is prohibited to employ a person below 16 to work in sea fishing, except in the case of employing a child aged not below 15 with their parents or guardians employed on the same boat.
- An employer must notify labor inspectors of an employment of a child below 18 years of age within 15 days of employment. The employer must also record any changes in the employment conditions and keep the record at the workplace ready for official inspection during working hours. The employer must notify labor inspectors of the termination of a child's employment within 7 days of the final employment day. Failure to notify a labor inspector of the employment of a person under 18 years of age carries a penalty of a fine of up to 20,000 baht.
- Prohibition of child labor to work during the period of 10 pm to 6 am, unless permitted by the Director-General of the Department of Labor Protection and Welfare, and exceptions for child actors/actresses or other similar work. An employer shall provide a child worker with a continuous rest period of no less than 1 hour after four hours of work, and the child employee shall be provided with some additional rest periods as specified by the employer. Failure to provide rest periods or forcing a child worker to perform prohibited tasks or paying the child's wages to others or demanding or accepting a deposit from a child worker will result in 6 months imprisonment or a fine not exceeding 100,000 baht or both. Forcing a child to work during prohibited hours, which leads to damages in the child's physical or mental health or the child's death, carries a prison term of up to 1 year or a fine of up to 200,000 baht or both in conformity with the principles of the ILO Convention No. 138 concerning the minimum wage for employment.
- A worker under 18 years of age shall be entitled to take leave with pay of not more than 30 days per year to attend meetings or seminars, obtain education or training, or leave for other matters. Failure to comply with this would carry a penalty of up to 10,000 baht fine.
- An employer is prohibited from demanding or accepting a guarantee money for any purposes from a child worker, and from paying the wages of a child worker to any other person.
- Sexual harassment is prohibited. Sexual harassment of a child worker below 15 years of age carries a penalty of a maximum 20,000 baht fine.
- LPA provides protection for employees working in Thailand including

foreign labor. In the case of foreign workers not registered with the Department of Labor Protection and Welfare, the Department will coordinate with other relevant agencies, especially the Department of Employment, which is the focal point on this matter, and with the Immigration Office or the Royal Thai Police to render assistance and to take action towards repatriating these workers to their home countries.

- Article 49 of the LPA clearly states that a safe working environment must be secured for child labor and sets forth types of work prohibited for workers under the age of 18, which is in line with the UN Convention on the Rights of the Child (CRC) regarding the minimum age of employment. The types of work prohibited are as follows:

- (1) smelting, blowing, casting or rolling of metal;
- (2) metal stamping;
- (3) work directly exposed to heat, cold, vibration, noise and light exceeding normal standard, which could be hazardous as described in the Ministerial regulation;
- (4) work exposed to poisonous materials, explosives or inflammable materials;
- (5) driving or operating of forklifts and cranes;
- (6) work which uses electric or motorized saws;
- (7) underground, under water, in a cave/tunnel/shaft work;
- (8) work directly exposed to radiation
- (9) Machine or engine cleaning whilst the machines or engines are in operation,
- (10) Work performed on a scaffold more than 10 meters from the ground
- (11) Other works described in the ministerial regulations.

3) **Child Protection Act of 2003** secures the prohibition and elimination of the persistent exploitation of children in slave-like and bonded conditions, illicit activities, hazardous and arduous work, prostitution, pornography, or other similar activities.

4) **The Prevention and Suppression of Human Trafficking Act of 2008** imposes heavier penalties on all persons involved in human trafficking. This recent Act defines “exploitation” to cover sexual exploitation, pornography production/distribution, other forms of sexual exploitations, slavery, forced begging, forced labor, trade in organs, or other similar forms of exploitation regardless of consent being given or not. Also indicated in Section 39, any person involved in human trafficking are to receive a penalty of 4 to 10 years imprisonment and a fine of 80,000 to 200,000 baht. Convictions involving persons aged 15 to not over 18 are to receive a penalty of 6 to 12 years imprisonment and a fine of 120,000 to 240,000 baht. Convictions involving

persons over 15 years of age are to receive a penalty of 8 to 15 years imprisonment and a fine of 160,000 to 300,000 baht.

5) Ministerial Regulations concerning Labor Protection in the Agricultural Sector of 2005 determines the minimum age (it is prohibited to hire children below 15 years of age), the welfare and safe type of works for young workers in the agricultural sector in line with the LPA.

6) The National Plan of Action for the Elimination against the Worst Forms of Child Labor of 2008 approved by the National Committee on the Elimination against the Worst Forms of Child Labor and the Cabinet is in line with The ILO Convention 182 and focuses on 5 strategies:

(1) To prevent the use of child labor by reducing the number of Thai and migrant child labor in the labor market.

(2) To protect child labor from work that may affect their physical, emotional, and intellectual development.

(3) To eliminate the worst forms of child labor especially child labor in illegal work. This includes protecting children from being maltreated by their employers.

(4) To provide developmental rehabilitation to children victims being rescued.

(5) To promote efficient implementing mechanisms for effective elimination of the worst forms of child labor.

The National Plan also lists occupations considered to be worst forms of child labor in line with The ILO Convention 182, as follows:

(1) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

(2) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(3) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(4) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

II. Enforcement and Protection

1) Inspections of workplaces

- **by labor inspectors of the Ministry of Labor** (Department of Labor Protection and Welfare)

- **Regular inspections throughout the country** as specified in annual plan and goals. With the total number of labor inspectors of only 678 (as of February 2009), the Ministry of Labor recognizes the inadequacy of human resources comparing to 389,561 workplaces to be inspected and therefore came up with pro-active inspections in risk areas.

- **Pro-active inspections at certain types of workplaces or in certain areas at risk of possible violations of labor laws**, taking into account economic, social, and political conditions as well as information received from Child Labor Protection Networks mentioned in item 4 below

In performing inspections, labor inspectors:

- have the authority to enter a workplace or employer's office to examine the working and employment conditions and for fact-finding purpose, issue an inquiry notice or summon on an employer, employee, or other persons to give statements or submit objects or documents and issue a written order to an employer or employee to comply with LPA.

- have the duty to provide employers and employees with advice on just and good labor practices as well as consultations on rights and duties under labor laws.

- **by labor inspectors of other government agencies**

In addition to inspections by labor inspectors of the Ministry of Labor, the Ministerial Regulation on Workplace Inspections of 1999 under the LPA provides additional inspections by labor inspectors of other government agencies, such as police officers, navy officers, officers of Ministry of Public Health.

These labor inspectors shall set monthly inspection plan in coordination with labor inspectors of the Ministry of Labor to avoid redundancy of inspections.

- **Inspection plans of the Ministry of Labor for the year 2010** focuses on inspecting workplaces with workers of the age between 15 -18 and illegal migrant labors and the making of analysis on child labor situation in cooperation with Operation Centers for Helping Children and Women Labor located throughout the country.

2) Investigations and Prosecutions

- **by labor inspectors of the Ministry of Labor**

- **Carry out an investigation immediately** when a complaint is made that an employer violates or fails to comply with LPA.

- **Take a legal action immediately** when any of the following violations is found:

- violation of, or failure to comply with, LPA's minimum age for employment, prohibited working hours for a child of the age 15 to 18, prohibited hazardous and immoral works for a child of the age 15 to 18.

- use of child labor with torture, detention or other form of criminal acts

- sexual harassment to a child or female worker.
- In other case of violations, issue an order to the employer to comply with relevant laws within a certain period of time.

- **by Police officers of the Royal Thai Police**

Apart from labor investigations by the Ministry of Labor, the Royal Thai Police also expedite preventive measures and perform investigations with a view to try in court the criminals of human trafficking and other crimes against children.

The Children, Juveniles and Women Division (CWD) was established and has been operated since July 1, 2005, as a specialized unit under the Central Investigation Bureau of the Royal Thai Police, with the task of suppressing crimes against Children, Juveniles and Women, including human trafficking, throughout the country through coordination with Bangkok Metropolitan Police Bureau and Police Region 1-9. In September 2009, CWD was renamed as the Anti-Trafficking Unit.

3) Inspection and Investigation by the Office of Immigration Bureau

The Office of Immigration Bureau appoints task-forces for surveillance, inspection, detection and investigation on cases of illegal child labor and illegal migrant labors in different zones across the country. The task-forces also promote public awareness in this regard. The Bureau also establishes networks of communities' leaders for intelligence purpose.

4) Child Labor Protection Networks comprised of 15,895 people from relevant governmental agencies, NGOs, the media, civil society organizations, employer and employee organizations, academics, and local communities. The networks serve as informants on cases of illegal or unjust employment of child labor and channels for raising public awareness and disseminating knowledge on labor protection, rights and duties of employers and employees to the public.

5) Organization of Seminars among various agencies with a view to establishing and disseminating guidelines of work on the law enforcement and protection of children and women labor for all relevant agencies

III. Preventive Efforts

1) **Compulsory education** in Thailand keeps children in primary and secondary schools for 9 years (Compulsory Education Act of 2002). Distance / remote education is provided to students in remote areas. Thai government has the policy to extend compulsory education to 12 years to include high school education and to ensure access to cost-free education for 15 years (from kindergarten).

2) Apart from dissemination of knowledge on preventing and resolution of child labor problems through public campaigns and the media, in 2008 and 2009 the

Ministry of Labor has implemented several activities to prevent exploitation of child labor as follows:

- **Public education** through mobile units on the prevention of child labor and remedial measures, targeting employers, employees, child workers, students and the general public in 75 provinces. This activity mobilizes relevant public agencies and local communities to take part in anti-child labor exploitation efforts aiming to raise awareness on exploitation of child labor, legal punishment and responsibilities.
- **Preparedness programs prior to entering the labor market**, specifically for lower and higher secondary school students and vocational students, in order to prevent them from being lured into unlawful activities. The programs are in line with the Safety in School Project under the Department of Labor Protection and Welfare.
- **Village Labor Volunteer Programs** have been established to organize training for community leaders and teachers on local measures for child labor problems.
- **Organization of series of meetings, seminars, and training courses** on labor protection laws among employers, employees, labor inspectors and relevant agencies to provide comprehensive knowledge on labor protection, including child labor, along with coordination guidelines.

3) In cooperation with the ILO and IPEC (International Programme on the Elimination of Child Labor), the Ministry of Labor continuously organize activities aimed to prevent and eliminate child labor and forces labor, as follows:

- Collaboration Project aimed for integrated efforts in solving the problems of the worst forms of child labor in Chiang Rai Province (April 2007 – December 2009)
- Operational Project to address child migrants in Thailand and in Mekong Sub-region (July 2007 – November 2009)
- Project on the prevention of the worst forms of child labor and human trafficking in Samut Sakorn Province (March 2007 – December 2009)
- Project aimed for cooperation in solving the problem and promote good health of child labor in fishery and services sectors in Songkla and Pattani Provinces (January 2008 – December 2009)
- Project aimed for integrated efforts in solving the problem of inappropriate use of child labor in Samut Sakorn Province (February 2008 – February 2009)
- Project on promoting education for migrant children and children of migrant laborers to prevent and deal with child labor problems in Tak Province (May 2008 – December 2009)
- Project on promoting quality of life in agricultural communities and reducing child labor problems in agricultural sector in Pob Pra District, Tak Province (June 2008 – December 2009)

- Project on solving the worst forms of child labor problems in Chiang Rai Province (November 2008 – December 2009)

As most of the projects are completing by the year's end, assessment of the success of the projects cannot yet be shared at this stage.

**Compiled by
The Department of American and South Pacific Affairs
The Ministry of Foreign Affairs of Thailand
December 2009**

Information was provided by the following agencies:

- Ministry of Labor
- Ministry of Agriculture and Cooperatives
- Ministry of Justice
- Ministry of Industry
- Office of the Attorney General
- Office of the Commissioner General, Royal Thai Police