

THE IMPLEMENTATION OF THE TRAFFICKING IN PERSONS LAW IN THAILAND: AN OVERVIEW

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Accepted date: 16-12-2018

Published date: 31-12-2018

To cite this document: Cheeprasop, J. & Wahab, H. A. (2018). The Implementation of The Trafficking in Persons Law in Thailand: An Overview. *International Journal of Law, Government and Communication*, 3 (13), 152-164.

Abstract: *Trafficking in persons (TIP) is a long-standing problem worldwide. It is related to the traditional form of slavery which in the history such exploitation was ordinary and legitimate. Currently, TIP is referring to the modern and increasingly diverse and concealed forms of the human beings severe exploitation. It affects almost every nation, the rule of law and the international concepts of human dignity. Thailand has experienced the accumulated problems of TIP since 1980s, combined with the expansion of its sex business that believed to be the most contributor to the present situation. To tackle this problem, the Royal Thai Government (RTG) introduced the Anti-Trafficking in Persons Act B. E. 2551 (2008) (ATIPA), the first primary and comprehensive TIP legislation. Having the ATIPA in place however, cases of TIP still recorded on increasing trend. Therefore, this article aims to discuss the legislation, ATIPA, and examine its implementation. The methodology used is a doctrinal legal method where both primary and secondary data sources are used and analytically analysed. The paper presented the prevalence of TIP in Thailand with a focus given to the problems in the implementation of the ATIPA. Among the discussion are the problems of law enforcement officers, identification of trafficking victims, including the investigation and prosecution process. The authors found that despite the progress of the legislation, weak enforcement seemed to be substantial towards its ineffectiveness. Therefore, the enforcement needs to be strengthened in order to tackle and eliminate TIP problem in Thailand.*

Keywords: *Trafficking in Persons; Anti-Trafficking in Persons Act, Legislation, Implementation, Enforcement, Law.*

Introduction

Trafficking in persons (TIP) is a fatal criminality and a grievous encroachment of human rights. Each year, millions of trafficked victims are subjected to sex trafficking and forced labour by traffickers in their nation state and overseas. TIP does not only contravenes international and national laws, but also reinforces illicit crime networks (U.S. Department of State, 2017). TIP or also called “human trafficking” is seen as a form of modern slavery (Walk Free Foundation, 2016) that applied as comprehensive a words for the act of harboring, recruiting, providing, transporting, or obtaining a person for compelled labour or sexual commerce acts through the practice of fraud, coercion, or force. TIP is an expanding illicit industry that recorded as the second most lucrative illicit business in the world (Dudenhofer, 2018). According to the International Labour Office (2014), from 2014 it is approximated that the overall illegal profits gained from the exploitation of forced labour global amounted to usd150.2 billion per year with the countries in Asia and Developed Economies gained the highest profits. The global estimates of modern slavery (2017) reported that in 2016, there was an assessed 40.3 million trafficked victims with 24.9 million TIP victims in forced labour.

There were also cases of TIP recorded in ASEAN countries. Thailand is classified as an origin country where young Thai females have been subjected to sexual exploitation into more developed countries; the center of an economy in the Greater Mekong Sub-Region (GMS) and also the best trade as a destination country for TIP for trafficked persons from Laos, Cambodia, Myanmar and Vietnam (UNIAP, 2007). This is evidenced when the Trafficking in Persons Report (TIPR) 2017 mentioned Thailand as a transit nation for trafficked persons from Burma, Vietnam, North Korea, India, Bangladesh and China whom are subjected to labour or sex trafficking in countries for example Malaysia, Singapore, Indonesia, South Korea, Russia, the United States of America, and Western Europe (U.S. Department of State, 2017). The 2016 GSI approximated 425,500 people of the total citizens (Walk Free Foundation, 2016) and including some of the assessed four million migrant workers live in TIP conditions in Thailand (U.S. Department of State, 2017). Thailand has encountered the collected TIP issue thence 1980, at the same time as sex tourism and sex business was expanding in South East Asia (Skrobanek, 2002) that believed to be the most important reason contributing to the present circumstances of TIP in Thailand (Truong, 1990).

On this note, Thailand has signed and ratified the United Nations Convention against Transnational Organized Crime (Palermo Convention) (United Nations Treaty Collection) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, a supplement to the Palermo Convention (Palermo Protocol) (United Nations Treaty Collection) which became effective on 16 November 2013. Furthermore, to tackle TIP problem and in accordance with such international legal framework, Royal Thai Government (RTG) has proficiently established and amended the Anti-Trafficking in Persons Act B.E. 2551 (2008) (ATIPA). After that, on 24 July 2016, Thailand has ratified ASEAN Convention on Trafficking in Persons (“ACTIP”) (2015). It is a regional commitment to fight and prevent TIP, to penalty offenders effectively, to support and protect trafficked victims, and to encourage collaboration amongst the Party Nations (Ministry of Foreign Affairs, 2016).

As for Thailand, within ten years of the ATIPA’s implementation, the statistics still showed the significant number of trafficking cases. This is indicated in the Table 1.1 below shows the number of trafficking victims identified through the Victim Identification Process from 2012 until 2016. It is clear from the table that, the number of trafficking victims identified through the Victim Identification Process enormously increased between 2012 and 2013. Although the greatest increase was rising from 529 trafficked in 2012 to 1,020 in 2013. The number of trafficking victims fell rapidly to 595 in 2014, increased sharply to 982 in 2015 and decreased slightly to 824 in 2016. The number still shows the prevalence of TIP cases in Thailand thus requiring the issue to be properly addressed.

Table 1.1: Number of Trafficking Victims (2012 - 2016)

Year	Trafficking Victims
2012	592
2013	1,020
2014	595
2015	982
2016	824

Source: Thailand’s Trafficking in Persons Country Report 2013, 2014 and 2016.

Despite the progress of the legislation, weak enforcement is also claimed to be substantial towards its ineffectiveness. Therefore, this article aims to discuss the ATIPA and examine its implementation. Using a doctrinal legal method, both primary and secondary data sources are used and analytically analysed. The paper presents the prevalence of TIP in Thailand and then focuses on the provisions and implementation of the ATIPA. Among the discussion are the problems of law enforcement officers, identification of trafficking victims, including the investigation and prosecution process. Finally, the paper reveals the finding, propose some recommendation, and draw the conclusion respectively.

Literature Review

Definition of Trafficking in Persons

TIP has attracted great political and public concern, especially in recent decades; it has been considerate attention by global community. For this reason, there has been increasing attempt from the international organizations, governments, NGOs, academia, and the media to comprehend, quantify, and fight the issue further efficiently.

Human trafficking is a pervasive contemporary phenomenon. This term describes the process of moving people within and between countries for the express purpose of exploiting them (Gallagher, 2008). Human trafficking is also described as “the unlawful, clandestine movement of persons across national boundaries, whether coercive or consensual, and irrespective of gender, age, or reason, for trans-boundary movement” (Bassiouni et al., 2010, p. 418). The Palermo Protocol article 3 paragraph (a) defines Trafficking in Persons as: “The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of

exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

The Global Slavery Index (2016) suggested several forms of modern slavery, namely; forced labour, human trafficking, slavery and slavery-like practices, debt bondage, forced or servile marriage, and worst forms of child labour (Walk Free Foundation, 2016).

Sorajjakool (2013) addresses that TIP is an effect of social shame, the socio-economic and political system effect which tends to an inequitable distribution. Furthermore, social-cultural norms along with taboos in Thailand passively condone TIP, letting it take place. Moreover, Molland (2012) found that sex work in the Mekong region follows patron-client cultural scripts regarding reciprocal assistance and responsibility; as a result, it is hard to identify distinguishing between victims and traffickers.

There were limited articles that discuss the ATIPA itself. Wongvaimetee (2014) revealed that the legal enforcement process to TIP case in Thailand is unsuccessful owing to the lack of knowledge in law, omission to legal enforcement, particularly the issue relating to the tools for investigation such as search warrant, summon warrant, and arrest warrant which are inefficient. Moreover, the evidence gathering process namely document or information that sent through electronic or mail method which is complicated. Consequently, the process of gathering evidence is slow extremely, and the official does not make the effort to search for more evidence, making the investigation of TIP case is inefficient. Siripatthanakosol (2010) in her study that emphasises on young women trafficked victims, claimed that the Palermo Protocol was unsuccessful to implement a complete human rights it is more on the prevention and prosecution rather than protection and victim identification. The anti-TIP law in Thailand also failed to provide efficient protection framework. Khongprasert (2012) while studied about the victim identification found that multidisciplinary team is significant to identify and collaborate the trafficked persons for the objective of judicial process. On the contrary, the ATIPA has not provided the due process of law on victim identification by multidisciplinary team. Consequently, it is essential to improve the ATIPA by imposing the multidisciplinary team.

Department of Special Investigation (2016) found that the problems of prevention and suppression of anti-TIP are as follows: (1) law enforcement officers, including their lack of knowledge, experience and expertise; the accomplishing of professional expertise and maintaining the quality officers; and the attitudes of law enforcement officers to the victims; (2) The investigation process where the victim protection is ineffective; the "cut testimony" to complete the investigation promptly, the criminal proceedings cannot take all the offenders to punish; the screening, care and protection of victims or witnesses involved to several agencies; the usage of language to investigate the aliens; the lack of main agencies in the proceedings; the lack of cooperation or integrated operation; the "cut testimony" should proceed in the form of a working group; and the problem with the database development, data integration and technology development in each agency.

Mungphachol (2012) in his study about the operation of the attorney generals under the ATIPA found that there are problems in the investigation process, the prosecution, and the procedure after the judgment. The investigation process problems namely the unwillingness for a collaboration of trafficked victims and witnesses owing to fearfulness to the offenders'

influence and security concern. Most significance, the rules of the authorities and responsibilities were not obviously imposed.

Prevalence of Trafficking in Persons in Thailand

As mentioned earlier, Thailand has experienced the accumulated problem of TIP which has led to the introduction to the ATIPA in 2008. Within ten years of its enforcement, cases of TIP recorded in Thailand can be seen in Table 1.2 below shows the TIP cases in Thailand from 2010-2016 according to its exploitation type. From this table, it can be seen that the highest cases were sexual exploitation, followed with labour and forced begging, respectively. The number of cases increased rapidly from 81 cases in 2010 to 674 cases in 2013 and dropped significantly to 280 in 2014. The number increased gradually to 317 cases in 2015 and 333 cases in 2016. This statistic indicated a trend of increasing TIP cases, which commensurate with the magnitude of the problem.

Table 1.2: TIP Cases by Exploitation Type

Cases under Investigation					
Year	Cases	Exploitation Type			
		Sex	Labour	Begging	Others
2010	81	65	12	4	-
2011	97	74	19	4	-
2012	306	226	44	36	-
2013	674	520	80	74	-
2014	280	223	36	16	4
2015	317	245	69	3	-
2016	333	244	75	8	6

Source: Thailand's Trafficking in Persons Country Report 2014 and 2016.

According to the TIPR by the US Department of State Office to Monitor and Combat Trafficking in Persons (TIP Office) (22 U.S.C., *TVPA 2000*), in 2010, Thailand rated on the Tier 2 Watch List (2WL), where it has continued for the supreme permissible period of four years from 2010 to 2013 (US Department of State, 2013). In 2014, Thailand was downgraded to Tier 3 in 2014 and remained same in 2015. Later, in 2016 and 2017 Thailand was upgraded to the Tier 2WL (US Department of State, 2017).

The Law on Trafficking in Persons in Thailand

Thailand imposed measures to fight TIP through its enforcement of the law for prevention and protection of trafficked victims, and prosecution of an offender. The ATIPA is a current law which adopted for reconsidered an existing frailty and provided an appropriate assistance to trafficked victims, especially, in response to community internationally to combat TIP. The ATIPA is the primary law forbids all forms of TIP, imposes punishment, and endeavor to assist and protect the trafficked persons' rights through the civil and criminal process.

Overall, the ATIPA is separated into 6 Chapters, founding three key measures to fight TIP: trafficking victim protection, TIP prevention, and trafficker's prosecution. This is the first legislation which imposes a covering TIP's definition encircling TIP aspects-interrelated activities and includes criminalises acts related to TIP crimes. Identical to the Palermo Protocol, the basics of establishing TIP under the ATIPA concentrate on acts, means and purposes.

According to the ATIPA, whoever, does any of the following acts is guilty of TIP: "procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person" (s.6 paragraph 1 (1)). Moreover, the ATIPA also covers the acts which supporting, aiding a TIP offender, and suggesting or contacting a person to become a member of the TIP organised criminal group, which are penalized the identical as the offender of a TIP offence (s.7).

Furthermore, TIP is proceeded "by means of the threat or use of force, abduction, fraud, deception, abuse of power, by over one's functions because the such person is defecting with physical, mental, education, or other methods by means of the abusing, intimidate to use the process of law by means of the abusing or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control" (s.6 paragraph 1 (1)) for the purposes of exploitation (s.6 paragraph 2). Finally, all acts of TIP, "whoever commits an offence mentioned in section 6 outside the Kingdom shall be liable for the punishment stipulated in this Act in the Kingdom. The provision of section 10 of the Penal Code shall apply *mutatis mutandis*" (s.11).

To reinforce the TIP crime as a fatal criminality, the Act forbids collaborating as a conspirator (s.9), preparing and endeavoring to commit TIP offences (s.8), being associated with organized crime groups for the commission of TIP offence (s.10). Remarkable that preparation for the commission of criminal offences in a general principle of a penal law of Thailand is not deemed as a misdemeanour except imposed otherwise. But, such an act is a perpetration under the ATIPA.

Besides, to address corruption and abuse of power, the penalty is increased twice when authorities commit a TIP offence (s. 13 paragraph 1). In case, "Any member of the Committee, member of Sub-Committee, member of any working group and competent official empowered to act in accordance with this Act, committing an offence under this Act, shall be liable to thrice the punishment stipulated for such offence" (s. 13 paragraph 2). The ATIPA considerably increases the punishments both imprisonment and fine. The punishment is considered based on serious conditions i. e. trafficked persons' age for which the punishment is heavier.

In addition, the ATIPA identifies the conduct which is considered to be TIP activity, and criminalises the act of TIP, for which the punishment, as amended in 2017, is imprisonment for 4 to 12 years and a fine of 400,000THB to 1,200,000THB (s.52 paragraph 1). If the victim is a person of age 15-18 year, the punishment shall increase to the imprisonment for 6 to 15 years, and fine from 600,000 THB to 1,500,000 THB (s.52 paragraph 2). The highest punishment of imprisonment for 8 to 20 years and fine for 800,000THB to 2,000,000THB are for the TIP crime against person under 15 years old, persons with disabilities or mental impairment (s.52 paragraph 3). It more severe punishments is imposed in the case where a victim of TIP is harshly injured, with 8 to 20 years imprisonment and 800,000THB to 2,000,000THB fine or imprisonment for life (s.53/1 (1)). In the case where the victim of TIP died, the life imprisonment or death punishment is imposed (s.53/1 (2)).

According to the ATIPA the establishment of counter-trafficking measures implemented by the RTG is the National Anti-Trafficking in Persons Committee (ATP Committee), with the Prime Minister as the chairman (s.15) and the Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee (CMP Committee), that is the Deputy Prime Minister, being assigned by the Prime Minister, as chairman, (s.22). Both Committees are in charge of developing a system of prevention and suppression of TIP; including effectively providing services and safety protection to the victims of trafficking, preparing due appropriations of the annual budget, and providing personnel for carrying out duties (s.16 and s.23).

For the purpose of prevention and suppression of the commission of the TIP, the ATIPA provided the powers and duties of the competent official; “to summon any person to give statements, or submit documents or evidence” (s.27 (1)); “to search the body of any person, with his consent, where there is a reasonable ground to believe that such person is a trafficked person, in case such person is a woman, the searcher shall be another woman” (s.27 (2)); “to search any conveyance with a reasonable ground to suspect that there is an evidence or a person falling the trafficked person therein” (s.27 (3)); “to enter any dwelling place or a premise, to search, seize or attach, when there is a reasonable ground to believe that there is an evidence of the commission of TIP, or to discover and rescue a trafficked person therein, and that by reason of delay in obtaining a search warrant, such evidence is likely to be removed, concealed or destroyed, or such person is likely to be assaulted, relocated or concealed” (s.27 (4)). Besides, Thailand has taken the special investigative techniques namely, the interception and acquisition of electronic communications information. This measure has been adopted to access “document or information sent by post, telegram, telephone, facsimile, computer, communication device or equipment or any information technology media has been or may be used to commit offence of TIP” (s.30).

Moreover, Thailand has taken special measures regarding the trafficked persons are under temporary protection as stated in the ATIPA section 29. The purpose of such section is the protection of victims in all side according to the Human Rights principles and seeking the primary truth for identifying a victim or trafficked person by victim identification process; once rescues the victims, such process have to operate within 24 hours, and the period of time can be extended not more than 7 days by means of the competent official shall file a petition to the Court for the aim of an investigation.

Nonetheless, victim identification process has not provided in the ATIPA. Such process has operated by multidisciplinary team under a cooperative between the public organization and

the private organization, which governing by the Agreement of Performance between the Public Sectors in case Child and Woman Trade on B.E. 2546 (2003), the Agreement of Performance between the Public Sector and the Private Sector in case Child and Woman Trade on 24 March 2003, and the Guidelines to Enhance Efficiency of Human Trafficking Victim Identification on 21 December 2016. These rules provided the inquiry official has the power to investigation and be responsibility in the case, including response to decide such person being the trafficked person; by hear the fact, the evidence, and the opinion of either the public or the private division. In case the contrasting opinion relating to the decision of being the victim has occurred among the inquiry official and relevant divisions of the multidisciplinary team, the auditing power belongs to the Head of Police Station which in charge of the case; including doing the note and reason to inform such division.

Assistance and protection of safety to the trafficked person of TIP under the ATIPA, the Ministry of Social Development and Human Security (MSDHS) is required to consider the provision of assistance as appropriate to a trafficked victim, including food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, return to the country of origin or domicile, and assistance with legal proceedings to claim compensation. In determining what is appropriate, consideration will be given to the person's human dignity, gender, age, nationality, race, and culture. The opinion of the trafficked person is to be sought (s. 33).

The right to receive protection shall be communicated to the trafficked person at each stage of assistance that is provided to him or her. "The competent official shall provide protection to the trafficked person under his care, regardless of where such person stays, and whether it is prior to, during or after the proceedings. In so doing, the safety of the family members of a trafficked person shall also be taken into account" (s. 36 paragraph 1). "In case where the trafficked person will make statement or testify as a witness in the offense of trafficking in persons under this Act, the trafficked person, as a witness, shall be under the protection according to the law on the protection of witness in a criminal case in all respects" (s. 36 paragraph 2). If a trafficked person has to return to his or her country of residence or domicile, or if the family members of the trafficked person live in another country, the competent official shall coordinate with the relevant government or private agency in such country, with a view to providing ongoing protection for the trafficked person and family members in that country (s. 36 paragraph 3).

The inquiry official or public prosecutor shall inform the trafficked person of his or her right to claim compensation for damages as a victim of trafficking, and the right to seek legal aid (s. 34). The MSDHS will determine the amount of compensation the victim of trafficking should be entitled to, in conjunction with the victim or his/her delegate. The public prosecutor is then notified of the amount and takes the claim through the court process (s. 35). For the purposes of instituting proceedings against the offender, providing medical treatment and/or rehabilitation for the trafficked person, or claiming compensation for the trafficked person, the competent official may assist the trafficked person to obtain permission to stay in Thailand temporarily with permission to work during the stay (s. 37). As a result of a Cabinet decision on 13 December 2016, migrant trafficking victims and witnesses are now permitted to stay in Thailand for up to two years (previously extended to one year by the Cabinet on 29 March 2016) after witness examination has concluded (Thailand's Country Report on Anti-Human Trafficking Response, 2016).

The above provision of assistance to victims of trafficking is supported by the Anti-Human Trafficking Fund of the MSDHS (the “Anti-Human Trafficking Fund”), set up pursuant to section 42 of the ATIPA, with the aim to prevent and suppress TIP. It seeks to do this by providing assistance to the trafficked person under section 33 (s. 44 (1)) and providing safety protection of the trafficked person under section 36 (s. 44 (2)), providing assistance to the trafficking person in a foreign country to return to the Kingdom or domicile under section 39 (s. 44 (3)) and preventing and suppressing TIP as directed by the CMP Committee (s. 44 (4)).

Under the ATIPA, any juristic person can also be criminally liable for engaging in TIP, provided they satisfy each of the elements of the offence and penalty for the juristic person is fine from 1,000,000THB to 5,000,000THB. Likewise, criminal liability can attach to its director or manager or an individual who is acting on behalf of the juristic person and such offence is caused by the order, omission or act of any responsible person for carrying out the business of a juristic person, it is liable to the penalty 6 to 12 years and 600,000THB to 1,200,000THB fine (s. 53 (1)). Lastly, whoever obstructs the prevention and suppression of TIP shall be liable to the penalty. This comprises the bribery or using force to induce any authorised person under this Act, for instance, the competent officials and any authorised person to do or not to do any act, contrary to the duty of such person under this Act (s. 54).

Discussion

Overall the ATIPA is consistent with the Palermo Protocol that intends to tackle and eliminate the TIP problems. Despite the progress being made in the legislation, with the prevalence of TIP in Thailand, the authors have identified weak enforcement as the problem. This problem is discussed as follows:

The Law Enforcement Officers

The officers were lack of knowledge in law, experience, expertise (DSI, 2016), and omission to legal enforcement (Wongvaimetee, 2014). For example, the inquiry official always proceed the case without the consideration that the such person may be the trafficked person by not conduct the identification victim process, which they will be protected under the non-criminalization principles of the ATIPA section 41, if they are identified as the trafficked person or trafficked victim. It can be seen that the performance of such officer is contrary to the principles of human rights protection of the accused and the principles of the trafficked victim protection on the TIP (Yenkaew, 2016).

Moreover, in case of the lacking of understanding of the definitions of TIP and component of TIP offence, it affects criminal investigation proceedings and gathering the evidence. In some case unable to get covering data according to the component of offence, as a result, it must be repeated investigations (Charoenboon, 2015). As well as, in case the working performance person understood that TIP is only prostitution; brought a person to be a beggar, forced labour or services; and TIP has the form of forced labor or services only force on physical. It was not analysed or interpreted in the word “to be in a state of being unable to resist”, therefore, such TIP was not arrested or case proceeding which was not in accordance with the universal principles (Yenkaew, 2016).

In addition, the problem dealing to the person who is the law enforcement, namely the problem is interfered by the influence, due to the mostly human trafficking case regarding the person who has the powers or the influence. In some case is not able to enforce the laws according to the power and duties, including using a hole or a gap of the performance of

duties or using an influence to re-back for case proceedings or threaten to the officer who performs the duties. In some region, the state officer or the commander of division which has the duties in prevention and suppression of TIP to take the interest from illegal service place. It affects to the performance of duties of the state officer to be interfered (Charoenboon, 2015).

Identification of Trafficking Victims

The problem is the interpretation of word or message relating to the terms of the definitions of TIP and component of TIP offence according to section 4 and section 6 of the ATIPA. The interpretation was being contrasted in many cases between law enforcement authorities such as the detective officials and inquiry officials or the Interdisciplinary Professional Team and inquiry official etc. (Srisangatrakoolert, 2015).

Furthermore, victim-focused services not being available in the languages of victims and the problem of appropriate place to oral investigation. For example, in some region of Thailand cannot seek a translator for supporting the trafficked person identification. Especially, lacking of the translator who is a law expert and good knowledge in the terminologies of TIP (Srisangatrakoolert, 2015); understanding a problem of TIP and psychological for working with the trafficked person (Jaihan, 2013). The problem of appropriate place to oral investigation, in case, a victim is the child (s. 133 bis, *Criminal Procedure Code 1934*) or the female trafficked which is committed the offence relating to sexuality (s. 133 paragraph 4, *Criminal Procedure Code 1934*). The problem has occurred in practical, such as mostly, the oral investigation of victim was urgent investigated without the evaluation of appropriate of victim whether the victim had the appropriateness of physical and mind, appropriate time, appropriate place, the trust to interviewer, detective or inquiry official, it did not get the truth from the victims (Yenkaew, 2015) and also, they were against the performance of the Protection Place (Jaihan, 2013).

Investigation Process

Investigation process facing difficulties when as follows; the victim protection is ineffective; the "cut testimony" to complete the investigation promptly, the criminal proceedings cannot take all the offenders to punish; the screening, care and protection of victims or witnesses involved to several agencies, there are problems with the operation and responsibility in each step; the usage of language to investigate a foreigner case (DSI, 2016), and the lacking of an interpreter for a case of the foreigner (Mungphachol, 2012). Particularly, the issue relating to the tools for investigation; such as search warrant, summon warrant, and arrest warrant, which are inefficient. Moreover, the evidence gathering process namely document or information that sent through electronic or mail methods which is complicated. Consequently, the process of gathering evidence is become too slow and problematic (Wongvaimetee, 2014).

Problem of Prosecution

This occurs when the trafficked victims and witnesses refuse to collaborate and cooperate owing to fearfulness to the offenders' influence and security concern. The delay on the witness examination and the gathering of evidence required a lengthy period. Affecting the discouraged of the trafficked victim that they may leave for home, as a result, have an effect on summoning a witness. Most significant, the influential offenders threatened the trafficked victims or a witness, owing to the victim protection is inefficient (Mungphachol, 2012).

Based on these problems, weak implementation and enforcement of the ATIPA has affected its effectiveness. The article suggest that the enforcement needs to be strengthened by providing training particularly to the enforcement officers, to improve their knowledge, abilities and expertise in the TIP law and its enforcement owing to the ATIPA is a new legislation. Moreover, an investigation system should be developed for trafficking offenses in all relevant agencies. The main accountable sector should be determined to directly undertake such cases. There should be obvious rules of the procedures in the collaboration between pertinent sectors in every step. Additionally, the identification of trafficking victims, the RTG should be provided both an appropriate procedures and adequate personnel.

Conclusion

The signing and ratification of the Palermo Protocol, which is main international legal framework against TIP, together with the enactment of the ATIPA in 2008, the first comprehensive TIP legislation and primary law in Thailand, are considered as a great initiative by Thailand government in response to the international agenda to combat TIP (Remark, *ATIPA 2008*). Overall the ATIPA is consistent with the Palermo Protocol in terms of its prevention, protection, and prosecution. However, the authors found that within ten years of its implementation, TIP cases are still rising and this is evidenced from the statistics of trafficking cases. Despite the progress of the legislation, weak enforcement is claimed to be substantial towards its ineffectiveness.

It is therefore recommended for the Thailand Government to strengthen the implementation and enforcement of TIP law in order to tackle and eliminate TIP problem in Thailand. On top of that, it should be realized that, the public, private, and civil society should coordinate at the national and international level, to combat this problem.

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