

## THAILAND

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child		27 Mar 1992 a <sup>1</sup>	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		11 Jan 2006 a	
Protocol to Prevent, Suppress and Punish Trafficking in Persons	18 Dec 2001	17 Oct 2013 <sup>2</sup>	
UN Optional Protocol on the Involvement of Children in Armed Conflict		27 Feb 2006 a	
UN Convention for the Protection of All Persons from Enforced Disappearance	9 Jan 2012		
Hague Convention on International Child Abduction	14 Aug 2002 <sup>3</sup>	A	1 Nov 2002

In Thailand, there are two laws that refer directly or indirectly to missing children:

1. Criminal Code of 1956; and
2. Child Protection Law of 2003.

### Definition of “Missing Child”

While Thailand does not have a specific definition for “missing child,” Article 4 of the Child Protection Act defines “street child,”<sup>4</sup> “orphan,”<sup>5</sup> and “child in difficult circumstances,”<sup>6</sup> all of whom belong to populations at risk of going missing.

<sup>1</sup> Thailand Reservation upon signature: ‘The application of articles 22 of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand.’

<sup>2</sup> *Id.*

<sup>3</sup> *Thailand Reservations: Article 24:*

‘(...) subject to the reservation, made pursuant to Articles 24 and 42 thereof, that it accepts only the use of the English language in any application, communication or other document sent to its Central Authority, (...)’

<sup>4</sup> Child Protection Act, B.E. 2546 (2003), Article 4: “Street child means a child who has no parents or legal guardian, or whose parents or guardian either fails or cannot afford to take care of the child, causing such child to wander from place to place; or a child who develops a vagrant lifestyle likely to be harmful to his or her safety.”

<sup>5</sup> *Id.* at Article 4: “Orphan means a child whose father or mother has died, or who has no evidence of parents or whose parents cannot be traced.”

<sup>6</sup> *Id.* at Article 4: “Child in difficult circumstances means a child staying with an impoverished family or abandoned by his or her parents or whose parents are divorced, imprisoned or separated causing difficulties to such child; or a child who has to shoulder familial responsibilities beyond his or her age, ability and intellect; or a child who cannot help him or herself.”

### Abandonment

The Child Protection Law of 2003 criminalizes neglect and abandonment by a guardian and lays out the responsibilities of guardians to provide all of the necessities for health and livelihood.<sup>7</sup> The Child Protection Law also details specific sanctions for those individuals who know that a child is in need of assistance and do not report it to an administrative official or police officer.<sup>8</sup>

### Kidnapping and Abduction

The Thai Criminal Code of 1956 covers issues such as abandonment, kidnapping, and coercion.<sup>9</sup> All children up to the age of 18 years are protected from various forms of kidnapping.<sup>10</sup> However, Section 306 on abandonment only applies to children younger than nine years of age.<sup>11</sup>

### Parental Abduction

Thailand has formally acceded to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, but has not implemented any domestic laws focused on parental abduction.

Abduction generally is addressed and codified in the Criminal Code of 1956, but the provisions are more applicable to stranger abductions or perhaps, in certain cases, relative abductions, where the custody of the child clearly does not lie with the abductor.<sup>12</sup> However, where there is joint custody and one parent takes a child across the border, either into or out of Thailand, Thai law does not contain clear provisions detailing what should be done and whether the parent is at fault. There are also no entry and/or exit requirements requiring the consent of both parents in order for a child to enter or leave the country.

Childline Thailand, an NGO that administers a 24-hour children's hotline, has indicated that parental abduction cases have been reported through its hotline. In these unique cases, the employees of the hotline are instructed to reach out to the Office of Social Development and Human Security to address the child services aspect of the case, and the Family and Juvenile Court and Public Prosecutor's Arbitration Center are contacted to handle the legal aspects of the case. The police are neither

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<sup>7</sup> *Id.* at Section 25: "the guardian shall not act as follows: (1) neglect a child, with an intention not to take a child back, at a nursery or infirmary or with a person contracted to look after a child or at a public or any other places; (2) abandon a child at any place without appropriate welfare protection or raising; (3) willfully or neglectfully withhold a child from things that are necessary for the livelihood or health of a child and such manner is likely to harm physical or mental condition of a child; (4) treat a child in any manner which obstructs his or her growth or development; (5) treat a child in any manner which constitutes illegal care.

<sup>8</sup> *Id.* at Section 29: "whoever finds a child in a circumstance which requires assistance or welfare protection under Chapter III and Chapter IV shall provide fundamental assistance and notify, without delay, the administrative official, police officer or person with the responsibility of providing welfare protection to children under section 24."

<sup>9</sup> Thai Criminal Code, B.E. 2499 (1956) as amended in 2003, Section 320: "Whoever, by using fraudulent or deceitful means, threat, violence, unjust influence or any other means of compulsion, takes or sends a person out of the Kingdom, shall be punished with imprisonment of two to ten years or fined of four thousand to twenty thousand Baht, or both. If the commission of the offence according to the first paragraph be committed in order that the person taken or sent out to be under the power of the other person unlawfully, or in order to abandon such person to be in the helpless condition, the offender shall be punished with imprisonment of three to fifteen years and fine of six thousand to thirty thousand Baht."

<sup>10</sup> *Id.* at Section 319: "Whoever, takes away a minor over fifteen years but not yet over eighteen years of age from the parent, guardian or person looking after such minor for lucre or indecent purpose with the consent of such minor, shall be punished with imprisonment of two to ten years and fined of four thousand to twenty thousand Baht. Whoever dishonestly buys, disposes, or accepts a minor to be taken away according to the first paragraph, shall be liable to the same punishment as the person who takes such a minor away."

<sup>11</sup> *Id.* at Section 306: "Whoever, abandons a child not over nine years of age in any place, with intent to wholly abandon such child in a manner so that such child shall be without a person to take care of, shall be punished with imprisonment not exceeding three years or fined not exceeding six thousand Baht, or both."

<sup>12</sup> *Id.* at Sections 313, 317, and 319.

informed nor involved, as they are only able to take the case if it involves violence or other criminally punishable behavior.<sup>13</sup>

### Reporting Mechanism

Childline Thailand, as the children's hotline, categorizes each reported case of a missing child in accordance with the article of the law applicable to the offense committed, such as exploitation, kidnapping, or child labor.<sup>14</sup>

The Phuket Gazette reported in August 2014 that the Royal Thai Police had initiated a new policy whereby parents of missing children no longer have to wait 24 hours before filing a report.<sup>15</sup> While the Royal Thai Police are tasked with handling investigations into cases of missing children, organizations and departments that specialize in issues related to children are also necessary to ensure that the full investigative and legal processes progress smoothly and that children and families receive the sensitivity they deserve. For this purpose, three key organizations exist in Thailand to assist victims of abuse and human trafficking, and also can be utilized to help missing children: (1) Pavena Foundation for Children and Women; (2) Childline Thailand; and (3) Mirror Foundation.

The first of these organizations, the Pavena Foundation for Children and Women, centers its mission on the rescue and rehabilitation of victims of abuse, including human trafficking.<sup>16</sup> The Pavena Foundation operates a public 24-hour hotline (1134), which the Office of Child Protection, a department of the Churches of Christ of Thailand, recommends as a resource to its church community.<sup>17</sup> The Pavena Foundation offers emergency assistance to those women and children who have experienced rape, physical assault, involuntary prostitution, and other forms of abuse.<sup>18</sup>

The second organization, Childline Thailand, provides services centered on its child hotline (1387), which receives approximately 10,000 calls per year from children in need, many of whom are runaways.<sup>19</sup> In the case of a runaway, Childline Thailand may offer advice, assistance, and counseling and possibly invite the child to come into the Childline Outreach Center for street children, located in Bangkok.<sup>20</sup> When Childline Thailand receives calls from runaways or parents in search of their children, they refer the families to the Royal Thai Police for further assistance.

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<sup>13</sup> Email correspondence with Ilya Smirnov, Executive Director Childline Thailand (May 1, 2014) (on file with the International Centre for Missing & Exploited Children).

<sup>14</sup> *Id.*

<sup>15</sup> Woranut Pechdee, *Phuket Police Adopt Rapid-Response Policy for Missing Children*, PHUKET GAZETTE, Aug. 22, 2014, at <http://www.phuketgazette.net/phuket-news/Phuket-Police-adopt-rapidresponse-policy-missing-children/33653> (last visited on Apr. 25, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>16</sup> Sinthamala Lanavanh, *PAVENA Foundation Offers Hope for Women and Children*, THE INDOCHINA MEDIA MEMORIAL FOUNDATION, [http://www.immf-thailand.org/articles/pavena\\_foundation.html](http://www.immf-thailand.org/articles/pavena_foundation.html) (last visited Apr. 25, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>17</sup> *About Us*, OFFICE OF CHILD PROTECTION, at <http://www.cct.or.th/childprotection/en/aboutus.html> (last visited Apr. 25, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>18</sup> Sinthamala Lanavanh, *supra* note 325.

<sup>19</sup> Email correspondence with Ilya Smirnov, *supra* note 322.

<sup>20</sup> *Id.*

The third organization, Mirror Foundation, is an NGO that aims to help the hill tribe people, a large group of indigenous people living in the Northern part of the country,<sup>21</sup> by assisting them on matters of citizenship, raising awareness about human trafficking, and reuniting families with their missing loved ones through the Missing Persons Information Centre, Backtohome.org).<sup>22</sup> Through Backtohome.org, Mirror Foundation collects and analyzes data and tries to collaborate with authorities to investigate missing persons cases. While the lack of definition for a “missing child” poses a challenge for the NGO, according to some officials it is the only functioning database on missing persons in the country.<sup>23</sup>

### Investigation of Missing Child Cases

Although there is no law outlining protections or regulations on behalf of missing children, there is a specific police policy document detailing how police officers are to handle cases of missing persons. The Royal Thai Police’s Missing Persons Regulations Section 405 states that officers must fill out a “character of missing persons form” when a report is filed and explains where this form, and a picture of the missing person, must be sent depending on whether the report is filed in Bangkok or elsewhere. Section 406 states that if a case seems to involve “kidnapping or a political agenda,” the case should be handled by the Special Branch, a Bureau under the Crime Prevention and Suppression Support Group of the Royal Thai Police.<sup>24</sup>

### Case Management/Database

In addition to NGO efforts, there are currently two relevant databases managed by government agencies in Thailand: the Missing Persons Management Center (MPMC) on missing persons, regulated by the Royal Thai Police, and the Central Institution of Forensic Science on unidentified bodies, regulated by the Thai Ministry of Justice. While there is a clear connection between missing and unidentified persons, these databases are completely disconnected and unable to identify possible matches between missing persons and unidentified human remains.

Section 412 of the Missing Persons Regulations requires that – when a missing person’s report is made – all information be recorded with the Royal Thai Police’s Criminal Records Division and Office of Statistics in the form of a missing persons database. As a result, the MPMC was launched in 2011 and tasked with consolidating all available information on missing persons into a searchable database, which can then be used to collaborate with other authorities when investigating missing persons’ cases.<sup>25</sup> According to NGO directors working in the country, the MPMC, while well-intentioned, continues to be under-resourced.<sup>26</sup>

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<sup>21</sup> Mark Johanson, *Thailand’s Lost Tribes: The Natives Who Are Not Citizens*, INTERNATIONAL BUSINESS TIMES, Aug. 23, 2011, at <http://www.ibtimes.com/thailands-lost-tribes-natives-who-are-not-citizens-708246> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>22</sup> *The Mirror Core Projects*, THE MIRROR FOUNDATION, at <http://www.themirrorfoundation.org/cms/index.php?/The-Mirror-Foundation.html> (last visited Apr. 25, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>23</sup> Jonah Fisher, *A Thai family’s desperate search for their missing daughter*, BBC NEWS ASIA, June 7, 2013, at <http://www.bbc.com/news/world-asia-22884783> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>24</sup> Email correspondence with Pol. Lt. Col. Apichart Hattasin, Royal Thai Police Force (Feb. 8, 2014) (on file with the International Centre for Missing & Exploited Children).

<sup>25</sup> Paritta Wangkiat, *Missing Link: Is the system failing Phuket’s missing children?*, THE PHUKET NEWS, Dec. 22, 2011, at <http://www.thephuketnews.com/missing-link-is-the-system-failing-phukets-missing-children-28005.php> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children). See also *Thailand Lacks Effective Structure for Tracking Missing Children*, CHIANGRAI TIMES, Jan. 2, 2012, at <http://www.chiangraitimes.com/thailand-lacks-effective-structure-for-tracking-missing-children.html> (last visited Apr. 27, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>26</sup> Email correspondence with Non-Governmental Organization Director, Anonymous (Dec. 7, 2013) (on file with the International Centre for Missing & Exploited Children).

### Alert Mechanism

Thailand does not have a rapid emergency child system to publicize missing children reports. Section 409 of the Missing Persons Regulations does, however, state that the “character of a missing persons form,” which is completed by family members when they report the person missing, must be announced by the police in a public area such as a bus or a boat station. It is unclear what specific details this form requires.

### Awareness-Raising Initiatives

Mirror Foundation has worked for more than a decade to raise awareness of missing persons. The organization works with the Royal Thai Police, builds awareness, and educates those living in remote areas of the dangers linked to going missing and child sex trafficking. Mirror Foundation reports that an average of three people go missing in Thailand every day, two of whom are children.<sup>27</sup>

### Trafficking

In 2008, Thailand adopted the Anti-Trafficking in Persons Act as a revision to the 1998 Measures in Prevention and Suppression of Trafficking in Women and Children.<sup>28</sup> The new legislation criminalizes all forms of trafficking and prescribes protections for all trafficking victims as opposed to only women and children, as was the case in the prior law. In addition, the new legislation mandates harsher penalties for traffickers, allows victims to request compensation from traffickers for damages caused, and provides victims with essential services.<sup>29</sup> Lastly, the Act established the Anti-Trafficking in Persons Fund to assist victims and prevent human trafficking.<sup>30</sup>

Cross-border travel is not mentioned in the Anti-Trafficking in Persons Act of 2008. Thai legislation only refers to the taking of a person out of the country in Section 320 of the Criminal Code of 1956, which states, “whoever, by using fraudulent or deceitful means, threat, violence, unjust influence or any other means of compulsion, takes or sends a person out of the Kingdom, shall be punished...”<sup>31</sup> This reference is not, however, specific to children.

To help address the growing problem of human trafficking, the Royal Thai Government has developed a number of partnerships with organizations and agencies across the region. Most recently, Thailand’s Ministry of Social Development and Human Security partnered with USAID, the Australian Department of Foreign Affairs and Trade, ASEAN, and MTV Exit to host a concert in May 2014 in Udon Thani with 7,000 concert-goers to raise awareness about human trafficking.<sup>32</sup> Additionally, an agreement to combat human trafficking was signed between Vietnam and Thailand in 2008 on Bilateral Cooperation in Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking.<sup>33</sup> In 2011,

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<sup>27</sup> Noppadon Sritaweekart, Waraporn Sangwan, Ousanee Saensuk, *Police urged to tackle issue of missing persons*, THE NATION, Dec. 26, 2013, at <http://www.nationmultimedia.com/national/Police-urged-to-tackle-issue-of-missing-persons-30222943.html> (last visited Apr. 25, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>28</sup> Anti-Trafficking in Persons Act, B.E. 2551 (2008), at [http://www.no-trafficking.org/content/Laws\\_Agreement/laws\\_agreement\\_pdf/trafficking\\_in\\_persons\\_act\\_b.e%202551%20\(eng\).pdf](http://www.no-trafficking.org/content/Laws_Agreement/laws_agreement_pdf/trafficking_in_persons_act_b.e%202551%20(eng).pdf) (last visited Mar. 31, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>29</sup> HumanTrafficking.org: Thailand, at <http://www.humantrafficking.org/countries/thailand> (last visited Mar. 31, 2016) (on file with the International Centre for Missing & Exploited Children).

<sup>30</sup> Anti-Trafficking in Persons Act (2008), *supra* note 337.

<sup>31</sup> Thai Criminal Code, *supra* note 318, at Section 320.

<sup>32</sup> *7,000 Fans Unite Against Human Trafficking at MTV Exit Concerts in Udon Thani*, ASSOC. OF SOUTHEAST ASIAN NATIONS, May 24, 2014 (on file with the International Centre for Missing & Exploited Children).

<sup>33</sup> *Tackling Human Trafficking in the Greater Mekong Sub-region*, *supra* note 134.

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World Vision began working with all of the six governments of the Greater Mekong Sub-region to improve legislation, identification, and responses to cases of human trafficking.