

Thailand

National Child Protection Legislation

National Legislation

- **Age of consent:**
Section 277 of the Criminal Code defines the age of consent of 15 years of age.¹
- **Age of criminal responsibility:**
Section 73-74 of the Criminal Code defines the age of criminal responsibility of eight years old. However, a child between eight and fourteen years of age cannot be punished if he or she commits a crime, but can be committed to a juvenile detention facility.²
- **Age of marriage:**
Civil Code, Article 1435 defines the age of marriage as 17 for both men and women.³

Criminal Code of Thailand:

- **Extraterritoriality**

Section 4

Whoever, committing an offence within the Kingdom, shall be punished according to law. The offence committed in any Thai vessel or airplane irrespective of any place of Thai vessel or airplane shall be deemed as being committed within the Kingdom.

Section 5

Whenever any offence is even partially committed within the Kingdom, or the consequence of the commission of which, as intended by the offender, occurs within the Kingdom, or by the nature of the commission of which, the consequence resulting therefrom should occur within the Kingdom, or it could be foreseen that the consequence would occur within the Kingdom, it shall be deemed that such offence is committed within the Kingdom. In case of preparation or attempt to commit any act provided by the law to be an offence, even though it is done outside the Kingdom, if the consequence of the doing of such act, when carried through to the stage of accomplishment of the offence, will occur within the Kingdom, it shall be deemed that the preparation or attempt to commit such offence is done within the Kingdom.

Section 6

Any offence that has been committed within the Kingdom, or has been deemed by this Code as being committed within the Kingdom, even though the act of a coprincipal, a supporter or an instigator in the offence has been committed outside the Kingdom it shall be deemed that the principal, supporter or instigator has committed the offence within the Kingdom.

¹ Criminal Code of Thailand B.E. 2499, at <http://www.thailandlawonline.com/table-of-contents/criminal-law-translation-thailand-penal-code> (last visited Sep. 5, 2017).

² *Id.* at Articles 73, 74.

³ Commercial and Civil Code of Thailand, Book V - Family, at <http://beta.thailawonline.com/images/thaicivilcode/book%205%20title%201-3%20thai%20civil%20and%20commercial%20code%20.pdf> (last visited Aug. 30, 2017).

Section 7

Whoever commits the following offences outside the Kingdom shall be punished in the Kingdom, namely:

...

(2bis) Offences Relating to Sexuality as provided in Section 282 and Section 283;

...

Section 8

Whoever commits an offence outside the Kingdom shall be punished in the Kingdom; provided that, and, provided further that the offence committed be any of the following namely:

(a) The offender be a Thai person, and there be a request for punishment by the Government of the country where the offence has occurred or by the injured person; or

(b) The offender be an alien, and the Thai Government or a Thai person be the injured person, and there be a request for punishment by the injured person;

If such offence to be the offence specified as following shall be punished within the Kingdom namely:

...

3. Offences Relating to Sexuality as provided in Section 276, Section 280 and Section 285 only for the case relating to Section 276;

4. Offences Against Life as provided in Section 288 to Section 290;

5. Offences Against Body as provided in Section 295 to Section 298;

6. Offences of Abandonment of Children, Sick or Aged Persons as provided in Section 306 to Section 308;

7. Offences Against Liberty as provided in Section 309, Section 310, Section 312 to Section 315, and Section 317 to Section 320;

8. Offences of Theft and Snatching as provided in Section 334 to Section 336;

9. Offences of Extortion, Blackmail, Robbery and Gang-Robbery as provided in Section 337 to Section 340;

...

- Section 73-74 defines age of criminal responsibility.
- Title IX Offences Relating to Sexuality
 - Section 277 provides age of consent. Criminalizes sexual intercourse with a girl not yet over 15 years of age and not being his wife with or without her consent. Section 277 bis and ter add sentencing enhancements.
 - Section 278 criminalizes committing an indecent act against a person of 15 years using threats, violence, taking advantage of the person's condition, or deception.
 - Section 279 criminalizes committing an indecent act against a person not yet 15 years with or without consent. Sentencing enhancements are added for use of threats, violence, taking advantage of the person's condition, or deception. Section 280 adds additional penalties for grievous bodily harm and death of the victim.
- Chapter 4 Offenses of Abandonment of Children, Sick Persons or Aged Persons
- Title XI Offence Against Liberty and Reputation
 - Section 317 of the Criminal Code punishes kidnapper(s)/abductor(s) who take a child under the age of 15 away from his/her caretaker with three to fifteen years imprisonment and a fine of six to thirty thousand Baht.⁴

⁴ Criminal Code of Thailand, *supra* note 1, at Article 277.

Thailand Commercial and Civil Code:

Section 1435 states that a man and a woman must be seventeen years old to marry legally without the consent of both parents.⁵

The Child Protection Act of 2003: defines a child as “a person below 18 years of age, but does not include those who have attained majority through marriage.” The Act places children into the following categories: Street child, orphan, child in difficult circumstances, disabled child, and a child a risk of wrongdoing.

Mandatory reporting requirements:

Article 29 – Upon finding a child in circumstances which warrant welfare assistance or safety protection as stipulated under Chapters 3 and 4, a person shall provide basic assistance and notify a competent official, administrative official or police officer or person having the duty to protect a child's safety according to Article 24 without delay.

A physician, nurse, psychologist or public health official admitting a child for treatment; teacher, instructor or employer having the duty to take care of a child who is his or her student or employee, shall report immediately to a competent official or person having duty to protect a child's safety according to Article 24, or administrative official or police officer if it is apparent or suspected that the child has been tortured or is sick due to unlawful care.

Persons notifying or reporting in good faith under this Article shall receive appropriate protection and shall not be held liable for any civil, criminal or administrative action arising therefrom.

National Child and Youth Development Promotion Act of 2007: This act works to: review situations of children and youths through; develop a national child and youth development action plan and monitoring and evaluation framework; and provide support to and coordinate with relevant agencies to implement the NCYDP.⁶

Domestic Violence Victim Protection Act of 2007: Section 4 mandates that whoever commits domestic violence shall be liable for imprisonment for six months or a fine of six thousand Baht.⁷

Anti-Trafficking in Persons Act of 2008: Section 6, subsection 2, refers to trafficked victims rather than “abduction” and states general provisions against “procuring, buying, selling, vending, buying from or sending to, detaining or confining, harboring, or receiving a child; is guilty of trafficking in persons.”⁸

Measures in Prevention and Suppression of Trafficking in Women and Children Act (enacted in 1997)

Section 4 – In this Act: “child” means a person whose age is not over eighteen years;

Section 5 – In committing an offence concerning the **trafficking in women and children**, buying, selling, vending, bringing from or sending to, receiving, detaining or confining any woman or child, or arranging for any woman or child to act or receive any act, for sexual gratification of another person, for an indecent sexual purpose, or for gaining any illegal benefit for his/herself or another person, with or without the consent of the woman or child, which is an offence under

⁵ Commercial and Civil Code of Thailand, *supra* note 3, at Section 1435.

⁶ 2015 Thailand: Evaluation of the Thailand National Child and Youth Development Plan 2012-2015, at https://www.unicef.org/evaldatabase/index_90379.html (last visited Jul. 31, 2017) (on file with the International Centre for Missing & Exploited Children).

⁷ Domestic Violence Victim Protection Act, Section 4, at http://thailaws.com/law/t_laws/tlaw0403.pdf (last visited Jul. 31, 2017) (on file with the International Centre for Missing & Exploited Children).

⁸ The Anti-Trafficking in Persons Act, at <http://www.refworld.org/docid/4a546ab42.html> (last visited Jul. 31, 2017) (on file with the International Centre for Missing & Exploited Children).

the Penal Code, the law on prostitution prevention and suppression, the law on safety and welfare of children and youths, or this Act, the official is authorized to enforce power under this Act.

Prevention and Suppression of Prostitution Act (enacted in 1996)

Section 8. Any person who, in order to gratify his or her sexual desire or that of another person, has sexual intercourse or acts otherwise **against a person over fifteen but not over eighteen years of age** in a prostitution establishment, with or without his or her consent, shall be liable to imprisonment for a term of one to three years and to a fine of twenty thousand to sixty thousand Baht.

If the offence under paragraph one is committed **in relation to a child not over fifteen years of age**, the offender shall be liable to imprisonment for a term of two to six years and to a fine of forty thousand to one hundred twenty thousand Baht.

Section 9. Any person who procures, seduces or takes away any person for the prostitution of such person, even with her or his consent and irrespective of whether the various acts which constitute an offence are committed within or outside the Kingdom, shall be liable to imprisonment for a term of one to ten years and to a fine of twenty thousand to two hundred thousand Baht.

If the offence under paragraph one is committed **against a person over fifteen but not over eighteen** years of age, the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand Baht.

If the offence under paragraph one is committed in relation to a child **not over fifteen years of age**, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Baht.

If the offence under paragraph one, two or three is committed by means of fraud, deceit, threat, violence, the exercise of undue influence or coercion against her or his will in any manner whatsoever, the offender shall be liable to a one-third heavier penalty than that provided in paragraph one, two or three, as the case may be.

Any person who, in order to bring about prostitution, admits a person known to him or her as having been procured, seduced or taken away under paragraph one, two, three or four, or supports the commission of such offence shall be liable to the penalty provided in paragraph one, two, three or four, as the case may be.

Section 11. Any person who is the owner, supervisor or manager of a prostitution business or a prostitution establishment, or the controller of prostitutes in a prostitution establishment shall be liable to imprisonment for a term of three to fifteen years and to a fine of sixty thousand to three hundred thousand Baht.

If the prostitution business or establishment under paragraph one **has, for prostitution, a person over fifteen but not over eighteen years of age**, the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand Baht.

If the prostitution business or establishment under paragraph one has, for prostitution, **a child not over fifteen years of age**, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Baht.

[The Act on International Cooperation in Civil Matters regarding Breach of Custody Rights, B.E. 2555 \(2012\) \[Thailand Child Abduction Act\]](#)

This law provides domestic law to enforce the provisions of the Hague Abduction Convention. Section 2 states that the Central Authority will be the Attorney General or the person designated by him.

The National Plan and Policy on the Prevention, Suppression and Combating Domestic and Transnational Trafficking in Children and Women: This plan lays out seven different tasks to rid Thailand of trafficking, including (1) prevention of trafficking, (2) assistance and protection to victims, (3) law enforcement and suppression of traffickers, (4) return and reintegration of victims, (5) monitoring and evaluation of victims, (6) cooperation between national NGOs, and (7) international cooperation.⁹

⁹ 2009 Situation Prevention and Suppression of Trafficking in Persons Report, at <http://www.thaianti-humantraffickingaction.org/Home/wp-content/uploads/2014/12/2009-Situation-Prevention-and-Suppression-of-Trafficking-in-Persons-Report.pdf> (last visited Jul. 31, 2017) (on file with the International Centre for Missing & Exploited Children).