

AGREEMENT
BETWEEN
THE ROYAL GOVERNMENT OF CAMBODIA
AND
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM
ON
BILATERAL COOPERATION FOR ELIMINATING TRAFFICKING IN
WOMEN AND CHILDREN AND ASSISTING VICTIMS OF
TRAFFICKING

The Royal Government of Cambodia and the Government of the Socialist Republic of Vietnam (hereinafter referred to as the "Parties");

With a view to further strengthening the bonds of friendship between the two countries and to increasing the bilateral cooperation on the suppression of human trafficking;

Recognizing mutually that trafficking in women and children is a gross infringement of human rights and grievous trampling on the dignity of human being;

Gravely concerned that trafficking in women and children has negative impact on individual physical, mental, emotional, moral development and is detrimental to the social fabric and values of the society;

Taking into account that transnational criminal groups and organizations are actively involved in trafficking in women and children and that such transnational organized crimes have affected not only Cambodia and Vietnam but also the region and global community at large;

Referring to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing to the United Nations Convention against Transnational Organized Crime;

Convinced that suppressing the crime of trafficking in women and children through mutual cooperation in the law enforcement and the criminal procedures is an effective measure to ensure the justice against human trafficking;

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~~Pledging that the Parties shall faithfully cooperate to eliminate trafficking in women and children and to protect and assist victims of human trafficking;~~

Have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1

Within the framework of the execution of this Agreement, following terms are interpreted as follows:

1. "Trafficking in women and children" means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, 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, of the giving and receiving of payments or benefit to achieve the consent of a person having control over another person, for the purpose of exploitation.

"Exploitation" shall include 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;

2. The consent of a victim of trafficking in women and children to the intended exploitation set forth in clause (1) of this article shall be irrelevant where any of the means set forth in clause (1) have been used;

3. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered as "trafficking" even if this does not involve any of the means set forth on clause (1) of this article;

4. A "Child" shall mean any person under eighteen years of age.

Article 2

The Parties recognize that examples of the purposes of trafficking in women and children include, but are not limited to, the following:

1. Prostitution;
2. Domestic work including forced or exploitative domestic labour;
3. Child labour;
4. Bonded labour;
5. Servile marriage;
6. False adoption;

- ~~7. Sex tourism and entertainment;~~
8. Pornography;
9. Begging, dangerous, hazardous and exploitative labour;
10. Use in criminal activities;
11. Use of drugs as mean to enslave women and children.

PART II PREVENTIVE MEASURES

Article 3

The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal framework in their respective jurisdictions is in conformity with the Universal Declaration of Human Rights, the Convention on the Rights of a Child, the Convention on the Elimination of All Forms of Discrimination against Women and other human rights instruments as well as Conventions relating to the Suppression of Human Trafficking which both Parties have signed.

Article 4

The Parties shall make the best effort to prevent trafficking in women and children through the following preventive measures:

1. Implement programs of education and vocational training for women and children in order to increase the opportunity for education and employment and hence reduce vulnerability to trafficking;
2. Increase social services such as assistance in job searching and income generating and provision of medical care to women and children vulnerable to trafficking;
3. Enhance public understanding on the issue of trafficking in women and children;
4. Disseminate information to the public on the risks and consequences involved in trafficking of women and children and on the businesses that are exploitative to women and children.

PART III PROTECTION OF VICTIMS OF TRAFFICKING

Article 5

Trafficked persons shall be considered victims and not violators or offenders of the immigration law. Therefore,

~~1. Trafficked women and children shall not be charged and prosecuted for illegal immigration or prostitution;~~

2. Trafficked women and children shall not be detained in an immigration detention centre during the time waiting the official repatriation process. They shall be put under the care of competent authorities of the Parties. Shelter and protection shall be provided to the victims in accordance with the legal regulation of each state;

3. The relevant authorities shall ensure the security of trafficked persons;

4. Victims shall be treated humanely throughout the process of protection, repatriation and the judicial proceedings.

Article 6

The Parties shall undertake appropriate measures to ensure through legal remedies to victims of trafficking as follows:

1. Victims may claim restitution of any undisputed personal belongings and properties that have been obtained by competent authorities in the process of apprehension;

2. Offenders in trafficking cases shall be liable to give victims back the unjust properties which they obtained by trafficking or exploiting in women and children;

3. Victims may claim compensation from the offender of any damages caused by trafficking in women and children;

4. Victims may claim payment for unpaid services from offenders that victims are forced to do by offender's acts ;

5. Victims shall have access to the due process of law to claim for criminal justice, recovery of damages and any other judicial remedies.

PART IV COOPERATION IN SUPPRESSION OF TRAFFICKING IN WOMEN AND CHILDREN

Article 7

The competent authorities in both countries, especially at the border shall work in close cooperation to uncover domestic and cross border trafficking of women and children, intensify the investigation and the prosecution of offenders and criminal syndicates relating to trafficking in women and children.

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Article 8

The Parties shall undertake training programs unilaterally and bilaterally concerning the implementation of applicable legal rules, skills of investigation and protection in trafficking cases for law enforcement officers, with reference to the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Right of the Child, other international human rights standards and the relevant domestic laws.

Article 9

1. The relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places of trafficking, identifications of traffickers, trafficking network, methodologies of trafficking and data on trafficked persons and any other related information.

2. The information and evidence obtained in accordance with the subparagraph 1. of this Article shall duly be delivered to the office of the competent authorities of each Party to take legal actions, e.g.; searching for offenders, investigating, prosecuting offenders and proceeding with any other judicial procedures.

3. The Police and other appropriate authorities of the relevant state shall undertake the necessary protection program to secure the safety of victims and witnesses from retaliation or menace during and after the judicial proceedings as deemed necessary.

4. The confidentiality of exchanged information and evidence shall be ensured and such information and evidence shall not be transferred to a third Party without written consent of the providing Party.

Article 10

The Parties shall authorise the concerned institutions to initiate compilation, negotiation, coming to signing of the Mutual Judicial Assistance Agreement in the Criminal, Civil Matters with a view to creating a solid basis for bilateral cooperation in detection, investigation, prosecution and trial of various offences in relation to both countries including the offences of trafficking in women and children.

PART V
REPATRIATION AND REINTEGRATION

Article 11

1. The Parties shall use diplomatic channel of communication for the arrangement of repatriation of trafficked victims.

2. Repatriation of trafficked victims shall be arranged quickly, in safety and respect for their dignity and be conducted in their best interest according to the conditions and policies of each Party in consistent with international laws and practices.

3. Victims shall be humanly assisted by both Parties once repatriated.

Article 12

1. As the need arises, each Party shall set up Working Group comprising of its competent authorities' representative with a view to undertaking repatriation process for trafficked victims.

2. The Working Group of each Party has the following responsibilities:

- To arrange the repatriation for trafficked victims;
- To carry out the repatriation of trafficked victims once arranged;
- To ensure security for trafficked victims during the process of repatriation.

3. The Working Group of both Parties shall be called for the meeting as required. Time and venue of the meeting shall be agreed by both Parties.

Article 13

1. The Parties shall make all possible efforts towards the safe and effective reintegration of trafficked victims into their families and communities in order to restore their dignity, rights and self-esteem.

2. For this purpose, the Parties shall take appropriate measures to attain the following objectives:

- Social, medical, psychological and other support shall be provided to victims of human trafficking and their families particularly to those who are infected with sexually transmitted diseases and HIV/AIDS;

~~Women and children are victims of human trafficking shall not~~
be socially discriminated or stigmatised;

- Children victims of school age shall be ensured appropriate education opportunities.

PART VI
IMPLEMENTING INSTITUTION

Article 14

The Government of Kingdom of Cambodia appoints the Ministry of Women's Affairs of Cambodia and the Government of the Socialist Republic of Vietnam appoints the Ministry of Public Security of Vietnam as Implementing Institution of this Agreement with the Working Group comprising of the representatives of relevant ministries as assistants.

Article 15

The Implementing Institution has the following responsibilities:

1. To establish strategies, directing guidelines, organizational structure and other necessary areas to implement this Agreement, reporting to the joint Commission for Bilateral cooperation between Vietnam and Cambodia at its annual meeting;
2. To make recommendations toward further development of the mutual cooperation against trafficking in women and children;
3. To review and assess the implementation of this Agreement every 2 years in order to draw experiences for the following years;
4. To settle disputes concerning the interpretation or application of this Agreement through negotiation. In case the Parties do not reach consensus through negotiation, those disputes shall be reported to the Government of both Parties for settlement.
5. To decide on establishment, management and direction over the operation of the Working Group stipulated in Article 12 of this Agreement.

PART VII
FINAL PROVISIONS

Article 16

1. This Agreement could be amended or supplemented on the basis of written consensus of both Parties. Articles and clauses are agreed by

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~~both Parties for amendment, supplement, shall be considered as part of the Agreement and having the same effect as this Agreement.~~

2. This Agreement shall take effect on the date of receipt of the written notification confirming that both Parties have completed internal legal procedures required for the entry into force of this Agreement. The Agreement shall remain in force for a period of five (5) years and shall be automatically extended for another five (5) years, unless one Party officially notifies the other Party through diplomatic channel of its desire to terminate the validity of the Agreement at least three (3) months prior to the date of termination of this Agreement.

3. The termination of this Agreement shall not prejudice any proceeding started prior to the termination.

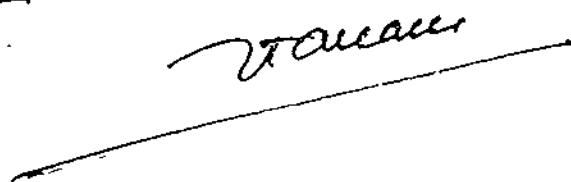
4. This Agreement is done at Hanoi, on 10 October 2005, in two originals, each in Khmer, Vietnamese and English languages; all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

**For the Royal Government
of Cambodia**

**For the Government of the
Socialist Republic of Vietnam**



**Dr. Ing Kantha Phavi
Minister of Women's Affairs**



**General Le Hong Anh
Minister of Public Security**

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