

REPORT OF PROMINENT CASES

ANTI LABOR TRAFICCKING PROJECT
(ALT)

MAY 2012



THE HUMAN RIGHTS
AND
DEVELOPMENT FOUNDATION



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About the Anti Labor Trafficking Project (ALT)

The Anti-Labor Trafficking Project (ALT) hosted by the Human Rights and Development Foundation (HRDF) was established in May 2009. ALT works to combat human trafficking, particularly in labor exploitation, and works to provide protection and legal assistance to victims of labor and human trafficking in Thailand. By bringing together law enforcement officials and non-governmental organizations, ALT seeks to improve cooperation and communication between these organizations and assist in the prevention of labor trafficking.

Thailand is a destination and transit country for men, women and children, who are subjected to forced labor and commercial and sexual exploitation – all of which represent forms of *trafficking in persons* or *human trafficking*. In Thailand, persons (particularly from foreign countries, and of these, from Burma) are often subjected to conditions of forced labor, such as restrictions on movement, unlawful withholding of passports, non-payment of wages, threats and physical or sexual abuses. These victims of trafficking often have little or no access to mechanisms that protect their rights.

In light of this, the ALT unit provides legal assistance to victims of labor trafficking in Thailand. ALT works to identify, protect and represent the victims; prosecuting the trafficker/s in the relevant courts and fighting for lawful compensation for the victims. Overall, the project aims to promote a better understanding of human trafficking among national and local government officials responsible for the implementation, investigation and prosecution of cases falling under the Anti-Trafficking Act; to draw public attention to trafficking cases occurring in Thailand; to provide expert legal representation to victims; and to build understanding as well as provide awareness of the relevant laws to high-risk migrant worker populations and migrant communities at large. ALT is supported by the American Center for International Labor Solidarity (Solidarity Center).

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About the *Prominent Cases Report*

Currently, the network of anti-trafficking agencies and organizations in Thailand has no formal system to obtain alerts or updates on labor trafficking cases. Taking this into consideration, HRDF-ALT staff continuously monitor and observe court hearings, meet with victims and witnesses of human trafficking, obtain updates from the Department of Special Investigation (DSI), the police, prosecutors, judges, and government officials, as well as advocate dealings with cases of labor trafficking. From these activities, the ALT unit produces a monthly report, distributed to government agencies in Thailand, embassies, and domestic and international anti-trafficking organizations. The report also includes recommendations for more efficient enforcement of anti-trafficking laws.

The report is delivered monthly to the counter-trafficking partners with details and up-to-date information on significant trafficking cases. The ALT Project aims to increase the effective prosecution of perpetrators of human and labor trafficking and ensure these cases do not fade from the public eye.

This report contains 10 prominent human trafficking cases.

If you wish to be added to our mailing list, kindly contact Ms. Siwanoot Soitong at:
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I. The Prapasnavee Fishing Boats Case

Service Providers: Human Rights and Development Foundation (HRDF) and the Anti Human Trafficking Division (AHTD), Region 5

Year: 2006

Background

In July 2003, six Prapasnavee fishing boats, along with 128 crew members, departed Thailand from the Samutsakorn Port on a 30-month scheduled journey to Indonesian territorial waters near Wanam Island. The fishing concession granted by the Indonesian government expired in 2005 when the Prapasnavee fishing boats were due to leave the Indonesian coast and return back to Thailand. However, the boat owners tried to renew the fishing permits and entered lengthy negotiations with the Indonesian government. During the long months of the negotiation, the crew members were forced to wait at sea with only leftover food supplies to survive in the fishing boats. As a result, several crew members fell ill and two of them died. On June 3, 2006, two weeks after the deaths of the two crew members, the six boats began their journey back to Thailand after the fishing license extension was denied by the Indonesian government. During the voyage additional individuals fell fatally ill, with an average of three crew member deaths occurring per day. The captain responded by ordering the other members of the crew to dump the dead bodies into the ocean.

The employer failed to provide adequate food supplies and medicine to the crew members while they were at sea. During the months the employer tried to negotiate the renewal of the fishing concession with the Indonesian government, the Prapasnavee crew members were instructed to hide from the Indonesian authorities at sea which further prevented them from receiving the necessary assistance.

On July 1, 2006 – almost three years after the crew first left Thailand – the Prapasnavee fishing boats returned to Samutsakorn Province. Upon return it was verified that 39 crew members had died during the journey with an additional crew member dying in the hospital after returning to Thailand. All the surviving crew members were admitted to the hospital in extremely frail condition. The employers had promised payment to the crew members when the boats returned to Thailand but failed to pay the wages upon arrival to the country.



The Prosecution

Labor Case

On March 1, 2007, the 62 surviving crew members (16 Thai nationals, 2 Laotians, and 44 individuals of Mon ethnicity from Burma), with the aid of the HRDF-ALT unit and the Lawyers Council of Thailand (LCT), filed a case with the Central Labor Court in Samutsakorn Province against the owners of the Prapasnavee fishing boats. The crew members demanded 15,894,610 THB in compensation for unpaid wages, promised bonus payments (based on quantities of fish caught), holiday work, severance payments for unlawful termination of employment, plus additional compensation for damages as stipulated under Thai labor protection laws. During the mediation proceedings held in court, 15 of the Thai crew members agreed to a settlement; each one received between 10,000 - 40,000 THB in compensation and agreed to withdraw their suit against the employer. Seven of the other crew members' cases were dismissed by the Court because there was no paper evidence to prove their employment with the Prapasnavee fishing boats.

On September 17, 2008, the Central Labor Court of Samutsakorn Province delivered a verdict: the five owners of the Prapasnavee fishing boats were ordered to pay 3,831,000 THB in compensation to 38 crew members. Compensation was to be paid jointly with interest at a 15% annual rate – from the date the lawsuit was filed to the date all monies were fully paid to the plaintiff. First payments were due within 30 days of the Court's order, however, because there was evidence to substantiate the crew members had indeed worked on holidays or whether the employer "intentionally failed to make the payments," bonuses, overtime and holiday payments, according to the ruling, did not have to be paid by the employer.

Soon after the ruling, the employers appealed the decision with the Supreme Court using the following legal clause as a basis for their petition:

“The 10th Ministerial Regulation (B.E. 2541) issued under the Labor Protection Act, B.E. 2541, stipulates that a fishing vessel outside Thai territorial waters for more than one year period is not protected by the Thai labor protection law.”

This appeal is still pending a decision from the Supreme Court.

Criminal Case

On February 28, 2011, the Samutsakorn Provincial Court heard testimony and reviewed evidence pertaining to the six crewmembers' dead bodies thrown at sea in 2006 during the voyage. Two of the Thai Captains in the Prapasnavee fishing boats were charged with "intentionally and stealthily burying, concealing, moving or destroying the corpses" and were sentenced to six months in prison and fined 6,000 THB each. (The prison sentence was postponed to be served in one year).

Civil Case

The 62 crew members combined their compensation claims with the labor case and filed a case with the Central Labor Court in Samutsakorn Province against the owners of the Prapasnavee fishing boats. The lawsuit covered past due wages and other relevant compensation. The civil suit is still pending procedures.

II. Ranyapaew Factories Case

Service Providers: Public Prosecutors / The Fight Against Exploitation Foundation (FACE)

Year: 2006

Background

On September 14, 2006, several government agencies and civil society organizations – including the Thai Immigration police, the Samutsakorn regional police, the Provincial Department of Labor Protection and Welfare, the Office of Employment, the Kredtrakarn Protection and Occupational Development Center, the BATWC Shelter for Children and Families, the Center for the Protection of Children’s Rights (CPCR), the Fight Against Exploitation Foundation (FACE), the Foundation for Children Development (FCD) and the Labor Rights Promotion Network Foundation (LPN) – rescued 500 Burmese migrant workers (men, women and children) from the Ranya Paew shrimp processing plant in Mahachai, Samutsakorn Province, Thailand. This event was recorded as one of the largest labor trafficking cases in Thailand pre-dating the 2008 (B.E. 2551) Anti Trafficking Act. Although the case originally received a great deal of attention from the media, subsequent litigation battles have not been covered.

After the rescue, it was found that the trafficked persons were confined, threatened and forced to work 18 hours per day without breaks or holidays. The working conditions included armed guards monitoring their every move and a high-security fence restricting mobility and access to outside premises. The workers were physically abused, their work permits were confiscated and their monthly salaries were reduced to nothing after the employer subtracted expenditures for broker fees, work-permit fees, and food and accommodation expenses for the employees. The migrants received between 300 – 500 THB (~\$8 - \$13.50 US) per month.

After the rescue operation, the trafficked persons were put under the protection of the Kredtrakarn Shelter and the FACE Foundation provided legal assistance and representation to the victims.

The Prosecution

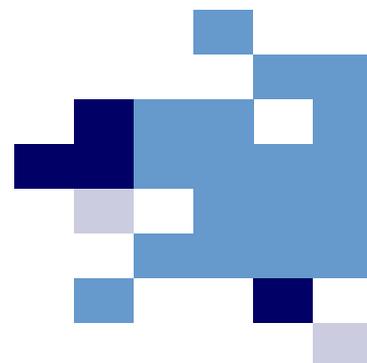
Labor Case

In November 2007 the labor case was settled with the Ranya Paew Company (the “Company”). The Court ordered the Company to pay a total of 3,600,020 THB in compensation to the victims for unpaid wages, overtime work and other damages incurred as stipulated by the Labor Protection Act. This was a successful labor suit; the migrant workers were able to receive adequate compensation for their unpaid wages.

Criminal Case

On December 9, 2010, the court sentenced three of the defendants (mother, father and son, all listed as legal owners of the factory) to 20 years in prison – the maximum penalty for this category of crime under Thai criminal law. The charges were brought forth under criminal code sections 310, 312 bis, 312 ter (for detention/imprisonment of people and for compelling them into conditions of slavery). However, the verdict was appealed in June 28, 2011 with the Court of Appeals.

Case Status: The criminal case is pending review under the Court of Appeals.



III. The Anoma Case

Service Providers: Samutsakorn Provincial Public Prosecutor / The Center for the Protection of Children’s Rights Foundation (CPCR)

Year: 2008

Background

In March 2008, 206 Burmese migrants – among them 48 women and 25 children – were rescued from the Anoma shrimp processing factory in Samutsakorn Province. The migrants had been working at the factory since October 2003 and were forced to work from 2:00 am – 9:00 pm daily without days off and only a short meal break. The workers were confined to the premises and received between 50 - 100 THB per week in payment after subtractions from their wages by the employer for broker fees and housing costs.

Additionally, 200 THB was deducted from each employee for coverage “in case of illness.” There were no windows in the building and the plant had one main entrance with all other doors chained shut. Between 20 – 30 migrants were locked together inside the tiny rooms without ventilation. The high security measures – including a high fence with six surveillance cameras surrounding the factory – allowed little possibility for escape.

The rescuing process included a multi-disciplinary action team of governmental and non-governmental organizations, each with established roles. Contributors included the Immigration police, the Samutsakorn police, the Provincial Department of Labor Protection and Welfare, the Office of Employment, the Kredtrakarn Protection and Occupational Development Center, the Phumvej Reception Home for Boys, the BATWC Provincial Shelter for Children and Families, CPCR, FACE, FCD and the LPN.

After the rescue operation, the migrants were separated into two groups by the authorities: those who had entered Thailand *legally* and those who had entered the country through *illegal* methods. Although *all* of the 206 migrants rescued were identified as victims of human trafficking, only those with *legal* entry (54 persons) were recognized as victims by the Thai authorities.

The CPCR Foundation offered legal assistance and representation to the trafficked persons.



The Prosecution

Labor Case

The 54 recognized trafficked persons filed a joint labor suit with the Central Labor Court against the Anoma Company. The factory owner was ordered to pay 500,000 THB in compensation to the migrant workers.

Criminal Case

In August 2008, the police completed their investigation and submitted the case to the Office of the Attorney-General (OAG). Twenty civil and criminal charges were filed against the factory owner and manager. The police also sought to collect additional evidence that would allow them to take legal action against the Burmese brokers. The OAG submitted the case to the Criminal Court in September 2008 and a preliminary court hearing occurred in October 2008. In November 2009, the Criminal Court ruled the two defendants were guilty of the trafficking charge. One of the defendants was sentenced to five years in prison and forced to pay a fine of 1,000,000 THB (~\$30,000 US). The second defendant denied all charges and received a sentence of eight years in prison and a fine of 2,000,000 THB (~\$60,000 US).

On April 23, 2010, the two defendants appealed the verdict with the Court of Appeals. On July 27, 2011, the Court of Appeals confirmed the ruling of the Criminal Court and added an additional offense for slavery, under Section 312 of the Criminal Code. Section 312 states that “Whoever, for gaining illegal benefit, receives, sells, procures, fures, or traffics a person ... shall be punished with imprisonment not exceeding seven years or a fine not exceeding fourteen thousand Baht.”

On December 22, 2011, the two defendants appealed the verdict of the Court of Appeals with the Supreme Court. The Supreme Court accepted the appeal.

Case Status: The criminal case is currently pending review with the Supreme Court.

Criminal Code

Section 312

“Whoever, for gaining illegal benefit, receives, sells, procures, fures, or traffics a person ... shall be punished with imprisonment not exceeding seven years or a fine not exceeding fourteen thousand Baht.”

IV. The Maesot Labor Trafficking Case

Service provider: HRDF Labor Law Clinic (LLC)

Year: 2010

Background

The HRDF-ALT unit provided legal counsel to a 17 year-old female victim of trafficking. Her case emerged through HRDF's Labor Law Clinic (LLC) in Mae Sot. The victim worked as a housemaid in a grocery shop in Tambon Tha Sai Luad, Mae Sot Province, owned by a Thai national of Karen ethnicity. The victim earned 500 THB per month (~\$16 US) and had been working at the grocery shop for the past three years. In August 2010, she transferred to another job where she was promised a salary of 1,000 THB per month (~\$30 US). However, after three months of employment at the new job she had not received any payment. The employer insisted she would receive her wages only if she agreed to work as a masseuse. She was sent to a massage parlor against her will where she received a five-day training to give massages. She was subsequently forced to provide not only massages, but also sexual services to customers. The customer would pay the employer directly – 1,000 THB – to take the victim to a hotel and the victim received a portion of this sum from the employer. In February 2011, the ALT unit brought the case to the Tak Provincial Office of Social Development and Human Security (TPSDHS). A multi-disciplinary team involving civil society organizations and government agencies was organized by the TPSDHS to discuss the case. The meeting participants concluded that the case met the stipulations to be legally considered a human trafficking case and details were provided to the TPSDHS to proceed with the prosecution. The case was later transferred to the Anti Human Trafficking Division (AHTD) under the Royal Thai Police, Ministry of Interior.

The Prosecution

Labor Case

The HRDF-ALT lawyers referred the case to the TPSDHS using the multi-disciplinary team mechanisms to provide legal assistance to the victim. Considering the victim possessed no identification card or work permit, the only evidence attesting to her employment came from Mrs. Miae, the ex-employer. In accordance with Thai labor law, a "Contract of Employment" is defined as "a contract, whether written or oral, expressed or implied, whereby a person called an Employee agrees to work for a person called an Employer, and the Employer agrees to pay Wages for the duration of work." The victim, however, had no documentation to prove her employment (receipts to show payments, etc.). The labor case has stalled as a result.

Criminal Case

In March 2011, the victim was interrogated by the AHTD team (including a social worker, a psychologist, police officers and the public prosecutor). The HRDF-ALT unit was present during the interrogation and provided the police with additional information pertaining to the Burmese broker involved in the case. An arrest warrant has yet to be issued for the broker and the courts report they are waiting for the victim's testimony and a sketch of the offender. The criminal case is still under investigation by AHTD, Region 2.

Due to the case's delay, on March 19, 2012, the Women's Foundation submitted a letter to HRDF's LLC and the Lawyers Council of Thailand to be submitted to relevant agencies and officials. HRDF and the Women's Foundation continue to cooperate to put pressure on the officials to move forward with the case.

Case Status: The criminal case is under investigation by the AHTD, Region 2.

Civil Case

In accordance with Section 35 of the Anti Trafficking in Persons Act of 2008, the victim has the right to compensation for damages. The Public Prosecutor, informed by the Permanent Secretary for Social Development and Human Security or any person designated by him, shall submit a claim for compensation on behalf of the trafficked person. The claim for compensation can be submitted by the Public Prosecutor after s/he files a case with the Court of the First Instance. (*Case Status: The criminal case is under investigation of the Anti Human Trafficking Division (AHTD) Region 2.*)

Additional

On June 6, 2011, the LLC assisted the victim with filing a complaint with the Rights and Liberties Protection Department in Mae Sot. The victim requested compensation under the "Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Case Act" of 2001 (B.E. 2544). In June 2011, the Rights and Liberties Protection Department in Mae Sot requested the AHTD, Region 2, provide legal documentation to be included in the law suit. No further developments have occurred since.

Victim Protection

Since January 2011, the multi-disciplinary team agreed to host the victim in a safe place. She is currently in a shelter operated by a civil society organization where the victim is also provided with health care services.



V. The Ukrainian Engineer Case

Service Provider: Department of Special Investigation (DSI)

Year: 2011

Background

A 57-year-old Ukrainian engineer (“the Engineer”) reported he was forced to work in a Thai-owned oxygen equipment factory for 14 years, without payment. On January 11, 2011, he was rescued from the Rangsit industrial complex in Pathum Thani Province, Thailand. The case emerged after a Burmese worker sent a letter to the Engineer’s family in Ukraine in November of 2010, informing them of the situation. The family members of the Engineer contacted Interpol and the local police who in turn contacted the Ukrainian Ministry of Interior Affairs and the Ukrainian Embassy in Bangkok.

The Engineer originally worked for a Ukrainian company which supplied services to the Navanakorn Gas Company (“the Gas Co.”) in Thailand. As a specialist in oxygen equipment installation, the Engineer travelled to Thailand in April of 1996 to render his services to the Gas Co. He extended his stay in Thailand to recover after a minor accident at the Gas Co. caused him some burns. During his recovery period, the Engineer was offered employment by the Gas Co. and was verbally promised a monthly salary of 30,000 THB (~\$1,000 US), a company car plus extra compensation for various other expenses, including medical coverage.

After the first three months of employment, the Engineer declared that the Gas Co. began to skip salary payments. By the end of 1998 the engineer began to demand outstanding wages from the employer – approximately 600,000 THB. This same year, the employer reportedly stopped paying the engineer his due salary altogether and confiscated his passport. For the next 12 years, the employer provided as little as 1,000 THB per week; the engineer was under 24-hour surveillance by a guard and allowed to leave the premises only to buy food from a stall located near the factory. The Engineer also claimed the Gas Co. owner threatened to kill him on several instances and on occasion fired a handgun into the air to intimidate him. Psychologically traumatized, the Engineer was certain the guard would act on the owner's orders and was too frightened to attempt an escape. His expertise was costly and crucial to the operation of the two plants owned by the factory; subsequently, the owner was actively concerned with his confinement.

The Prosecution

Labor Case

The Engineer sued for five million THB (~\$162,000 US) in compensation based on the original offer of 30,000 THB (~\$1,000 US) per month multiplied by the 14 years he was kept in confinement. Thai Labor Law however, only permits retroactive wage charges for up-to two years of payment. The Gas Co. owner claimed the Engineer's wages were only 8,000 THB (~\$267 US) per month and offered 150,000 THB (~\$4,850 US) in compensation to settle the case.

Settlement negotiations took place at the Labor Protection and Welfare Department’s office in Pathum Thani Province where the labor case was ultimately settled for 300,000 THB (~\$10,000 US).

Criminal Case

The Pathum Thani Police charged the owner of the Gas Co. factory with hiring an undocumented foreign worker and violating labor law. On January 27, 2011, the Department of Special Investigation (DSI) declared they had located and interrogated the Burmese man originally identified as the individual that had helped the Engineer in sending a letter to his family in Ukraine. The Burmese man reportedly told the DSI officials that the Engineer was “not intimidated, threatened or confined while working at the factory.” The DSI did not conduct further investigations and no criminal case is in process.

Civil case

No civil case.

Victim Protection

The Engineer was under the protection of the Ukrainian Embassy during the legal proceedings. He was repatriated to Ukraine in 2006.



Mr. Anatoliy Vdovychenko, the Ukrainian engineer who reported he was forced to work in a Pathum Thani industrial plant for 14 years without wages.

VI. The Samaesarn Case

Case Number: a. 1632/2554

Service Provider: Pathum Thani Shelter

Year: 2011

Background

In January 2011, the Anti Human Trafficking Division (AHTD) rescued eight Burmese fishermen from a small cabin by the Samaesarn shore in Chonburi Province. The cabin was constructed with wooden and zinc materials separated into miniature rooms no larger than 3x4 square meters in size. The cabin had no windows, no restroom, no electricity and the rooms were locked. The workers were physically abused and forced to work on a fishing boat. When not at work, they were kept confined in the cabin. At the time of the rescue operation, the Burmese fishermen had been working for five months without any payment.

After the AHTD rescue operation, the Burmese broker was charged as a conspirator of human trafficking, forced labor and confinement. Human Trafficking charges were officially filed with the Criminal Court in April 2011.

The Prosecution

Labor Case

The inspector investigating the labor case reported that according to the files on record, the trafficked persons were not able to clearly identify the employer – only his first name was known, Mr. Je Daeng – and he later dropped the legal case.

According to the law, the inspector investigating the labor case had the duty and authority to enter the place of business, to investigate working conditions, to take photographs and photocopy documents concerning employment, to interrogate the employer and to perform any other pertinent tasks concerning safety at work per Section 139(1) of the *Labor Protection Act of 1998*. However, the labor inspector failed to perform these duties or make use of his powers to investigate the case.

Criminal Case

The trafficking case was submitted to the Public Prosecutor's office on April 11, 2011. The Thai Allied Committee with Desegregated Burma Foundation (TACDB) joined as a plaintiff in the case. A pre-trial testimony took place on June 7, 2011, and the hearing was held in the Criminal Court under the jurisdiction of the Special Public Prosecutor's Office, Region 9. The next hearing scheduled for December 6, 2011, was postponed until January 31, 2012, after two of the victims could not be located to provide testimony in court.

Criminal Case Continued

On January 31, 2012, the Criminal Court held a hearing to interrogate the witnesses. The Public Prosecutor submitted a list of four witnesses to the Court -- three were trafficked victims and one was a police officer. Two out of the three trafficked victims, however, had been deported back to Burma and could not appear in court. None of the other trafficked victims could be located by the officials to provide testimony in Court. The Public Prosecutor petitioned once again that the Court reschedule the hearing; three of the trafficked victims were key witnesses to the case. The defense attorney objected to this request and the Court issued an order to eliminate three of the victims from the testimony list altogether.

On March 30, 2012, the Criminal Court dismissed the case.

Civil Case

In accordance with Section 35 of the Anti Trafficking in Persons Act of 2008, victims of human-trafficking have the right to compensation for damages suffered. The Public Prosecutor, informed by the Permanent Secretary for Social Development and Human Security, or any person designated by him, is responsible for submitting claims for compensation on behalf of the trafficked person. The claim for compensation can be submitted by the Public Prosecutor after s/he files a case with the Court of the First Instance. In this case, however, the Public Prosecutor has not yet submitted a case for compensation with the Court.

Victim Protection

Currently, four of the trafficked victims remain in Thailand, while two of the victims were repatriated to Burma in 2011. The trafficked persons are under the protection of the Pathum Thani Shelter. Although six of the trafficked victims were in the shelter prior to the court proceedings for the criminal case, the Public Prosecutor only listed three of the trafficked victims to serve as witnesses. These three victims were the most affected, suffering severe injuries and were the primary witnesses to the crimes committed by the employer. However, two of these key witnesses were repatriated to Burma without the authorization of the Inquiry Official or the Public Prosecutor. These actions caused significant damage to the criminal case and ultimately led to the dismissal of the case.

VII. The Vietnamese Surrogate Mothers Case

Service Provider: Alliance Anti Traffic (AAT)

Year: 2011

Background

On February 23, 2011, the Thai Immigration Police in collaboration with the Ministry of Social Development and Human Security (MSDHS) and several other humanitarian and non-governmental organizations, rescued 15 Vietnamese women who were forced to be surrogate mothers. The women were held captive in three separate houses located in the outskirts of Bangkok. Most of the victims were between 19 to 26 years of age. The women reported that they were deceived with promises of good jobs in Bangkok, but had their passports confiscated upon arrival to Thailand. Additionally, the victims reported that the captors would inseminate them with “the sperm of ‘famous people.’” When the babies were born, they were sold to Thai couples and foreigners. An arrest warrant was issued by the Thai police searching for a “Taiwanese gang” as the leaders of the operation.

Baby 101 was the name of a company headed by Taiwanese citizen, Siang Lung Lor, arrested on charges of human trafficking and sheltering undocumented immigrants. According to the police investigation, the company conducted most of its business through its website and targeted couples without children – in Thailand and elsewhere – offering “young and pretty women” as hosts for “their” babies. The service cost 1.5 million THB (a little over 32,000 US plus other expenses).

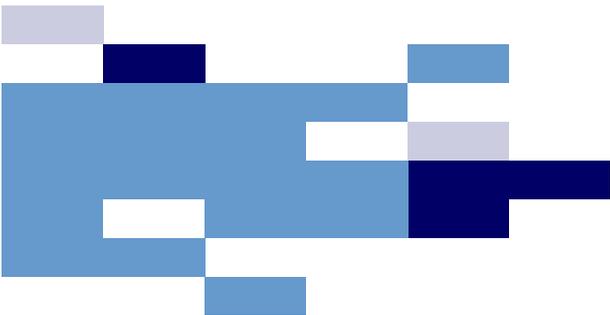
In February 2011 a meeting was summoned with a panel of Thailand’s Medical Council to determine if any doctors were involved in the Baby 101 operations. The HRDF-ALT team participated in various meetings with the Public Health Ministry, the Department of Special Investigations (DSI), the Immigration Bureau, the Embassy of Vietnam, the Embassy of Taiwan, the Alliance Anti ‘Traffic’ (AAT) unit and other relevant parties and hospitals. Subsequently, the Immigration Police filed a case against the Taiwanese leaders, while prosecution of hospitals and/or doctors involved was to follow.

Two of the Vietnamese women were pregnant when they were rescued in February 2011. Despite the grave circumstances, the Public Health Ministry did not grant authorization for an abortion to take place in Thai territory. The law enforcement officers were ordered by the Minister of Public Health to “speed up the proceedings” and collect testimonies from the victims within seven days and promptly repatriate the women to Vietnam. The minister wanted to “avoid complex legal issues” that might arise if the children were born in Thailand, including nationality disputes and financial support for the newborns.

The Prosecution

Labor Case

According to Thai legislation, the women were not entitled to wages due to their “illegal” employment status; consequently, there was no basis for a labor case.



Criminal Case

The “advanced testimony” proceedings for the victims were held in the Nonthaburi Provincial Court on March 12, 2011. AAT requested assistance from the HRDF-ALT unit, who provided legal advice to the victims and prepared them for an interrogation with an interpreter from the Vietnamese Embassy.

On May 19, 2011, the Special Public Prosecutor’s Office, Region 12, filed a case against the leader of the Taiwanese gang and five other people involved. The following offenses were listed: accomplice to the trafficking of person/s; accomplice to the detention or confinement of other person/s; accomplice to hiring undocumented migrant workers; the offense of being alien workers themselves without proper documentation to work or reside in Thailand.

A hearing was held on October 20 – 21, 2011, at the Minburi Provincial Court in Region 12. Three individuals were scheduled to testify on behalf of the plaintiff; Pol. Lt. Col. Tavip Changtor (inspector at the Immigration Bureau) and two doctors expected to serve as expert witnesses. Due to rotation duties however, the two doctors were ultimately unable to testify on the case.

During another scheduled court hearing held on February 28, 2012, the individual who served as the translator for the Baby 101 Company appeared as a witness for the public prosecutor. When the defense council cross-examined the witness, two significant points emerged: 1) the trafficked persons had some freedom of movement and were not abused and 2) five of the individuals prosecuted were employees of the company and were not directly involved in the offenses.

On March 15, 2012, another court hearing was held; the witnesses were cross-examined further and the lawyers provided their closing remarks.

Case Update: The ethics subcommittee within the Medical Council has yet to reach a consensus as to which doctors were involved in the case. The court is scheduled to announce its ruling on the criminal case at 9:00 am on May 15, 2012.

Civil Case

In accordance with Section 35 of the Anti Trafficking in Persons Act of 2008, the victims have the right to compensation for damages. The Public Prosecutor is responsible for submitting the compensation requests to the Criminal Court.

Victim Protection

On May 30, 2011, the Ministry of Social Development and Human Security (MSDHS), in collaboration with the AAT and the Embassy of Vietnam, repatriated 10 Vietnamese women and their babies back to Vietnam.

Remarks

The Thai Cabinet has passed a draft legislation to protect children born under medical reproductive technology. However, the law is currently pending consideration by the House. Until it is passed and implemented, cases pertaining to surrogate pregnancies will continue to fall under the Medical Council's jurisdiction in Thailand. Current regulations stipulate that surrogate pregnancies are only allowed when “a couple owns the eggs and sperm and when the woman carrying the baby is not paid for the pregnancy and she is not related to one of the parents.”



VIII. The Din Daeng Garment Factory Case

Case No. : ฉส. 22/2554

Service Provider: Pathumthani Shelter, Special Public Prosecutor Office, Region 4

Year: 2011

Background

In April 2011, the Anti Human Trafficking Division (AHTD) Region 1 raided a garment factory in the Din Daeng area of Bangkok, rescuing more than 60 Burmese migrant workers. The migrants were kept in prison-like conditions; confined in a four-story building and prohibited from leaving the premises or making phone calls. The individuals were forced to work 16 hours daily – from 8:00 am to 12:00 midnight – and locked in a room after work. They received 200 THB (~\$7 US) in compensation per month.

The owners of the garment factory were reported to be a couple of Chinese nationality (“the Couple”). When the Couple was interrogated as to why they had kept the workers imprisoned, they claimed Burmese workers that were previously hired ran away and they wanted to prevent this from occurring again. When asked about the low wages, the Couple claimed they were owed 15,000 THB (~\$500 US) by each migrant worker for the arrangement of their work permits.

Of the 60 Burmese migrants that were rescued, only 15 of them were legally recognized as victims of human and labor trafficking. The AHTD charged the factory owners with labor violations and human trafficking offenses.

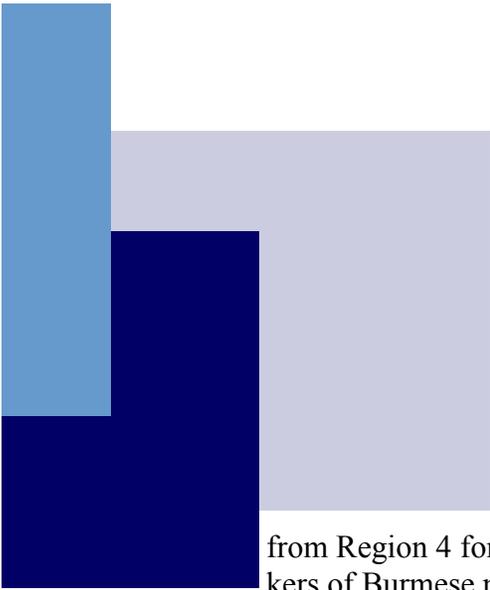
The Prosecution

Labor Case

On May 24, 2011, the factory owners were ordered to pay all past due wages to the 15 individuals identified as victims of human trafficking plus compensation for additional damages for a total sum of 780,000 THB (~\$26,000 US).

Unfortunately, the factory owner did not follow the Court’s order. Additionally, the 15 trafficked victims were repatriated to Burma leaving nobody in Thailand to directly represent their case and labor rights.

Under Thai Law, when an individual does not comply with the Labor Inspector’s order and no appeal is submitted by the defense within 30 days, they are penalized for failure to comply with the order. Thus, the Couple should be fined a sum not exceeding 20,000 THB (per section 146 of the Labor Protection Act of 1998) for failing to make the ordered payments to the victims and not filing an appeal. In this case, the Labor Inspector did not enforce the payment to the victims or the fine to the employer; therefore, he did not uphold the rights of the trafficked victims.



Criminal Case

The criminal case falls under the jurisdiction of the Special Public Prosecutor's Office in Region 4 who is responsible for filing the human trafficking case on behalf of the victims with the Criminal Court.

In May 2011, the AHTD asked the victims to assist with the sketching of a picture to identify one additional offender. The victims were also requested to testify during a court hearing held for the criminal case on May 18, 2011. In June 2011, the Special Public Prosecutor's Office

from Region 4 formally filed a case against the factory owners (the Couple) and three brokers of Burmese nationality, for the following offenses: entering, leaving, and residing in the Kingdom of Thailand without legal authorization; working in the Kingdom of Thailand without legal authorization; trafficking of persons; sheltering undocumented migrants; employing undocumented migrants and confining other persons under commission from another person.

Case Status: A hearing for pre-trial testimonies was held in the Criminal Court in July 2011. The next hearing is scheduled to occur from May 29 to June 13, 2012.

Civil Case

In accordance with Section 35 of the Anti Trafficking in Persons Act of 2008, the victims have the right to compensation for damages suffered, and the Public Prosecutor, in a given jurisdiction, is responsible for submitting the request for compensation for the victims with the Courts.

Victim Protection

Of the 60 Burmese migrants rescued, only 15 persons were recognized as victims of human trafficking. Nine women were sent to the Kredtrakarn shelter for protection; six men were sent to the Pathumthani shelter. More recently, all of the trafficked victims were repatriated back to Burma.

IX. The Songkhla Murder Case

Service Provider: The Lawyers Council of Thailand

Year 2011

Background

Mr. Somsak Himtong, a Thai national and victim of labor-trafficking was rescued in 2010. As a result of this operation, he received 94,000 THB (~\$3,000 US) in compensation from the Anti Trafficking in Persons Fund that same year. In May 2011, however, Mr. Himtong returned to work in the same fishing boat from which he had been rescued the previous year; he later murdered the captain of the boat. On May 26, 2011, the HRDF-ALT lawyers embarked on a fact-finding mission to provide legal advice on the case. The HRDF-ALT team met with Mr. Himtong at the Songkhla Provincial Prison where he was jailed. Mr. Himtong reported that he was forced to work on the fishing boat and the captain repeatedly abused him physically. He maintained that the captain denied him his hernia medicine and verbally abused him.

The Prosecution

Criminal Case

On June 9, 2011, the ALT-HRDF lawyers conducted a second fact-finding mission and interviewed the defendant at the Songkhla Provincial Prison. The lawyers found that Mr. Himtong was not a victim of labor-trafficking in this instance because he had willingly returned to work in the same fishing boat. Furthermore, his position as “Chief” of the other fishermen gave him the authority to allocate job roles, as well as, have command over other fishermen. No evidence was found to demonstrate that he was forced to work, detained or exploited during this period.

The first hearing scheduled for June 10, 2011, in the Songkla Provincial Court was postponed to August 9, 2011, to allow sufficient time for the witnesses to receive their summon notices. The hearing was postponed once again to October 31, 2011, to further allow Mr. Himtong’s lawyer to send the appropriate summon notices to pertinent witnesses.

On December 27, 2011, the Songkla Provincial Court – under *Sections 288 and 83 of the Criminal Code* – sentenced Mr. Somsak Himtong to 20 years in prison for the offense of “collaborating to commit murder.” When Mr. Himtong confessed to the murder, however, the Court reduced the sentence to 13 years and 4 months in prison.

Case Update: Mr. Himtong’s legal counsel from the Lawyers Council of Thailand did not file an appeal with the Court after the sentencing decision. Mr. Himtong was advised to wait for a period of time and submit a petition for amnesty instead of a sentencing appeal. The final ruling is expected to take place in trial court.

Recommendations

In 2010 Mr. Himtong was rescued from the fishing ship where he was employed under harsh conditions and was later recognized as a legitimate victim of labor trafficking. Held under the protection of the Ministry of Social Development and Human Security in a Thai government-run shelter, Mr. Himtong was provided with food, as well as, physical and mental rehabilitation. In addition, the Anti Trafficking in Persons Fund, administered by the Ministry of Social Development and Human Security, provided Mr. Himtong with 94,000 THB in compensation to help alleviate any hardships he might have endured while working on board the fishing boat. After Mr. Himtong was released from the shelter no follow-up services were provided to evaluate or assess the effectiveness of the rehabilitation program.

Less than a year later, in 2011, Mr. Himtong returned to work at the very same fishing boat, under similar deprived conditions where he eventually committed a criminal act and murdered the captain. Based on these events and actions, the HRDF-ALT unit recommends that relevant government agencies involved take the time to reassess the current assistance processes for victims of human and labor trafficking. Although great strides have been made in Thailand to provide assistance to victims of human and labor trafficking following rescue operations, it is necessary to continue to evaluate and monitor the 1) efficacy of these services during the rendering period, as well as, 2) oversee the victim's trajectory after receiving the services.

In the case of Mr. Himtong, the HRDF-ALT lawyers decided to provide legal assistance because the facts revealed that despite being in a position of authority in his job, Mr. Himtong was psychologically damaged (hence his return to the same fishing boat) and gravely mistreated by the employer. The HRDF-ALT will continue to monitor this case as part of an evaluation and assessment concerning the efficiency of protection processes and services for victims of labor and human trafficking.

X. The Suphanburi Case

Service Provider: The Thai Allied Committee with Desegregated Burma Foundation (TACDB)

Year: 2011

Background

On June 14, 2011, the police rescued 52 undocumented Burmese workers in Suphanburi province. As a result of this operation, two Burmese nationals and four Thai nationals were identified as suspects and were arrested and charged for detaining the victims against their will and demanding ransom for their liberation. The rescue operation was carried out by the AHTD police after a “Burmese woman” filed a case with the TACDB Foundation. According to the report, the woman’s daughter and son-in-law entered Thailand with the help of a Burmese broker. The broker was one of the suspects arrested. He had kidnapped the couple upon their crossing into Thailand and demanded 36,000 THB in ransom from their families. The victims’ families gathered as much money as they could afford and transferred 15,000 THB to the captors’ bank account. Still, the captors refused to free the couple and demanded more money.

The police interrogated the Burmese broker after the report was filed by the Burmese woman with the assistance of the TACBD Foundation. This led the police to search another two houses in the Samchuk district in Suphanburi Province where they found 50 additional undocumented Burmese nationals that were kept in detention. The TACBD Foundation also contacted the #1300 *Hot Line* operated by the Ministry of Social Development and Human Security (MSDHS). TACBD requested that a multi-disciplinary team assist with the process of identifying the victims. After a four-hour screening process, the MSDHS officials concluded that the 52 workers, including 13 children, did not qualify as “trafficked persons” and instead charged them with illegal entry into Thailand.

Protection

The victim-screening process took place on June 14, 2011, from 5:00 pm to 9:00 pm. The screening was conducted solely by the MSDHS officials and two Burmese translators with only four hours to identify, interrogate and process the 52 individuals. When the HRDF-ALT lawyers arrived at the scene, the Burmese nationals were on their way to the AHTD in Bangkok to be prosecuted. The next day, the HRDF-ALT unit, the TACDB Foundation and the Lawyers Council of Thailand submitted a joint petition to the AHTD and the Bureau of Anti Trafficking in Women and Children (BATWC) requesting they conduct the victim identification process once again and ensure the rights of the women and children in the group were adequately protected. On June 22, 2011, the multi-disciplinary team conducted another victim identification process and concluded once again that the 52 Burmese migrants (including 13 children in the group) were “not trafficked persons.” All 52 persons were charged with illegal entry into Thailand and sent to the Immigration Bureau’s Detention Center. On July 6, 2011, the HRDF-ALT unit, the TACDB Foundation and the Lawyers Council of Thailand submitted a petition letter to the Immigration Bureau requesting a visit with the 52 Burmese detainees. The team of lawyers used this opportunity to discuss and review Thai court procedures with the Burmese migrant workers, as well as the pre-trial testimony proceedings.



The Prosecution

Labor Case

There was no prosecution for the labor case because the migrants were only kept in confinement but not forced to work.

Criminal Case

The 52 migrants, including 13 children, were charged with illegal entry into Thailand and subsequently sent to an immigration detention center.

On June 30, 2011, the Special Public Prosecutor Office in Region 7 – the party responsible for filing the case with the Criminal Court – prosecuted Mrs. Chamlong Tongprasob (the owner of the homes in Suphanburi province where the migrants were being detained) in accordance with *Section 64 of the Immigration Act* for providing lodging / a place to stay for undocumented migrants. The pre-trial hearing was carried out by the Public Prosecutor of the Special Public Prosecutor Office in Region 7 at the Criminal Court on July 8, 2011.

On December 22, 2011, the Criminal Court sentenced Mrs. Chamlong Tongprasob to 12 months in prison on the charge of having provided lodging / a place to stay for undocumented migrants (*Section 64 of the Immigration Act*).

Legal Opinion

i) In accordance with anti-human trafficking laws and regulations, the victim identification process must be carried out by a multi-disciplinary team consisting of the Ministry of Social Development and Human Security, the Ministry of Labor, the Office of the Attorney General, the Royal Thai Police and other related agencies. Additionally, in cases where fact-checking is necessary and there is a reasonable doubt to suspect the individual is a trafficked person, in order to protect his/her security, an official may temporarily take such person into his/her custody (section 29 under the Anti Trafficking in Persons Act, 2008). In the Suphanburi case, during the first victim identification process these laws and regulations were not applied.

ii) During the victim identification process and legal proceedings, 13 children were put in immigration detention. This was a violation of their rights in accordance with the Convention on the Rights of the Child signed by Thailand in 1989. The children were victims of human trafficking and under age, as such, they should have received protections and adequate shelter during the legal proceedings. In accordance with Article 12 (2) of the Convention on the Rights of the Child 1989:

“... the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”

And Article 40 (4) of the Thai Constitution B.E. 2550:

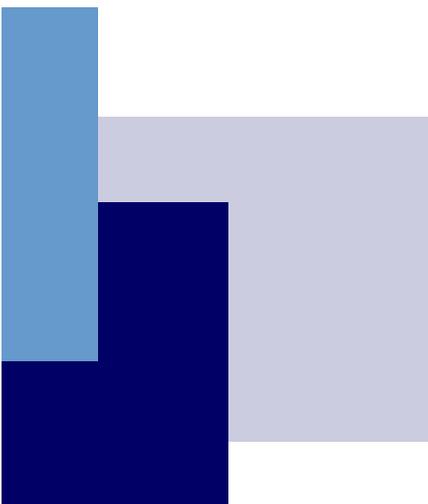
“...a witness in a case has the right to be treated properly during the judicial process which includes the right not to testify against oneself.”

As well as Article 40 (6) of the Thai Constitutional B.E. 2550:

“Children, youths, women, and disabled or handicapped persons have the right to proper protections during the judicial process...”

Recommendations

The 13 children still held in custody should be released from the detention center immediately. Related government agencies (i.e. the Office of Social Development and Human Security, the Royal Thai Police, the Department of Rights and Liberties Protection) shall provide adequate treatment to protect the rights of the children; this primarily includes no detention.





ANNEX I

Human Trafficking Cases in the Media

Ranyapaew

In Thai shrimp industry, child labor and rights abuses persist

25.04.2007

<http://www.nytimes.com/2007/04/25/business/worldbusiness/25iht-baht.4.5438244.html>

SAMUT SAKHON, Thailand — It is 7:30 p.m., and an excited chatter fills the room as Nampeung, 11, and her friends get their work checked before clearing their desks and heading home.

But this is no scene from the end of a school day.

Nampeung is from Myanmar and an ethnic Mon girl who has been working in a seafood factory in central Thailand for nearly three years.

The desks are the metal tables where she spends six days a week shelling shrimp, and her work is measured by the kilogram.

Of the 200 people working in a barnlike factory during an unannounced visit by Reuters, nearly half appeared to be in their early teens or younger - clear evidence of child labor in an industry worth \$2 billion a year in exports.

Half of Thailand's exported shrimp goes to the United States, where it ends up on the shelves of retail giants like Wal-Mart Stores and Costco, according to Poj Aramwattananont, president of the Thai Frozen Foods Association. Japan and Europe each account for 20 percent.

Even though she can only dream of going to school, Nampeung is one of the lucky ones. She makes as much as 300 baht, or \$9, a day - more than the province's minimum wage - and sees nothing wrong with children her age working.

"The old people are so slow," she said with a broad smile, sitting demurely on the floor of the concrete hut next to the factory, which she shares with her mother, father and three siblings.

Other factories in the coastal province of Samut Sakhon, 50 kilometers, or 30 miles, west of Bangkok, where 40 percent of all shrimp are processed, do not have such a contented work force. A police raid on a factory called Ranya Paew in September revealed conditions that were little short of medieval.

Around 800 men, women and children from Myanmar were imprisoned behind walls 5 meters, or 16 feet, high and topped with razor wire in a compound patrolled by armed guards.

The rescued workers told human rights monitors that they had to work 18 hours or more a day and were paid 400 baht a month, out of which they had to buy food - mainly rancid pork - from the factory's owner.

Those who asked for a break had a metal rod shoved up their nostrils. Three women who asked to leave were paraded in front of the other workers, stripped naked and had their heads shaved.

The Labor Rights Promotion Network, a nongovernmental organization that estimates there are 200,000 Burmese migrant workers in Samut Sakhon - of whom only 70,000 are legally registered - says that the Ranya Paew case is the worst it has seen.

But this, the group says, is just the tip of a human trafficking iceberg of factories fed by people-smuggling rings and labor brokers that have the complicity, if not active involvement, of government officials and the provincial police.

"For many migrants, work in Samut Sakhon is the chance for a better life, but for too many it leads to abuse," said Sompong Srakaew, president of the nongovernment organization.

"Unscrupulous employers and brokers conspire to ensure migrant workers remain vulnerable to exploitation. This is only possible with the complicity of elements within the law enforcement authorities."

Wal-Mart and Costco said that none of their shrimp had ever come from Ranya Paew and that strict ethical guidelines for suppliers, as well as audits of processing units in Thailand, ensured that they complied with food standards and labor regulations.

One shipment from Ranya Paew a few years ago, however, did end up in the United States, according to a Western diplomat who has followed the case closely.

Poj, the president of the Thai Frozen Foods Association, denied that children or trafficked people worked in the industry, saying factories were monitored carefully.

"There are no more illegal workers in the Thai food industry, because the government registers all the workers properly," he said. "We never use child labor."

But even Thailand's biggest agro-industrial company, Charoen Pokphand Foods, which produces its own shrimp from pond to package, is not untouched by allegations of trafficked labor.

The company sells a range of shrimp products to the United States and Europe, including the "Thai Torpedo" and "Bangkok Firecracker."

According to the Labor Rights Promotion Network, when the police and immigration officials raided a Charoen Pokphand factory in Samut Sakhon on April 5 and fired shots into the air, more than 100 Burmese migrants in the compound tried to escape by swimming a canal.

Six workers who could not swim are thought to have drowned, the Labor Rights Promotion Network said, and the police rounded up and deported 90 others to Myanmar for being illegal migrants.

Narong Kruakrai, the general manager of the plant, described the raid as a "regular visit" by the immigration police and said the factory never hired illegal workers.

The labor rights group said the workers appeared to have been employed by a third-party broker.

With smaller shrimp companies, overseas buyers have an even harder time conducting their own background checks, as much of the processing is outsourced to small operators.

As a result, foreign companies rely more on the Thai Labor Ministry, which is responsible for ensuring that factories do not use illegal or child workers. But the ministry is short on staff, the Western diplomat said.

"The Thai Ministry of Labor lacks the proper resources to conduct rigorous inspections of these factories," he said.

Despite the discovery of abuses at Ranya Paew, the police in Samut Sakhon have allowed the plant to remain open. In the meantime, about 200 Burmese men were deported as illegal immigrants, and more than 60 women and children are in a Bangkok center for victims of trafficking.

Ranyapaew

The reality of enslavement

22.06.2010

<http://www.bangkokpost.com/feature/humanrights/39173/the-reality-of-enslavement>

It is inaccurate to say that slavery no longer exists in Thailand.

According to history, slavery in Thailand has been in existence since the Jenla Period (1847) when slaves were traded legally. This form of slavery was abolished in 1905 by King Rama V. But for human rights lawyer Siriwan Vongkietpaisan, slavery is still alive and well in modern-day Thailand.

"Slavery still exists in almost every corner of Bangkok ... where households and factories still see the inhumane treatment of maids and factory workers who are living and working in slave-like conditions with no legal protection," she said.

Slavery back in the ancient times evokes images of chains and shackles and flogging, while modern slavery comes in the form of inhumane treatment and hidden cruelty, where the rights of workers and domestic maids are taken away from them.

Article 312 in the Criminal Code defines enslaving as putting an individual into a slave-like condition for trading and commercial purposes.

The 14-year-old housemaid who Siriwan sets to help out and win her lawsuit is a classic example. She was kept in the house and was not allowed to go outside or contact family and friends back home. The girl worked seven days a week, from 4am to midnight, and received just two meals a day - old, hard rice from the refrigerator with leftover dishes or chilli paste. Her salary was 2,000 baht a month, but she never received any money.

"Interestingly, ancient slavery laws did not give masters unlimited rights to do whatever they pleased. The old laws also contained a penalty clause for employers and masters who overly and brutally mistreated their slaves. The slavery law used during the reign of King Rama I - some 200 years ago - required that all masters had to instruct their slaves before handing out punishment," she related.

"The master must treat their slaves with empathy. The workload must be reasonable, not according to the master's unbound demands. A penalty must be executed moderately to discourage killing or harm. It is a crime if a slave dies from any physical penalty issued by a master and he/she will be penalised for excessive and irrational actions according to this slavery law," she added.

In the modern world, slavery became even more complex. "I have observed unbelievable cruelty and torture being done in the slave labour cases over the years. It is as if employers do not think that their employees are human. Employers impose absolute rights over the bodies of their workers. These enslaved labourers do not have the right to make any decisions, travel or do anything they like," she said.

Many defendants are not sadistic or psychopaths as some people would imagine. "You must expect these employers as having deranged personalities ... some of them are sane and rational. They just do not understand how it is wrong to penalise their employees excessively. They simply believe they can do whatever they want with them. And they are surprised that there are anti-slavery laws to make things right."

Ranyapaew
Human rights heroine
22.06.2010

<http://www.bangkokpost.com/feature/people/39172/human-rights-heroine>

Siriwan Vongkietpaisa has dedicated her life to fighting for and giving a voice to the underprivileged who have been inhumanely treated.

Some lawyers may want to win a case for their clients for money or for fame. Not Siriwan Vongkietpaisa, a human rights lawyer, who sets out to make sure that every victory for her clients makes society a better place to live in.

Her recent battle, which she won for her client, was the case of a 14-year-old housemaid who was kept in slave-like conditions where she was brutally beaten by her employer - a well-to-do Bangkok housewife - and suffered severe injuries.

In 2007 the Criminal Court sentenced the employer - Vipaporn Songmeesap - to 12-and-a-half years of imprisonment. Vipaporn appealed, however, the Court of Appeal upheld the ruling. Now the employer will fight her case in the Supreme Court, which will take at least another few years before a final verdict is made.

If the Supreme Court upholds the previous verdicts, the sentencing will set a legal precedent and hopefully become the standard for future anti-slavery cases in Thailand.

The provision of the anti-slavery law, which was incorporated into the Criminal Code since 1954, has never been used before. When Siriwan filed the anti-slavery case with the police, she was told straight to her face that slavery no longer exists. "We have no slavery in Thailand. It was abolished by King Rama V over a century ago," she quoted as one police officer saying.

It is a standard practise for the court to rely on previous verdicts for their cases, she pointed out. Since the anti-slavery law has never been invoked, it makes the police and the public believe the problem no longer exists. And Siriwan wants to change that.

"The development of law enforcement is the outcome of the lawyers' ability to use all legal provisions possible to present their cases," she said, adding that any good law is useless if it is not used.

"No matter how modern our legal system may be, justice is still illusive without proper enforcement," said Siriwan.

Even before taking this case and representing the underage housemaid, Siriwan had already been in charge of several well-known legal cases in Thailand, including the notorious land grabbing in Surat Thani province, the Thai berry-pickers who were exploited in Sweden, the GMO papaya scandal, and the coal-fired power plants in Bo Nok, Prachuap Khiri Khan province. All of which dealt with the infringement of the rights of the poor and the needy.

With her less common legal pursuits that depart from her peers' in the mainstream law practising world, many might think that Siriwa's iron goodwill comes from an unusual background. Although Siriwan insisted that she had a very simple childhood.

A native of Buri Ram province, Siriwan earned her bachelor's degree in law from Ramkhamhaeng University and worked in the legal department of several corporations for a few years before she decided to quit. It is common for law graduates to work in the commercial sector to ensure financial security, or to continue their studies to become judges, a more secure and prestigious career path.

But one day Siriwan decided to follow her heart and use her knowledge and skills to help the less fortunate. So she quit her high-paying job and thus a new legal life was born.

After taking part in some legal cases for social causes, which got her connected with a whole new network of socially engaged lawyers, she co-founded a law office in 1997 to help those suffering from legal injustices. But Siriwan fully understands what is practical in terms of work. Her mission will not last long if all her legal services are free. Therefore, Siriwan divides her legal work into two parts: straight-forward business and pro bono legal work.

Siriwan kicked off her new career as a lawyer with a good cause by becoming a legal representative for several social organisations including the Foundation for Women, the Foundation for Child Development, and the Lawyers Council of Thailand. Soon after she offered legal consultation to Greenpeace, the Anti-Trafficking Coordination Unit Northern Thailand (Trafcord) and the Fight Against Child Exploitation (Face) as well. In 2005, she founded the SR Law office, which has a solid positioning to create concrete and fair law enforcement.

Her work philosophy: never become desk-bound in an office. All lawyers, she believes, should work and sweat on a case by visiting the actual sites and examine the local residents' problems in their local areas to gather the best information on the ground, as this process is critical in winning any case, she said.

In her representation in the case of the GMO Papaya for Greenpeace, for example, Siriwan did not only visit the real testing fields but she also talked to all sides of the stakeholders involved. In addition, she studied the related laws and educated herself in plant quarantine and scientific studies.

Her devotion and thoroughness in her work often surprises the court when she brings in specialists in from a wide variety of fields, such as economic and environmental experts, to give their highly credible testimonies in court.

"We worked together as a team and we believe that in-depth information will help our case in court," she said. And that may perhaps explain why she wins almost every case she handles, and has cemented her career reputation as a top professional collaborator and information manager.

"My work brings me closer to collaborate with different fields of expertise. Meeting different people has also helped widen my perspectives in so many ways. I have met many good people while working as a lawyer and my life has been super worthy ever since I chose this path."

Another notable lawsuit Siriwan was involved in was the commercial palm plantations and land rights case in Surat Thani province. Again, she won the case, thanks to her thorough research on the land conflicts in the area coupled with her masterful knowledge on property laws.

"At that time the local villagers did not know how to fight against outside capitalists who were taking over their agricultural land. Winning or losing in court for these exploited people was very much dependant on the performance of their representative, including the lawyer."

Challenging the powerful and almighty has its risks, though. Facing harassment from her clients' opposition is part of her work, she said.

But how does she balance her goodwill social injustice life mission with her regular business? And does that put any financial strain on her business success? According to Siriwan, there are many organisations who need her legal services to help the disadvantaged. Though the money she makes from these legal practices may not be much, the satisfaction she gets for conquering wrongful crimes is reward enough. Besides, she didn't work alone to win a many number of her landmark cases.

In 2006, Ashoka, a global association that supports social entrepreneurs internationally, selected SR Law to be one of its fellows in recognition of its efforts in tackling human trafficking.

Siriwan's main personal challenge, she said, is to nurture young lawyers so that they might one day follow the same path as her.

For the future law students, she urged them to take part in extra-curricular activities that address social problems and inequality. And the happiness achieved from being able to help others will encourage them to pursue the same path in the future, she said.

With cooperation from both development and law organisations, Siriwan also conducts legal training classes for young lawyers who want to work for the good of the public.

"But attending classes and working on a few case studies alone isn't enough to build up the necessary skills needed for socially-engaged lawyers and carry out their work successfully. So I also organise a three-month training programme that requires the students to participate in field trips in conflict areas," she said.

She smiled when asked what it is like to devote 100 percent of her life to work. "When you love what you are doing, it is not work," she said. "Doing the kind of work I do requires a good heart first and foremost. I am happy with what I am doing because I get to work with all my heart."



Din Daeng Garment Factory
Burmese allege slave labour
20.04.2011

The Bangkok Post

<http://www.bangkokpost.com/news/local/232721/burmese-allege-slave-labour>

Police yesterday helped more than 60 Burmese workers from a garment factory in Bangkok whose owners detained them and forced them to work 16 hours a day for paltry wages. Their raid came after one worker escaped from the factory operated by Chinese national Da Long Wu, 50, and his wife Namee Sae Lee, 26 - at Soi Tap Suwan on Asok-Din Daeng road.

The victim, whose name was not revealed, lodged allegations of unfair treatment, saying staff at the crowded factory had to work indoors from 8am until midnight, with doors and windows locked firmly to prevent them leaving. Police said the complainant told them he was paid 200 baht a month instead of the 7,000 baht he had been promised. The officers arrested Mr Da and Ms Namee on suspicion of breaching the Labour Act.

The suspects denied the allegation. Ms Namee said the workers had to work at a reduced salary initially to repay recruitment debts of 15,000 baht each. However, she admitted to detaining the workers inside the factory to prevent their escape. Previously, she told police, her factory followed legal requirements to register foreign workers, but many of them left without notice when they found themselves new jobs.

In another development, the Stateless Watch for Research and Development Institute of Thailand (SWIT) said it had been contacted by Saman Sataweesook, who was born to Lao refugees in Ubon Ratchathani's Khong Chiam district, after he was arrested on April 16 on charges of illegal entry to Thailand. The institute's legal expert, Daruni Paisalpanitkul, argued police should not have arrested Mr Saman because he had the right to live in the country. Mr Saman, currently detained by the Immigration Bureau, had been previously arrested late last year by Klong Toey police on the same charge, but was later released after the institute clarified his status to the officers



Din Daeng Garment Factory
60 Burmese freed in factory raid
20.04.2011

The Nation

<http://www.nationmultimedia.com/2011/04/20/national/60-Burmese-freed-in-factory-raid-30153473.html>

Police rescued 60 Burmese workers yesterday from a clothing factory in Bangkok's Din Daeng area and arrested a Chinese couple who allegedly ran the factory. The suspects - identified as Darong Wu, 50, and his wife Namee Li, 26 - were detained on suspicion of human-trafficking and labour-law violations. Police claim a worker had tipped them off. The worker said he was lured from Burma to work at the factory, adding that they were forced to work from 8am to midnight and then locked in. He said that he was only paid a monthly wage of Bt 6,000 - less than he was promised. Li said they kept the workers locked up because they had hired Burmese workers legally before and they had run away. She said the wages were low because they were deducting the Bt15,000 that each worker owed them for becoming eligible for work.



Ukrainian Engineer Case

Ukrainian says he was held captive for 14 years

23.01.2011

The Bangkok Post

<http://www.bangkokpost.com/news/world/217653/ukrainian-says-he-was-held-captive-for-14-years>

A Ukrainian engineer who says he was held captive and forced to work at a Bangkok factory for 14 years will meet Department of Special Investigation officers tomorrow to detail his allegations.

Anatoliy Vdovychenko, 57, was rescued from the Thai-owned oxygen equipment factory located at the Rangsit industrial complex on Jan 11 after Ukrainian consular staff confronted the owner and threatened to call police.

Ukrainian consul Constantine Ivaschenko said they became involved in the case after a Burmese worker who had left the factory sent a letter to the engineer's family in Ukraine last November telling them of the engineer's fate. The letter also included three telephone contact numbers.

Family members contacted Interpol and local police who then contacted the Ukrainian Ministry of Interior Affairs which informed the embassy in Bangkok. Consular staff phoned the numbers provided in the letter and found the Burmese man who told them where the factory was located.

"I thought I would be there forever," said Mr Vdovychenko, who is slender in appearance and seems emotionally unsettled by his ordeal. "I thought I would die and nobody would know. My mind was closed and I was depressed.

"I stayed for many years in a small dirty room without pay. I worked hard for nothing, They didn't pay my salary and they forced me to work.

"They took my documents and I had to do everything free of charge. The owner didn't need a welder, painter, electrician or plumber. I had to do everything."

His daughter Natalia, 34, who works for a corporate law firm in Odessa, said in a telephone interview they had been searching for their father for 15 years but the task was difficult. "At first we had no chance to do anything as we knew he was in Thailand, but at the time there was no Ukrainian embassy there." She said it was a "strange feeling" talking to her father after 15 years. "Of course we are waiting for him to come back, but it's a long time and things have changed. We are already adults now and everything has changed."

Mr Ivaschenko said Mr Vdovychenko had been isolated for so long that the first time he met the engineer he had almost forgotten his mother tongue.

Mr Vdovychenko, who is in the care of the Ukrainian embassy, has been granted special permission by the Immigration Department to stay in Thailand until the end of next month. His passport expired in 2006.

In an affidavit submitted at Klong Luan police station, Mr Vdovychenko says he arrived in April 1996 as a specialist in oxygen equipment installation for Combitec Corporation Ltd which was the agent for a Ukrainian supplier, Kisenmash.

After suffering burns in an accident in July 1996 and being unable to return home, he was verbally offered a work agreement by a Thai factory owner which included a 30,000 baht monthly salary, plus a car and other expenses, including medical expenses.

Mr Vdovychenko said that without his consent, the owner planned to build a new oxygen factory and he would have to maintain two oxygen systems. He said he only received a full salary for the first three months. By the end of 1998 he made a demand on his employer for 600,000 baht in outstanding pay.

After that, the owner stopped paying him and confiscated his passport when Mr Vdovychenko returned from a trip to Malaysia in 1998.

Over the next 12 years, he says he was only paid from "time to time", sometimes receiving 1,000 baht a week to buy food and nothing more.

"During a long period I did not have my passport and I did not have money to even buy food," he says in the affidavit.

Mr Vdovychenko told the Bangkok Post Sunday that he was under 24-hour guard and only allowed to leave the premises to buy food from a stall near the factory.

He said on occasions the owner threatened to kill him and sometimes fired a handgun in the air to intimidate him. He said he was too afraid to attempt an escape as the guard would act on the owner's orders as he was considered crucial to the running of the factory.

"I was alone, I had no friends and no passport. If I left, who would believe me?" he said.

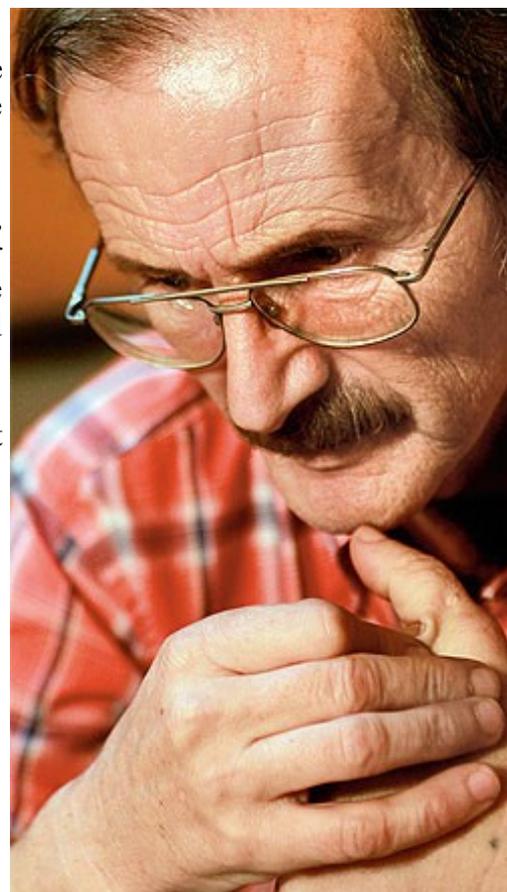
Mr Ivaschenko said that while Mr Vdovychenko was not "chained like a dog", "he's not Rambo, he's not Superman, he's a specialist engineer".

Mr Vdovychenko said he survived with the help of Burmese migrant workers at the factory who brought him food and clothing.

He had no television or radio, and the one Russian-language book he had was torn up by the factory owner. However, other workers were also recruited to keep him under surveillance.

Paisith Sungkahapong, who heads the DSI's Foreign Affairs Division, said he would meet Mr Vdovychenko tomorrow to determine whether or not to proceed with a criminal case against the factory owner. "I've never heard of a case like this. Fourteen years is a very long time," said Pol Lt Col Paisith.

Mr Vdovychenko says he remains fearful of the factory owner but wants to be paid the money owing to him.



Ukrainian Engineer Case

Ukrainian rejects offer to settle: Consul questions DSI claims over Burmese witness in factory prisoner

30.01.2011

The Bangkok Post

<http://www.bangkokpost.com/news/local/218901/ukrainian-rejects-offer-to-settle>

A Ukrainian engineer who claims he was forced to work for 14 years at a Pathum Thani factory for virtually no pay has rejected an offer of 150,000 baht to settle the case. Anatoliy Vdovychenko, 57, said he met the factory owner at the Labour Protection Welfare Department's Pathum Thani office on Friday, accompanied by a Ukrainian consul staff member.

Police at Pathum Thani's Khlong Luang have charged the owner of Navanakorn Gas (2005) Co factory with hiring a foreign worker illegally and violating the labour law by not paying him wages.

Mr Vdovychenko _ who is asking for full compensation of about five million baht _ said labour officials told him he was eligible only for up to two years' pay. He says his original contract was for 30,000 baht a month plus expenses. The factory owner, who says the engineer's wage was 8,000 baht a month, offered 150,000 baht on the spot to settle the case.

"He agreed to pay only 150,000 baht so I didn't accept it," Mr Vdovychenko said. He was released from the factory on Jan 11 after consular staff confronted the owner and threatened to call the police.

They acted after a Burmese worker at the factory sent a letter to Mr Vdovychenko's family in the Ukraine telling them of the engineer's plight.

The Department of Special Investigation (DSI) on Thursday said they had located and interviewed the Burmese man at his Samut Prakan home. They reportedly said the worker, who has left the factory, said Mr Vdovychenko was not intimidated, threatened or confined while working at the factory.

However, the Bangkok Post Sunday interviewed the man, Ngwe Win, on three occasions last week during which he said he stood by the allegations that Mr Vdovychenko was held against his will and forced to work at the factory. "They [the DSI officers] asked me many questions, but they didn't write it all down. They write little," said Ngwe Win.

When asked directly if he had said that the engineer was not threatened and forced to work he replied: "No, I don't talk like this."

He said Mr Vdovychenko was allowed to leave the factory for short periods and sometimes he loaned him his bicycle to go to the local shops to buy food.

Ngwe Win returned to Burma on Friday, saying he was afraid that his personal details would be passed on to the factory owner. "I know he's [Mr Vdovychenko] afraid, I'm afraid too," he said. "I told them [the DSI] already I'm afraid, they said, 'Don't worry, don't be afraid.'"

Ukrainian consul Constantine Ivaschenko said he would submit Ngwe Win's letter to the DSI next week and ask to see a copy of the Burmese worker's statement, which was signed by Ngwe Win and made out in English.

"This letter does not correlate with this testimony. Either the letter is bad or this testimony is wrong," he said. "If he sent the letter before, why should he tell [them] another thing?" Mr Ivaschenko said if they did not receive a satisfactory answer, the consul would consider pursuing the case in the courts.

Vietnamese Surrogate Mothers Case
Vietnamese surrogate mothers to return home
01.03.2011

The Bangkok Post

<http://www.bangkokpost.com/news/health/224002/vietnamese-surrogate-mothers-to-return-home>

The Vietnamese women hired as surrogate mothers in Thailand will be repatriated this week and their unborn babies will eventually be taken care of by the Vietnamese government.

Public Health Minister Jurin Laksanavisit said the authorities were preparing to take legal action against a Taiwanese company on charges of human trafficking and illegal detention. The questioning of the Vietnamese women was completed yesterday and their evidence would help in the investigation, he said.

Mr Jurin joined Thai officials from many agencies at a meeting yesterday to discuss how to proceed after a raid last week on the alleged illegal surrogacy firm Baby 101, run by a Taiwanese man in Bangkok, and the arrest of 15 Vietnamese women.

Present at the meeting were staff from the Public Health Ministry, the Social Development and Human Security Ministry, the Foreign Affairs Ministry, the Vietnamese embassy in Thailand, the Immigration Bureau, the Department of Special Investigation, the Medical Council and the Royal Thai College of Obstetricians and Gynaecologists.

The meeting decided legal action would be taken against the medical premises and doctors involved in the artificial insemination of the women.

The legal action would be based on the 1982 Medical Profession Act and the 1998 Medical Premises Act. Mr Jurin did not name any specific medical premises but said the Medical Council would discuss the issue and transfer the matter to its ethics subcommittee on March 10.

The minister said the pregnant Vietnamese women who had originally intended to seek abortions had changed their minds and decided to continue with their pregnancies.

"All the women will return to Vietnam this week .. The babies to be born to the Vietnamese surrogate mothers will be under the care of the Vietnamese government," he said.

A Department of Special Investigation representative told the meeting the Taiwanese operator had been arrested in Taiwan. He entered Thailand in 2008 and resumed business here in 2009.

Accounts from the Vietnamese women indicate the Taiwanese firm had offices in Thailand and Cambodia and insemination took place in Thailand.

Meanwhile, representatives from a group fighting human trafficking yesterday urged authorities to block the company's website - <http://www.baby-1001.com/eng/about.htm> - as it remained accessible. The Vietnamese government blocked the company's site but it was still accessible in Thailand, the Anti-human Trafficking Network said.

The website provides a registration form for clients who want to use the company's surrogacy service as well as applications for women who want to become a surrogate mother.

The DSI said last week it would ask the Information and Communication Technology Ministry to block the website because advertising for surrogate mothers through the internet was against the law.



ANNEX II

The Anti Human Trafficking Division

The Anti Human Trafficking Division

The Anti Human Trafficking Division (AHTD) is a police task force specialized in suppressing human trafficking. The AHTD consists of 9 regions as follows:

Region 1 consists of 9 provinces in the Central part of Thailand: Chainaj, Nonthaburi, Pathumthani, Ayutthaya, Lopburi, Samutprakarn, Saraburi, Singburi, Angthong

Region 2 consists of 8 provinces in the Eastern part of Thailand: Chantaburi, Chacheongsao, Chonburi, Trad, Nakornayok, Pracheenburi, Rayong, Srakaew

Region 3 consists of 8 provinces in the upper Northeastern part of Thailand: Chaiyabhum, Nakornrachasima, Burirum, Yasothon, Srisaket, Surin, Aumnajjaroen, Ubonratchathani

Region 4 consists of 11 provinces in the lower Northeastern part of Thailand: Kalasin, Khonkaen, Nakhonpanom, Mahasarakarn, Mukdahard, Soi-Ed, Loei, Sakonnakorn, Nongkai, Nongbualumphu, Udonthani

Region 5 consists of 8 provinces in the Northern part of Thailand: Chiangrai, Chiangmai, Nan, Payao, Prae, Maehongson, Lumpang, Lumpoon

Region 6 consists of 9 provinces in the upper Central part of Thailand: Kumpangpetch, Tak, Nakhonsawan, Pichit, Phitsanulok, Petchaboon, Sukhothai, Utharadit, Uthaitani

Region 7 consists of 8 provinces in the Western part of Thailand: Kanchanaburi, Nakhonpathom, Prachubkitikhan, Petchburi, Rachaburi, Samutsongkram, Samutsakorn, Suphanburi

Region 8 consists of 7 provinces in the upper Southern part of Thailand: Krabi, Chumporn, Nakornsrihammarat, Phang-nga, Phuket, Ranong, Suratthani

Region 9 consists of 4 provinces in the lower Southern part of Thailand: Songkhla, Satun, Trang, Phattralung

The Deep-South Police Operation Task Force consists of 3 provinces: Yala, Pattani, Narathiwat

Provinces of Thailand





ANNEX III

Relevant Laws

Relevant Laws

The Anti-Trafficking in Persons Act B.E. 2551 (2008)

[\[Thai\]](#) [\[English\]](#)

Alien Work Act B.E. 2551 (2008)

[\[Thai\]](#) [\[English\]](#)

Anti-Money Laundering Act No. 2 (2008)

[\[English\]](#)

Measures in Prevention and Suppression of Trafficking in Women and Children Act BE 2540 (1997)

[\[Thai\]](#) [\[English\]](#)

Child Protection Act BE 2546 (2003)

[\[Thai\]](#) [\[English\]](#)

The Criminal Procedure Code Amendment Act (No. 20) BE 2542 (1999)

[\[Thai\]](#) [\[English\]](#)

Immigration Act BE 2522 (1979)

[\[English\]](#) [\[Thai\]](#)

Money Laundering Control Act BE 2542 (1999)

[\[Thai\]](#) [\[English\]](#)

Labor Protection Act 1998

[\[Thai\]](#) [\[English\]](#)

Constitution of Thailand 1998

[\[Thai\]](#) [\[English\]](#)

Prevention and Suppression of Prostitution Act BE 2539 (1996)

[\[English Word Document\]](#) [\[Thai PDF\]](#)

Penal Code Amendment Act (No. 14) BE 2540 (1997)

[\[Thai\]](#) [\[English\]](#)

Witness Protection Act BE 2546 (2003)

[\[Thai\]](#) [\[English\]](#)

Source: UNIAP

http://www.no-trafficking.org/resources_laws_thailand.html



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