

รายการอ้างอิง

ภาษาไทย

คำพิพากษาศาลฎีกาที่ 3859/2537.

บันทึกความเข้าใจว่าด้วยความร่วมมือในการต่อต้านการค้ามนุษย์ในอนุภูมิภาคลุ่มน้ำโขงพ.ศ. 2548.

บันทึกความเข้าใจระหว่างรัฐบาลแห่งราชอาณาจักรไทยกับรัฐบาลแห่งราชอาณาจักรกัมพูชา

เรื่องความร่วมมือทวิภาคีว่าด้วยการจัดการค้าเด็กและหญิงและการช่วยเหลือเหยื่อ

ของการค้ามนุษย์ พ.ศ.2546.

บันทึกความเข้าใจระหว่างรัฐบาลแห่งราชอาณาจักรไทยกับรัฐบาลแห่งสาธารณรัฐประชาธิปไตย

ประชาชนลาว ว่าด้วยความร่วมมือต่อต้านการค้ามนุษย์โดยเฉพาะสตรีและเด็ก พ.ศ.2548.

ประมวลกฎหมายวิธีพิจารณาความอาญา พ.ศ.2477, ราชกิจจานุเบกษา เล่ม 52 หน้า 598, ลงวันที่

10 มิถุนายน พ.ศ.2478.

ประมวลกฎหมายอาญา พ.ศ.2499, ราชกิจจานุเบกษา เล่ม 73 ตอนที่ 95(ฉบับพิเศษ) หน้า 1, ลงวันที่

15 พฤศจิกายน พ.ศ. 2499.

พระราชบัญญัติค่าตอบแทนผู้เสียหาย และค่าทดแทน และค่าใช้จ่ายแก่จำเลยในคดีอาญา

พ.ศ.2544, ราชกิจจานุเบกษา ฉบับกฤษฎีกา เล่มที่ 118 ตอนที่ 104 ก หน้า 23, ลงวันที่ 12

พฤศจิกายน พ.ศ. 2544.

พระราชบัญญัติคุ้มครองเด็ก พ.ศ.2546, ราชกิจจานุเบกษา เล่ม 120 ตอนที่ 59, ลงวันที่ 2 ตุลาคม

พ.ศ.2546.

พระราชบัญญัติคุ้มครองพยานในคดีอาญา พ.ศ.2546, ราชกิจจานุเบกษา เล่ม 4 ตอนที่ 58 ก, ลงวันที่

20 มิถุนายน พ.ศ. 2546.

พระราชบัญญัติคุ้มครองแรงงาน พ.ศ. 2541, ราชกิจจานุเบกษา 8 ก /1 , ลงวันที่ 20 กุมภาพันธ์ 2541.

(ร่าง)พระราชบัญญัติมาตรการป้องกันและปราบปรามการค้ามนุษย์ พ.ศ.

มติคณะรัฐมนตรี เรื่องการดำเนินการของคณะกรรมการป้องกันและปราบปรามการค้ามนุษย์,

ลงวันที่ 14 มิถุนายน พ.ศ. 2548.

ภาษาลาว

สาธารณรัฐประชาธิปไตยประชาชนลาว.กฎหมายที่ว่าด้วยการพัฒนาและปกป้องผู้หญิง ค.ศ.2004.

ภาษาอังกฤษ

Asean Declaration Against Trafficking in Persons Particularly Women and Children .2004.

Asean Declaration on the Protection and Promotion of the Rights of Migrant Workers.2007.

AFESIP Opens New Center for Victims of Sex trafficking in Vientiane Lao PDR.

Available from: www <http://humantrafficking.org/updates/432>

1999.Bangkok Declaration on Irregular Migration .

Cambodia Women's Crisis Centre (CWCC).Trafficking of Cambodia Women and Children

Report of the Fact- Finding in Malaysia(2005). Available from:

[http://www.cwcc.orgkh/downloads/TRAFFICKING%20F%20CAMBODIAN%20WOMEN% 20 AND%20 CHILDREN.pdf](http://www.cwcc.orgkh/downloads/TRAFFICKING%20F%20CAMBODIAN%20WOMEN%20AND%20CHILDREN.pdf)

Cambodia Support Center Established for Women Victims of Sex Abuse and trafficking

Available from: <http://www.humantrafficking.org/updates/295>

1989 Convention on the Right of the Child.

Malaysia Promises to Act Against Human trafficking, 22 March 2006.

Available from: <http://www.humantrafficking.org>.

2003. Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers.2003.

2006.Memorandum of Understanding between the Government of the Republic of Indonesia on the Government of Malaysia on the Recruitment and Placement of Indonesia Domestic Workers.

Mohammad Yusree ,Jusree Zuraini Sharbawi,Asean Law Association General Assembly, the Protection of Victims Particularly Women and Children Against Domestic Violence Sexual Offences and Human Trafficking the Brunei,Challenge of Globalization to Legal Services pp.467-491.Bangkok.2006.

Regan E. Ralph ,Testimony before the Senate Committee on Foreign Relations Subcommittee on Near Eastern and South Asian Affair ,(Human Rights Watch 2000).

Available from:

<http://www.hrw.org/backgrounder/wrd/trafficking.htm>[2007 January 10]

- Royal Government of Cambodia .Law on the Suppression of The Kidnapping , Trafficking and Exploitation of Human Being.1996. Available from:
http://www.cdpcambodia.org/comboian_law.asp
- Royal Government of Cambodia, The Ministry of Women's and Veteran's and Affairs (MWVA), Concept Paper Strengthening Mechanisms and Strategies to Counter Trafficking.(2002). Available from:
http://www.tipnasia.info/files/doc/3/3/33concept_paper_on_trafficking.pdf
- Royal Government of Cambodia,2006-2010 The Second National Plan Against Trafficking in Persoꝑs and Sexual Exploitation . Sex abuse and sex trafficking in Malaysia, Available from:
http://www.walnet.org/csis/news/word_2002/aiw-020905.html[2007 January 28]
- Statement of Complaint to Suhakam Over Case of Nurlela Binti Usman.
 Available from: <http://www.geeklog.tenaganita.net/classic/article>.
- The Akha Heritage Foundation..Available on website:<http://www.akha.org/>
 The face of child trafficking in Cambodia .Available from:
<http://www.TIPinAsia.info>
2004. The governments of Brunei Darussalam, Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia,the Republic of the Philippines,the Republic of Singapore and the Socialist Republic of Vietnam. Treaty on Mutual Assistance in Criminal Matters.
- The government of the Brunei.Darussalam. Criminal Procedure Code. Available from:
http://www.agc.gov.bn/Lob_list.htm
- The government of the Malaysia. Child Act. Available from:
<http://www.parlimen.govmy/actindexbi/pdf/act611.pdf>
- The government of the Malaysia, Women and Girl Protection Act. Available from:
http://www.humantrafficking.org/countries/maysia/government_laws
- The government of the Republic of the Philippines and The Government of the State of Kuwait.
Memorandum of Understanding on Labor and Manpower Development.1997
- The government of the Republic of Singapore. Children And Young Persons Act.
 Available from:
http://www.statutes.agc.gov.sg/non_version/cgi-bin/cgi-retrieve

The government of the Republic of Singapore. The Criminal Procedure Code.

Available from:

http://www.statutes.agc.gov.sg/non_version/cgi-bin/cgi-retrieve

The government of the Republic of Singapore. Penal Code. Available from:

http://www.statutes.agc.gov.sg/non_version/cgi-bin/cgi-retrieve

The government of the Republic of Singapore. Women's Charter. Available from:

http://www.statutes.agc.gov.sg/non_version/cgi-bin/cgi-retrieve

The Ministry of Women's and Veteran's and Affairs (MWVA), Concept Paper Strengthening Mechanisms and Strategies to Counter Trafficking. (23 March 2002).

Available from:

<http://www.no-trafficking/content/pdf/mowa%20concept%20paper-ontrafficking%202002pdf>

The Republic of Philippines. An Act Establishing A Comprehensive Juvenile Justice and Welfare System Creating The Juvenile Justice and Welfare Council Under The Department of Justice Appropriating Funds There for and for Other Purposes (Republic Act 9344) Available from:

<http://www.dswd.gov.ph/images/articles/iRR-9344pdf>

The Republic of Philippines. An Act Providing for A Witness Protection, Security and Benefit (Republic Act NO.6981). Available from:

http://www1.oecd.org/daf/asiacom/pdf/philippines_rep_act_6981.pdf

The Republic of Philippines, Anti – Trafficking in Persons Act. Available from:

<http://www.cfo.gov.ph/ra9208.pdf>

The Republic of Philippine, Republic Act NO.6981 An Act Providing for A Witness Protection, Security and Benefit

The Socialist Republic of Vietnam. Law on Child Protection Care and Education .

Available from:

http://vbqpl.moj.gov.vn/law/en/2001_to_2101/2004/200406/200406150009_en/lawd

The Socialist Republic of Vietnam. National Plan of Action Against Crime of Trafficking in Children and Women 2004-2010 Trafficking Routes. Available from:

<http://www.protectionproject.org/brunei.doc>

Vietnamese Migrant Workers and Brides (2006) .Available from:

<http://www.humantrafficking.org/updates/441>

- The Union of Myanmar. The Anti Trafficking in Persons Law.2005. Available from:
http://www.humantrafficking.org/uploads/updater/myanmar_tip_law_english_version.dpf
- Unicef, Ministry of Labour and Social Welfare Lao People's Democratic Republic. Broken Promises Shattered Dreams A Profile of Children Trafficking in the Lao PDR.
 Available from: <http://www.unicef.org.pdf>
- United Nations Economic and Social Council. Recommended Principles and Guideline on Human Rights and Human Trafficking. E /2002/68/Add.1.
- United Nations General Assembly. Convention Against Transnational Organized Crime.
 UN.Doc.A/RES/53/111, (January 1999).
- 1951 United Nations General Assembly. Convention Relating to the Status of Refugees.
- United Nations General Assemle. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.UN.DocA/RES/40/34 (November 1985)
- United Nations General Assembly. Protocoi Against the Smuggling of Migrants by Land, Sea and Air, Supplementing The United Nations Convention Against Transnational Organized Crime.UN.Doc.A/RES/53/111(January 1999).
- United Nations General Assembly. Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.UN.Doc.A/RES/53/111, (January 1999).
- United Nations Office on Drugs and Crime, Against Transnational Organized Crime. Legislative Guides for The Implementation of The United Nations Convention Against Transnational Organized Crime and The Protocol Thereto.2004.
 Available from: <http://www.unodc.org>
- United Nations Office on Drugs and Crime, Brian Iselin and Melanie Adams. Distinguishing between Human Trafficking and People Smuggling.(April 2003) Available from:
<http://www.unodc.un.or.th/materia/document/distinguishing.pdf>
- United Nations Office on Drugs and Crime (UNODC). Trafficking in Persons :Global Patterns.
 April 2006. Available from: <http://www.unodc.org/unodc/en/trafficking-persons>

United Nations Office on Drugs and Crime, Unicef, Department of Criminal and Administrative
Laws Ministry of Justice, Assessment of the Legal System in Vietnam in Comparison
with the United Nations Protocol to Prevent Suppress and Punish Trafficking in Persons,
Especially Women and Children, Supplementing the United Nations Convention Against
Transnational Organized Crime. Available from:

<http://www.unodc.org/pdf/crime/human-trafficking/legal-system2004-2005.pdf>

United Nations General Assembly. Universal Declaration of Human Rights.

US. Department of state. Trafficking in Persons Report. June 2006. Available from:

<http://www.state.gov/document/organization/66086.pdf>

บรรณานุกรม

ภาษาไทย

คณิต ฒ นกร,กฎหมายอาญาภาคความผิด.พิมพ์ครั้งที่ 8.สำนักพิมพ์วิญญูชน.2545

ภาษาอังกฤษ

A Licadho Report,Violence Against Women in Cambodia. January 2006. Available from:

<http://www.licadho.org/reports/files/77LICADHOREportviolenceAgainstWomens.pdf>

Anne Gallagher,Trafficking smuggling and human rights:tricks and treaties.

Available from: <http://www.fmreview.org/FMRpdfs/FMR12.pdf>

Antarini Arna and Mattias Bryneson. Report on Laws and Legal Procedures Concerning The Commercial Sexual Exploitation of Children in Indonesia .2004.

Available from:

http://www.ecpat.net/eng/Ecpat_inter/projects/promoting_law/indonesia_report

Anis Hamim,Ruth Rosenberg,Review of Indonesian Legislation. Available from:

<http://www.solidarity.timberlakepublishing.com/Files/IndoTraffickingLegislation.pdf>

International Labour Organization ,Inthasone Phestsiriseng,Lao PDR Preliminary Assessment of Illegal Labour Migration and Trafficking in Children and Women for Labour Exploitation.2003. Available from:

http://www.tipinasia.info/files/doc/4/5/154lao_pdr_ticw.pdf

International Labour Organization,Unicef,Children's Work in Cambodia: A Challenge for Growth and Poverty Reduction. December 2006. Available from:

<http://www.Siteresurces.worldbank.org/INTEAPREGTOPLABSOCPRO/Resource/UCW-Cambodia.pdf>

International Organization for Migration ,Anneska Derks . Combating Trafficking in South- East Asia.2000. Available from:

http://www.imadr.org/project/petw/combatingtrafficking_southeastasia.pdf

Kim Warren. Trafficking of Women and Children in Indonesia. Available from:

http://www.gaatw.net/working_papers/asia_consultation/pdf

- Maria Angela. Philippines: Good Practices for the Protection of Filipino Women Migrant Workers in Vulnerable Jobs. Available from:
<http://www.ilo.org/public/english/employment/gems/download/swmphi.pdf>
- Nicola Piper. A Problem by a Different Name ? A Review of Research on Trafficking in South – East Asia and Oceania. 2005. Available from:
<http://www.blackwell-synergy.com/doi/pdf>
- Puan Sri Datin Seri N.Saraswathy Devi. Asean Law Association General Assembly, the Protection of Victims Particularly Women and Children Against Domestic Violence Sexual Offences and Human Trafficking, Challenge of Globalization to Legal Services. pp.493-521. Bangkok. 2006.
- Republic of Indonesia, Ministry for People's Welfare. The Elimination of Trafficking in Persons in Indonesia. 2004-2005. Available from:
http://www.menkokesra.go.id/pdf/deputi3/human_trafficking_eng.pdf
- The Florida State University, Monica Esquibe. Human Trafficking: A violation of Human Rights, A Universal Issue. 2005. Available from:
<http://www.dsolarship.lib.fsu.edu/cgi/viewcontent.cgi>
- United Nations. A Framework for addressing human trafficking in Cambodia. Available from: <http://www.UN.org.kh/>
- United Nations Office for Project Services. Globalization, Migration and Trafficking: Some Thoughts from the South- East Asian Region. 2001. Available from:
http://www.notrafficking.org/content/wed/07publication/globalization_migration_and_trafficking.pdf
- USAID. Anti- Trafficking Technical Assistance Indonesia Analysis of United States Government Funded Anti- Trafficking Activities. June 28, 2006. Available from:
http://www.usembassyjakata.org/indo-reports/Indonesia_trafficking.pdf
- Vitit Muntarbhorn. The Mekong Challenge Employment and Protection of Migrant Workers in Thailand: National Laws/ Practices versus International Labour Standards?. 2005. Available from:
<http://www.ilo.org/public/English/region/asro/Bangkok/child/trafficking/downloads/migrantworkers.pdf>
- Yi Wang. Anti- Human trafficking Program in Vietnam. August 2005. Available from:
<http://www.tipinasia.info/files/doc/2/0/202/Anti-trafficking>

ภาคผนวก

ภาคผนวก ก.

**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN
AND CHILDREN, SUPPLEMENTING THE UNITED
NATIONS CONVENTION AGAINST
TRANSNATIONAL ORGANIZED CRIME**

**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH
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CHILDREN, SUPPLEMENTING THE UNITED NATIONS
CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME**

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

Relation with the United Nations Convention

against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3

Use of terms

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5

Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the

receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

*Article 11**Border measures*

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

*Article 12**Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol

relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance,

approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any

instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

*Article 19**Denunciation*

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

*Article 20**Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

ประวัติผู้เขียนวิทยานิพนธ์

ร้อยตำรวจเอกหญิง โชติรส โชคสวัสดิ์ เกิดเมื่อวันที่ 30 กรกฎาคม 2517 ที่ กรุงเทพมหานคร สำเร็จการศึกษาปริญญาตรีนิติศาสตร์บัณฑิต คณะนิติศาสตร์มหาวิทยาลัยกรุงเทพ ในปีการศึกษา 2539 ศึกษาต่อในหลักสูตรนิติศาสตร์มหาบัณฑิตที่จุฬาลงกรณ์มหาวิทยาลัย ในปี พ.ศ. 2547 สถานที่ทำงาน กองคดีอาญา สำนักงานตำรวจแห่งชาติ