Intervention by
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Agenda Item 2: Guidance on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked

Thursday, 10 September 2020

On behalf of the Thai delegation, I would like to thank the Chair and the Secretariat for organising the meeting. Let me share with you our experience of applying non-punishment principle. In our view, a trafficked person is a victim, not an offender. As such, Thailand has incorporated the Non-Punishment Principle in our 2008 Anti-Human Trafficking Act. The Act explicitly states that officials are barred from taking criminal proceedings against any trafficked person on a number of offences, including those relating to stay permits, giving false information to officials, forging or using a forged travel document, prostitution as well as the offence of working without permission as an alien as defined by our relevant domestic laws. This has been critical in our efforts on victim protection, prevention and rehabilitation.

All victims of trafficking, including those involved in the above-mentioned offences will receive the same treatment and protections, such as the right to temporarily stay or work in the country and the right to receive protection and most importantly, this is not dependent on the victims’ cooperation with law enforcement officers. Any criminal records will also not be registered. But these protections are meaningless if enforcement officers are not aware of or equipped with the knowledge on how to implement them. We have therefore, spared no effort in organizing regular training for law enforcement officers on effective law enforcement and proper implementation of the Anti-Human Trafficking Act.

Despite our efforts, there have been important challenges. These include building trust with victims of trafficking, which in our experience directly affects our ability to establish the facts on whether the person is a victim and entitled to the non-punishment principle or not. Moreover, we are fully aware that trafficking in persons may involve many other crimes or offences. Therefore, further study and research is needed in order to address the issue more effectively. From our experience, one possible recommendation for the Working Group is that measures and mechanisms on applying the non-punishment principle of a similar level be applied to both the country of origin and destination. We believe this will encourage victims to openly admit they are victims so that appropriate treatment can be provided in both the country of origin and destination.

To conclude, including the non-punishment principle in our Anti-Human Trafficking Act has helped to give a clear direction for law enforcement officers. It has strengthened our work on protection, prevention and rehabilitation because it has helped to ensure that all victims will
be treated on an equal basis and not as offenders. We look forward to learning about and helping to draft further guidance in this area to ensure this principle becomes an even more effective tool in work on anti-trafficking.

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