

<b>THEMATIC TITLE</b>	PROBLEMS RELATING TO WITNESS PROTECTION IN HUMAN TRAFFICKING CASE IN THAILAND
<b>KEYWORDS</b>	WITNESS PROTECTION/SPECIAL MEASURE/ THE OFFENSE OF HUMAN TRAFFICKING
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<b>YEAR</b>	2017

### **ABSTRACT**

This study examines problems relating to witness protection in human trafficking cases, corresponding to the situation where the human trafficking problem has increasingly aggravated. The crime itself has evolved into new forms and practices such as swindling persons into the labor market in fishery and deceiving innocent women and children into sex trade and beggary. The causes of such problem are numerous. Partly, globalization makes the world borderless, helping illegal business expand. The form of human trafficking becomes more complicated, allowing organized crime to grow across border with no easy way to prevent. This problem goes along with the increasing demand for sex trade and cheap labor. This study finds that law enforcement, especially for human trafficking, has not been carried on effectively. The justice system fails to reach wrongdoers and impose punishment on them. Most witnesses who see or are capable of confirming the human trafficking offence deny participation in the justice system or assisting the state, partly because the law does not provide them with any safeguard, despite the fact that section 244 of the Constitution of the Kingdom of Thailand B.E. 2540 (1997) affirms 3 underlying rights of a witness in a criminal case: (1) right to protection and safety, (2) right to proper treatment, and (3) right to receive necessary and reasonable compensation from the State. The Witness Protection Office, under the Rights and Liberties Protection Department, the Ministry of Justice, is the responsible office that ensures witness protection practices in accordance with the Act.

Section 8 of the Witness Protection Act, B.E. 2546 (2003) provides the types of offences that a witness protection according to the special measure may be requested. These types of crime are considered major crime and attached with severe punishment such as organized crime and crime relating to national security under the Criminal Code. However, the provision does not provide the witness protection for human trafficking offences. In the past, section 8 (3) of the Act provides that a witness in a case relating to trafficking of women and children is entitled to a protection under the special measure. Later on, the Human Trafficking Prevention Act, B.E. 2551 (2008) is enacted and repeals any other law relating to trafficking of women and children, but the provision on witness protection for the relevant part has not been amended. Section 36 of the Human Trafficking Prevention Act, B.E. 2551 (2008) requires protection for victims under care, including family members of the victim. The victim who takes the witness stand will also be protected under the witness protection law, but the victim who also witnesses the wrongdoing is not protected under the scheme, leading to the problem in witness examination for the plaintiff. As such, Thailand has encountered actual problems in the criminal proceeding for human trafficking cases and has been ranked low considering standard in employing human trafficking protection. Although the State has prioritized such problems, witnesses in human trafficking cases are unsure whether the State will actually protect them once the witness examination commences in a criminal proceeding. Therefore, protection of witnesses in the women and children trafficking cases are not actually enforceable in practice.

In order to develop effective law enforcement for human trafficking offences, and ensure that special measures under the Witness Protection Act, B.E. 2546 (2003) are fruitful, this study proposes that cases relating to human trafficking prevention law are considered cases qualified for witness protection under section 8 of witness protection law, as well as any supporting measures involving witness protection by the State, practices and reasonable compensation to be given to witnesses. Specific improvement should be done on the reimbursement of compensation and expenses to witnesses, change of first name and last name, along with a temporary protection during the hearing of witness protection petition according to the special measure. This is to ensure that witness protection law is enforced effectively and appropriately in accordance with special measures and the rationale behind of the Witness Protection Act. The results would yield greater justice to the general public and ensure effectiveness in the enforcement of human trafficking protection law.