

"Combating Human Trafficking in the Asia-Pacific Region: Issues and Options"

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PART: I Issues and Concerns

- 1.1 In recent years, trafficking in people has re-emerged as an issue of global concern. Despite a paucity of reliable data, there is a widespread view that the majority of victims of trafficking are women and children. Every day, men, women and children striving for a better life for themselves and their families are routinely deceived and exploited to satisfy a demand for cheap goods and services.
- 1.2 In the past, efforts to prevent trafficking have been few and relatively small-scale. Collusion between families and agents, corruption of law enforcement and border officials, and difficulty in knowing when and where transactions take place have all thwarted prevention efforts. Recently, however, growing concern about violence against women world-wide has put trafficking on the international agenda, and its connection with the sex industry, bonded and exploitative labour, and severe forms of human rights violations, among others has added urgency to global anti-trafficking efforts, including in the Asia Pacific region.
- 2.1 Various estimates of the number of people trafficked each year vary from tens of thousands to millions. This wide range is hardly surprising given the inherent difficulty of tracking a criminal, clandestine activity, but it is also a result of different definitions of trafficking. Traditionally, the word trafficking often used to describe kidnapping and enslavement of workers - usually women and girls in the commercial sex industry. However, recent developments world-wide have adopted much broader definitions of the term addressing both working conditions as well as how a person is recruited or treated at a subsequent stage.¹ This is because not everyone is abducted or enticed away with false promises of good jobs. Others go willingly, seeing the trafficker's offer as the best option for themselves or their families, but later regret the decision when they find themselves trapped by debt, exploitation and fear in abusive conditions.
- 2.2 A person who is trafficked may have been pushed or pulled or -- more likely -- some combination of the two. These forces are legitimately viewed from both sides of a continuum, with dire poverty and lack of opportunity creating fertile ground for traffickers, while rising aspirations and increasing exposure to mass media lure young people to cities. However,

¹ "Trafficking refers to the recruitment, transportation, purchase, sale, transfer, harbouring, or receipt of persons: by threat, use of violence, abduction, use of force, fraud, deception, or coercion (including abuse of authority), or debt bondage, for the purpose of placing or holding such person, whether for pay or not, in forced labour or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described. " (UNCHR, February 2000).

whether someone is "pushed" or "pulled" does not change the fact that she or he has been trafficked.

- 3.1 Speaking broadly, anti-trafficking options fall under three major lines of action: (1) preventing man, women and children from being trafficked; (2) protecting the human rights of victims of trafficking; and (3) prosecuting traffickers and enforcing laws against trafficking. In the recent years, various initiatives and programs in the countries of the Asia Pacific have begun addressing the problem of human trafficking, especially in women and children. Governments are becoming active, although most programs are carried out by non-governmental organisations (NGOs) with a focus on local communities. Other NGOs have regional or even global mandates to combat trafficking. Regionally, a Convention on Trafficking in Women and Children has been adopted by the South Asian Association for Regional Co-operation (SAARC) in 2002. The Association of Southeast Asia Nations (ASEAN) also adopted a resolution to make the fight against human trafficking, a priority. More recently, five Mekong countries (China, Vietnam, Cambodia, Lao PDR, and Thailand) have formed an intergovernmental forum in October 2004 and adopted "the Mekong Children's Recommendation for Action on Human Trafficking".²
- 3.2 Trafficking is driven by both supply and demand. Poverty and gender inequalities make it easier for agents to procure young women and children, yet it is the buying power of consumers for submissive women and children that makes trafficking lucrative. Where, then, should the emphasis of prevention be placed: intercepting agents, reducing poverty, penalising consumers, equalising gender relationships, or other pressure points?
- 3.3 It is only natural that after hearing the stories of young girls sold into virtual slavery in brothels, the natural response is to focus on protecting them. But, at the same time, one should be cautious about the fact that local efforts to reduce the vulnerability of women and children (such as poverty alleviation and job training) will only have a limited effect at best on the number of trafficked individuals. As long as demand remains strong, agents and procurers will always find vulnerable populations from other locations. On the other hand, if vulnerability could be reduced on a region-wide scale, then traffickers would have fewer opportunities to recruit, and the exploitative labour practices would decrease.
- 3.4 Many advocate aggressively enforcing anti-trafficking laws and prosecuting traffickers. Cracking down on trafficking has proved to be difficult, in part because of the involvement of organised crime in many countries of the region and the informal systems of bribes to law enforcement and immigration officials in others. Moreover, approaches that focus largely on prosecuting traffickers can be harmful to the people they are designed to help. Indeed, human trafficking is a microcosm of many of the complex social issues facing global society today, including gender disparities, economic inequality, migrants' rights and cultural

² On October 29, 2004, the six Governments of the Greater Mekong Sub-region agreed on a historic COMMIT Memorandum of Understanding on co-operation against human trafficking. The MOU recognises the special vulnerability of women and children to trafficking; encapsulates the importance of a 'victim-centred' approach that stems from an understanding of human trafficking as a violation of human rights; and realises that marginalised populations have special vulnerabilities that must be addressed. Specific emphasis laid by COMMIT include- among others- national and regional requirements as to systematise and institutionalise the legal and societal frameworks for victim identification and protection; field-based assessments on how legal procedures are actually implemented in practice and to specify which elements of law actually protect victims in a substantive way and which elements of law actually support effective prosecution of traffickers; standards of/for "successful" return in the context of cross-border repatriation; identifying necessary "risk" assessments as well as alternate approaches to "re-integration" or "return"; & minimum standards for victim-focused repatriation.

imperialism. This makes thoughtful discussion of the issues and the needed response difficult.

- 4.1 It is important to note that the existing notions of trafficking in the Asia Pacific are predominantly influenced by issues of commercial sex. Yet the anti-trafficking agencies recognise that women and children are coerced, tricked or bonded into occupations and situations other than prostitution. Of notable concerns include trafficking into abusive factory labour, street-begging, domestic work and arranged marriages/'bride-buying'.
- 4.2 With an estimated 9.5 million, the Asia and Pacific region claims the highest number of people among the estimated 12.3 million victims of forced labour in the world today.³ The region is struggling against both traditional and newer forms of forced labour. While trafficking for forced commercial sexual exploitation is growing, but with 1.4 million people concerned it makes up less than 10 per cent of the total. Annual profit generated by trafficked forced labour in the Asia-Pacific region is estimated at US\$ 9.7 billion. The economic disparities in the Mekong sub-region fuel the trafficking of women and children from Myanmar, Laos and Cambodia towards Thailand. Women and children from Indonesia and the Philippines are trafficked into forced commercial sex work in destination countries such as Australia, China, Hong Kong SAR, Japan, South Korea, and Taiwan, China.
- 4.3 The incidence of forced labour among domestic workers trafficked from these countries to Malaysia, Singapore and Hong Kong SAR is high. In Japan and Australia, for example, women have entered the country legally under "entertainment" visas, with the expectation of working in dance clubs, only to find themselves forced into providing sexual services.
- 4.4 In **China**, massive internal migration from rural to urban areas puts many young women and girls, in particular, at high risk for labour and sexual exploitation. Many Chinese migrants are also susceptible to smuggling and trafficking into ethnic business enclaves in Europe and North America, where they become trapped in slavery-like conditions in sweatshops, in restaurants, and under the premise of domestic work.
- 4.5 Root causes of trafficking and irregular migration include poverty, indebtedness, and limited educational and employment opportunities in rural communities of origin, social exclusion and the lure of the big cities. Some women and children are sold into the sex trade, while others are trafficked for domestic or seasonal agricultural work, or begging and soliciting.
- 4.6 The "Bali Process" was initiated by the governments of **Australia** and Indonesia to develop practical measures at a regional level against trafficking and smuggling. The process has thus moved from one of merely enunciating principles to one of implementing more practical measures, and there has also been a recent change of focus from the interception of smuggling towards the prevention of trafficking and the protection of victims.
- 4.7 In **China** again, there have been well-publicised arrests and prosecutions of leaders of trafficking networks, and a toughening of penalties. Between 2001 and 2003, the government investigated over 20,000 cases, in which 43,215 women and children were rescued and 22,018 traffickers arrested. Government action is also underway to prevent illegal immigration for work abroad by cracking down on hundreds of unregistered labour intermediary agencies.

³ Global Report on Forced Labour In Asia: debt bondage, trafficking and state-imposed forced labour: Seventh Sustainable Development Conference, 8-10 December, 2004, Holiday Inn, Islamabad.

PART: II Depicting human Trafficking in the Asia-Pacific:⁴

- ◆ As many as 80% of the 236 women in prostitution interviewed in Battambang **Thailand** (under a CATW survey) were found to have been trafficked.
- ◆ By the time they arrive in **Japan**, most trafficked Thai women accumulate approximately \$25,000 US in debt.
- ◆ Thirty percent of the women in prostitution in **Cambodia** are below the age of 17.
- ◆ The total revenue from prostitution in **Thailand** is approximately 50-60% of the government's annual budget.
- ◆ UNICEF estimates that there are at least a million child prostitutes in Asia alone with the greatest numbers in **India, Thailand, Taiwan and the Philippines**.
- ◆ Trafficking in Europe most often involves **Asian** women.
- ◆ **Australian** Federal Police estimate that prostitution grosses A\$30 million annually. Asian women are to be found in prostitution particularly in Canberra, Victoria and Queensland.
- ◆ **Russian** women have also been recruited for "tabletop dancing" in clubs that often have links to brothels.
- ◆ Over 250,000 **Bangladeshi** women and girls have been trafficked to Pakistan in the last 10 years, continuing at the rate of 200-400 women monthly. In Dhaka, around 5,000 prostitutes are children. Forms of trafficking are: fake marriages, sale by parents to "uncles" offering jobs, auctions to brothel owners or farmers, abduction, trafficking of very young boys to the Middle-East as 'camel-jockeys', bonded/cheap labour, domestic servitude, etc.
- ◆ In **Burma**, forms of trafficking include deceptive job placements that land women in brothels, abduction by agents for clients, sale of girls from hill tribes. As illegal immigrants in Thailand, prostitutes are arrested, detained and deported back to Burma, with 50%-70% being HIV positive.
- ◆ 35% of **Cambodian** prostitutes are minors. The figure had been about 6,000 in 1991, but after the arrival of the UN UNTAC troops, the numbers rose to 20,000 just in one year in 1992. 48% of the women and girls in brothels were abducted and sold there, and are often resold to other brothels or to traders who smuggle them out of the country, for example to Thailand and Vietnam.
- ◆ Recently, there is a resurgence of prostitution and trafficking in women and girls all over **China**, involving a high percentage of children and minors. In some regions, Vietnamese, Burmese and Tibetan women have been trafficked. Shangchundo Island off Guandong is a tourist spot offering drugs and sex casinos with large number of women in prostitution from all over China. There are more than 70 million unmarried men in China as a consequence of the son preference of Chinese families. Many are desperately seeking wives from Vietnam though

⁴ Source: Trafficking and Prostitution in Asia and the Pacific (CATW, 2005).

marriage arrangements are difficult. Through trickery, women are allured and trafficked according to the study of Le Thi Quy.

- ◆ In **HONG KONG**, fake contracts, often for domestic work, land women in brothels that employ Chinese minders to prevent runaways. An influx of East European women in high-priced clubs has been noted with a Russian Mafia said to be bringing women to Macao.
- ◆ Forms of trafficking in **India** include: economic incentives offered to parents to part with their children, fake jobs or marriage promises, abductions. The promotion of tourism in Goa and Madurai, two of India's major beach holiday destinations, appears to be resulting in rising numbers of prostituted children.
- ◆ In **INDONESIA**, localized bordello complexes, "localisas," are managed under local government regulations. Estimated financial turnover of sex industry is reported to be around US\$ 4 billion.
- ◆ **JAPAN** is the largest sex industry market for Asian women. The sex industry accounts for 1% of GNP and equals the country's defence budget. One "sex zone" in Tokyo, only 0.34 sq. km., has 3,500 sex "facilities"; strip theatres, peep shows, "soap-lands," "lovers' banks," porno shops, sex telephone clubs, karaoke bars, clubs, etc.
- ◆ Forms of prostitution in **KOREA** include- escort and call girls, street prostitution, and from cafes, clubs, cabarets, show cases, massage parlours and beauty shops. Women suspected of prostitution can be confined in rehabilitation centres without due processes.
- ◆ Around 5,000 **Nepalese** women and girls are trafficked to India yearly. Brokers especially in rural areas and even family members sell girls; husbands sometimes sell their wives to brothels. According to international social agencies, the flow of Nepalese girls into Indian brothels is probably the busiest slave traffic of its kind anywhere in the world.
- ◆ In **New Zealand**, Majority of the prostituted women are Asians. In Auckland, of 4,000 prostituted women 800 are Thai, and 400 other Asian women. Channels include: false employment offers, sponsorship by boyfriends or fiancés for residency; debt bondage is also used to keep women in prostitution. New Zealand is also used by traffickers of Thai women as a departure point for **Japan, Australia and Cyprus**.
- ◆ In the **Philippines**, Government policies favour the export of entertainers and domestic helpers that put women at risk of sexual exploitation. Further, government approval of "R and R" privileges for the US navy sustains a system and infrastructure of military prostitution. Of the 200,000 or so street-children in the Philippines, about 60,000 sell their bodies. (Asia Week, February 7, 1997).
- ◆ In **Sri Lanka**, nearly 80% of labour migration is of women workers. Many job trainees in Korea and Japan have disappeared into underground labour markets, including prostitution.
- ◆ In **Taiwan**, 40% of young prostitutes in the main red light district are aboriginal girls.
- ◆ In **Vietnam**, trafficking happens through kidnapping for brothels, deceptive offers for jobs or tourist trips and marriage matchmaking with foreigners who sell and resell the women abroad. Organised tours of Taiwanese men come to buy Vietnamese brides.

- ◆ Recently, **Afghanistan** is confronted with a significant trafficking problem, as recognised by the June 2002 “Declaration of the Essential Rights of Afghan Women,” which highlighted trafficking victims in its first section. The following forms of trafficking are taking place: exploitation of prostitution (forced prostitution and prostitution of minors); forced labour; slavery and practices similar to slavery (abductions for forced marriage, marriage for debt relief, and exchange of women for dispute settlement); servitude (sexual servitude and domestic servitude); and, removal of organs. Afghanistan as a country of origin, transit, and destination.⁵
- ◆ It is to be noted that while men are also trafficked world-wide, the issue of trafficked men is almost absent in various literature on trafficking. So far men are predominantly seen as “migrants” while women and children are typically seen as being “victims of trafficking” reflecting a strong gender bias in mainstream literature on trafficking.

PART: III Conclusion

Finally, a combination of short-, medium- and long-term strategies will constitute the most effective response to the problem in the Asia Pacific region. Examples of short-term action include targeting and prosecution of procurers and raising awareness in the communities from which women and children are drawn. In the medium term, mass media campaigns to change social norms and reduce consumer demand for trafficked individuals and products are appropriate. Typical long-term solutions include poverty alleviation and gender equalisation.

If time permits:

Regional Co-operation/Co-ordination in Combating Human Trafficking:

[May be elaborated with further research as an independent paper]

National policies, laws and efforts need to be reviewed and synchronised with greater co-ordination, specifically addressing relevant issues in the contexts of

- ◆ Prevention of trafficking;
- ◆ Protection;
- ◆ Repatriation; and
- ◆ Reintegration of trafficked victims and regional cooperation for such efforts.

1. Prevention of Trafficking

1.1 Education

Education can provide individuals with the skills necessary to obtain well-paying jobs. It can also arm people with the knowledge and critical ability to make sensible decisions. Education can thus be seen as a primary means to reduce the occurrence of trafficking.

1.2 Family Law

⁵ Trafficking in Person: An Analysis of Afghanistan, Seventh Sustainable Development Conference 8-10 December, 2004, Holiday Inn, Islamabad.

Forced marriage and false adoption are known to be favored methods of traffickers.

1.3 Labor Law

Many women and children are trafficked illegally to another country because they want to earn a living but they are not allowed to work legally in that other country, even though there is a demand for their labor there. If such women and children fill that demand illegally, they may not receive the benefit of any labor laws protecting employees' rights.

1.4 Social Security

A good social welfare system that provides sufficient assistance in case of loss income due to sickness, retirement, unemployment or death may lessen the pressure on potential victims to turn to traffickers for job opportunities to maintain the victim's income stream in times of difficulty.

1.5 Public Health Services

Many women and children are lured into cross border trafficking to generate more income to cover their and their families' expenses, including those related to healthcare. Provision of free, quality medical services can reduce the need to seek employment abroad to cover these expenses.

1.6 Culture and Sports

Sports and cultural activities may partly prevent potential trafficked victims from being lured into a more exciting lifestyle in another country.

1.7 Decentralization of Power

Local government bodies should have a certain amount of discretion in formulating their plans for cultural and social development within their own localities and may be able to develop and implement social and economic plans that cater to the needs of their people as a means to help prevent local women and children from being trafficked to another country.

2. Protection of Trafficked Victims

2.1 Civil Liability

Labor or marriage contracts entered into due to fraud, duress, mistake or threat should be consistently void or voidable under the laws of all countries.

2.2 Criminal Liability

The criminal law of each country in the Region should be applied even if the offense is committed outside its borders provided that the offender is a citizen or resident of such country. Most of all countries have restrictions, however, on such extraterritorial application of their criminal laws (e.g., need for an international treaty, minimum prison term or request from the government of the country where the crime occurred).

2.3 Criminal Procedures

“Victim/child-sensitive” procedures (such as allowing a psychologist or social worker to be present during the taking of the statement of a child or arranging to have a video or audio recording of the statement of a child to be used later as evidence) as well as other procedures used in trafficking cases (such as granting leniency to foreign trafficked victims).

2.4 Immigration

The immigration laws of the countries in the region should expressly provide relaxation or exemption from penalty for trafficked men, women and children who may have illegally entered the country.

2.5 Labor

Forced labor should be consistently prohibited specifying punishment for violation of forced labor provisions.

3. Repatriation of Trafficked Victims

3.1 Nationality

Trafficked women may not want to be repatriated to the country of which they are citizens, especially where their children are born in a different country and therefore may have acquired another nationality. Such children may not be familiar with the country of their parent’s nationality or the national language.

3.2 Repatriation Procedures

Specific provisions concerning procedures for repatriation of trafficked victims, which should broadly prescribe that the repatriation of trafficked victims shall be in accordance with the relevant agreement or treaty. There is currently no Asia Pacific Regional agreement or treaty with respect to the repatriation of trafficked victims.

4. Reintegration of Trafficked Victims

4.1 Public Health Services

Since many rescued trafficked women and children suffer from sexually transmitted diseases (including HIV/AIDS) and/or addiction to narcotics, provision of free, quality medical services and rehabilitation to these trafficked victims can smooth their reintegration process.

4.2 Provision of Assistance

Since many trafficked women and children may not be quite ready to live in their homes upon repatriation, there should be alternative places where they can stay and be rehabilitated (both physically and mentally) as well as learn new trades as part of the reintegration process.

5. Specific Regional Cooperation in Prevention of Trafficking and Protection, Repatriation and Reintegration of Trafficked Victims

5.1 Extradition

Consistent extradition laws and treaties.

5.2 Mutual Assistance in Criminal Matters

Regional treaties governing mutual assistance in criminal matters and procedures for cooperation between countries in the execution of penal sentences. Countries should also execute bilateral agreements concerning cooperation in combating certain crimes including trafficking in women and children.