

CHAPTER 1

INTRODUCTION

“Men, women and children are not property but human beings. The international community should declare, loudly and more strongly than ever, that we are all members of human family. Slavery simply has no place in a world of human rights.” (Free the Slave)

Kofi Annan, Dec. 1999

All forms of trafficking violate individual rights and freedoms and have no place in human society. There are no justifications as all forms of trafficking, have common elements; exploitation, violation of individual rights and freedoms, and physical or emotional harm. Voluntary laborers or illegal migrants become forced labor or trafficked when individuals are exploited or forced into servitude. Voluntary labor to be acceptable should be completely free of any element of exploitation. Many studies seek to distinguish between forced and voluntary labor but sometimes the elements of exploitation are hidden in the case of voluntary labor. The case stated below accepts that forced and voluntary labor can be distinguished but warns that voluntary migration can easily change to human trafficking.

A. Victim’s Story

A young Thai girl named Nu was about to give birth and all she wished for was a decent life for her child. Unfortunately, Nu was a victim of human trafficking. After her parents abandoned her, Nu was raped several times and forced into prostitution by a distant relative. Unable to cope with her situation she fled to Bangkok but continued working as a prostitute. She was 15 when she escaped to Bangkok and started to work as a freelance prostitute but the number of her clients

was low and not enough for her to earn a living and she struggled to survive. A friend suggested she seek a brighter future by working abroad. Soon an agent had everything in place and promised her a job as a waitress in a bar in Japan. Surprisingly, her traveling documents, which she later learned were forged, were ready in a matter of few weeks.

On arrival in Japan, she was taken immediately to a bar. The bar had a Japanese owner married to a Thai wife who was the proprietress of a brothel, more commonly known as a Mamasan.¹ Nu was examined physically to determine her suitability to work with higher or lower paying clients, and the Mamasan explained to Nu the debts she owed more than one million yen, plus her ongoing daily living expenses. Nu was in a common debt bondage trap and she was warned not to try to escape or she would be easily hunted down by the Mamasan's gangster Yakuza.² Most girls can never pay off their debts, or if they manage to escape the gangsters and work independently, they are open to arrest by the police and face deportation. Often before deportation, the girl goes through many abuses, including rape by her arresting officers.

Unfortunately, things did not turn out the way she thought. Nu soon learnt from the other Thai girls with whom she shared her squalid living conditions, that her predicament was not an isolated case, they too had worked as prostitutes in Thailand and did not realize when they were lured to Japan that they would live like slaves and were bonded labor to their Mamasan. A working girl must entertain all clients. The girls have no discretion and many clients are physically abusive and should a girl dare to resist or dissatisfy a client, they face physical punishment from the Mamasan.

Safe sex practices or health issues are not of concern to the Mamasan. The girls in the bar risk their health each day as many clients engage in unprotected sex and the girls have no say in this regard so they are vulnerable to a whole range of STDS/AIDS and the Mamasan has no concern about regular health checks. In the underworld of trading prostitutes it is easy to find another to replace one that has passed her use by date. The girls living in such an exploitative environment often

¹ Mamasan is a female pimp.

² Yakuza: A Japanese gangster, a famous household name for criminal organization. They are known to have established network in Thailand.

resort to drug use and their mental health is poor, with suicide being the common route of escape from their trauma.

All the circumstances of Nu and her fellow victims highlight the fact that the plight of these girls is not just a case of people working illegally or with forged paperwork. These are victims of unscrupulous people who have no regard for their humanity; they are the victims of intentional trafficking, forced into prostitution for the benefit of their agent/owner. They have not consented to this situation, their freedom and humanity has been violated in the most horrific way. The plight of such girls cannot be characterized as simply that of illegal immigrants. Living in a foreign land Nu and others are unaware of any laws that might assist them. They are told the Thai Embassy will not assist them, as they have broken the law and are considered to be illegal immigrants and the punishment is jail.

So what was Nu's plight? Miraculously she happened to pass by a Thai restaurant, and found a pamphlet that offered people like her help. As a result she contacted a Japanese nun who arranged a meeting with an NGO in Thailand. Though she escaped from her life of servitude with the help of the NGO she could not easily escape her life as a prostitute to start life afresh. Nu was a lucky exception as the majority of trafficked sex workers never escape. (UNIFEM-East and Southeast Asia Regional Office, Sheet 1, p.p3-4)

Nu's story would come as a surprise to many people that slavery still exists, but the problem facing governments globally and society as a whole is not simply one of the prevention or controlling of trafficking. Rather, a solution must be found that not only eradicates trafficking but also serves to give the victims of trafficking hope and practical help for the future and prevents new victims falling into the trafficking trap.

Often the victims remain among the abused in our society, with no escape except for the occasional Nu "story" and she still faces the challenges of being a prostitute, the prejudice of others, and perhaps living within a continuing nightmare.

The health and humanity of a society can be judged by how its weakest members are treated and protected. Unless there is global and national recognition that trafficking is a serious human rights issue requiring a holistic approach, to policy making and implementation then arriving at solutions that reach out to these victims

and offers them protection and support will not happen. Any other approach represents a piecemeal solution. Such recognition can be observed in states where the government shifts their focus from mainly law enforcement issues, prosecuting traffickers and dealing with the victims as law breakers, to an approach which views victims as human beings who need to regain their dignity.

A first step to adopting a holistic approach when dealing with human trafficking issues, would be for governments to cease criminalizing the victims of human trafficking by summarily deporting and imprisoning them, in further violation of the victim's human rights. This implies that the approach should be a victim centered approach in which any individual arrested will be initially identified as a victim of human trafficking and not be treated as merely immigration offenders breaking the law.

Further authorities should adopt prosecution strategies which create a climate of hope for the victims during the prosecution of the trafficker. The approach adopted at this stage must be to support, assist and protect the victims in all aspects including when they are repatriated to their country.

B. Statement and Significance of the Problem

Dedicated action is required at many different levels in our society to eradicate trafficking and to prevent stories like that of Nu. This paper highlights the many strata underlying this abuse and discusses the positive and negative impact of current strategies by the Thai government to combat human trafficking such as the extent of political will. Including and what a holistic approach would require if this human rights abuse is to be eradicated and the human rights of the victims are to be recognized and protected.

The former General Secretary of the UN admonished the world for allowing slavery to exist in the 21st century; it continues to grow and now has the more sterile label 'human trafficking'. Trafficking is mainly about exploitation of our fellow human beings through slavery, debt bondage, labor exploitation, child exploitation

and so on. There are more slaves today than at any other time in human history. The level of tolerance varies in different societies, cultures and regions.

The case of trafficked victims like 'Nu' is not unique and there are many Thai women trafficked to Japan for the purposes of sexual exploitation. The workers are procured by promises of a better life, a job and good wages but instead according to Human Rights Watch, on arrival in Japan a victim's passport is confiscated and the true situation is one of debt bondage. Their freedom is restricted and they are punished for any disobedience. They have entered the nightmare of servitude. (Bureau of Democracy, 2003)

Human Trafficking is inextricably linked to many other plights and sufferings around the world including AIDS, poverty, social injustice and economic inequalities and it spans regional and international spheres. Combating this issue represents a huge challenge to the international and national communities who must purposefully face the challenge through global and inter-state cooperation and a coordinated effort between governments and NGOs working on this issue and related matters to effectively use all available resources to fully tackle the problem. No one body or sole action will be sufficient to eradicate slavery or protect the trafficked victims.

There is a widespread public assumption due to the focus adopted by media and researchers representing human trafficking mainly as an issue of trafficking sex workers for prostitution and such trafficking has strong links to moral and related issues such as disease control, pedophilia, pornography and gender inequality. In fact, the focus on the sex trade is disproportionate in the light of recent studies carried out by the International Labor Organization (ILO) that found less than 10% of the estimated 9.5 million victims of forced labor are trafficked for sexual exploitation. Other studies (such as the ones conducted by the Mahidol University and the German Agency for technical cooperation, also known as GTZ)³ show that many victims of forced labor are trafficked for a variety of other reasons, including food production, factory work and so on. These victims suffer abuses such as no pay, rape, sleep

³ The German Federal Ministry for Economic Cooperation and Development (BMZ) established the supra-regional Sector Project against Trafficking in Women 2003. The Sector Project is implemented by the GTZ. The main aim of the project is for building International cooperation for sustainable development.

deprivation and other atrocities, most committed with impunity.⁴ In Thailand's case many reports suggest that trafficking is high in the sex industry and in the past much emphasis has been given to this industry both in terms of combating and preventing this trade. The lack of attention paid to labor sectors such as the fishing industry is leaving large numbers unreported and unprotected.

Indeed, the trade in human trafficking is worth between five to seven billion U.S dollars according to United Nations estimates and is increasing at staggering rates, mainly in countries with economic inequalities. It is particularly driven by the pull of cheap labor, organ laundering, economic disparity, and large rewards for the traffickers. Trafficking is not just underground it even takes advantage of new technologies to further the exploitation of women and girls who are traded and sold on the internet, in the same way as the internet has facilitated trade and the international flow of goods and capital.

The push towards globalization which stimulates the free movement of goods, capital and technology also inadvertently stimulates human trafficking. The traffickers can take advantage of the easing of border controls and opening up of borders. In the European Union (EU) for example many nationalities can now easily cross national boundaries on one EU passport, where previously national passports, visas, border checks and other officialdom, would have provided obstacles to free movement. Many traffickers can still bypass any tightening of border of controls by bribing the immigration authorities.

Apart from being highly lucrative and a loosely structured trade, which makes it hard to target perpetrators, human trafficking is also often associated with organized crime and individuals involved in drugs and weapons trafficking. All these trades prosper in an environment where the corruption of government officials with bribes and kick-backs continues to sustain the trade and allows business to flourish. In many different provinces of Thailand specifically the fishing industry in the south, human trafficking is increasing at a staggering rate but due to its less noticeable nature and economic self interest using illegal migrants, stateless people and large numbers

⁴ David.A.Feingold, The Director of Ophidian Research Institute and the International Coordinator for HIV/AIDS and trafficking Projects for UNESCO Bangkok, 2005.

of refugees including children goes unhindered and exploitation goes unchecked. Often the corruption underpinning human trafficking is less noticeable, has less impact on the stated goals of politicians and is under less scrutiny than the related illegal trades in guns or drugs.

Even more important than the associated corruption issue is the reluctance of governments to acknowledge human trafficking as more than merely an ordinary migration issue, or to see it only in isolation as a necessary mobilization of people. Such blinkered views ignore the blatant human rights abuses that are at the core of all forms of human trafficking. It is likely that some states create migration barriers not to curb trafficking but to tackle their concerns that the increasing numbers of migrant workers bring other problems such as disease, security threats etc. Governments may even fear that illegal migration maybe encouraged if migrants are seen to receive some benefits or support from implementing a holistic approach to protecting the victims of human trafficking. Where these concerns prevail then it is likely that some states will still take a piecemeal approach to tackle human trafficking and completely ignore victim support and continue to instantly deport all victims. Rather than human beings whose basic humanity has been infringed, trafficked persons are often treated, once caught, as criminals or undocumented workers, which is a blatant infringement of treaties and international commitments stating that such trade is a violation of human rights. The fact that victim's rights are ignored in the countries where they arrive adds further abuse to that the victims already suffered in their source countries.

The tragedy of human trafficking recently received media exposure and attracted more public attention. The reports were of abuses of victims many parts not just localized to Thailand. Such reports highlight that slavery still exists but has changed its name to human trafficking. The abuses are reported were becoming more and more severe like forced organ laundering in India, child soldiers in Africa, Sri Lanka and Myanmar and using forced labor for no pay in the fishing industry. The severity is likely to increase if no attention is paid at international or local level to stop such abuse. Human rights activists around the globe have increased their drive to have governments take seriously their duties and obligations to these victims and to denounce this trade as a violation of basic human rights. Public awareness of the issue

and the implications of not acting have been highlighted more and more in the media but awareness alone is not enough.

At the core of the human trafficking problem is the need to change the perception and the priorities of national governments, in particular from exclusively focusing on only some forms of trafficking such as sex workers or child workers, while disregarding other forms such as the exploitation of migrant labor (both legal and illegal) that equally represent human rights violations and victim exploitation.. Many years ago in the United States, for example, it proved hard to convince lawmakers to recognize the broad range of victims affected by human trafficking but, this is changing due to increased international attention and recognition of the problem, and now the Victims of Trafficking and Violence Protection Act 2000 in the US covers a broad spectrum of human trafficking violations both internal and external. This is evidence that when the political will changes and perceptions of human trafficking are not simply viewed as associated with the evils of the sex industry real progress can be made to tackle all aspects of the human trafficking problem.

What is most horrific about human trafficking is that to be a successful business for the perpetrators, the trafficking process necessarily defiles human beings, reducing them to commodities and it involves the total destruction of the victim's humanity, enabling the perpetrator to create servitude. Only when governments understand and recognize this can we expect action and policies that ensure the protection of human rights to the full extent needed, including policies and resources to rehabilitate victims and offer them a way out of the trap by supporting their reintegration into society. The US government recognized this when it expanded legislation in the Victims of Trafficking and Violence Protection Act 2000 to tackle all the different forms of trafficking.

C. Objectives of the Study

The purpose of this paper is to outline the global issues, and identify the specific difficulties and challenges relevant to Thailand's response to the human trafficking problem. The objective includes assessing Thailand's approach and

responses to human trafficking given its socio-economic imbalances, gender discrimination, tolerance of corruption, dependence on low labor costs, a vigorous sex industry associated to tourism and its role as a clearing house in human trafficking for the South East Asian region.

Thailand is often seen internationally as a hub for illegal trade and it must address the issue of the status of stateless persons and make a policy shift to view the trafficked person as a victim rather than a criminal when in the hands of the authorities. A policy should be put in place to create a system whereby victims have access to the legal and judicial systems in both the destination and source country. These victims must not be criminalized and should receive a just outcome once they are repatriated.

The punitive rules and regulations towards migrants, refugees and stateless people all of whom are the most vulnerable to trafficking, as well as towards the victims of human trafficking demonstrates that Thailand needs major reforms to change its response on this issue. The discriminatory practices that allow these vulnerable groups to be exploited remain unchallenged while the government still adopts an approach of registration and restriction on movement as a best practice approach to prevent these groups from falling into the hands of traffickers. To survive people will try to move to find better opportunities whether it is internal migration or cross boarder migration. At every step they are likely to face exploitation, especially those who are least protected by laws. Campaigns to increase public awareness of the problem of human trafficking is a good approach but fear or awareness does not always stop people from migrating as often it is with the help of people they trust. Thailand has not put much emphasize on creating safe migration channels but there is a need for such an approach.

D. Argument and Research Questions

To combat human trafficking, many factors and strategies need to be considered, like any process it has a beginning, middle and end. One such strategy is empowering groups that are at high risk of being trafficked such as refugees, stateless people, prostitutes and others vulnerable groups to avoid the trafficker's traps. To

further explain this some states are placing these groups in a risky environment by creating restrictions on mobilization of migrants, refugees and stateless people or criminalising them when found outside their restricted zone. Laws which force them to stay in the restricted zone are not protecting them from traffickers but make them easy targets for the traffickers. Such zones create a market that the traffickers can easily target; the job of finding victims is made easy. For example such laws encourage both legal and illegal migrants to seek help from the traffickers when they want to relocate outside the area to find jobs or escape their poverty but they cannot achieve this in a legal way and traffickers prey on their hopes and dreams and offer them the potential of escape. Such laws defeat the benefits of pursuing a holistic approach to finding a real solution to this problem. To tackle one stage or aspect of human trafficking alone is piecemeal and will not cure the problem. It is not a case of identifying and penalizing the traffickers for the problem to go away. The only approach to solving the problem of human trafficking is holistically under the umbrella of human rights.

Thailand is a case study for this research paper, as it has a range of identifiable groups present in the country that are particularly vulnerable or are subject to human trafficking. The failure of Thailand to offer them meaningful protection such as workers' rights, legal protections and access to justice, freedom of movement or access to employment and rehabilitation of victims means that these groups are treated as lesser human beings with minimum rights and in such a climate exploitation continues to grow. The victims not only suffer the horrors of being trafficked but face arrest, detention, harassment, and extortion from the legitimate authorities assumed to be their protectors. By not properly identifying the target groups that need protection and support from the force of law and government policy then Thailand is not fulfilling its duty to eliminate their exposure to trafficking and exploitation.

According to Refugee International the Thai Government admitted in December 2004 that an estimated 2 to 2.5 million people live in Thailand without citizenship.(Refugee International, 2005) An estimate by the Women's Commission for Refugee Women and Children indicated that there are 119,794 registered refugees and 22,228 unregistered refugees in camps. In addition, there are an estimated 4,000

urban refugees. (Women's Commission for Refugee Women and Children, 2006) Based on the report of CARAM Asia it is estimated that 2 million migrant workers are present in Thailand and out of that 2 million only 600,000 are registered. (CARAM Asia, 2007) Vital Voices reports over 1 million ethnic people reside in the northern and western highlands of Thailand with only 60.21 percent listed for Thai nationality. (Vital Voices, 2007)

A human rights approach means the victim is the central focus and there is zero tolerance in a society for the abuse of the victim's human rights. Oebanda emphasized the need for "sustainable intervention that would not just rescue the victims, but provide them skills for gainful employment and successful reintegration in society". (Alarilla, 2006) Additionally, to address the problem of human trafficking from a holistic and human rights approach requires good governance, accountability and transparency to create a reliable approach. (Agbu, 2003)

Such an intervention is necessary to rescue victims and give them a future but it is not enough to attempt to eradicate the issue by prosecuting the offenders or controlling the border. Policy and implementation must look at the problem as a human rights issue and not just a crime; if that is successful the entire process of combating human trafficking will focus on the victims whose rights are violated at all levels. Victims must be treated as human beings and not as mere criminals or simply undocumented workers. They should be afforded full and ongoing support in this area.

This thesis argues that if human trafficking is to be curtailed and even potentially eradicated then the Thai government must take a holistic approach to the human rights abuses involved in the trading of people, and a proactive role at a national, regional and global level. One of many approaches which the Thai government may consider are treatment of victims, good governance, transparency and creating holistic policies to prevent individuals becoming victims of human trafficking specially the vulnerable groups such as refugees, children and stateless people. This approach also requires protections for those who are already the victims of human trafficking.

1) To identify a solution to human trafficking, by identifying existing problems and studying the current situation of human trafficking in Thailand. What are the factors that support the trade into and out of Thailand?

2) What solutions are proposed by the Thai government to combat human trafficking at the national, regional and international levels?

3) The Thai government is aware of human trafficking and has developed many strategies to combat the problem. What strategies and approaches have Thailand adopted and how effective is the existing anti trafficking strategies? Does Thailand need to re-examine its strategies?

E. Theory

Like the definition of human trafficking there is also no particular theoretical framework that can be directly applied to the question regarding the issue of human trafficking. Due to the issue being so complex and in reality the true extent of the problem is unknown and is based on estimations, those seeking solutions have to speculate when they define the parties and groups involved, assess the processes and routes and formulate new approaches and strategies . According to Wijers and Lap Chew, this situation establishes the strategies to find the best possible solutions to combat human trafficking. Defined and established approaches highlight the issues as migration, criminal behaviors, border control problems, and the solutions such as control or punishment should be focused when solving the problem. On the contrary, if defined and established approaches focus on labor or human rights Wijers and Lap Chew believes that effective and positive measures can be opted. They further explained that the definitions and approaches that become the policy will determine the strategies to be opted. Therefore, if Thailand's approach towards dealing with the problem of human trafficking is defined as a problem of migrants breaking the law than it is likely the strategies would be to eradicate the problem associated with migration by creating laws that restrict and place controls on migrants such as restricting their movements. This would be a limited option and not holistic in nature.

Based on the arguments of Wijers and Lap Chew, this paper defines the problem of human trafficking as a human rights issue, therefore, the human rights

based approach is promoted and the emphasis is on not just the victims but also protecting the vulnerable groups and on prevention. This paper has also set parameters by limiting the analysis to Thailand as a case study for this paper. As the scope and nature of the problem is unique for different countries, the resolution, analysis and discussion will be tailored to Thailand's experiences. In order to explore various strategies to answer the research questions, this paper first looked at the factors that contribute and strengthen the business of human trafficking and based on this analysis strategies are then explored. Without proper consideration of the underlying factors contributing to the problem in Thailand proposed strategies are likely to be less effective or relevant.

Using the human rights concept to answer the research questions, this paper will discuss the issue of human trafficking. Additionally, it explores why human trafficking should not be perceived only as individuals breaking the law, but also a gross violation of human rights. The paper explains a global shift towards the view of human trafficking as a human rights issue.

According to Sabrina Alkire human rights and human security are related and together they should attract the attention of concerned agents such as the international community. Both are important aspects of universal and fundamental human rights which should not to be ignored. Both address violence and poverty issues as demonstrated in the International Bill of Human Rights which forbids slavery, torture, direct killing and so on. The human rights approach protects the value of rights such as to be free and freedom from torture, whereas the human security approach defends the human rights threats to individuals or groups. (Alkire, 2002)

Traditional theories of human trafficking emphasized the issue as more about transnational crime issues. However, if a holistic approach is adopted to combat this modern slavery it becomes an issue of individual rights. Defining the issue as one where individual rights are being violated versus the traditional theory of a transnational crime being committed sheds light on why the traditional theory is very limited in scope and inadequate to formulate effective strategies to solve the problem.

The issue of human trafficking cannot be highlighted as a problem of emerging countries or the least developed states. It is actually a global problem which needs interaction from all member states. Interdependence is part of the solution to

eradicating the problem. Keohane and Nye argued that “the world had become more pluralistic in terms of actors involved in international interactions and that these actors have become more dependent on each other.” Niccolo Machiavelli defined interdependence as “a condition where the actions of one state impact upon other states.” Interdependence may be beneficial for the state but Machiavelli “equates interdependence with vulnerability.” If the problem is seen in isolation it would escalate other related international and national concerns such as AIDS/HIV. Keohane and Nye labeled interaction between states where only one actor is involved as non-state actors. They explained that ease in communications, transportation etc; has increased the interaction between states by actors that do not represent states such as International Organizations and non-governmental actors. These transnational organizations, which also involve national interest groups, produce many effects with their interactions including effects on domestic policy or opposition to government policy because of their autonomous nature. The transnational theory explains what happens in one state can effect a global problem. Thailand’s strategies, solutions and the responses of governmental and non governmental organizations will impact on the global fight and are of international concern. Drawing on these theories explains the impact that Thailand can have at both regional and international levels if the issue of human trafficking is not carefully considered and appropriate responses formulated.

According to R.J. Vincent to eradicate slavery, “it might be reasonably argued; someone had first to think it wrong.” (R.J Vincent, 1986) Some societies associate cheap labor with longer hours of work and unsafe conditions. They consider the illegal migrants as a group that has no choice due to their illegal circumstances. Sometimes they are even perceived as a threat to the society and security of the country. Brian Iselin commented that human trafficking is not recognized as an “extreme wrong” in every society. Iselin explained if the victims are perceived as an unfortunate few in any culture or society that is serious because when a particular society tolerates the exploitation of the underprivileged then “that is truly an obstacle when trying to clear up a crime type that is normatively not universally accepted as wrong.” (Brian Iselin, 2003)

Jan Jindy Pettman argued that “migrant and foreign workers are often scapegoats for rising unemployment and social distress.” This may be considered

another factor that allows human trafficking to flourish. That is, society may ignore the violation of an individual's human rights where the individuals are a migrant worker or illegal foreign worker or is stateless or a refugee, when they are targeted undesirable by the prevailing majority.

Vincent agrees that "In order that human rights could appear on the agenda of contemporary international politics, it might equally reasonably be argued, someone had first to think they belonged there." (Vincent, 1986) Many reports suggest that the level of tolerance of human trafficking is high in Thailand because it involves the weakest members in the society such as the stateless, refugees, sex workers and both legal and illegal migrant workers which are not protected at law. Many studies suggest that the existing laws and policies in Thailand do not fully protect them but in fact discriminates as well as criminalises them. Based on the aforementioned statement the question that this research raises is that if these vulnerable groups in Thailand were protected and given their basic rights without any prejudice, then removing their illegal status eliminates one of the major factors which causes such people to be vulnerable to trafficking and makes it rewarding for the traffickers. Legal protections can become a winning strategy to combat human trafficking. It is not enough to simply highlight a cause of human trafficking such as the mobilization of these vulnerable groups due to poverty or unemployment and then formulate a solution such as to legally restrict their movement or worse deport them and believe that such solutions will stop trafficking or are in the best interest of the victims.

This paper draws attention away from economic factors to a consideration of non economic factors. The economic factors that many researchers have demonstrated relevant include demand- pull factors (destination country) e.g. the demand for child labor or cheap migrant labor; the pull of high paying jobs or better living conditions. Whilst supply push factors (country of origin) includes underemployment, poverty, poor living conditions, lack of opportunity for education, lack of access to medical treatment, etc. Whereas non economic factors, specific to Thailand, may include situations in which individuals have a well founded fear for their lives (minorities fleeing to Thailand for asylum), people classified as stateless even though born in Thailand, legal restrictions on movement of migrant workers, refugees and stateless

people which limits opportunities to seek a better life or better employment or sex workers labeled as illegal labor. These vulnerable groups are legally unprotected or tolerated simply at the whim of authorities which creates many windows of opportunity for the traffickers to exploit and to find the victims they need to sustain their trade.

Both economic and non economic factors are intertwined but can have different significance. Legal and illegal Burmese migrant can share similar reasons for migrating such as fleeing armed conflict or persecution, or fleeing economic depression and hoping for a better future. Yet of these two groups of people only a few receive protection and have their status regularized as refugees. Many who remain without the status of refugees are considered illegal migrants, even when it's clear most of them are in similar circumstances.

Some states are surrounded by countries that have political or economic instability or natural catastrophes which force people to move. Such circumstances create vulnerable groups of people such as refugees and stateless people. Therefore, the government to where these people flee should have a holistic approach to deal with these vulnerable groups when they arrive. The government must empower them before they are trafficked and prevent the problem arising not only have strategies for when trafficking has taken place. The government to combat human trafficking must target prevention, not only consider responses after a victim has been trafficked.

According to Joanna Apap, Peter Cullen and Felicita Medved trafficking and smuggling results from strict policies. As part of solving the problem of human trafficking, the authors proposed a theoretical framework in which it is considered necessary for choices to be available to migrants to have freedom of movement or to work where they want. (Apap, Cullen and Medved, 2002) States that impose restrictions on migrants are also increasing the risk for them to become victims of trafficking. Many reports suggest that migrants should be given choices to change jobs and should not be subject to so many restrictions. Many receiving states have rules which exclude already vulnerable groups from labor law protection which actually creates an environment for human trafficking to flourish. One receiving country the USA while it has federal civil rights laws, these only applies to employers that employ fifteen or more employees. In addition, the federal occupational safety

and health laws do not cover domestic household employment. Similarly many of the workers employed in agricultural industries are outside the protection of the law. Although, Thailand has a registration system for migrant workers it restricts migrants by permitting them to only work with the employer who registers them.⁵ However, other than allowing the employer to use the services of the migrant worker and giving the state a mechanism to track and record such workers, the process of registration does not bestow any labor protections on the worker other than perhaps give them some security that they have a temporary status to stay with that employer. The recognized and internationally accepted definitions of human trafficking include elements such as restrictions on freedoms, issues of consent, abuse and vulnerability. It is only by taking a human rights approach to these workers can it be ensured that they are not trafficked persons as defined by international laws and conventions. Merely providing a mechanism of registration will not ensure such workers are not subject to trafficking.

Thailand's policies have been imposing many restrictions on migrants, stateless persons and refugees. One such restriction which makes these vulnerable groups easy prey of the traffickers is restriction on their movement. Migrant workers are restricted to work in provinces where they are registered, stateless people can only move based on the color of the card they hold which applies restrictions on the distance they can travel and refugees are prevented from moving out of their camp or temporary shelters. It is these types of restrictions that contribute to the rise in the problem of human trafficking as many don't have any opportunities in their restricted zone and trust traffickers to move them to places where they are told they will have some opportunity to earn a living.

Joanna Apap, Peter Cullen and Felicita Medved also emphasized that more focus is required "on human rights abuses after the migrants reach their destination."

⁵Registration permits a worker to work for the registering employer and the migrant has to pay 1500 baht per year for medical purposes. To obtain health insurance they must be tested for HIV and if found positive are immediately deported. The health insurance does not cover for accident but only treatment for illness. On the other hand, if the employer does not continue to hire a worker their status becomes illegal and they lose the benefit of medical insurance and cannot re-register unless they find a new employer who is willing to register them immediately. This also indicates that registration is restricted and does not provide worker with enough protection under the labor law.

Migrants who enter their destination country legally could face human rights abuses and be exploited by traffickers. National strategies to prevent human trafficking should not only be limited to raising awareness among citizens in the home country but in fact should also be expanded to cover the migrant workers who are already in the country. To illustrate on this, a Cambodian man entering Thailand for employment should be a government target as he may become a victim of trafficking. For example, he may be approached by a trafficker to move from his legitimate farm work to the fishing industry believing the traffickers claims of better conditions but on arrival is forced to work in hard conditions and without pay. A worker may decide and consent to move from farm work to the fishing industry even realizing that it is illegal to do so, but then maybe be exploited by his employer who is aware that by changing his job the worker is in breach of the law and his registration and is therefore fully reliant on the employer not to have him arrested by authorities. If the migrant worker had received information and warnings from authorities this wrong move may have been avoided and an abusive situation prevented from developing.

This research seeks to understand and analyze the present situation of human trafficking in Thailand and identify the factors that are major obstacles preventing the state from combating human trafficking. The obstacles listed in this paper includes the demand and supply of cheap labor, gaps in the data collections relevant to trafficking, lack of skilled and trained personnel to fight trafficking, over reliance on border control, corruption, high levels of tolerance in Thai society to the issue of human trafficking, victims access to justice, lack of proper migration channels, lack of protection for the vulnerable groups such as prostitutes, stateless people, refugees and other migrants. These factors will be discussed in more detail but they all combine to slow advancements in the fight against human trafficking in Thailand. To confront the obstacles and challenges many actors are needed to be involved and Thai government had declared a willingness to cooperate with all the different actors.

A single state cannot eradicate the problem of human trafficking. International and transnational organizations such as NGOs can play a major role regarding international agreements and negotiations on issues related to human trafficking such as migrants' issues, human rights violations,. labor controls to prevent exploitation in the fishing industries, agriculture industries, tourism industries, and

formulating solutions on the issues of child begging or child soldiers. They also play an active role in monitoring and keeping pressure on national governments to fulfill their obligations and in providing much needed support to the victims of trafficking on the ground.

Writers have proposed that if states abide by international agreements which require them to tackle the problem by establishing regimes and implementing them much could be achieved but often these are ignored. However any policy decision a states takes such as to tackle child labor or exploitation of women in the sex industry cannot be achieved alone. It has to be carried out by involving different actors such as non-governmental groups, local authorities and the civilian population. To help better understand the concept of regime formation and its implementation, the views of writers like Rosenau and Young help define the concept of regimes. Rosenau explained that international regimes manage global governance and she suspects that the proper functioning of the regimes cannot happen without the involvement of other actors besides the states. Similarly, laws and regulations related to human trafficking may not be well implemented and enforced if the other actors like NGOs are not included in the process of solving the issue. Alternatively, Young defines regimes as a set of agreed upon decision making processes, norms, rules and programs. (Willis, 2005) Without the involvement of other groups, such as the NGOs or INGOs in the process of combating human trafficking the real situation and extent of the problem might remain hidden or be covered up. In order to have authentic information NGOs should have the ability to monitor funded money, oversee the implementation of projects; they should also be able to monitor if victims are receiving proper treatment after being rescued and are not being re-victimized by the authorities. If Thailand ignores these NGOs and provides no support or cooperation to these groups then it is likely that Thailand will be left far behind in the fight against human trafficking.

In the development of international agreements, regimes and issues there are many obstacles especially during the development process. States see the problem of human trafficking as more a border control or migrant issue. The differences in the perception of the issue cause lack of understanding and lack of cooperation between states. Keck and Sikkink suggested that framing helps understand “the issue in terms of being right or wrong “and who is to be accountable. By framing or structuring the

issue states and the international community can define the causes of human trafficking or identify what steps are needed to combat the issue of human trafficking, establish what norms should be created, and what programs should be implemented.

Along with Keck and Sikkink, Finnemore suggests a norm lifestyle model. According to this model political changes are brought about through norm adoption. Similarly a change to a holistic way of dealing victims can be brought about through a norm adoption modal. The model for change can be set up in three stages which are norm emergence, norm cascading and internationalization. NGOs and international organizations identify and frame the issues and after the issues are framed norms emerge. The issue of human trafficking and problems associated with it are identified through the actors such as NGOs who then later help in implementing the emerging norms to eradicate the problem. In order for the framing to be successful the issue must be understood by people who influence states to adopt the norms. When a state adopts a norm it is then endorsed and becomes an expected behavior for all member states. This stage is called norm cascading after which the final stage known as internationalization is reached. (Willis, 2005) Based on the proposed lifestyle model of Finnemore, Thailand cooperates with the major actors involved in the fight against trafficking such as NGOs, in order to understand the issue and tackle it in a holistic way.

The denial of human rights is clearly seen in states where subordinate groups are denied basic human rights such as rights of citizenship. Lacking such rights “they lack international identity” and “become cheap sources of labor”. In countries such as Thailand stateless people and refugees continue to live with limited protection from government. Lacking such protection they become a source of cheap labor. To survive they are willing to work for longer hours for little pay but often they are unpaid and exploited in other ways. Strongly supporting this point of view is the argument made by Salih. The writer for example explains that “the enslavement of black people in Mauritania has always been aimed at keeping them as a source of cheap labor and also to deny them of national identity and incorporate them into Arabic nations such as Morocco.” (Fortman, Arts and Miho, 2003)

The factors highlighted by Salih are similar to those experienced by Thailand’s hill tribe minorities who are largely stateless people, refugees or illegal

migrants and are facing similar challenges. These groups are exploited and labeled as cheap labor due to their lack of identity. If they were a recognized legal minority this would empower them and prevent them from being prey for trafficking rings and exploitation generally. Thai government policy while acknowledging the problem of human trafficking by emphasizing the cruel treatment of the victims by the traffickers but without using the sanction of to penalize and condemn exploitative treatment by enforcement agencies, employers or society; groups that also exploit these victims. The problem associated with human rights and labor policy is not addressed and continues to be a grey area and which the Thai governments upholds simply to keep the cheap labor advantage and reap the economic advantages for sustaining economic growth in the short term.

According to Bastian de Gaay Fortman, Karin Arts, Pascal B. Mihyo “discrimination, denial of status, slavery and apartheid are used to make labor cheap. By terminating the hunting rights of the Inuit, they are forced to look for employment and alternative sources of livelihood. The same objective is achieved through policies that create landlessness among weak groups or minorities as shown by Salih, van Londen and de Ruijter.” (Fortman, Arts and Mihyo, 2003)

Most critiques argue that trafficking is a transnational organized crime issue and the major goals of these criminal groups are to maximize profit. This paper expands the area of focus from the transnational organized criminal to focus attention also on small localized criminal elements such as exploitative family, neighbors of victims or government officers. The writers like Kyale and Dale point out that not all trafficking is controlled by transnational organized crime. (Apap, Cullen and Medved, 2002) The actors involved in human trafficking are not always the transnational organized criminal groups. This paper agrees with the idea proposed by writers like Kyale and Dale. Past statements and reports by the Thai government have highlighted the transnational organized groups as the main actors involved in the human trafficking business. Many scholars believe that human trafficking is not organized by large criminals but its source is mostly friends or neighbors. Later on the involvement of organized crimes networks activates after the victim reaches a destination and sold. Thai government needs to select measures against human trafficking that targets not only the large criminal groups but also the small informal criminal groups.

Many agree that human trafficking, like drugs trafficking, is a business that generates huge incomes for the traffickers. According to Jan Jindy Pettman, a feminist critic, she identified that the actors benefiting from the human trafficking trade are not only the criminals but also governments, recruitment agencies, banks, and airlines. Pettman stated that the aforementioned groups benefits in the form of remittances. She highlights this by reference to the Philippines where the majority of workers including women leave to work in oil rich countries such as Saudi Arabia, Oman, Kuwait. Many return with less money than they should have been paid for their long hours of work. Many receive some form of mistreatment enduring poor working and living conditions from their employer, while others face exploitations in different forms like restrictions on their freedom of movement or access to medical and other social services. Jan Jindy Pettman projected that the government of Philippines benefits in the form of remittances around US\$3 billion per year. Considering the amount of foreign currency that these citizens generate for their home country and other agencies, especially benefiting governments that face international debt pressures and high national unemployment such governments should be held morally accountable for their indirect exploitation of their own nationals. Out of selfishness it is unlikely that such countries will seriously respond to the violations of the rights of their exploited citizens by confronting the destination country. Taking such steps could mean strict immigration laws imposed on their Philipino citizens to migrate for work which would result in loss of remittances at home and create further social and economic problems at home for that government.

Labor exporting countries like South-East Asian states generated an average annual income of US\$680 billion in the year 1992 while countries importing human labor generated US\$10,376 billion from that labor. Many of these migrants mainly take up jobs which are 3Ds, (3D jobs are jobs that are dirty, dangerous, and disdained) but when problems such as rising unemployment develop, the presence of these workers becomes politicized and they frequently become targets of easy solutions such as deportation. In such environments many legal and illegal migrants fall prey to traffickers and due to their lack of legal status they must face the consequences without any chance of demonstrating that they are victims of a crime and they are isolated and left to fend for themselves by their home governments.

The Thai government does not perceive its flourishing sex industry to be associated with human trafficking. By not removing all criminal provisions from legislation impacting on the sex industry sex workers cannot refer to any legal right to defend them which makes them vulnerable to trafficking. It is even worse when these sex workers are illegal migrants, stateless or refugees. This paper does not perceive sex workers as a slave but rather as individuals 'holding unstable jobs' which the law leaves open to exploitation due to its lack of policy and regulation of the sex trade while it remains a gray area the trade and the workers will be exploited by crime bosses and remain on the fringe of society.

Thai law has elected to criminalize prostitution, a business that financially benefits the country economically regardless of the moral question the country is gaining income from what is generally characterized as victimless crimes but then the law penalizes the sex workers and further adds to their exploitation by providing them with no legal protections. Without carefully examining root causes, strategies are unlikely to produce effective results. Scholars like Bastian de Gaay Fortman, Karin Arts and Pascal B. Miho have proposed that "laws that have tried to abolish or outlaw prostitution have failed to attack the core causes of prostitution." Without considering the structural and institutional factors which culminate to underpin the trafficking business such as the demand for child labor or migrant sex labor, those states that only adopt prohibition strategies on illegal practices such as prostitution or drugs, the trafficking in human beings or drugs will continue, and prohibitions are and unlikely to be in effective strategies against trafficking. (Fortman, Arts and Miho, 2003)

Politics believe migrants misuse strategies based on a holistic approach as they then try to exploit a system the police see as favouring victims. Reports suggest that politicians believe vulnerable groups such as migrants, refugees will take these approaches for granted when arrested for deportation. Reports also suggest that governments don't wish to empower these vulnerable groups. Such governments believe that these groups are likely to cause instability in their society by demanding rights as victims and by generating the economic, moral and social debates required to support reform and change. Voter's views are often entrenched on many issues related to trafficking. Politicians generally don't like hard questions just easy short term

solutions. The voting majority is upper most in the politicians mind whose views and susceptibilities are more important than the rights or welfare of a few, who have no votes.

F. Scope of the Study

This is a qualitative study, covering the present situation and presented to highlight the human rights abuses suffered by trafficked persons, such as those of Thailand's hill tribes, sex workers, street beggars, bonded laborers and others. The study explores Thailand's effectiveness in responding to combat trafficking in the region and the factors that contribute to the increasing numbers of humans trafficked. It is a trade that thrives largely due to the absence of a coordinated approach and the lack of a holistic view of the problem from a policy and implementation perspective.

G. Methodology

The research methodology of this paper is mainly conducted on the basis of content analysis. This research focuses on the analysis of documents retrieved from primary and secondary sources. In order to answer the first series of research questions the overview of human trafficking has been obtained from various sources such as journals, the UN reports and so on. Government reports, statements and policies studied, quoted and analyzed include those published on the Thai Ministry of Foreign Affairs website, and conference and newspaper reports. This will help to answer questions related to the responses and approaches of the Thai government to human trafficking. Reports and articles from NGOs will focus on answering the questions related to human rights abuses concerning in the trade of people in Thailand.

H. Expected Outputs of the Study

The expected outputs of the study are to highlight that for Thailand to seriously combat human trafficking, it needs to be proactive, and creating internal and regional coalitions with member states supported by legislative, regulatory and community programs based on a human rights model, and allocates resources to effectively abolish human trafficking. The result of the thesis outlines the factors that allow human trafficking to flourish and grow in the region. Drawing on these factors the paper will discuss strategies that could be taken to strengthen the fight to combat human trafficking.

1. Definition

“If slavery is not wrong, then nothing is wrong”

(Lincoln, 1864)

It is important to clarify the activities which are classified as human trafficking. The definition of human trafficking can be very broad but for some researchers, states, organizations and so on it is restricted depending on their own perspective of the issue. Irrespective of what definition is adopted and which activities are included in that definition, the common key element to human trafficking is that individual human rights have been abused and violated, consequently all definitions fall under the human rights umbrella. The various definitions referred to herein reflect the varying perspectives of the different organizations and sources analysed in this paper. At its broadest, human trafficking includes bonded labor, street beggars, child prostitution, false adoptions, sex tourism and certain types of arranged marriage e.g. mail to order brides. Even new types are emerging such as organ laundering, where persons are trafficked for the purpose of removing and selling their organs.

One of the broader definitions or perspectives of trafficking is that adopted by the UN. It clearly assesses the issue of human trafficking as falling within the category of a human rights issue. In December 2000, a Protocol to prevent, suppress and punish trafficking in persons, especially women and children, was adopted as a

supplement to the United Nations Conventions against Transnational Crime. This broad definition is intended to combat human trafficking in all its forms and according to the report of 2005; eighty countries have committed to adhere to the convention. (UNODC, 2006) The Protocol defines trafficking as the recruitment, transportation, transfer, harbouring or receipt of persons using force, coercion, abduction, fraud, deception, abuse of power, vulnerability or making payment to achieve consent of a person or having control over another person.

Such a definition designates human trafficking, and is accepted by all international organizations, as a 21st century version of slavery which was similarly defined by the League of Nations in the 20th century as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” However, even prior to the Protocol’s specific definition of trafficking as a form of slavery it has always been recognized as a violation of human rights, as Article 4 of the Universal Declaration of Human Rights proclaims, “No one shall be held in slavery and slave trade shall be prohibited in all forms.”

There are a range of more specific, narrow definitions of human trafficking. One such definition is that of the United Nations Office on Drugs and Crime (UNODC) which states “Trafficking in persons shall mean the recruitment, transfer, harbouring or receipt of persons,” and “ 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”, and “exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.” (UNODC, p. XI, 2006)

In the United States, the Department of Justice described the meaning of human trafficking “as a form of modern-day slavery.” It further explains that the criminals target groups and use a range of means to attain the consent of the victims, “Traffickers often prey on individuals who are poor, frequently unemployed or underemployed, and who may lack access to social safety nets, predominantly women and children in certain countries. Victims are often lured with false promises of a

good job and better lives, and then forced to work under brutal and inhuman conditions.” (Montlake, 2003)

The word trafficking has been long associated with the trafficking of drugs, in which illegal drugs cross from one country to another. This has contributed to the perception that human trafficking only involves crossing from one border to another. However trafficking can also be internal and take place within a country, the essential feature is that the victims are held captive in slave-like working conditions. To be trafficked, a victim does not need to be smuggled from one country to another but have had their basic human dignity and rights removed.

Succinctly, such individuals are treated as a mere commodity. They face low or no pay, work long hours, suffer physical and verbal abuse and inhuman living conditions, no freedom of will and restricted movement. Such cases are not confined as many would expect to developing and underdeveloped countries they also exist in the developed world. Despite being illegal worldwide and a breach of UN declarations and treaties, slavery still exists in the 21st century and is even flourishing and growing in scale.

No matter how we define human trafficking, it remains an obvious violation of the human rights of the victim. For too many years, human trafficking was considered, as a mere criminal (penal code) matter and regardless of the abuses suffered by the victims, they were punished as criminals breaking national laws. The time has come for the global community and individual states to unite and adopt a holistic approach to this most blatant human rights abuse and to resolve and finally eradicate it.