

CHAPTER 3

TRAFFICKING IN THAILAND

“I thought everything would be alright if the police knew the truth.”

Urairat, (A Thai women trafficked to Japan)

The first ever, civil lawsuit against human traffickers in Thailand was filed by Urairat, a Thai woman supported by a nongovernmental organization which has set a precedent and “model...for others to follow.”

Urairat lived in a rural village in Thailand and had received little or no formal education. After her husband suffered an accident that left him disabled, she struggled to support her husband and three children. Urairat and her family slipped further into poverty. An offer of hope came from her neighbor, who used to visit her regularly bringing food to help feed her family. The neighbor provided Urairat with the opportunity to become a waitress in Japan where she was told she would earn good money to support her family. Urairat never suspected anything about this offer. She had had no exposure to the world outside her village, had no access to TV or radio and she never considered this opportunity could be detriment to her life.

However, as the reality of her plight unfolded, Urairat knew her destiny was to be a prostitute living in slave like conditions. Help finally came from a man called Boon, but in her escape bid the brothel Mamasan was killed. Boon was charged with murder and sentenced to 10 years imprisonment. Urairat spent five years in custody while her trial preceded and she received a seven year custodial sentence. Urairat expected that when she escaped she would be helped by the police once they knew that she was trafficked and forced into prostitution. Instead she was charged with murder and treated as a criminal; her only help came from a Japanese human rights group that supported her during her long ordeal. While serving her sentence in jail, she was diagnosed with ovarian cancer and was operated on to remove her womb and

ovaries and she was given 2 months to live. With the support of the human rights group she was deported back to Thailand. Regrettably, she was unable to help Boon.

Unlike many victims, who suffer in silence, Urariat decided to pursue her trafficker. The trafficker was prosecuted and was sentenced to thirteen years in prison. Subsequently, she filed the first civil legal action, against a trafficker in Thailand claiming 4.6 million Baht in damages. Though she never lived to witness the end of the case, she did open the way for other victims of human trafficking to pursue their violators and achieve her objective of exposing the horrifying human rights abuses suffered by the victims of trafficking. Her case is a wakeup call to all policy makers and service providers in this area. It highlights the many pitfalls and inadequacies that still exist in a system that seeks to eradicate trafficking. (Chatrarat Kaewmorakot, 2006)

A. Assessment of the Problem of Human Trafficking in Thailand

“Thailand continued to be a hub of human trafficking within the region. Enforcement of Thai laws on trafficking remained weak.”

Human Rights Watch, World Report 2001

An outside assessment of the human trafficking situation in Thailand has been reported as follows; “Thailand is a source, transit, and destination country for men, women, and children trafficked for the purposes of sexual exploitation and forced labor. Thai women are trafficked to Australia, Bahrain, Japan, Malaysia, Singapore, South Africa, Taiwan, Europe, and North America for commercial sexual exploitation. A significant number of men, women, and children from Burma, Laos, Cambodia, and the People’s Republic of China are economic migrants who wind up in forced or bonded labor and commercial sexual exploitation in Thailand. Regional economic disparities drive significant illegal migration into Thailand, presenting traffickers with opportunities to move victims into labor or sexual exploitation. Internal trafficking also occurs in Thailand, involving victims from Northern Thailand, especially ethnic hill tribe women and girls. Widespread sex tourism in

Thailand encourages trafficking for commercial sexual exploitation.”(U.S Department of State, 2005)

In Thailand, law enforcement has been haphazard and minimal, but in recent times, at least at government level there has been an admission that the problem is serious and needs renewed action to suppress human trafficking in the region. In past years, Thailand has been recognised internationally as one of the countries in the region that has sought to play its role at international and regional levels to address the problem of human trafficking but at a national level, the problem is escalating mainly because the policy, implementation and resources needed to combat the problem have been inadequate and piecemeal.

In order to tackle the problem of human trafficking the Thai government should expand its focus beyond sex trafficking. Many reports suggest that sex trafficking has been focused but other forms of trafficking has been less highlighted. Likewise, policy and interventions to combat human trafficking also exist with high concentration on sex trafficking. Much funding goes to law enforcement, where enforcers are charged to implement legislation rules and regulations. Funding should be more available for raising awareness of human trafficking and it should be visible in the transportation sectors, diplomatic sectors, health sectors, service industries and so on. Basically, if more funding goes to educate and create awareness about rights and above all laws to empower the vulnerable groups then funding in other sections will reduce simply because they will learn how to protect themselves from falling into the hand of the traffickers.

The case of ‘Urairat’ highlights the many pitfalls she had to face which included having to prove herself as a victim of human traffickers, prove her citizenship, and rely on the support of NGOs because of the lack of support from both Thai and Japanese governments. A report of Human Rights Watch, commenting on the case stated, “The assistance for victims does not include any effort to facilitate trafficked women’s access to justice in Japan” (Human Rights Watch, 2000) which made Urairat face many difficulties to prove herself as a victim. The policy and laws of the Thai government are inadequate and still discriminate against Thai women. Human Rights Watch says that it has in fact “resulted in violation of women’s access to justice”. Urairat returned home without prosecuting the Japanese owner of the bar.

The Japanese government re-victimized Urairat by detaining her and she didn't receive any of the treatment that a victim of human trafficking is supposed to receive after being identified as a victim as established by international conventions.

On the other hand, the Thai government did not fully support Urairat and without the support of the NGOs side she would still be serving her jail terms. In fact her deportation happened after she was diagnosed with cancer. In the area of access to justice by the victims of human trafficking huge improvement is required. Urairat faced the pitfalls in Japan but even after s her repatriation to her homeland o Thailand she still faced similar difficulties. In Thailand the case was given attention mainly with the support of the NGOs, required a slow and lengthy court process t and eventually receiving compensation highlights the need for the Thai government to revise the prosecution process and system. It also demonstrates why most victims prefer to drop the case. Urairat died fighting the case without knowing the final outcome.

This case demonstrates the consequences of a lack of cooperation between sending and receiving countries. Both Thailand and Japan as of the July 2008 had signed but had not ratified or put it into force the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. This indicates how good international intentions if not followed through at a national level are ineffectual to solve the real problems. Both these countries continue to treat trafficked victims as criminals and illegal immigrants. In both the destination and source countries a lack of access to justice is a major obstacle faced by trafficked victims. For many years there has been cooperation between Thailand and Japan to combat human trafficking. Urairat's treatment by both Thai and Japanese government since she escaped from the human trafficking ring demonstrates that practically the established cooperation between Thailand and Japan has not been very effective. There is lack in efficiency of the officials at handling the victims of trafficking and limited understanding on the nature of the problem of human trafficking among governmental agencies and officers.

From Urairat's case, it is clear that there was no system in place or any effort by authorities "to facilitate trafficked women's access to justice in Japan"; she relied on NGO's and not Thai government officials or Japanese authorities. There is a

double standard in the way the Thai government is assisting trafficked victims. Human Rights Watch, stated that the “Thai Government helps repatriate women who can demonstrate Thai citizenship, other women are left stranded in Japan”. (Human Rights Watch, 2000)

What happens in Thailand affects the global problem and vice versa. However, the scope and nature of the Thailand problem is unique and the resolution required will need to be tailored to Thailand’s experience. Thailand is a destination, transit and source country for human trafficking. The unique factors that stimulates trafficking includes the problem of stateless people who are mainly the children of migrants born in Thailand, the influx of migrants workers from the neighboring countries and the refugees who are not protected by Thai government since Thailand has not signed the Refugees Convention. Slavery has a long history in Thailand and it was not until 1905 that King Chulalongkorn outlawed the practice, feeling that Thailand must take action against slavery if it was to be a modern nation-state. (Anand Panyarachun, 1999) One hundred years later can we claim that slavery has been abolished in Thailand, superficially this is the case, but the reality of human trafficking stills afflicts the nation and the region.

Former Prime Minister Banharn Silpa-Archa admitted the existence of the problem of human trafficking in Thailand and confessed that his administration had not given it much attention; therefore no solid measures had been implemented to combat the problem. (The Nations, 1996) NGOs working in this field such as ECPAT International¹ view Thailand as a country of transit, as both a place of destination and origin, being bordered by countries with developing economies and often internal issues of political unrest, civil war and social inequality.² (Ecpat International, Country Profile) Thailand, although not exempt from these problems, has a more dynamic economy, attracts illegal immigrants to take up 3D jobs³ and is perceived by migrants as a place of opportunity and a safe option for a better life. (No Status: Migration, Trafficking & Exploitation of Women in Thailand)

¹ Ecpat International is a well known NGO working in the field of combating trafficking, named Thailand as an origin, transit and destination

³ 3D jobs are jobs that are dirty, dangerous, and disdained, which Thai do not prefer to do

Fig 3.1
Broad patterns of migration flows in the Mekong region

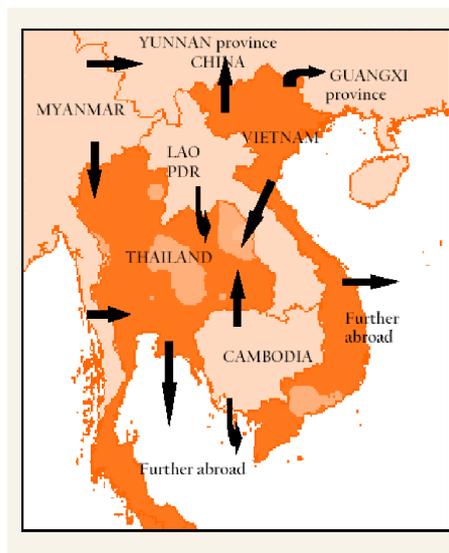


Figure 3.1, (UNIFEM-ESEASIA, Sheet 3, Main Trafficking Routes) illustrates how Thailand is a hub for human trafficking where many victims are trafficked from neighboring countries such as Myanmar, Laos and Cambodia and end up in forced labor or prostitution in Thailand, and other trafficked persons especially Thai are further trafficked to other destination countries. Thailand therefore cannot address the issue of human trafficking in isolation.

There must continue to be a regional approach as identified by researchers, “Regional economic disparities drive significant illegal migration into Thailand, presenting traffickers opportunities to move victims into labor or sexual exploitation. Internal trafficking also occurs in Thailand, involving victims from Northern Thailand, especially ethnic hill tribe women and girls. Widespread sex tourism in Thailand encourages trafficking for commercial sexual exploitation.” (U.S Department of State, 2005)

Internal trafficking of Hill tribe people, who are especially vulnerable to abuse from not only traffickers but also authorities due to their lack of citizenship, is a problem unique to Thailand. As stated in the US State Department’s 2005 Report the

Hill tribes are a particular concern as they are most vulnerable, UNESCO and NGOs believed that the lack of citizenship status for some hill tribe women and children is a strong risk factor for becoming victims of trafficking. Although members of this group were not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing severe forms of trafficking.” (U.S Department of State, 2005)

In the area of Greater Mekong sub region, Thailand is the most involved in the cross border human trafficking, as noted by the United Nations report. (Thailand to earmark 12 mln dlr to fight human trafficking) Compilation of the accurate numbers of trafficked persons has so far been unsuccessful, mainly due to its black market nature. There are no reliable estimates on the number of trafficked victims. However, it is undeniable that large numbers of human beings are trafficked to and from Thailand and yet little has been done to stem the tide. For many scholars, human trafficking is viewed as being out of control and beyond resolution but Human Rights Watch sees it more as a lack of law enforcement and effective policies to combat trafficking at a national level and if this can be resolved the rise in human rights abuses should be reduced.

Thailand is not alone in the world with the problem of human trafficking but its well-established sex industry, itself a magnet for sex tourism, is publicized worldwide. It must be remembered that the largest percentage trafficked is to provide slave or bonded labor for non-sex related sectors. “Statistics on the “end use” of trafficked people are often unreliable because they tend to over represent the sex trade. For example, if one focuses on the sex trade, men cannot qualify as trafficking victims. However, a detailed 2005 study by the International Labor Organization (ILO) found that, of the estimated 9.5 million victims of forced labor in Asia, less than 10 percent are trafficked for commercial sexual exploitation.” (Feingold, 2005) However, the most horrific abuses are indeed more often committed against women and children in sexual slavery.

Consider the case of forty eight Thai men welders brought to the United States in 2002 by recruiting agents where they were issued with legal working visas and expected to work on the San Francisco-Oakland Bay Bridge. Out of forty eight, only nine workers went to work with Trans Bay Steel Corp the bridge contractor. The

rest were trapped into near slavery conditions and forced to work without pay at Thai restaurants run by the recruiting agents in the US. Upon arrival, their passports were confiscated and their movements were restricted. The case was prosecuted after several workers escaped and sought refuge in a Thai temple and in 2006 a settlement was reached for payment of US \$1 million compensation. (Watanabe, 2006)

Thailand, for many years under scrutiny for its poor handling of the human trafficking issue, has attempted to redress this poor record by establishing the Human Trafficking Control Board (HTCB)⁴, but it is a band aid rather than a potential cure for the many problems that require determined action. The HTCB was formed to monitor the policies that exist to fight human trafficking. Government believes it is a way to empower the law enforcers and as part of the response, the Royal Thai Police formed a command unit to create efficient handling of human trafficking cases, as disclosed by Sally Jutabaha⁵ during a Conference on Sharing of Experiences in Combating Trafficking in Human Beings: Opportunities for Cooperation on 16th June 2005. (Jutabaha, 2005)

Although the problem is global and increasing worldwide, the international community, IGOs' and NGOs' continually call for a clear policy response from the Thai government, because of the extent and the embedded nature of human trafficking in the region. The facts clearly provide evidence that the internal and external demands for cheap labor and for sex workers continue to stimulate growth of trafficking and Thailand is a supply centre both internally and externally. A strong Thai response is needed to stem the growth globally as well as internally.

Despite the illegality of prostitution, Thailand has a highly lucrative commercial sex industry. Urban development, growth in consumerism as well as increasing disparity of socio-economic circumstances leads to traditional values and lifestyles such as farming being undermined and destroyed. Faced with many pressures, girls from poor villages and the border regions and especially children from the Northern region (some under-age) are sold by their parents for financial gain. Again, there are no reliable estimates on the profits generated by the sex industry but according to a statement issued by Human Rights Advocates, they estimated, "This

⁴ HTCB was established and chaired by the deputy prime minister in April 2005

⁵ Sally Jutabaha ,Advisor to the Minister of Foreign Affairs of Thailand

business generates 11.2 to 13.5 billion dollars a year, equivalent to 50 to 60 per cent of Thailand's 1995 national budget" (Written Statement submitted by Human Rights Advocates, a nongovernmental organization in special consultative status, 1998), and shows the magnitude of the business.

Another sector of the human trafficking trade can be witnessed everyday on Bangkok's busy streets wherever children are begging, or working as servants in some shops. This problem is more visible in border areas, particularly between Thailand and Cambodia. The Director of the Ministry's office for the Prevention of Trafficking in Women and Children, Mrs. Napha Setthakorn, when sharing her observations about the increasing number of trafficked children from neighboring countries since 2002, stated most of these trafficked children are forced to work as servants, beggars and in sweatshops. (MCOT News, 2005) According to many experts, there is a greater need and urgency for a political will and special focus to target the abuses arising from child trafficking. Linked here is the wide spread problem of child pornography.

The Thai Criminal Procedure Code has been amended to include both boys and girls as potential victims of child pornography. However, Thailand still lacks the tough laws needed to tackle the problem of child pornography. It is widely known as an area where children are readily available and it is a major supplier of children for the production of child pornography. (MFA Thailand, A Human Rights Promotion in Thailand) Laws against the production of child pornography are absent in Thailand and therefore it is a comfortable base for the production of child pornography mainly by foreign production teams and later posted on the internet for sale and distribution worldwide.

Trafficking of children for sexual purposes, which includes child pornography is one of the worst forms of human rights abuse. Children are innocent, defenceless and easy to control. With the rise of internet use in the world, child pornography is ever more accessible and demand is increasing. It is one of the most difficult crimes to detect, as the criminals are difficult to locate or have moved on after production and pin pointing the location of the abused child is almost impossible.

At an international level the fight against the proliferation of child pornography/child sexual exploitation (CP/CSE) is ongoing. Thai law enforcement officers have participated in the Innocent Images International Task Force. The Innocent Images National Initiative (IINI), with the objective to target online child exploitation, shares information globally and trains officers. (Federal Bureau of Investigation, 2007) This international cooperation recognizes the growth of cyber crime which in turn drives the push to supply large numbers of children and increases the rewards for the traffickers supplying the child pornography trade.

The growing demand for child pornography fuels the growth of child trafficking. Ecpat International believes “Child pornography is still considered an emerging issue in Thailand”. Thailand must prepare an appropriate response and not just rely on existing criminal or human trafficking related laws as there are many interconnecting issues to consider, not just prosecuting traffickers.

A case in point is that of musician Eric Franklin Rosser who owned a piano keyboard school for children in Bangkok. He was charged and arrested for receiving, possessing, transporting and distributing child pornography. After he was arrested and released on bail, he disappeared from Thailand and was never seen again. He was added, to the United States FBI’s ten most wanted list. (CNN, 2000)

While laws have been amended, campaigns set up and different governments have made many promises that strong action would be taken, Thailand is still at the centre of the global child trafficking problem. According to estimates by the Development of Education Programs for Daughters and Communities (DEPDC), out of 800 families surveyed in a Northern district of Thailand, nearly 600 had sold a daughter from an age group between 12 and 17 years old. In one case a girl as young as thirteen years was sold to an agent, who promised the family that their daughter would be earning good money as a bar girl. The parents later learnt the reality of their daughter’s existence was as an underage prostitute in a brothel, but they felt betrayed and that the agent had paid them too little by exchanging their daughter for a television. In cases like this, the chances are very low that the girl would return home again, as she has been trapped into debt bondage (Perrin) and her family cannot or will not take any action. In this situation a child that is viewed at law as having rights to protection, to welfare and not to be subjected to physical or mental abuse is

empowered to take action against those that deny them their rights., Protection of children can be best guarded by adopting a holistic human rights approach to trafficking in all its forms, whether it is protecting them from the unscrupulous actions of traffickers, parents, relatives, law enforcers, employers or the pornography industry. A law that just targets a third party trafficker may not be broad enough in scope or unenforceable against a parent or relative who is an agent or a factor in the trafficking situation involving a child. A law that is framed to protect the human rights of the child will protect the child regardless of the source of the abuse or exploitation which supports the need for a holistic human rights approach to preventing all trafficking and to ensure victims rights are protected. Children are best protected if their human rights are protected and trafficking is a breach of those rights whether done by parents, relatives or third parties.

Thailand has not been able to prevent the sale of children for exploitation and the numbers grow. The traffickers see this sector as low risk since the children are less likely to disobey and are easily controlled. In many cases nobody cares about their plight they are alone. Another incentive for the trafficker is the demand from clients is growing as they desire unprotected sex and mistakenly believe sex with children lowers the risk of contacting STDs.

The problem of commercial sexual exploitation of children (CSEC), has received attention from international communities, governments, and NGOs and even sometimes headlines attract public attention. For instance in 1984 five girls, trafficked as sex workers were burnt to death in Thailand. Their bodies were found chained to an iron bar window in a brothel. (Thailand Country Progress Report, 2004) Public pressure has value as demonstrated in 1996, when Thailand suffered an embarrassing time following a boycott of Thai products over its lack of action on the child prostitution issue, the then Prime Minister Banharn admitted the existence of the problem and that his administration had not taken much action to combat it. (The Nations, 1996)

Not everyone agrees that such campaigns as boycotting products in order to create pressure on governments to change policy or force action actually achieves the intended goal. Thomas R. De Gregori explained “most campaigns to ban import of garments produced by child labor will make the children and their families worse off

than before.” Even children who work in legitimate and safe environments risk losing their jobs due to a campaign boycotting imports. De Gregori suggested a more appropriate response is “a carefully targeted campaign to improve working conditions” (Gregori, 2002)

International concerns are often backed with international funding to assist others in their efforts to combat an identified problem, and numerous organizations and NGOs, receive international funding to help them directly fight for the protection of trafficked persons. Thailand also receives funds from wealthy nations to help it to combat human trafficking. “The US and other wealthy Nations are lending more support to anti trafficking initiatives in countries like Thailand” (Montlake, 2003) Thailand was granted by the US Department of State with over 38 million Baht. According to the report, 13,060,000 Baht was given to the Royal Thai Government with the intention of increasing trained personnel such as the police force, NGOs, social workers and medical professionals. To address the issue, the main objective of the plan was to strengthen the prosecution of the traffickers by creating an “understanding of human trafficking laws and criminal procedures, promote a human rights approach to protect victims, and to support the increase of arrests and prosecutions of traffickers”. Added to this, NGOs were also granted with nearly 25 million Baht to battle the issues of human trafficking. States are interdependent on one another; Thai citizens being trafficked to US will also have negative consequences on USA such as the social issues, HIV/AIDS issues, human rights violations of victims etc. Therefore, it would be a wrong approach for the American government to pressurize the Thai government to combat human trafficking without providing Thailand with any support. Likewise, Thailand needs to cooperate and support its neighbouring countries citizens from being trafficked into Thailand.

However, a report released by the Bureau of Democracy, Human Rights and Labor in 2003, revealed that the fight against human trafficking has stalled and not much has been achieved. Horrific cases of abuse still make headlines; a child worker from Myanmar was beaten and burned by her employer and another case of a Myanmar child laborer sold into forced prostitution, by her employer. (Released by the Bureau of Democracy, Human Rights and Labor, 2002) However, no prosecutions

took place for either incident and in many places law enforcement is almost none existent, making it easy for traffickers to operate risk free.

In Thailand, human trafficking has not been characterized as a human rights violation and hence the action taken to solve the problem has been piecemeal and tends to tackle specific crime issues such as prostitution, illegal immigrants, pornography, organized crime, corruption or forged travel documents or whatever is perceived by governments or officials as high on the agenda at a particular time and they act to put out a burning fire. “Thai law criminalizes child prostitution and penalizes violators, but corrupted policemen, officials and politicians mean weak law enforcement.”

Law enforcers perceive the issue as a minor crime and indeed, for many it is lucrative as bribery pays well, it is easy to turn a blind eye and accountability is none existent. Who is going to complain except the victim, and they are powerless “Despite occasional crackdowns, there is no consistent and adequate implementation of Thai law.” (Written Statement submitted by Human Rights Advocates, a nongovernmental organization in special consultative status, 1998) Official corruption and lack of enforcement are highlighted in almost all reports on human trafficking and identified as urgent areas requiring improvement. “The Thai Government made minimal progress in reducing trafficking-related corruption in the police, immigration services, and judiciary.” Authorities have not shifted their focus from the migrants breaking the laws through the help of agents to victims crossing borders with the human traffickers.

The issue of human trafficking is not being perceived through the lens of human rights, therefore, when the authorities come in contact with the victims and the traffickers they accept the bribe and walk away without considering the likelihood of migrants being exploited by the agents. Thai authorities are not well paid, they earn low salaries and opportunities of making extra income through bribes or being directly and indirectly involved in the business of human trafficking might be appealing to them considering the less noticeable nature of the crime. The victims are perceived as lesser humans in many cases and worthless. If a human is perceived at law as an undesirable or of no status then how can law officers, a politician or the community at large be made accountable for their abuse when they are treated as not

having core human rights. If the law allows the trade of humans to go unchecked, unpunished and the victims to be perceived as criminals then a culture of acceptance will prevail among law enforcers that this issue has a low priority and the trade is tolerated this leaves them open to corruption or often to themselves becoming active participants in the trade.

Law enforcement officials continue to be implicated in facilitating trafficking, but only one police officer was convicted and sentenced to ten years' imprisonment over the past year; prosecutions of 18 others fired in 2003 for complicity in trafficking continues. "Thailand is not able to adequately control its long land borders" and "some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. Penalties vary according to the age of the victim and the method of trafficking". (U.S Department of State, 2005)

Former policemen, Pol. Sgt. Maj. Somas Sotthip and his wife ran a brothel of underage girls from his restaurant. Most of the girls had contacted job placement agencies for jobs without realizing what work was on offer. One such girl was Maliwan, aged 14 who ended up living in captivity and forced into prostitution. Somsak, the owner of the restaurant burnt her with cigarettes when she refused to work and warned the girls not to attempt escape because of his connections with the police. Another victim of Somsak, Noi aged 14 recalled the death of Duen who was brutally beaten to death when she was pregnant. These girls realized there was no escape as Somsak's network of police contacts, were the very people they needed to assist them to escape his brothel. (Child Workers in Asia , 1994) Many of the efforts made by governments to combat human trafficking are frustrated by corruption ranging from senior government officials down to lower ranking police and enforcement officials.

Commenting on areas needing improvement by Thailand, a US State Department Report in 2005 identified official corruption as a major concern that facilitates the most severe forms of trafficking in persons and it is generally at the low- and mid-levels. Police personnel were poorly paid and were accustomed to taking bribes to supplement their income. There was no evidence that high-level officials benefited from or protected the practice. Compromised local police protected

brothels and other sex venues from surprise raids. Corrupt immigration officials assisted (both indirectly and directly) the movement of Burmese, Lao, and Chinese women and girls into the country. Officials found complicit in any part of the illegal economy were rarely prosecuted but instead were moved to positions thought to limit opportunities for future corruption. There were credible reports that low-ranking police and immigration officials transported women destined for brothels from the border to Bangkok and other areas of the country”. (U.S Department of State, 2005)

Pol. Lt. Col. Somsong Monthakul,⁶ sees the human trafficking problem as rising day by day, commenting on border areas he emphasized, “there was no improvement in trafficking in the situation in eight Northern provinces” of particular concern in the region he noted “the problem of children beggars was getting more serious.” He acknowledged that it is too tough to control the situation and in assessing solutions he observed that “pushing them out of the country was not the solution, since they would just return”. (The Nations, 2005)

In Thailand the battle against human trafficking has been weak in many areas and action taken, piecemeal when some new directive issues to crack down on the problem action increases for awhile but is not sustained. A lot of focus is on trafficked children and women, as the demand increases the traffickers are happy to supply the ever increasing numbers and for government this is a particularly sensitive area and seen as a blight on Thailand’s public relations image rather than a principled policy objective to protect human rights. In many cases the victim becomes the branded criminal, while the traffickers are walking free to ply their trade or abusive employers negotiate a reasonable fine or bribe officers to avoid prosecution.

However, in 2005 former Prime Minister Thaksin Shinawatra, after declaring war against human trafficking, set up a panel chaired by then Deputy Prime Minister Surakiart Sathirathai, with 500 million Baht of funding to address the issue. Mr. Surakiart stated the government’s focus was to crack down on the trafficking organizations and to assist the victims. Added to this, he mentioned that the government was working closely with NGOs to help repatriate illegal migrants,

⁶ Pol. Lt. Col. Somsong Monthakul, an inspector with provincial police division region 5 and a member of the Chiang Mai multi disciplinary team also an expert on human trafficking.

providing assistance for their return home. (Human Traffickers Beware, 2005) Sending victims back home and assuring the safety of victims is a major step that international organizations adopt and support but the issue of minorities such as the Thai hill tribes⁷ makes repatriation more complicated for the Thai government as the Thai hill tribes are mostly stateless people and as such they are very vulnerable to being re-trafficked and repatriation is not a realistic option. General repatriation has not been effective, victims still return to Thailand after repatriation. For instance, reports show that many Burmese migrants returned after repatriation which indicates that they are willing to risk their chances of being re-exploited as there is nothing the Burmese authorities do to support their repatriation or to discourage further attempts.

The susceptibility of minority groups in Thailand to trafficking is borne out by their continually increasing numbers in the overall scheme of the Thailand trade.⁸ In Northern Thailand young girls and women are preyed on for prostitution and are the largest single group involved in prostitution, as indicated in many studies. (Ecpat International, Thailand Country Report) Thailand's Ministry of Social Development and Human Security rescued more than 2000 trafficked victims from the years 2000 to 2005. This number was disclosed at a conference organized in Bangkok to address the problem of human trafficking in the Mekong sub region. Other figures from the Ministry's Office for the Promotion of the Well-Being and Protection of Rescued Victims calculated that of 2128 stateless women and children from Burma, Laos, China and Vietnam and the Hill tribes, the hill tribes community formed the largest single number of all victims rescued. (Sai Silp, 2006)

Denied Thai citizenship, the hill tribe communities are the most vulnerable to trafficking in Thailand, being uneducated, underprivileged and denied even the basic rights that a Thai citizen takes for granted. Those that seek a better life or move

⁷ "In Thailand, the term hill tribes refer to subset of country's ethnic minorities, most of who live in the remote northern highland areas of the country. Members of these ethnic groups are also found variously in parts of China, Laos, Vietnam and Burma. Many are indigenous peoples going back many generations; others are more recent arrivals. The direct translation from the Thai, mountain people, is frequently used; some prefer the term highlanders, but that is somewhat imprecise, as many lowlanders from Thailand and neighboring countries have also relocated to the highland." Source: No Status: Migration, Trafficking and Exploitation of women in Thailand.

⁸ Ecpat International: Thailand Country's profile. Is an International non profit organization set up with the main mission to combat trafficking and fight against child prostitution

from their villages are easy targets for traffickers, as officially they do not exist. (Ecpat International) “UNESCO and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking”(U.S Department of State, 2005) To deny citizenship even though being born in Thailand is clearly a violation of human rights . The approach to this issue related to hill tribe communities by the Thai government has been granting limited numbers of citizenship and different status of identification cards which still requires them to comply with different restrictions such as limiting their movement within the boundary set up.

Clearly, there is no magic solution that will eradicate human trafficking, it is a complicated issue and cannot be seen in isolation, as at any given time it is connected with many other related international and national concerns, particularly in an age of globalization, greater regional cooperation and integration, free trade, disease control, new technologies and the fall of communism. Trafficking will actually grow in this new culture of openness if viewed in isolation as part of the social fabric or a mere criminal matter. If, however, it is entrenched in law and policy as a human rights issue then even as economic, social or political factors evolve and no matter what the motivation for the trafficking, the response will be to protect the victims’ rights, safeguard humanity at all levels, then any threat to those innate rights can be overcome and demand protection.

B. Obstacles to combat trafficking.

Today, nobody would defend slavery and as such it has been abolished but more and more people realize that given the extent and nature of human trafficking it has resurfaced with a modern face. It will require a concerted international response and as a member of that community, Thailand has a critical role to become part of the solution and not to remain part of the problem, but there are many challenges to face if this is to be achieved. The Thai government’s policy on the issue of human trafficking and recognizing it as a human rights issue has moved forward but there are still many obstacles to resolve.

Human trafficking has many layers and related issues and its consequences for the victims are horrendous, but at its core there are underlying factors which can be identified which allow the trade to continue. Internal and external factors, such as the demand for cheap labor and prostitutes, pornography, corrupt officials, lack of resources, economic inequality and weak government policy create a vicious circle that combine to prevent the eradication of this insidious trade. Thailand experiences all of these factors and then has its unique variations.

A study by two researchers states that the “demands of the marketplace are a factor in causing human trafficking” but exploitation of migrants in developing economies happens even though the marketplace itself has a comparatively cheap labor force. (Kelly, 2002) Once the marketplace itself is overcrowded with already cheap labor, the next level down is to exploit and create illegal labor to extract even more opportunity for those seeking to move up the economic/social ladder or to fill labor shortages caused by economic booms.

IOM spokesperson Niurka Pineiro, stated “growing consumer demand is undoubtedly one of the factors” in Thailand, creating a growing demand for migrant workers, especially to fill jobs like housemaid or child care or professionals like teachers, doctors, and health carers. The low cost of migrant labour from less developed countries is an instant supply and cheaper than long term macroeconomic strategies.

D) Level of tolerance in Thai society

Brian Iselin commented that human trafficking is not recognized as an “extreme wrong” in every society. Often when there is the crime of human trafficking, the victims are perceived as an unfortunate few. Iselin explained that this 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.” (Iselin, 2003)

The level of tolerance in Thai society is extremely high when it comes to using migrant labor or prostitution. The norm is that the women or girls are arrested for being prostitutes and providing an illegal service, rather than the clients for buying

sex. Similarly the Hill tribes in Thailand or Burmese illegal migrants are vulnerable and open to exploitation because as Niurka Pineiro, pointed out a "racially/ethnically different worker is not perceived as an equal human being and so can be used and abused in ways that would be impossible in respect to workers of the same race/ethnicity." (Kelly, 2002)

In January 2002, seventeen bodies of ethnic Karen were found slaughtered. It was reported as a horrendous discovery but it's not uncommon, according to the Karen locals and others living in the area, bodies are found every month. Most suspect the deaths are related to trafficking rings, but in this case the main suspects "were employees of Thailand's immigration department" but they were released and disappeared after an investigation. (The Irrawaddy, 2002) While the motive for the murders was not determined the murdered were all illegal immigrants. They were commodities, to be disposed off as they were "deemed to have outlived their usefulness" as reported by Irrawaddy news back then the problem was not given (The Irrawaddy, 2002) serious attention but again in May 2003 more cases, this time six murdered migrant workers were discovered and again men in uniform were suspected of the murders. (The Irrawaddy, 2003)

II) Demand and Supply

Human trafficking is a trade, so demand and supply factors set the pace of the market and in particular, the sex trade is fuelled by Thailand's human trafficking problems. In Thailand, prostitution has a lucrative black market, and sex tourism is a draw card internationally. Prostitution is a criminal offence in Thailand, and operates as a black market making the risks high for the children and women involved but the rewards are high for the traffickers. The demand for prostitution is not just generated by foreign tourists but also from a strong local demand and smuggling of workers from poorer neighbouring countries into Thailand is needed to supply the demand. Above all, official corruption is identified as a major obstacle to combat trafficking and prostitution and this area is a prime example of official corruption at work.

The Thai military and police are involved in all aspects of the sex trade from brothel operations and recruitment, to ignoring cross-border trafficking. The victims,

once in servitude, are powerless. The Thai government has stated that it is cracking down on trafficking, especially of women and children, but to do this successfully it must target the government officials who are sustaining trafficking. A former Thai Air Force Commander, Atchariya Wirojsiri, and his wife Rungnapha and his friend Thantawan Kato were arrested for their participation in a human trafficking ring, where five girls were trafficked to Japan. Sold for two million to the bar owner, the girls were prisoners until they finally managed to escape. (The Nations, 2006)

III) Corruption

Despite many incentives by government to try to combat human trafficking, official corruption ranging from senior government officials down to low level officers has frustrated and sabotaged the implementation process. Reports in The Nation newspaper revealed that the tolerance of organized crime by Immigration officials is very high, particularly at Thai border towns where some Immigration police were bribing their seniors up to 150,000 baht in order to stay at the border point. (The Nations, 2003) Corruption also weakens responses at ground level leaving places exposed for the traffickers to hunt their victims easily. Many reports stated that traffickers will move to the area where the law enforcement has been weak. In the past many Thai children were abducted and begged on the street but now the target has changed from the Thai children to the migrants and stateless people and refugees.

The Government's policy to suppress these vulnerable groups also leads to gaps where authorities take advantage of the situation to seek bribes or threatening deporting a victim if they refuse to pay. The factors of corruptions play a major role in pushing these vulnerable groups, who live with fear of deportation, into the hands of the traffickers.

IV) Lack of skilled and trained personnel

Recruitment and training are neglected areas throughout Thailand's law enforcement personnel. This lack of training is a problem of social development and not just specific to policing. Wichai Promsilpa, Mae Sai's police chief stated in

defence that in border areas even training would not be a solution, “How can we stop it? This is an open boarder, we cannot tell the difference between a girl coming here to buy eggs and a girl coming to work as a prostitute.” (Perrin)

Capacity building by means of training to enhance both the understanding and skills of the authorities involved in fighting against human trafficking would result in many benefits when it comes to eliminating the problem. They should be properly trained to assess the individual they are contacting, whether legal or illegal migrants as likely to be at risk or already the victims of human trafficking. They should be able to facilitate appropriate attitudes, norms and treatments to the vulnerable groups. For instance Mobile training teams in Myanmar a country which serves as a country of origin for many migrants was initiated by the UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP). The training team comprises of members from various sectors including Ministries of Home Affairs, Health, Education, Immigration and Social Welfare, Attorney General’s office, the Maternal and Child Welfare Association and the Myanmar National Committee on Women’s Affairs.

The benefits arising from the team are its ability to travel in different locations to provide training and since the team is composed of various sectors the responses to combat human trafficking covers many different aspects needed to understand and combat the problem. This approach of interactive training to the Myanmar government officials generates understanding of trafficking issues from different perspectives. Bringing different sectors of government also allows the exchange of information and experience at the round table. This team also can build up experiences and pass on lessons learnt and to share in a cooperative spirit with neighboring countries such as Cambodia and support a true exchange of ideas.

Local advocacy groups complain about the inability of officers to detect the victims of human trafficking, as usually “the brothel raids organized sometime net more immigrants workers, who are voluntarily engaged in prostitution” indicating the officers are still targeting immigrant groups rather than assisting trafficked workers who are not volunteers and have no choice. Little or no attention is given to “victims of coerced sexual labour” (Irby, 2004) The authorities should also be trained to perceive any form of trafficking/exploitation whether it is a severe form or a non

severe form. All victims of violations of human rights abuse must receive protection from being further exploited or remaining in the hands of the traffickers/their abusers.

Also training should be provided in the private sectors where there is chance of abused victims being recognized by the employees. For instance the doctors, hospital staff may likely face the victims after being abused and admitted in the hospital. There should be no discrimination between Thai victims and migrants victims where physical abuse is witnessed or suspected.

Thailand has set up many mechanisms for capacity building to prevent, protect the victims, prosecute the offenders, and safely repatriate the offenders. This is a good realization by the Thai government; however, these cannot ultimately be successful without simultaneously having procedures and a process to monitor the effectiveness of the approaches implemented. For the strategies set up to be effective there must be an assessment of the training and the cost benefits including regularly reviewing to check on whether there are have been positive results generated from the new approach and to determine and review if the participants in the training have understood the training and have developed the an ability to use it practically and as intended.

V) Border Control

Some would say the most obvious and crucial response in the SE Asian region to stop human trafficking, is to tighten the borders and stop the flow and movement of traffickers and victims. It seems logical to think tough policies in this area and increased policing in border areas would have instant results rather than funding a human rights approach to human trafficking and it would take less time and money better spent.

It might be a quick fix but as David A. Feingold pointed out, tightening borders alone will not stop trafficking. He supported his argument by referring to a GTZ study, which shows that in areas where borders have more stringent controls trafficking is not decreased, as people then resort to third parties or agents to smuggle them out of the country. It increases people wanting to be smuggled which then increase the risk of people being trafficked. (Feingold, 2005)

Even when the border is strictly controlled, reports suggest that government tends to focus on international organized criminals as being the only actors involved in the human trafficking business. However, other reports suggest that the nature of the organization of trafficking is not highly centralized but clandestine and subtle. It is not always a case of a bus load or boat load of victims arriving at a national border seeking escape from their own countries. In Thailand, “trafficking within the country and from neighboring countries into the country tended to be carried out by loosely organized small groups that often had close ties to the source communities. Burmese, Laotian, Cambodian, and Thai individuals were involved in labor trafficking along the border. Informal chains of acquaintance were often used to recruit victims. In some cases, the traffickers themselves were former victims, particularly where the sex industry is the destination.” (Pannapa Hongthong-Pravit Rojanaphruk, 2003) The immigration emphasis should not only be on the big organized crime gangs as these are also usually dealing with drug trafficking but when dealing with human trafficking, the informal loosely organized local groups must be targets. For instance ignoring one trafficker crossing the border with three children without intensively interrogating their relationship might mean three children soon become victims of trafficking. Broader control should not simply mean controlling the number of individuals moving in or out of the country but should be expanded to cover any instances where migrants are being used by their exploiter.

VI) Missing Persons

There is a recorded link between human trafficking and missing persons, as reported by the Office for the Prevention of Human Trafficking under the Ministry of Human Resources, which estimated that 1300 trafficked victims had been listed as missing persons. The number of missing persons is suspected to be high but an accurate number is unknown and accurate figures are essential to map out appropriate measures to combat the problem. The Director of the Child Protection Foundation said in an interview during 2003 that the number of missing people is unknown and often goes unrecorded like the number of human trafficking victims. Sappasith, the Director of the Child Protection Foundation believes that from her experience missing

persons often disappear into the hands of traffickers. One such case reported by the Child Protection Foundation was that of a missing girl found by the Foundation and reunited with her family. She had been missing for six years and had been forced into prostitution. Sappasith, pointed out that the police are not professional at handling cases of missing persons and most cannot be bothered to investigate or to consider whether it might be really a human trafficking case.

Most families with a missing child are poor and uneducated and they do not fully understand they can pursue the matter with authorities, as they have no access to the media or the law. They continue to live with their harsh daily reality and have a hope of seeing their missing child some day. Unlike in wealthy nations, here in Thailand, the missing person is generally poor, they do not have jobs, attend school or college etc., and other than their immediate family, they have few other official interconnections. The mass media has no interest in reporting such cases unlike in other countries where newspapers or T.V. programs seek to locate missing persons as they are considered newsworthy as human-interest stories. Also such efforts are supported by Police Departments as a part of the investigation and the issue of missing persons is taken seriously. (Pannapa Hongthong-Pravit Rojanaphruk, 2003)

In Thailand when someone is reported missing it does not capture the attention of the T.V or newspaper media which has a big impact on what stories and issues receive public attention. It would more likely be reported on a radio station by the parents or relatives themselves. The report receives public attention for a very short time and in many cases no attention at all. Most of the time the parents don't have enough resources to search for the child on their own and some may seek help from a hotline operated by NGOs if they know of this resource. However, the media is not utilized to assist in tracing missing persons unlike in Western countries. The problem of missing persons is very much relevant to human trafficking/exploitation. Many reports show that children thought missing and when found have been exploited for begging, producing pornography etc. Many of the missing persons were exploited, living in a slave like conditions when they were held captive.

An established system for searching and notifying information on missing persons needs to be put in place and which can be easily accessed and information retrieved from the system at any time or place when required by officers involved in

the fight against human trafficking. Proper records and data collection would assist immigration officers at the boarder or airport to recognise victims and to significantly contribute towards comprehensive mapping of trafficking patterns. Reliable data and records would highlight areas and sources where the high number of missing persons reported is linked to trafficking and could help prevent further people falling in to the hands of traffickers in the future, by focusing official action to targeted localities.

In Thailand effective cooperation is needed with different sectors such as NGOs to create different channels to search for the missing persons. This approach would also encourage those who are poor to come forward with reports of their missing child or relative. Illegal migrants, stateless people and refugees in Thailand should also be well informed and encouraged to report missing persons and must be fully supported without any discrimination for seeking help and reporting the cases.

A developed database on missing persons to assist in providing trafficking information should also be shared with other countries such as those where most victims are trafficked to and from so that up to date data and profiles are available and identities can be verified.

VII) Labor:

The labor law in Thailand is not effective, the registration of migrants and restrictions on their movements have limited the migrants choices and increases their fear of being deported if found violating such laws and encourages them to remain silent and in obscurity. A major industry where exploitation of labor goes on freely is the fishing industry. Reports suggest that many victims have escaped from Thai fishing boats risking their lives but then end up being classified as law breakers in the eyes of the authorities. At the international level the exploitation in the Thai fishing industry is receiving great attention but the Thai government has not yet shifted its focus to fight the crime of human trafficking in the Thai fishing industry. If Labor laws or enforcement is inadequate unregulated industries can easily exploit their workers and have no fear of punishment for abusing and not paying trafficked victims.

Research carried out by ILO-IPEC suggests that Thai men and boys along with men from neighboring countries such as Cambodia, Myanmar, etc. are trafficked for the fisheries sector. Traffickers can easily control the victims as there is no possibility of escape when at sea. One such victim left his business in Cambodia to find a well paid job in Thailand but instead ended up being trafficked into the fishing industry. There he joined many others in the same situation, they worked day and night for no pay and if they fell sick, there was always the real fear of being killed and thrown overboard as returning the ill person to land would cost the fishing boat money. Finally, he and a few others managed to escape by jumping off the boat and clinging to buoys. After three days and nights they were rescued by an Indonesian fishing boat. The men spent almost a year in a detention centre in Indonesia before they received assistance from the Cambodian Embassy. (UN Inter Agency Project on Human Trafficking in the Greater Mekong Sub region)

This Cambodian story highlights two main emerging issues in the area of human trafficking in Thailand, the lack of attention on the issue of men trafficked for labor and in particular their increasing exploitation in the Thai fishing industry where many are kept as slaves for many years. Thailand has funded different projects to combat human trafficking but concentrating more on the sex industry and exclusively on women and children. The issue of adult male victims has not been receiving the same level of concern as men are perceived as being able to fend for themselves and not perceived as victims unlike women and children traditionally perceived as vulnerable.

Without understanding and including adult males as individuals at high risk of being trafficked a false impression of the extent of the problem would be created and any response to combating human trafficking would be inadequate. Enslavement of men is just as critical and needs to be addressed as part of a holistic approach to eradicating human trafficking. All the responses set up should equally apply to adult males and boy victims. On 20 September 2007, Vientiane Times reported that the Thai authorities rescued six boys who were trafficked to a Thai fishing boat and repatriated. Some victims were found to be disabled after abuse they suffered while working on the fishing boat.

The Lao and Thai government agreed to fully cooperate on addressing the issue of illegal Lao migrants working in Thailand. After signing a Memorandum of Understanding in 2002 both parties agreed to place a quota (50,000) on the number of Lao workers to be imported by the Thai government. From 2002 until 2007 reports show that around 7000 Laotian workers were legally supplied. However, the number of victims of trafficking from Lao still remains large with around 200 repatriated in 2007 and more waiting to be repatriated. Implementation of MOU has been erratic and migrants still seek the illegal channels to migrate rather than to go through the official channels which impose many restrictions on the migrant. Friendly rules and safe migration should be promoted in different labor sectors to fight against human trafficking otherwise the laws itself can become an obstacle in combating human trafficking.

VIII) Access to Justice

Existing Thai criminal and civil laws do not include anti trafficking legislation but the fifty year old anti slavery legislation and several other relevant laws are relied on to prosecute the offenders. Therefore there are many obstacles to bringing justice to the victims of human trafficking. There is a need to raise national laws and practices to comply with the standards of the international laws.

Another factor that causes ineffectiveness in the fight against human trafficking is the lengthy criminal proceeding that victims go through. Where traffickers are being prosecuted under criminal codes the rules of evidence, strength of the prosecutions case, the evidentiary burden all favours the trafficker not the victim. The prosecution must prove the case against the trafficker. Victims are often from other countries with no paper work, records or witnesses to support the events that would make out the case for being a victim of a trafficker. Most trafficked victims prefer not to collaborate with the authorities in order to unmask the perpetrator and seek justice, mainly due to time consuming procedures and uncertainty about their security. Reports from different sources show that Thai police are not well trained to handle cases of human trafficking. Despite the large number of victims trafficked within, to and from other countries and evidence that clearly

indicates an offender is a trafficker so an arrest takes place but even after arrest the offender can easily flee the case. Cases studied have shown that offenders were directly or indirectly involved in a case are often able to seek protection of highly placed officials. Therefore, in the area of access to justice it requires more recognition of civil society members, including NGOs to monitor against abuses during the process of seeking justice and after the justice received.

For those victims who consent to seek justice, access to justice by the victims of any form of trafficking requires friendly and easy accessibility to the law. It also requires support and close cooperation between lawyers and NGOs in order to help build strong witnesses for the victims. Most important it should be made less expensive for the victims and other actors involved in the fight and there should be protection and support for the victim and witnesses throughout the process. The current process requires the accused to be in the courtroom for the period of the trial and it is likely the victim is detained in a shelter indefinitely and is deported after trial without any consideration for the consequences which could be potentially deadly for the victim. If national legislation is tailored made for the crime of trafficking in all its many aspects then account can be taken of such crimes and abuses, simplified court processes and procedures, victim support and compensation and the international law issues if involved. Where as now different pieces of legislation or the civil law is relied on the process is burdensome, expensive, favours the offender with often little or no personal compensation or support for the victim other than the solace that the trafficker may get a jail term while they the victim receive no immunity or assistance.

IX) Criminalizing certain vulnerable groups

Many critiques argue that some specific laws actually make people vulnerable to human trafficking. Thailand is one out of many countries that has certain laws and regulations which make certain groups of people in Thailand illegal and unprotected. Many scholars would argue that Thai laws contribute to human trafficking problems.

The Thai government has not supposed the lack of citizenship to the Hill tribes as an obstacle to combat human trafficking. They are stateless for many reasons

including migration, refugees' flight or racial discrimination. Many of them have given birth to their children in Thailand but these children are never granted citizenship. This has been carried on for generations. It is surprising for many to realise that a family who has been born in Thailand and lived here since their great grandmother's generation are still living without any citizenship and has no rights to schooling, health care or employment. Considered as a threat to national security for many years in the past, they lived their lives with restrictions on their movements, social benefits, employments etc. Basically, all the rights that citizens enjoy are denied to them and to their children, even though born in Thailand.

Thailand is in a distinctive situation when it comes to dealing with human trafficking and the unique factor for Thailand is the lack of citizenship of hill tribes. Due to the unrest, political situation, poor economic conditions in Myanmar, large numbers of ethnic minorities has been illegally migrating to the border region of Thailand, which also includes Cambodia, Laos and Southern China.

Most visible is the number of people fleeing from Myanmar due to the political unrest in Myanmar which has resulted in arm conflict and economic devastation. Not every Burmese fleeing is granted refugees' status. The Thai government considers many as economic migrants, therefore they are not granted the status of refugees in Thailand. According to Thai government these groups of people are considered as displaced persons and are living in temporary camps in Thailand under the protection of UNHCR. Refugees or displaced person are not allowed to travel outside the camp, if arrested they will be deported to Myanmar. Thailand has not signed the Refugee Convention and Thai laws and authorities perceive those without refugees' status as illegal migrants. Even though, almost all of these migrants are in refugee like circumstances but Thai authorities have never gone beyond the belief that these are economic migrants who have illegally entered Thailand and not considered people forced to leave their home country due to the hardship of economics and the regime. Research shows that it is the fear of violence and not just the prospect of jobs and opportunity that forces Burmese people to migrate or flee to Thailand. Thailand has many times refused to comply with the international legal standards when dealing with Burmese who fled or migrated in fear of prosecution.

Living in temporary shelter for than 10 years, many have resettled to the third countries while many thousands remain in the camp. Few numbers of Burmese refugees understand or speak Thai but they leave camps to earn their daily wages. They risk not only being deported but exploited/trafficked since nothing protects them once they step out of the camp but they are willing to risk this to earn money as there is no other source of income in the camp.

Recently, from 2004 to 2008 there has been large numbers of children entering the camps for the purpose of education which they do not get in Myanmar. Many flee to escape from forced labor, or forced military service as child soldiers. Many become subject to abuse, rape and violence. Many of their schools were burnt down with their houses by the military regime. These children, after completing grade 10 in the camp stay home since there are not many jobs in the camp but the jobs that exist such as assisting NGOs or other organizations in the camp, are very limited and may not be enough to survive and support their families. On the other hand it is also impossible and hopeless for them to return to Myanmar due to the deteriorating situation of the country.

Based on the field experiences it has been observed that many of the male refugees both minor and adult leave the camp to work on fishing boats. They are aware of the risk of being exploited/ trafficked as they have heard of other incidents but they still have hope it won't happen to them Other refugees both adult and children leave to work on farm, as house maids or to waitress for many months before they return again and some never return. Their status away from the camps becomes illegal and they are at high risk of falling into the hands of traffickers. Many of the refugees leave the camp to permanently live outside illegally survival is their driving instinct.

They become sources of cheap labor, as they are unprotected by law. When they are exploited or abused they have no capacity to report the abuse and they believe they will be deported. It is a very complicated situation when it comes to evaluating the situation of trafficked refugees. Refugees are mainly exploited or trafficked when they are migrating from the camp to the city in search of jobs. Many of them especially the minors were aware of trafficking and take the risks knowing they have themselves left the camp to work outside. According to one UNHCR social

worker in a camp, many refugees leave the camp to work on fishing boats. Some have returned after many years with little money, some came back with disease but some completely disappear. One refugee was reported as describing how his friend was on the same boat and was shot when he was unable to work efficiently due to his bad health. The incident would never be reported to the authorities because the returning refugee knows the authorities will treat him as if he is a criminal breaking the law. Another refugee a minor described how he had left the camp to work on a Thai fishing boat for many years and he felt he completely lost his freedom and worked for many hours but was underpaid and even though he felt like leaving many times there was no place to escape as he was kept at sea.

The vulnerability of certain groups is cited in a report of the Women's Commission for Refugee Women and Children, "What is clearly missing in the dialogue on trafficking in Thailand is a holistic, rights based approach that addresses a network wide enough to consider the unique vulnerabilities to trafficking" No doubt those with the refugees status or unrecognized refugees are the groups who risk being exploited not only by the traffickers but also by the Thai authorities who often exploit their lack of status to obtain bribes and to ignore their plight. (Women's Commission for Refugee Women and Children, January, 2006)

Another vulnerable group is the stateless people in Thailand. These groups of people are mostly born in Thailand but they have not been granted Thai citizenship. In the past they didn't receive education services, health services, employment opportunities and other basic rights that states provide to its citizens. They lived in fear of authorities as they are not legally considered as Thai citizens.

The Thai government has granted some stateless people with colored identity cards. Each assigned color explains the restriction on their freedom of movement. It states where the individual is residing their movement from that area is restricted as designated on the card. A holder of any form of colored card has no right to employment, education, land, hospital services and so on. This fuels the trafficking fire.

For the past fifteen years there have been great changes and developments taking place in the hill tribe communities, but that still does not make them a less vulnerable group for exploiters. The problems related to hill tribes cannot be left to

the NGOs or community service workers. International organizations and NGOs can raise awareness about the groups stateless condition or to the plight of refugees to try and prevent them from being exploited but these stateless people or even the refugees still seek a way to support themselves and their families and hope to escape from their poverty. To offer them hope for the future and some better way of life is essential a Thai government's policy issue and one that requires a response from the Thai government to take responsibility for the well being of these people. It's an area that the Thai government is fully accountable and is the only actor that can bring stability and security to these groups, especially when it comes to preventing human trafficking and human rights abuses. Without providing meaningful protection these groups are at risk of all sorts of exploitation or forced labor.

Generally perceived as a threat to Thailand, they are the vulnerable opens and actually a group that really needs protection from Thailand. May be Thailand can be at the forefront and not wait for the international community to stand up and tell Thailand how to address this issue humanely. At International level Thailand can take advantage of loopholes in dealing with the issue of illegal immigrants and claim it has no national responsibility for refugees and stateless people within its borders. However if Thailand takes full responsibility of protecting e stateless people, and both illegal and legal immigrant workers, it can polish up its image as a good international community member and can also change its status as being an origin, transit and destination country and the hub for human trafficking in the region.

Thailand for many years has been criticised by the international community and NGOs for its treatment to these groups of people. As a response to criticism Thailand has taken steps to solve some of the problems of stateless people. For instance, a new law has been introduced to allow refugees and stateless children enjoy the rights to a free education. However, many reports say that there lies a huge gap in the implementation of this law and the declared policy. Although in 2005 cabinet resolutions made it compulsory to provide both Thai and non Thai children with free education up to grade 12, many schools are unwilling to accept the non Thai children and see it as an option and not a rule. Due to improper and late distribution of budget funds to support free education, most administrators are reluctant to consider enrolment of the migrant children at their schools. Some of these migrant children

were born in Thailand but lack any documents to identify themselves and don't therefore claim their rights to education. Access to education is unquestionably good but it is not a solution in the long term. These young people must have some security for future path after they complete their high school. A high school diploma is of no benefit if they cannot work legally or they have restricted movement to receive skills training or a college or University education.

On 15th of June 2005 a report in the Nation Post highlighted the imperative steps that Thailand adopted to strengthen the process of repatriation, which were changed to provide assistance to the victims of human trafficking regardless of their citizenship provided they are trafficked from Thailand. This approach must be able to accommodate groups of stateless people and refugees who might be trafficked from Thailand but still would face the pitfalls when proving their identity to law enforcement officers. Cited in the report was the case of six Thai women and a child trafficked to Taiwan and sexually exploited but after being rescued they ended up in the detention centre for many years, many believed that the delay in their repatriation was caused because they were stateless people. If such groups are ignored and left out from repatriation assistance, they are once again exposed to vulnerability because they are an easy and less risky target group for the traffickers.

Another vulnerable group is the women working in the sex industry. Laws make prostitution illegal in Thailand which leaves them unprotected by the law and specifically those living with illegal status such as refugees, stateless people or illegal migrants are further marginalised and open to exploitation. Although Thai law makers have refused to consider legalising the sex industry which would protect women from being exploited for working illegally by traffickers/exploiters, it has also never empowered them by granting them any protection under the law from being abused and exploited by traffickers.

Thailand has many reasons to provide more protection for the most vulnerable groups. By discriminating against them Thailand is giving a green light to traffickers to exploit these people. These groups of victims when rescued become easily re-victimised due to the lack of citizenship and status lack of victim support etc. If the law was to empower these groups to protect them by granting them special

status and recognition at law, they might at least protect themselves from being re-victimised after being rescued.

In Thailand a system is needed where any arrested illegal migrants are carefully scrutinised before they are deported. In the past there were cases where the refugee's status was completely ignored and all were deported. All the above mentioned groups should be allowed to join the Thai worker unions which could be a good strategies and mechanism to protect them at work.

One question that remains is who protects them when they are arrested as often they are illegal and classified criminals. Can a criminal be a victim? A holistic, right based approach which protects and empowers the victims needs to be at the core of all policy adopted. Even though Thailand has not signed the Refugees convention it should consider recognizing those living in refugee like circumstances and once arrested they should be treated under the standard refugee framework which provides solid solutions such as local integration, voluntary return or resettlement to a third country.

Trafficking/exploitation will continue to flourish if the root causes are not properly addressed. Large amounts of funds are spent on projects such as HIV/AIDS programs, prevention programs and so on but the root causes remain alive, lack of citizenship, employment and other movement restrictions and rights to access the law. Undoubtedly, comprehensive programs from preventing trafficking to repatriation and victim support are necessary but all programs of action are bound to be ineffective without the restoration of faith in the law and without any fear of retribution from the traffickers. The migrants, refugees, stateless people or sex workers should be empowered and know their rights to be free of any kind of exploitations. Despite the increasing number of reports showing that trafficked victims are stateless hill tribes or refugees no policy with regard to the refugees or stateless people has been setup to protect and prevent them from the traffickers or to address their legality issues.

Laws that discriminate, restrict the movements of these groups of people are putting them at risk. Given the nature of the crime of human trafficking and its complexity in trying to eradicate it no one strategy or no one solution can be found. The most simple and first approach should be for government to adopt measures to ensures that their existing strategies to eradicate human trafficking, existing laws,

policies, practices and interventions do not contribute to combating trafficking but indeed actively combine to create obstacles to preventing human trafficking.

**c) Pros and Cons of means proposed by the Thai Government to
Combat Human Trafficking**

"We must show new energy in fighting back an old evil,"

President Bush's address before the United Nations General Assembly

D) International Level:

Thailand has signed and ratified the UN International Conventions and legislated for domestic laws against human trafficking. It is a signatory to the UN Convention on Organized Transnational Crime and later signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol Against the Smuggling of Migrants by Land, Sea and Air. Also to prevent labor exploitation, Thailand signed the ILO Convention No. 29 on Forced Labor in 1969 followed in 2001, by the ILO Convention No. 182, aimed to regulate and prevent the worst forms of child labor abuse. No doubt, passing legislation is a vital first step but if legislative objectives are to be achieved the enforcement and implementation of that legislation is necessary. (MFA Thailand, A Human Rights Promotion in Thailand) In the labor sectors Thailand still lacks comprehensive interventions and has limited its focus only on a few forms of trafficking such as sex slavery and child exploitation.

To amalgamate the work of organizations involved in combating human trafficking, on January 10, 2007 the Ministry of Social Development and Human Security together with UNICEF and Plan Thailand Organization, signed an agreement to provide the victims of human trafficking with assistance. The cooperation between these organizations aims to solve the problem of human trafficking particularly in the tourism provinces of Krabi, Satun, Trang, Phang Nga, and Phuket. (Social Development and Human Security Ministry, 2007) Effort and cooperation with NGOs

to raise public awareness in the tourism sector has been the government's main priority to respond to the problems of trafficking of women and children for sexual purposes. This has enhanced the capacity to identify potential victims through using hotel staff alerts, aiming more specifically at protecting the exploitation of under age children from being exploited for sexual purposes by hotel guests.

Another option that the Thai government pursued to combat human trafficking is to limit negative perceptions of Thailand being the hub of human trafficking activity. According to the report of *The Nations* post, Thailand is aiming to stop itself from being listed as a major country of origin, transit and destination for victims of human trafficking. Image is one thing but Thailand must and is also expected by the International community to practically change its image by eliminating all forms of exploitation/ trafficking.

II) Domestic Level

Measures adopted in the Prevention & Suppression of Trafficking in Women and Children Act, issues the authorities the right to detain suspected victims of trafficking, not only the suspected traffickers. One of the key responses to combat human trafficking by the Thai government was a new bill; The Law against Trading in Women and Children, 2003 was ratified by the Thai Cabinet, in 2003. The Bill seeks to impose tougher punishments on anyone found guilty, even only at the planning stages of human trafficking, before even the actual crime is committed. This Bill not only punishes the perpetrator but any individuals involved in the process. It applies even in a case where the victim has consented with a trader. This mainly covers any "attempts to lure or force" persons, including boys less than 18 years into human trafficking. The main focus of the bill is to protect the victim where there is evidence of "abuse for the benefit of others." (Bangkok Post, 1994)

In order to monitor the proper implementation of policies to halt human trafficking, the government has taken the step of establishing the Human Trafficking Control Board (HTCB). Sally Jutabha, advisor to Thailand's Minister of Foreign Affairs, stated during a conference on 16th June, 2005, that to address the trafficking problem new legislation with a "broader range" than ever before called the Prevention

and Suppression of Human Trafficking Act had been ratified by the government. This new law, will facilitate the ratifying of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. A special command unit to handle cases of human trafficking has been established by the Thai Government, and this would strengthen the powers of law enforcement officers to fight human trafficking. (Jutabaha, 2005) This has encouraged the Thai government to consider the ratification of anti trafficking law which will bring great improvements in the area of prosecuting the offenders.

III) Regional Level

Thailand signed a Memorandum of Understanding on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking with Cambodia in 2003. This bilateral cooperation is to combat the problem of human trafficking between the two countries but disappointingly the scope of the Memorandum of Understanding is limited only to trafficking in children and women.

In 2002, Thailand signed the Memorandum of Understanding on Labor cooperation with Lao PDR. The primary aim is to facilitate the safe migration of Lao citizens to Thailand. The agreement is a serious attempt to take steps to fight against human trafficking in the labor sector but the ILO fears that many Laotian teenagers are still open to falling into the hands of traffickers. A survey conducted by the ILO shows that since the year 2000, of the number of Laotians who left home to find a better job opportunity 50% have never returned or contacted home. According to researchers the MOU has not been effective because Laotians still migrate without using the proper channel and sometimes end up being trafficked. Under the 2002 agreement of Thai and Laotian government the labor supplied from Lao would be eligible to stay legally and work for 3 years and then they have to return home. Most of these migrants become established and remain after the 3 years as an illegal migrant. (The Nations, 2003)

To strengthen the cooperation at regional level, Thailand and the OSCE⁹ co-organised the first OSCE-Thailand Conference on the Human Dimension of Security in June 2002 in Bangkok. Top of the agenda was human trafficking, and it was the main discussion at the conference. It was agreed during the meeting that the issue of human trafficking needed shared action and for more views to be exchanged within the region. (Jutabaha, 2005) Later a follow up discussion took place in 2005, called the “Sharing of Experiences in Combating Trafficking in Human Beings: Opportunities for Cooperation” These joint discussions came to the realization of the need especially for cooperation between Thailand and European countries, where many victims are trafficked from Thailand and exploited in the European region.

In April 20, 2005, Thailand hosted a Workshop on Enabling Electronic Exchange of Lost and Stolen Travel Documents Information. The main aim of this workshop was to implement information sharing following agreements made under the Bali Process framework. (included below)The workshop was co-chaired by Mr. Aaron Baker, Regional Manager of New Zealand Immigration Services. Mr. Takur Panit, Deputy Permanent Secretary of the Ministry of Foreign Affairs raised the importance of combating human trafficking, which he described as a “grave violation of human rights and dignity” and he declared that the issue has been “placed high on the Thai Government’s agenda.” (MFA Thailand, 2005) Electronic Exchange of Lost and Stolen Travel Document Information can help identify trafficked victims when they are travelling with their fake documents. Without the recording of stolen documents and sharing with other countries it could mean that traffickers can easily forge the victim’s identity for border crossing.

The ASEAN Declaration against Trafficking in Persons, particularly Women and Children was adopted by Thailand in November 2004. This Declaration’s focus is on addressing the “law enforcement, victim identification procedures and more severe punishment of traffickers.” (MFA Thailand, 2005) Thailand shares borders with many ASEAN Member States and also experiences the problems of people being trafficked from these states into Thailand.

This declaration is also known as the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Trans-national Crime or the

⁹ OSCE: Organization for Security and Cooperation in Europe

Bali Process, and Thailand is an active member. This platform can be used to address the issue of human trafficking under the umbrella of human rights and also to effectively strengthen the cooperation at a regional level. Through the Bali Process the practical benefits to regional operational agencies were delivered. This has strengthened more cooperation in other new activities to deal with human trafficking. Forty seven countries and nine international organizations attended the Bali conference in June 2004 and they advanced regional law enforcement cooperation, regional training for the law enforcement officers on handling the victims of trafficking, awareness raising among the public, extradition, common assistance, combating the traffickers and smugglers and procedures for preventing abuse of lost and stolen travel documents.

IV) Cooperation with NGO's

In Thailand, both local and international NGOs are actively participating in the fight against human trafficking. According to ECPAT International, Thailand has been a role model for many countries in the region based on its good cooperation with local NGOs in the fight against human trafficking.

Many reports suggest that cooperation between the Thai government and NGOs has strengthened the fight against human trafficking. There has been an MOU on the Procedural Cooperation between Government and Non Government Agencies Working called Cases of Trafficking in Women and Children. This MOU focuses on the cooperation between both actors. Another MOU called Operational Guidelines of Non Government Agencies Concerned with Cases of Trafficking in Women and Children addresses issues of cooperation and action with the NGO community.

The National Secretariat on Trafficking in Women and Children was established by the Ministry of Social Development and was later merged with the Bureau of Anti- Trafficking in Women and Children (BATWC). The Ministry provides welfare, protection and development services to women and children at risk whereas the Bureau's roles are for provision of assistance to victims, protection and coordinating activities with anti trafficking networks. It is also the responsibility of the Bureau to coordinate activities with local NGOs.

In the past few years this strong cooperation has had fruitful results. There are now numerous prevention and protection programs run with the cooperation of the Thai government and NGOs. The benefit of cooperation also lies in the fact that NGOs have a presence throughout the region and internationally which gives them the ability to coordinate their efforts over the whole region. The fight against human trafficking requires cooperation across regions; therefore Thai government should cooperate not only with local NGOs but must fully support international NGOs as well.

The Thai government has cooperated with NGOs mainly on arrest and prosecution matters, providing for services to the victims such as counselling and medical support and providing victims protection such as in witness protection. NGOs and the Thai government have also cooperated in providing victims with returning home and reintegration services.