



Trafficking in Women and Children

"The effective suppression of trafficking in women and girls for the sex trade is a matter of pressing international concern. ... The use of women in international prostitution and trafficking networks has become a major focus on international organized crime. . . Women and girls who are victims of this international trade are at an increased risk of further violence, as well as unwanted pregnancy and sexually transmitted infection, including infection with HIV/AIDS."

Beijing Platform for Action, chap. I, resolution 1, annex II, para. 122

Concept of Trafficking

The definition of trafficking and the exploitation and prostitution of others is set out in articles 1 and 2 of the 1949 Convention for the Suppression on the Traffic in Persons and of the Exploitation of the Prostitution of Others. The Convention refers to actions at both the national and international levels. Since 1949, the concept of trafficking has been extended to include trafficking for the purpose of other forms of exploitation of women. This wider view of trafficking is reflected in the Beijing Declaration and Platform for Action, which also includes forced marriages and forced labour within the concept.



Who are trafficked?

- Women and children are the key target group, because of their marginalization, limited economic resources and predominance in the “invisible” formal sector.
- People from impoverished and low income households in rural areas and urban slums, especially women engaged in small farming, petty trading, vending, as labourers scavengers and in other low status work and services.
- Ethnic minorities, indigenous people, hill tribes, refugees, and illegal migrants.

- People with low level of education, a few years of formal schooling, some primary school education, or illiterate.
- Young girls running away from home, or girls from families that expect their daughters to financially contribute to their support are easy targets for traffickers.
- People who lack awareness of their legal rights, their exploited situation, and have no channel for seeking redress.

Why trafficking?

Both **supply** and **demand** factors foster the growing trafficking industry:

Demand Side

Demand by employers and enterprises for cheap labour, women's labour is usually in low status work in the domestic and entertainment spheres putting them at risk.

An expanding commercial sex industry in the sub-region and increased demand for the services of sex workers. Male client preferences are for younger women and girls because of the fear of HIV infection.

Development policies promoting tourism, and patterns of development that depend on temporary migrant workers, particularly males.

Male attitudes and perceptions of women in society, and women's unequal socio-economic status.

Supply Side

Poverty – women are the minority of the poor and their poverty is increasing.

Inadequate educational and employment opportunities.

Economic disparities within countries and between countries and regions, fuels the demand for trafficking from low income to high-income areas.

Globalization and economic liberalization have relaxed controls, opened borders between countries, facilitating population mobility.

International migration of women into the labour market provides increased opportunities and channels for trafficking.

Civil and military conflicts push people to flee their countries, encouraging cross-border trafficking.

Erosion of traditional family values and the pursuit of consumerism encourage the sale of women and children.

A lucrative business with high monetary returns attractive to crime syndicates.

The growth of transnational crime, and the expansion of drug trafficking networks act as mechanism for other forms of exploitation.

Weak law enforcement mechanisms and measures to penalize offenders, exploitation by corrupt law enforcers and officials.

Trafficking and Prostitution - a Development Issue

Trafficking in women and children is clearly a both a human rights and a development issue. Apart from the human, social and economic costs of the sex industry, the spread of venereal diseases and HIV/AIDS, child prostitution deprives children of the opportunity to pursue education and to achieve their full potential. It thus deprives the nation of vital human resources for development. This should be a particular concern in a country such as Thailand that has an adult population with comparatively low levels of education but a rapidly increasing demand for an educated and skilled labour force.

Prostitution has often been seen as a development problem from the supply side. That is, it is argued that young women and girls are forced (or pressured) into the sex industry by poverty and a lack of alternative employment and income-earning opportunities.

Increasingly, prostitution and trafficking are also being seen as a development issue from the demand side. The demand for the services of prostitutes and for women to be trafficked, both within this region and to developed countries, is clearly a function of development. It is a function of both the level of development, which creates both supply and demand, and the nature of that development:

- Development projects in comparatively undeveloped regions and countries often bring with them a rapid increase in the demand for commercial sex due to the sharp increase in the numbers of unaccompanied male workers in areas where there are few outlets for recreation and entertainment.
- Patterns of development that depend heavily on temporary migrant workers, particularly male workers, are likely to be associated with a sharp increase in the demand for commercial sex.
- Marked differences in income levels within the region contribute to a strong demand for women and children to be trafficked from low income countries to high income countries where the income to be gained from prostitution by the procurers is many times greater than in the country of origin.
- The increasing ease and frequency of international travel, together with the growing phenomenon of temporary migration for work, has increased the opportunities for trafficking.
- The growth of transnational crime involved in a variety of forms of trafficking, including of drugs, has led to the expansion of these networks into trafficking for the purpose of prostitution and other forms of exploitation.

Trafficking mechanisms and techniques

Women and children are generally recruited from rural areas or small towns. In the transshipment process they are handed over and taken over by numerous procurers, brokers and intermediaries, usually not known to authorities as ones with criminal records.

Local contacts

Traffickers enlist the help of local persons and villagers to identify vulnerable families. Traffickers operate in an organized network having their agents make contacts with unsuspecting women and children around bus and train stations.

Direct sales

Women and children are sold to traffickers by parents or other family members. Traffickers sell young girls to brokers across borders in Asian countries for one or two thousand dollars (per child or young women) or more.

Deceit

Unscrupulous agents deceive parents, lure women and girls with false promises of well-paid work in cities or marriages to rich partners.

Debt bondage

Economic incentives to parents and arrangements which bond children and young women into sex-slavery or other exploitative forms of labour, though details of these debt terms are ill defined.

Kidnapping

Criminal gangs or middlemen kidnap women and children, force them to work against their will, and often sell them to brothels.

Falsification of documents

False documents and passports make it difficult to identify and trace trafficked persons.

Bribes

Bribes are commonly paid to various officials or police to procure false documents, or at border crossings.

Transportation

Women and children are transported by foot, buses, pick-up vans, trains and boats.

Strategies for Combatting Trafficking

Government agencies and NGOs, together with the international community, have adopted a variety of strategies to combat trafficking in women and children. These include:

- Prevention of trafficking through the legal and criminal system, training of law enforcement officers
- Control and suppression of prostitution through the legal system
- Rescue and rehabilitation for women and girl victims of trafficking
- Protection for and awareness-raising among women and girls to prevent trafficking
- Demand reduction through advocacy to raise public awareness, particularly in relation to forced and child prostitution and other measures
- Supply reduction by advocacy and awareness-raising among parents and guardians
- Supply reduction through the provision of alternative employment and income-earning opportunities for women and girls
- Supply reduction through campaigns targeting parents on the long-term advantages of girls education

Data on Trafficking and Prostitution

There are almost no reliable estimates of the number of women who are trafficked or on from where and to where they are trafficked. Trafficking is not reported as such as a category in the crime statistics collected by the United Nations. However, many countries are beginning to collect information on the phenomenon. The Government of Nepal estimated that in 1992 not less than 200,000 Nepalese women and girls were working in brothels in India. A considerable number had been either forcefully abducted or tricked into going to India and had been sold to brothels. In Thailand, the only estimates available relate to prostitution. A significant proportion of prostitutes, including most child prostitutes, are either forced or tricked into the trade.

Estimates of the numbers of prostitutes in Thailand vary widely, depending on the source of the figures and the method of estimation. In 1995, the Public Health Ministry estimated that there were 81,384 Commercial Sex Workers (CSWs) of whom 16,383 were direct CSWs and 65,001 indirect CSWs. The total number of brothels was reported as 6,563, 1,799 of these being outright brothels and the remainder places where

prostitutes were available but not the main business. These figures were based on a twice yearly survey of sex establishments related to surveillance of venereal diseases.

The Police Department provides the highest estimate of the numbers of CSWs - 500,000 based on the number of registered entertainment places. The National Commission on Women's Affairs estimated the number to be 150,000 to 200,000, of whom not more than 20 per cent were thought to be children. Academics from the Population and Social Research Institute of Mahidol University estimated the numbers to be between 200,000 and 300,000.

By contrast, NGOs working on children's rights issues estimate the number of prostituted children to range between 200,000 (ECPAT 1994) and 800,000 (Centre for Protection of Children's Rights CPCRC, 1989). The latter figure seems too high, implying that one of every 4 females aged 11 to 17 was a prostitute. However, in defence of the estimate, the figure includes not only Thai children but also those from the northern hilltribe minorities, Burmese, Chinese, Lao and Cambodian children who are trafficked into Thailand's sex industry.

Voluntary or Forced Entry into Prostitution

Three modes of entry into prostitution have been identified:

- **Voluntary** indicates that the woman, prostitute-to-be, approaches the owner/manager of a sex establishment herself;
- **Bonded** implies the involvement of parents or guardians who receive money from an agency or owner for giving away their daughter;
- **Involuntary** involves the use of deception and coercion of the women by an agent or owner/manager

However, the distinctions between them are not as clear as the definitions might suggest. "Voluntary" does not necessarily mean free choice or informed consent. Interviews with victims of child prostitution in Thai NGO shelters revealed that many girls who said that they "knew" they would be working as prostitutes actually did not know what that meant. They thought that it meant "wearing Western clothes in a restaurant". Many also said that they could leave the brothels freely but when asked if they had ever tried, most said that had not dared because they had no money or because they feared being arrested or sold to another brothel. Most also said that they could refuse a customer, but further questioning revealed that refusal was virtually unheard of because of the fear of repercussions.

Cultural Context of Prostitution in the Mekong Region



There are cultural, familial, economic and historical reasons behind the decision to send a child to work in the sex industry. In Thailand and neighbouring

countries children are expected to support and obey parents' wishes, and show parents gratitude and respect no matter what the difficulties. Many children who migrate to Thailand to work in difficult, low-paid and dangerous occupations feel that they should not return home "empty handed" due to their traditional responsibility to care for their parents. Prostitution is often perceived as fulfilling a traditional role of daughters who are caretakers of the family and community. Under Theravada Buddhism, women and girls are thought to be unable to achieve enlightenment. Thus, while men can show gratitude and respect to their parents by becoming monks and pursuing the spiritual life, many girls feel that they must make sacrifices for the benefit of their families, villages and their own karma.

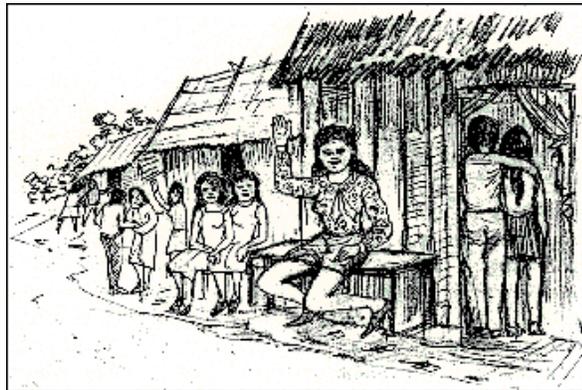
International Legal Instruments

"International Law clearly condemns slavery and slave-related practices. It is well established that the prohibition of these practices has attained the status of customary international law."

Human Watch Rights Watch, 1993: 29

Convention for the Suppression of Traffic in Person of the Exploitation of the Prostitution of Others (The Trafficking Convention)

The international community first denounced trafficking in the Trafficking Convention, which was approved by the General Assembly of the United Nations in 1949. The Convention calls on states parties to punish traffickers and to protect all persons against such abuse. It also calls on states parties "so far as possible" to "make suitable provisions for [trafficking victims] temporary care and maintenance", to repatriate trafficked persons "only after agreement . . . with the State of destination", and where such persons cannot pay the cost of repatriation, to bear the cost "as far as the nearest frontier". [Convention for the Suppression of the Traffic in Persons, Article 19]. Thailand has not ratified the Trafficking Convention. The Convention deals only with trafficking for the purposes of prostitution, and is now regarded by many NGOs as out-of-date.



Convention on the Elimination for All Forms of Discrimination Against Women

Under CEDAW, states parties are obliged to eliminate discrimination and must take all appropriate measures to suppress all forms of traffic in women (articles 2e and 6).

However, the Convention does not explain what these measures might be. Thailand ratified CEDAW in 1985, with reservations on articles 7,9,19,11,15,16 and 29. Some reservations were recently withdrawn.

Some countries have expressed concern that, although the Convention itself does not require that acts of prostitution be criminalized, several of its provisions have the indirect effect of making the practice of prostitution illegal. Australia, for example, noted that these provisions blur the distinction between voluntary and coerced prostitution. "To consider voluntary sex work and coercive prostitution as the same issue, and therefore to demand the outlaw of prostitution per se, is to view prostitution as a moral issue and to consider sex workers as people unable to make informed decisions on their life. Such a view is paternalistic and raises serious human rights implications. Further, criminalization of the voluntary sex industry fosters conditions of violence against women sex workers." [United Nations, 1996, pages 8-9, para 26].

Convention on the Rights of the Child 1989 (CRC)

The CRC defines the child as a person under 18 years of age, unless the national laws recognize a younger age of majority. States parties are obliged to protect children from all forms of discrimination (article 2), to protect them from sexual exploitation and abuse, including prostitution and pornography (article 34) and to make every effort to prevent the sale, trafficking and abduction of children (article 35). Under article 39, states parties have an obligation to ensure that victims of exploitation receive appropriate treatment for their recovery and social reintegration. Thailand acceded to the CRC in 1992.

Thai Legal Instruments

The Trafficking in Women and Girls Act (Anti-Trafficking Act) of 1928

The Anti-Trafficking Act was passed in 1928 as a result of the perceived increase in numbers of foreign nationals in Thai brothels. It prohibits trafficking in women and girls. Section 7 states that women and girls who have been trafficked into Thailand will be exempt from imprisonment and/or fines. However, before being deported they must be sent to a state reform house for 30 days, a period which can be extended by a judge. The Anti-Trafficking Law also requires Thai authorities to arrange and shoulder the cost of the victim's repatriation to her country of origin.

The Suppression of Prostitution Act of 1960

The Suppression of Prostitution Act (Prostitution Prohibition Act) was passed in 1960 partly as the result of UN pressure. The Act replaced the Contagious Diseases Prevention Act 1908, which aimed to control prostitution. The new law was intended to eliminate prostitution (defined as an act promiscuously rendering sexual services for remuneration) by making it an illegal activity. The Act provided that convicted prostitutes should be reformed through medical treatment and a period not exceeding one year in

an assistance centre where they were to receive vocational training. This Act was repealed by the new Prevention and Suppression of Prostitution Act of 1996.

The Entertainment Places Act of 1966

This Act was designed to pave the way for brothels to be legalized in the guise of massage parlours, bars, night-clubs, tea-houses etc. It was enacted at a time when the Government sought to increase state revenue from the "Rest and Recreation" activities of the US armed forces stationed in Vietnam. The Act defines the various kinds of "Entertainment Places" and allows such places to operate only under a license to be obtained from local police stations. The use of licensed establishments for prostitution is illegal. The Act sets 18 years as the minimum age for women to work in such establishments but the penalty for employing under-age women is only baht 2,000.

The Penal Code of 1956

Under the Thai Penal Code 1956, prostitution is not illegal but procurement for the purpose of prostitution is. The Penal Code imposes more severe penalties for procurement than the Prostitution Prohibition Act. Several sections provide specific and quite harsh punishment for abuses against girls forced into prostitution, penalties that increase if the girl is under 18 years of age and increase still further for offences against girls under 15 and 13 years of age. Section 276 penalises forced sexual intercourse with a woman "who is not wife, against her will, by threatening her by any means whatever" with 4 to 20 years imprisonment and a fine of 8,000 to 40,000 baht. Section 277 makes sexual intercourse with a girl under 15 statutory rape, even if with her consent.

The Thai Immigration Act of 1979

The Thai Immigration Act denies entry to Thailand to those who have engaged in prostitution, trading in girls and other immoral activities. Any person who "brings or takes an alien into the Kingdom . . . shall be imprisoned for not more than 10 years or fined not more than 100,000 baht."

Prevention & Suppression of Prostitution Act of 1996

The new Act defines prostitution "accept sexual act or accept other action or anything for the sexual satisfaction of other person for the benefit of pay or other interest", irrespective of the sex of the recipient or the prostitute. The Act continues to make prostitution illegal but considerably reduces the penalties for the prostitute. In addition, if the prostitution is forced then the prostitute is not deemed to have committed an offence.

The new provisions of the act are:

- the clients of a prostitute under the age of 18 also commit an offence punishable by imprisonment;
- parents or guardians who collaborate in the prostitution of a child under the age of 18 commit an offence punishable by a fine and revocation of guardianship;

- those involved in forced prostitution will be punished by a term of imprisonment from 10 to 20 years and a fine from 200,000 to 400,000 baht.
- In the event of serious injury or death to the victim, the penalty shall be life imprisonment or death. [Government Gazette Vol 113, part 54 a, page 1, dated 22 October 2539 International Translations Office Vol 51. No. 2 (February 1997).]
- all prostitutes under age 18 shall receive protection and vocational development for up to 2 years;
- requires the establishment of a Committee for Protection and Vocational Development at the national level and in each province;
- the private sector, foundations and NGOs working in the area can apply to the authority to establish a primary shelter or a centre for protection and vocational development.

Some Organizations Dealing with Trafficking of Women and Children in Thailand

Surveillance, arrest, imprisonment and repatriation:

Government Agencies	NGOs
Immigration Department	Foundation for the Protection of Children's Rights
Provincial and Metropolitan Police	Foundation for Children's Development
Council of National Security, Ministry of Interior	
International Organization for Migration (IOM) [Intergovernmental]	

Removal from hazardous work, provision of legal aid, negotiation on wages

Government Agencies	NGOs
Women and Child Labour Division, Ministry of Labour and Social Work	Foundation for Children's Development
	Foundation for the Protection of Children's Rights
	Task Force for the Development of the Child Protection Process

	Friends of Women Workers in Asia (FOWWIA)
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Provision of welfare and development, education, counselling and recreation

Government Agencies	NGOs
Women and Child Labour Division, Ministry of Labour and Social Work	Foundation for Children's Development Foundation for the Protection of Children's Rights Task Force for the Development of the Child Protection Process

Lobbying, advocacy, data collection

Government Agencies	NGOs
National Commission for Women's Affairs, Office of the Prime Minister	ECPAT EMPOWER Association for the Promotion of the Status of Women Foundation for Women Friends of Women Global Alliance Against Traffic in Women

References and further reading

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