

# VIOLATION OF CHILDREN'S AND WOMEN'S RIGHTS: THE CASE OF TRAFFICKING AND COMMERCIAL SEXUAL EXPLOITATION

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## Paper Presentation

Every day and every hour – somewhere in the world - a woman or a child is being subjected to violence or abuse physically, psychologically, sexually or economically. The abuse occurs in homes, in schools and institutions, at workplaces or on the streets. Violence against women and more specifically girl children continues to be a global epidemic and one of the most pervasive of human rights violations, denying women and girls equality, security, dignity, self worth and their right to enjoy fundamental freedoms. No society can claim to be free of such violence. The only variation is in the patterns and trends that exist in countries and regions.<sup>i</sup>

In the East Asia and Pacific Region, one of the more pervasive examples of violence against women and children is found in the businesses of trafficking and commercial sexual exploitation. Trafficking is one of the starkest symptoms of gender inequality.

While some men and boys are being trafficked, ending up as bonded labour or beggars, the vast majority of victims are women and girls who are being sold into prostitution, domestic work and forced marriages. They are not seen as full human beings but rather as subordinate objects to be traded for profit. Abuse and exploitation are both contributing factors to the phenomenon as well as consequences resulting in the violation of many, if not all, fundamental human rights.

While trafficking and sexual exploitation are not a new phenomenon, recent global trends and technological advancements pose increased challenges to efforts to stop this criminal trade in human beings. Certain aspects of global economic and political developments are having a detrimental effect on the well being and protection of women and children in the region. For example, economic growth is resulting in widening disparities both within and between countries. The lure of better economic opportunities draws marginalised woman and children into situations where they become easy targets for traffickers. Rapid urbanization is eroding traditional social security networks of families and communities. Relaxation of trade barriers and improvements in transport and communications infrastructure is facilitating movement across national and international borders. And political instability reduces the choices for families as they struggle to survive.

Trafficking and commercial sexual exploitation are also multi-billion dollar businesses. The numerous persons 'cashing in' on this modern-day form of slavery range from relatives, trafficking agents and middlemen to international criminal syndicates corrupt law enforcement officials and brothel owners. For one country in the East Asia and Pacific region it is estimated that 14% of the GNP is generated by the commercial sex industry<sup>ii</sup>. Needless to say, many actors have a strong financial interest in ensuring that the sale and trafficking of women and children continues.

## The Scope and Nature of the Problem in the EAP Region

A recent study estimated that around one third of global trafficking of women and children takes place within and from Southeast Asia representing 230,000 women and children<sup>iii</sup>. Of these around 60 per cent are thought to go to major cities in the region and around 40 per cent to the rest of the world. This is probably a conservative figure as it is difficult to collect accurate data on activities that are illegal and/or related to transnational crime. The United Nations, for example, estimates the global total of child victims of trafficking to be around 1.2 million, which suggests perhaps 300,000 to 400,000 in this region<sup>iv</sup>.

As with trafficking, it is difficult to estimate the number of children and women being exploited in the commercial sex industry. The highest concentration of child sex workers is believed to be in the Greater Mekong sub-region, which consists of Cambodia, Lao PDR, Myanmar, Thailand, Viet Nam and the Yunnan and Guangxi provinces of China. In some of these countries, children are reported to account for around one-third of all sex workers. A survey in Cambodia found that 30 – 35 per cent of sex workers were between 12-17 years of age.<sup>v</sup> Yet the problem also exists beyond the sub-region. In Indonesia, 60 per cent of registered prostitutes were found to be between the ages of 15 to 20 years of age. These figures are mere indications of the extent of the problem in the region.

Most sexual exploitation of children is by local men. In the Philippines, for example, it is thought that nine out of ten customers of child prostitutes are Filipinos<sup>vi</sup>. However, a flourishing tourist industry in the region also contributes to the exploitation of children and women. Thailand, parts of Indonesia and the Philippines have been favorite tourist destinations for many years. Countries like Vietnam and increasingly Cambodia are gaining a worldwide reputation for sex tourism, including sex with children. While Western men are the most visible sex tourists, the vast majority is Asian from other countries in the region. Although smaller in scale, the commercial sexual exploitation of children also appears to be escalating in the Pacific Islands, in particular in Fiji and the Solomon Islands, which are becoming major destinations for child sex tourism, especially for Australians.

Being trafficked is just the beginning of further exploitation and violation of rights for children and young women, many with long histories of abuse and violence. They often begin their journey with hopes for a better future for themselves and those left behind being lured by the false promises of trafficking agents. However, the glimpse of hope is brutally ripped away when the reality of their new existence dawns upon them when they find themselves virtually imprisoned and forced to work in horrific conditions. A study of 53 child sex workers in Cambodia, for example, found that most lived in small, dark rooms sometimes protected by armed guards. Many were forced to serve six to ten customers every day and had been physically abused by brothel owners and customers, usually by hitting and kicking. Three girls were regularly whipped with electric wires<sup>vii</sup>. Those working on the streets, independently or controlled by pimps are even more exposed to random violence and disease.

The most immediate health dangers to children, apart from physical violence, are from sexually transmitted diseases, as well as early pregnancy and repeated abortions. Probably the greatest menace for child prostitutes today is HIV/AIDS. A number of men specifically seek out children for sex assuming that they are less likely to be infected. Some men who are HIV-positive even believe that sex with children, and particularly virgins, will remove their own infection. In addition, children, mostly girls, are in a weaker position to insist on condom use, either because they do not appreciate the danger, or because they are powerless in the face of clients.

Beyond the health risk for children involved in sex work there is also psychosocial damage, especially for children who have been trafficked. The violent and intimidating atmosphere engenders a feeling of helplessness and lack of control heightened by the fear of arrest. Common problems include low self-esteem, substance abuse, anger, shame, despair, insecurity and

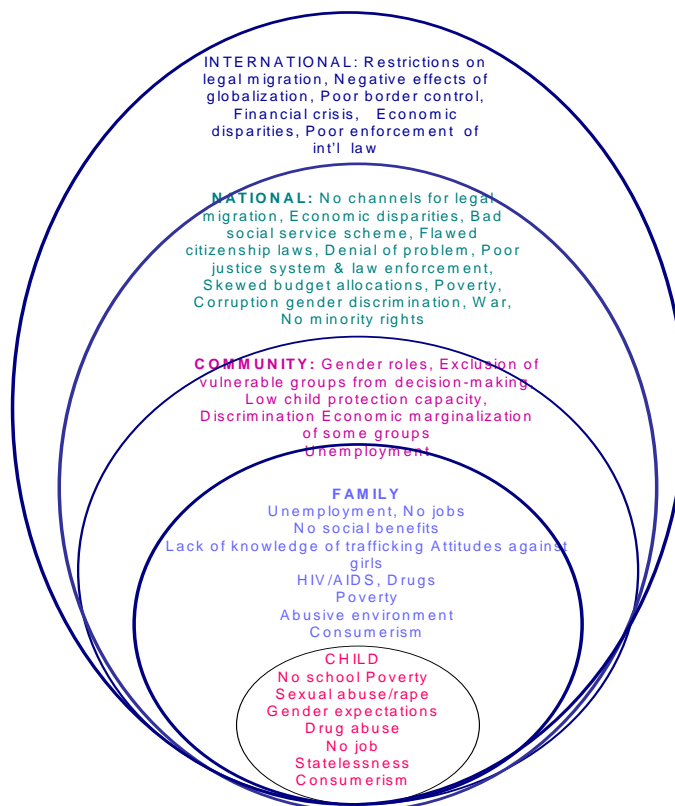
restlessness. They may then face social stigma further isolating them from their communities and their families.

## The Victims and Root Causes

The prime targets for traffickers and other exploiters are the poorest families and often those in marginalized ethnic groups who are subject to various kinds of social exclusion. The victims tend to be living in poor and politically insecure areas, with financial hardship. They are on the streets, in slums or among other socially discriminated groups.

A complex set of inter-related factors contribute to their vulnerability. Poverty forces both children and adults to seek alternative means of survival. Being from an ethnic minority group without documentation can mean exclusion from access to education, legal employment and legal channels for safe migration. Family dysfunction and domestic violence increasingly related to drugs is being identified as a major problem. And a recent study conducted in eight Asian countries found that 33-50 per cent of the child sex workers had previous experiences of child abuse<sup>viii</sup>. Some of these survivors of rape and incest had run away from home to enter sex work and others were sold by families due to the stigmatization associated with the loss of virginity before marriage.

These underlying factors exist at different levels - the individual, the family, the community, as well as on national and international spheres. The following figure illustrates how failures or dysfunction at different levels of the entire 'protective environment' affects children and women's vulnerability.



Some factors exist on several levels, for example those relating to gender discrimination. The discrimination takes slightly different forms at different levels from gender roles and attitudes towards women and girls at the individual and family level to inequitable legislation at the national level. Planning effective counter measures to decrease children and women's vulnerability and eliminate trafficking and commercial sexual exploitation requires a thorough understanding and assessment of these various factors.

Trafficking and commercial sexual exploitation is not an isolated violation of human rights but rather linked to a wide range of rights violations, both within the sphere of economic and social rights as well as civil and political rights. It involves a chain of rights violations that starts at the place of origin, prior to trafficking and continues through the transfer of children and women and finally culminates in further exploitation and abuse at the end destinations. Even in the event that a girl or boy or a young woman is rescued and reintegrated into society, she/he is at risk of further discrimination. Factors such as stigmatization due to involvement in sex work, and HIV/AIDS infection or other STDs most often contributes to continuing patterns of discrimination and violence forcing them to seek alternatives and again be vulnerable to trafficking.

## International Standards

Today, trafficking and commercial sexual exploitation of children and women are, in terms of international legal standards, one of the most regulated areas of protection. The overarching legal instrument for children, the Convention on the Rights of the Child (CRC) has achieved near universal ratification, which means that rules relating to exploitation, sale or trafficking of children are universally applicable. The Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) is also widely recognized. Both have been complemented by a number of more recent legal instruments as noted below (Box 1)

### **Box 1 - KEY INTERNATIONAL LEGAL STANDARDS:**

**Convention on the Rights of the Child (CRC)** provides a comprehensive net which, prohibits the exploitation, abduction, sale or trafficking of children.<sup>1</sup>

**Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)** regulates trafficking in women and exploitation of prostitution of women.

These legal standards have been complemented and supported by other more specific legal instruments such as:

- The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (2000)
- The ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1998),
- The Protocol to the UN Convention against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000).

Governments have acted upon these legal commitments by establishing global targets for ensuring improved protection of children. The Millennium Decade Goals address a number of root causes and the Declaration highlights the importance of reaching the most vulnerable members of society. In 2002 the United Nations Special Session for Children resulted in adoption of a Plan of Action, which includes a set of specific goals to be achieved by 2015 in order to create 'A World Fit for Children'. In this outcome document the protection of children against abuse, exploitation and violence was identified as a key area needing attention in the next decade and resolved to take eight specific actions to combat trafficking and sexual exploitation of children.

The implementation of legal standards relating to trafficking and sexual exploitation have also been refined at global and regional conferences which have resulted in clearer definitions of the problems and calls for specific actions on the part of governments. Landmark events such as the Stockholm and Yokohama World Congresses against Commercial Sexual Exploitation of Children have been instrumental in raising awareness and recognition of the problem and in defining a framework for action.<sup>ix</sup> These events have also provided UNICEF and other international and national child rights organizations with a platform for dialogue and a momentum to seek engagement with government officials and civil society around the world.

## Regional Commitments

Since 1997 a number of regional commitments have been made and are being implemented to various degrees in the East Asia and Pacific Region to combat the problems of sexual abuse, sexual exploitation and trafficking. These include the ESCAP Resolution 53/4 to combat sexual abuse and sexual exploitation; the Bangkok Accord and Plan of Action to Combat Trafficking in Women and Children of 1998; and the Asian Regional Initiative Against Trafficking (ARIAT) Action Plan against Trafficking in Persons, Especially Women and Children in 2000.

However, a major step forward was the adoption of the East Asia and Pacific Regional Commitment against Commercial Sexual Exploitation of Children in 2001.<sup>x</sup> Government representatives, civil society and young people from 25 countries adopted the Commitment at a preparatory meeting for the 2nd World Congress on CSEC held in Yokohama, Japan attended. The document is groundbreaking as for the first time it includes some time bound goals and provides for a process for monitoring progress. In addition, the importance of involving young people and youth in the struggle against CSEC was clearly recognized.<sup>xi</sup> The document specifies ten key commitments that will be monitored (see Box 2).

<p><b>Box 2</b></p> <p style="text-align: center;"><b>EAP REGIONAL COMMITMENT AND ACTION PLAN AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN</b> <i>10 Selected Commitments for Monitoring</i></p>
<p>1. By 2004 - Identify or establish child/young people's committees, which are independent advisory and consultative bodies to the government on legislation and issues pertaining to children/young people</p>
<p>2. By 2004 - Urge countries, especially Pacific Island countries, that did not attend the First World Congress, to adopt the Stockholm Declaration and Agenda for Action</p>
<p>3. By 2004 - Adopt national plans/agendas of action, incorporating long-term strategies, and develop indicators, in accordance with the Stockholm Declaration and Agenda for Action, and identify, or if necessary designate, a national focal point in each country, with effective implementation measures and data bases</p>

**Box 2****EAP REGIONAL COMMITMENT AND ACTION PLAN  
AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN  
*10 Selected Commitments for Monitoring***

4. By 2004 - Establish and implement Memorandum(s) of Understanding or agreement(s) to combat cross-border trafficking of children with comprehensive measures
5. Encourage region-wide adoption/ratification of international treaties and other instruments concerning child protection and ensure their implementation and monitoring
6. Enact/improve laws, policies and programmes promoting and protecting child rights and ensure effective implementation and enforcement of relevant laws, especially criminal and civil laws
7. Promote better access to education for all children, more education on the rights of the child, and awareness-raising against CSEC and its linkage with drug abuse, STDs, including HIV/AIDS, reproductive health and sexuality, aiming at a process to promote the child's personal growth and self esteem, aimed at harm avoidance
8. Reaffirm the importance of the family and strengthen social protection for children/young people and families more concretely through sustained information campaigns and community-based surveillance/monitoring of CSEC, with particular attention to protection from exploitation
9. Provide/strengthen wide-ranging and effective services for the child victims of commercial sexual exploitation, which are gender-, child- and culture-sensitive, including peer counseling, hotlines/helplines in local languages, shelters, medical treatment, and psychosocial counseling
10. In 2003 - Organize national and regional monitoring meetings, involving all relevant stakeholders, to review and evaluate progress

## Good Practices and Lessons

Any discourse on 'good practices' in the field of anti-trafficking efforts and combating sexual exploitation of children and women must be approached humbly. While there are some programmes which have resulted in verifiable progress in terms of reduced numbers of women and children being trafficked and/or entering the sex industry the overall impact is negligible. Success in one community or country often results in a shift of the supply pool to another vulnerable location, being referred to as the "push down pop up syndrome". In addition, responsive actions are not extensive enough to keep up with the changing socio-economic and political circumstances that are increasing vulnerability.

In spite of this UNICEF, together with its partners and other agencies working in this field have gained a wealth of experience providing some lessons learned with respect to the effectiveness of interventions and to priority actions needed. Some of these lessons and examples of progress are as follow:

*The human rights framework is central to the fight against trafficking and sexual exploitation - **The human rights framework is an important and helpful tool for analyzing the problems and challenges related to trafficking and CSEC. Most factors that make children vulnerable to these forms of abuse and exploitation relate to violations of child and women's rights. A central concept in human rights law is non-discrimination that is often an underlying factor. A rights based approach also highlights the responsibilities and obligations of national and local officials in relation to the protection of children.***

***Combating trafficking and sexual exploitation is a regional and global problem requiring bi-lateral and multi-lateral cooperation** - Given the extent and transnational nature of trafficking and commercial sexual exploitation no country can achieve success alone. Regional and bilateral cooperation is essential both for prevention and the safe return of victims. Steps have been taken and support provided to establish bilateral agreements between countries especially in the Mekong sub-region. Thailand and Cambodia are close to signing the first formal bi-lateral Memorandum of Understanding in the sub-region. Dialogue and joint actions are also leading towards anti-trafficking cooperation agreements between China and Vietnam; Vietnam and Cambodia; China (Yunnan Province) and Thailand; and Thailand and Vietnam.*

### **Supporting the total protective environment for children is important**

Malfunction of one or several levels of the protective environment often lie at the core of trafficking and sexual exploitation. These failures appear at all levels: family, community, national and international levels. Thus, programme actions need to focus on all levels. In addition many child protection issues share similar root causes and efforts to strengthen the protective environment of children can be more holistic taking a wider range of protection concerns into consideration and mainstreaming with other basic services such as education, health, and nutrition.

*Improved legislation requires improved law enforcement to be effective – While there has been significant improvement in national legislation towards harmonization with international rights standards, laws enforcement remains weak. Few law enforcement officials, especially at decentralized levels are aware of the new legislation and too many continue to be in complicity with traffickers and brothel owners for their own financial benefit. A number of initiatives are being undertaken across the region to improve the situation including training on legislation and child rights for law enforcement officials, establishment of special police units, increasing the number of female law enforcers, development of child sensitive criminal procedures.*

*Prevention and early intervention are most effective - Given the clandestine nature of the trafficking and commercial sexual exploitation business it is extremely difficult to find and access*

children who have already entered the human trade. For those who are rescued, the long series of abuses and violence results in costly and time consuming services to support their recovery and reintegration. Prevention is therefore being prioritized in order to stem the supply flow and to minimize the harm done to children and women. Important preventive measures include awareness raising, the development of community based monitoring or child watch bodies, as well as increasing the choices of families and young people through securing livelihoods, making education and vocational training available to children at-risk, and the provision of life skills training.

***Access to education is a key prevention measure*** - Lack of educational opportunities makes children vulnerable to many forms of exploitation and abuse, such as child labour, child soldiering (in conflict areas), drugs as well as trafficking and CSEC. School provides children with a daily contact to a 'safety net' and is an opportunity for early detection and intervention against abuse and exploitation. Furthermore, better education also provides increased choices for the future. Educational opportunities are also important in reintegration of child victims.

Participation of vulnerable women and children makes programmes more effective - Throughout UNICEF's programmes and operations we are learning that active engagement and participation of women, children and youth enhances well-targeted programme interventions. Engaging young people can also contribute to prevention by increasing awareness and by reducing some of the social and economic marginalization that is often a contributing factor to vulnerability. It also needs to be noted that child participation is one of the core elements of the CRC, and it highlights the status of children and youth as subjects of rights rather than just objects of 'charity'.

***Building local capacities and institutions are needed to ensure sustainability*** - By building the awareness and capacity of key local stakeholders such as teachers, social workers, police officers a longer-term impact can be achieved. These professionals also have knowledge of local circumstances, which will enhance their response to local child protection concerns.

***More attention is needed to address the demand side*** – The majority of interventions against trafficking and sexual exploitation of women and children are focused on reducing vulnerability of those at risk and responding to the needs of the victims. Attention to stemming the demand is lacking with very few arrests and prosecution of perpetrators. If the demand remains unabated it will be impossible for all other interventions to be fully successful. *Need to develop better research methods* - There are still many gaps remaining in our understanding of trafficking and commercial sexual exploitation of children, although a clearer picture is emerging. Further research and monitoring of trends calls for new methodologies and systems to identify and track the number of children and young people affected or at risk as well as to measure the effectiveness of interventions. One innovative research project being supported by UNICEF in cooperation with the UN Interagency Group on Trafficking is called TRACE (Trafficking from Community to Exploitation). The research, being conducted in three countries of the Mekong Sub-region, focuses on gathering community information with teams of local researchers and community members.

## The Way Forward

The fight against trafficking and sexual exploitation remains urgent and challenging as these threats to the protection of children have become increasingly globalized and commercialized with patterns of exploitation becoming more and more diverse in this age of technology. These are not problems that can be easily solved by simply enacting laws but require our constant attention, proper countermeasures and enforcement. It is a challenge for both developed and developing countries as there is no country immune to the phenomenon.

The road map for the combat against trafficking and commercial sexual exploitation of children includes a wide range of activities and interventions targeting different levels of the protective

environment. Full implementation of Regional Commitments and Action Plans is a priority as agreements have been made based on regionally specific concerns. Among the various frameworks and action plans there are some key common actions identified.

1. **Speedy ratification of the key legal instruments** is an important step towards promoting solidarity among countries and common frameworks. The key instruments include the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography; the ILO Convention 182 on the Worst Forms of Child Labour; and the Protocol to the UN Convention Against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Person, especially Women and Children.
2. **Recognition that all children have rights** is necessary as many of the victims of trafficking and exploitation come from marginalised and socially excluded groups. The development of systems to register every child at or shortly after birth and the adoption of special measures to eliminate discrimination against children including ethnic minorities, children without primary caregivers; stateless children; and refugee and internally displaced children are needed.
3. **Strengthening of law enforcement** needs to be an area of high priority. Efforts required include training and sensitization of law enforcers, the development of child and victim friendly investigative and court procedures and witness protection schemes. Harmonization of national laws with international child rights standards is also an important measure.
4. **Monitoring and prevention at community level** is important in order to ensure early detection of vulnerable children and families, to maximize numbers of children reached and to monitor trends that can inform policy and planning.
5. **Cross-border agreements on trafficking of children need to be signed and effectively applied** between all countries with shared land borders. Regional solidarity and bilateral and multilateral cooperation for prevention and safe return of victims is critical due to the transnational nature of the trade in human beings.

Clearly, some progress has been made in the fight against trafficking and commercial sexual exploitation of children and women as evidenced by an increased awareness and recognition of these issues among government leaders and decision makers and within the general public. But still children and women are being trafficked daily into exploitation and abuse and the incidents seem to be increasing. No country and no person can be satisfied until care and protection is extended to every last child including those who are hurled across borders to wake up in the backroom of a brothel. This and noting less, must be our commitment and our agenda.

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<sup>ix</sup> World Congress against Commercial Sexual Exploitation of Children, Stockholm, Sweden, August 1998; Second World Congress against Commercial Sexual Exploitation, Yokohama, Japan, December 2001.

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<sup>xi</sup> Other significant regional documents and undertakings: Resolution 53/4 of the Economic and Social Commission for Asia and the Pacific (ESCAP) on Elimination of Sexual Abuse and Sexual Exploitation of Children and Youth in Asia and the Pacific (1997; Bangkok Accord and Plan of Action to Combat Trafficking in Women and adopted by the Regional Conference on Trafficking in women (1998); The Asian Regional Initiative against Trafficking (ARIAT) Regional Action Plan against Trafficking in Persons, especially Women and Children (2000); Declaration on the Commitments for Children in the Association of South-East Asian Nations (ASEAN)(2001); The Beijing Declaration on Commitments for Children in East Asia and Pacific Region for 2001 –2010 (2001).

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