

# REVERSING THE TREND



## Child Trafficking in East and South-East Asia

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# Child Trafficking in East and South-East Asia: Reversing the Trend

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# Acronyms

<b>ACWF</b>	All China Women's Federation	<b>IEC</b>	Information, Education and Communication
<b>ARTIP</b>	Asia Regional Trafficking in Persons Project	<b>IGO</b>	Inter-governmental Organization
<b>ASEAN</b>	Association of South-East Asian Nations	<b>ILO</b>	International Labour Organization
<b>BCC</b>	Behaviour change communication	<b>ILO/IPEC</b>	International Labour Organization/ International Programme on the Elimination of Child Labour
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against women	<b>IOM</b>	International Organization for Migration
<b>CMW</b>	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	<b>ICPMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>COMMIT</b>	Coordinated Mekong Ministerial Initiative Against Trafficking	<b>IRC</b>	Innocenti Research Centre
<b>CPFC</b>	Committee for Population, Family and Children (Viet Nam)	<b>Lao PDR</b>	Lao People's Democratic Republic
<b>CPN</b>	Child Protection Network	<b>MOI</b>	Ministry of Interior
<b>CPU-Net</b>	Child Protection Unit Network (Philippines)	<b>MoLSW</b>	Ministry of Labor and Social Welfare
<b>CRC</b>	Convention on the Rights of the Child	<b>MOU</b>	Memorandum of Understanding
<b>CRC-OPAC</b>	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	<b>MPS</b>	Ministry of Public Security
<b>CRC-OPSC</b>	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	<b>NGO</b>	Non-governmental organization
<b>CSEC</b>	Commercial Sexual Exploitation of Children	<b>NPA</b>	National Plan of Action
<b>EAPRO</b>	East Asia and Pacific Regional Office	<b>SOP</b>	Standard Operating Procedures
<b>ECPAT</b>	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes	<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>GMS</b>	Greater Mekong Sub-region	<b>UNFPA</b>	United Nations Population Fund
<b>IDC</b>	Immigration Detention Centre (Thailand)	<b>UNIAP</b>	United Nations Inter-Agency Project on Human Trafficking
		<b>UNICEF</b>	United Nations Children's Fund
		<b>UNIFEM</b>	United Nations Development Fund for Women
		<b>UNODC</b>	United Nations Office on Drugs and Crime

# Foreword

We have witnessed considerable gains in combating child trafficking in nearly every country in the East and South-East Asian region in recent years. Despite these successes, there remains a need for a more strategic and evidence-based approach to UNICEF's trafficking programmes. To consolidate our gains and growing knowledge base on trafficking in the region over the past seven years, and to guide the future direction of UNICEF's interventions on child trafficking, we conducted country-level assessments in seven countries: China, Indonesia, Lao PDR, Malaysia, Philippines, Thailand and Viet Nam in early 2008. This report is a synthesis of these seven country assessments.

This report is a result of collective efforts by many committed UNICEF programme officers and partners. I would especially like to acknowledge the contributions made by the following individuals:

- The authors of the seven country assessments: Bu Wei (China), Phil Marshall (Indonesia), Amy Jersild (Lao PDR and Thailand), Sumithra Bala (Malaysia), Rebecca Miller (Philippines), Shelley Casey and Bui Xuan Mai (Viet Nam).
- UNICEF Child Protection Chiefs, Specialists and Officers from the seven countries: Amanda Bissex and Sirirath Chunnasart from Thailand; Vicky Juat, Amy Delneuville and Kittisak Khouthathong from Lao PDR; Marc Ono, Daming Wang and Jinxia Huang from China; Jasmina Byrne, Santi Kusumaningrum and Daniel Donny Irawan from Indonesia; Foroogh Foyouzat and Anjanette Saguisag from the Philippines; Guy Thompstone from Malaysia; and Loan Le Hong and Nguyen Thi Ha from Viet Nam.
- The Dissemination Workshop rapporteur Carol Livingston.

I would like to thank many colleagues for their valuable inputs, especially Simon Baker, Lena Karlsson, Lely Djuhari, Dejana Popic and David Feingold.

The final report was written by Jane S. Kim and Amalee McCoy, based on the seven country reports, the dissemination workshop report and interviews with UNICEF child protection experts. Jane Kim prepared the assessment framework, coordinated all the country-level assessments, organized meetings at the regional level and managed the reporting process. She deserves full credit for this daunting achievement.

Although the main audience for this report is UNICEF programme staff, I believe it has value for others who work in the field of trafficking and child protection, in this region and beyond. It is my hope that this report from the East and South-East Asian region will help complete the global picture on trafficking by complementing research done by the Innocenti Research Centre in West Africa, Africa, Europe, South Eastern Europe, Central Asia and South Asia.

## Sawon Hong

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# Executive Summary

For nearly a decade, the United Nations Children's Fund (UNICEF) has spearheaded child trafficking initiatives in the East and South-East Asian region. In close partnership with governments, non-governmental organizations and civil society, UNICEF helped shape the foundation and institute building blocks to prevent trafficking and to protect children who have fallen victim to trafficking and exploitation.

Initially UNICEF worked in only a few countries, but has since expanded its programming to ten countries across the region which aim to prevent and respond to child trafficking at the local, national, bilateral and regional levels. Interventions have been structured broadly around a framework that promotes prevention, coordination and cooperation, protection, recovery, reintegration and child participation.

Within this framework, UNICEF set into motion common strategies and initiatives across the region to support, *inter alia*: country ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and other relevant international instruments; national legislative reform; policy development, such as National Plans of Action; creation of specialized national and local law enforcement units; child-friendly procedures; bilateral and regional Memoranda of Understanding; community-based prevention; recovery and

reintegration services; awareness raising and capacity building; and empowerment of children and young people.

Meanwhile in 2007, the UNICEF East Asia and Pacific Regional Office (EAPRO) formalized a coherent strategy for its child protection programming,<sup>1</sup> moving the focus from issue-based interventions to strengthening child protection systems. As a result, UNICEF is exploring a more long-term and strategic approach to addressing child trafficking in the region.

“ UNICEF is exploring a more long-term and strategic approach to addressing child trafficking in the region. ”

In 2008, the timing was ripe to assess UNICEF's programming to consolidate and document knowledge and lessons aimed at informing the future direction of UNICEF's interventions to counter child trafficking. This regional report is a synthesis of seven UNICEF country assessments conducted in China, Indonesia, Lao PDR, Malaysia, Philippines, Thailand and Viet Nam. In addition, this report also reflects discussion points raised at the UNICEF Child Trafficking Workshop for the East Asia Trafficking Assessments Dissemination, held in Luang Prabang during September 2008.

<sup>1</sup> In 2008, UNICEF endorsed a global child protection strategy calling for the strengthening of child protection systems.

This report also highlights trends, gaps, lessons learned, promising and good practices across the region. Despite varying contexts and different experiences across these countries, some commonalities have surfaced, including but not limited to:

## DYNAMICS OF TRAFFICKING

- A country can simultaneously be an origin, transit and destination point for trafficking; trafficking occurs within and across borders; and trafficking is complex, dynamic and overlaps with labour migration routes.
- Reported forms of child trafficking involve labour exploitation, sexual exploitation, forced marriage, criminal activities, armed conflict, adoption and begging. Sexual exploitation, especially commercial sexual exploitation, is the issue that is most often reported. It may or may not constitute the majority of child trafficking cases in the region, but it is the one that gains the most attention.

“ Despite some achievements and overall progress, the bottom line remains unchanged: child trafficking persists across East and South-East Asia. ”

- Poverty does not cause trafficking. The demand for cheap or exploitable labour, sex with children, adoption outside the legal channels, women or girls for marriage, all contribute to the trafficking phenomenon. As for children and trafficking, a combination of factors, which can include poverty, increase their vulnerability to being trafficked.

## ACHIEVEMENTS

- East and South-East Asia, in particular the Greater Mekong Sub-region, is regarded as one of the leading regions in the world in terms of efforts to confront human trafficking.
- Significant momentum has been generated to position child trafficking high on the agendas of regional bodies such as ASEAN, governments, donors, IGOs, NGOs, faith-based groups and the private sector.
- Greater levels of bilateral, multilateral and transnational cooperation have emerged as areas of critical intervention, as well as between diverse sectors, particularly justice, social welfare, education and health.
- Unprecedented developments in legislative and policy reform to protect child trafficking victims, prevent child trafficking and hold perpetrators to account.
- The creation and/or strengthening of policy mechanisms and institutions to serve children who have been trafficked, from the point of identification through to reintegration.
- Child-centred initiatives are on the rise, including the promotion of child participation at all stages of the programming cycle and implementation of child-friendly and accessible reporting, monitoring and protection mechanisms.
- Growing recognition of the linkages between trafficking and migration, trade and labour; the need to address both supply and demand dimensions of trafficking; the nexus between child trafficking, child exploitation and child labour; and strategic prevention that takes into account overlapping factors contributing to trafficking and other child rights violations.

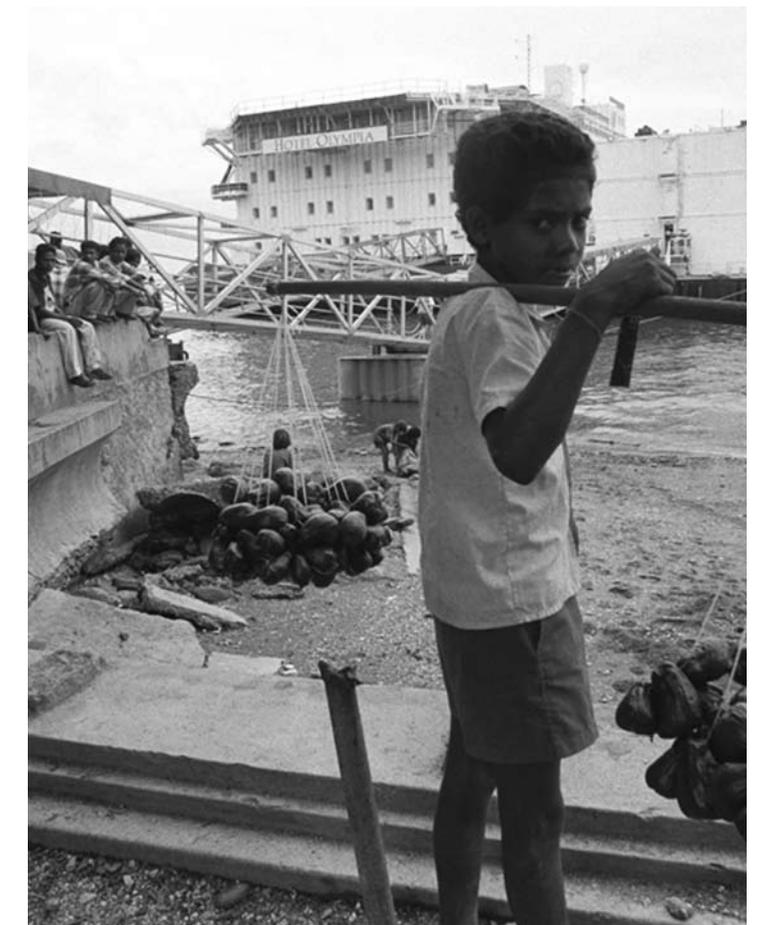
- Gradual movement towards leveraging anti-trafficking initiatives to build and strengthen national child protection systems.

## LESSONS LEARNED

- There is little consensus on what constitutes trafficking. There are differing interpretations of the Palermo Protocol’s definition of child trafficking; even priorities based on the different interpretations applied to this definition have been inconsistent.
- Many national plans of action are developed from a donor-driven or external approach, which is not always in harmony with national development plans.
- The importance of data and documentation: Data is one of the most significant gaps in the trafficking field. Despite the many anti-trafficking programmes over the years, the extent of the problem is still not known. There are very few reliable estimates, and no real consensus on numbers and issues. The lack of disaggregated data, qualitative and quantitative data, mechanisms for data collection, and standard indicators for data collection are highlighted in the report.
- Qualitative data is important for understanding the factors of vulnerability, children’s resiliency and family decisions, and children’s perceptions of the services that are available to them.

Despite some achievements and overall progress, the bottom line remains unchanged: child trafficking persists across East and South-East Asia. Although most countries have developed or amended laws and policies with gusto, implementation

has generally been weak, whether due to shortfalls in statutory/policy provisions, insufficient resources, limited capacities, poor coordination, lack of leadership and ownership, or inadequate recognition of or respect for children’s fundamental rights. Similarly, prevention efforts have not always taken into account the full range of relevant factors at various levels that may render children vulnerable to trafficking. These include poverty, family breakdown, substance abuse, unemployment, lack of educational opportunities, gender inequality, demand for cheap labour or brides, sexual proclivities involving children, stressors associated with financial hardships, and widening disparities between and within countries. While many practitioners are able to cite these factors with relative ease, fewer practitioners are capable of discerning how specific factors converge



and contribute to or result in trafficking. Even as prevention efforts targeting one or several factors may reduce vulnerabilities - or obstruct known methods or routes on another level – the tides of trafficking have yet to be stemmed.

### **‘LESS IS MORE’**

The outcome of the assessments demonstrates that it is critical that this trend is reversed. To start, what this requires is the reversal of an issue-by-issue approach to child protection. It may go against the grain of common practice or conventional thinking, but it is time to phase out or redesign initiatives exclusively focused on child trafficking. Our strategies and approach to child trafficking need to be reformulated and streamlined within a broader child protection framework.

// **We are also now witnessing a worrying trend of deserving-undeserving dichotomies of child victims. To prioritise victims of child trafficking over victims of sexual abuse or child labour, is neither practical nor equitable.** //

At best, current interventions limited to child trafficking are effective albeit inefficient; at worst, they are irrelevant, ineffective or create more harm to children overall. In both cases, they are unsustainable, particularly in an environment of limited resources, competing priorities and ever-shifting donor attention.

Historically, child trafficking programmes have adopted a ‘symptom-specific’ approach in which particular problem areas are identified and solutions then sought to specifically address them. Whether addressing the poor record on conviction of traffickers, the absence of child-friendly reporting mechanisms or procedures, or limited capacity of service providers for

recovery and reintegration, anti-trafficking interventions all too often target individual problems in isolation. This is evident both within the field of child trafficking as well as the broader realm of child protection.

Yet, the same justice and social welfare structures, institutions and actors are generally responsible for working with victims of child trafficking, as well as other child protection violations. This presents practical resource and capacity challenges: it splits financial resources, burdens human resources, and stretches already limited capacity to keep pace with new laws, implementing regulations, national plans of actions, and similar but different training, procedures, guidelines, etc.

‘Symptom-specific’ approaches also undermine coherence and can create unintended consequences that harm children. To illustrate, over the years, enhanced public awareness and stronger criminal law enforcement capacity have led to improved identification of child trafficking victims. While the number of shelters has grown rapidly to serve these children, this has not been matched by systematic strengthening of the social welfare system, including alternative care options, such as kinship care, community-based foster care and guardianship, as well as monitoring and accountability mechanisms. As a result, child victims of trafficking, sexual exploitation and abuse may be detained in residential care for unnecessarily lengthy periods of time during their childhood.

We are also now witnessing a worrying trend of deserving-undeserving dichotomies of child victims. To prioritise victims of child trafficking over victims of sexual abuse or child labour, is neither practical nor equitable. Given the pervasive conceptual confusion on who is and is not trafficked, it is highly likely that distressing numbers of child trafficking victims have gone – and will continue to be – unrecognized or worse, criminalised.

This further overlooks the interrelatedness of child protection issues. The arbitrariness of categories unfolds, for instance, when the same child has been a victim of trafficking, sexual abuse, violence and labour exploitation; depending on the timing, perspective and priorities of an adjudicating official or NGO member, that child may be deprived (or afforded) appropriate protection and services.

Efforts to protect children, however, have largely been fragmented and at times contradictory – lacking overall vision and a comprehensive strategy that prioritizes interventions within the wider context of child protection, which encompasses not only child trafficking but also child labour, sexual exploitation of children, child migration and children affected by armed conflict, as well as broader development goals – thereby making it difficult to sustain in the long term.

Recommendations based on the regional assessment findings indicate that in order to move forward, it is crucial to build child protection systems while tackling some of the more difficult issues, including how to reach conceptual clarity, develop an evidence base and use data to inform programming. A systems-building approach offers a more clear-cut conceptual framework that ensures sustainable and better outcomes for children, so that they are protected against all forms of abuse, exploitation, neglect and violence. Systems-building calls for the development and strengthening of legal and policy frameworks, the formal and informal justice system, the social welfare system for children and families, and social behaviour change.

In order to harmonize approaches in the region to address child trafficking, UNICEF, in collaboration with governments, partners and the international community at large, must mobilize and take a concerted stance to respond to all the complex and



interrelated forms of abuse, exploitation, neglect and violence. UNICEF can play a critical role by promoting the most sustainable, hard-hitting and cost-effective interventions through a focus on support for governments to build comprehensive child protection systems. It is crucial to create a protective environment for vulnerable children, instead of focusing specifically and disproportionately on trafficking. Given the complexity of factors which frame child vulnerability, UNICEF should address the full range of child protection issues within a broader systems-building context.



# I. Introduction

The United Nations Children's Fund (UNICEF) is one of several international agencies working to address child trafficking in East and South-East Asia, supporting governments and non-government organizations in implementing a wide range of interventions in the region. UNICEF's programmes have evolved from a limited number of anti-trafficking activities in a few countries in the 1990s to the 10 countries now engaged in preventing and responding to child trafficking at the local, national, bilateral and sub-regional levels.

A variety of UNICEF's programmatic interventions have been initiated at the country level, structured broadly around a framework that promotes prevention, coordination and cooperation, protection, recovery and reintegration, and child participation. Some common approaches have been established across the region, such as the promotion of legislative reform, development and implementation of National Plans of Action (NPAs), engagement in local and national level situational analysis research, and support for bilateral and regional Memoranda of Understanding (MoU). In addition, several UNICEF country offices have piloted and promoted a variety of innovative models for community-based prevention, strengthening recovery and reintegration services, and empowering children and young people.

East and South-East Asia, in particular the Greater Mekong Sub-region, is regarded as one of the leading regions in the world in terms of confronting human trafficking.

Achievements include an enriched understanding of the issue, greater bilateral and multilateral cooperation among governments to prevent and respond to the trafficking of children, improved protection of trafficked victims and holding perpetrators to account.

However, throughout East and South-East Asia, various socio-economic, family and individual factors that render children vulnerable to trafficking persist, such as poverty, family breakdown, the low status and role of children in their societies, lack of educational and viable employment opportunities, rapid economic growth and urbanization, gender inequality, discrimination, and the demand for illegal adoption, brides

“ East and South-East Asia, in particular the Greater Mekong Sub-region, is regarded as one of the leading regions in the world in terms of confronting human trafficking. ”

and sexual relations with children. Poor legal and regulatory frameworks, weak law enforcement, under-resourced social welfare services, limited capacity of service providers and the lack of recognition of or respect for children's fundamental rights have adversely impacted the lives of millions of children in the region.

Since UNICEF initiated its programmes to address child trafficking, an international instrument on trafficking has been entered into force that defines child trafficking and mandates protection and services for trafficking victims. Despite the authority of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, (commonly referred to as the Palermo Protocol), the debate remains on what actually constitutes trafficking and whether the greater problem at stake is related to unsafe migration and/or child exploitation more generally.

// **UNICEF has adopted a more long-term and strategic approach to addressing child trafficking in the region.**

In 2007, the UNICEF East Asia and Pacific Regional Office (EAPRO) formalized a coherent strategy for its child protection programming, moving the focus from issue-based interventions to building child protection systems. As a result, UNICEF has adopted a more long-term and strategic approach to addressing child trafficking in the region.

## A. OBJECTIVES

Throughout the past decade, UNICEF collaborated with governments, international organizations and civil society partners to develop and implement intensive programmes on addressing child trafficking in the region. Given these efforts and taking into account that UNICEF also recently adopted its Regional Child Protection Programme Strategy, UNICEF conducted a regional assessment of its anti-trafficking work in order to:

1. Review its achievements, weaknesses, lessons learned and highlight promising and good practices; and
2. Inform the future direction of UNICEF's interventions.



## B. SOURCES OF DATA

This regional synthesis report is based on three sources of information:

1. Seven country assessments, conducted in China, Indonesia, Lao PDR, Malaysia, Philippines, Thailand and Viet Nam between May and July of 2008;<sup>2</sup>
2. Existing reports and studies on trafficking and migration from the region; and
3. Discussions in the UNICEF Child Trafficking Workshop for the East Asia Trafficking Assessment Dissemination (Luang Prabang, Lao PDR, September 2008).

The objectives of the individual country assessments were to:

- Consolidate knowledge on UNICEF's prevention and response to child trafficking across the East and South-East Asian region;
- Identify trends, gaps, lessons learned, promising and good practices and innovative and effective anti-trafficking initiatives; and
- Inform a strategic blueprint that includes recommendations for a comprehensive and integrated systems-building approach to UNICEF's anti-trafficking programming.

<sup>2</sup> References for these country assessments are:

- Bala, Sumithra (2008). *UNICEF Malaysia child trafficking assessment: 2005-2008*. Kuala Lumpur, UNICEF Malaysia.
- Wei, Bu (2008). *Assessment report on domestic and cross-border child trafficking in China*. Beijing, UNICEF China.
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- Miller, Rebecca (2008)a. *Assessment on trafficking in persons and UNICEF's prevention of and response to child trafficking in the Philippines*. Manila, UNICEF Philippines.
- Miller, Rebecca (2008)b. *Desk review for the assessment on trafficking in persons and UNICEF's prevention of and response to child trafficking in the Philippines*. Manila, UNICEF Philippines.

Each report assessed the relevance, efficiency, effectiveness, impact and sustainability of UNICEF's anti-trafficking interventions in the areas of prevention; legal protection; repatriation, recovery and reintegration; and coordination and cooperation, focusing on:

- **Relevance:** What is the value of the intervention in relation to human rights, national priorities and global standards and goals?
- **Efficiency:** Does the programme use resources in the most economical manner to achieve its objectives?
- **Effectiveness:** Is the initiative achieving results in relation to the plan?
- **Impact:** What are the results of the intervention - intended and unintended, positive and negative?
- **Sustainability:** Are the results likely to continue when external support is withdrawn?

Country assessments used the following common methodology:

- Desk review of relevant documents, such as literature on trafficking, annual work plans, activity reports, evaluations, promotional materials, project proposals and agreements by NGOs, budgets, and legal and policy frameworks;
- Semi-structured interviews with UNICEF and other United Nations staff, and government and NGO implementing partners (separate interview questions were developed for each stakeholder);
- Focus group discussions with NGO staff, government counterparts and children;
- Visits to NGO centres and shelters assisting child victims of trafficking, abuse, exploitation and violence or at-risk children and youth; and
- Participant observation at inter-agency working group meetings.



To guide a common approach to the data collection and analysis at the country level, two tools were shared with the independent consultants: 1) A set of trafficking assessment standards and benchmarks that were developed by EAPRO; and 2) The 2005 Standards for Evaluation in the UN System, developed by the UN Evaluation Group.

In addition, this regional synthesis draws upon various existing reports and research on trafficking and migration by international organizations and NGOs in the region. Since the emphasis in each UNICEF country assessment report was not standardized, a consistent and comprehensive regional picture of child trafficking proved difficult without the review of existing literature. The complementing information helped provide a more thorough background on the situation of child trafficking in East and South-East Asia, particularly in

terms of patterns, routes, purposes for child trafficking, and the identification of emerging issues.

Finally, the regional synthesis has benefited enormously from extensive discussions among UNICEF staff. Consensus on a future direction emerged from the 2008 UNICEF East Asia Trafficking Dissemination Workshop. The workshop involved participants from UNICEF country offices, the UNICEF Innocenti Research Centre (IRC) and EAPRO, as well as several independent consultants, to reflect on good practices and gaps and to discuss how UNICEF can more strategically address child trafficking in the region. Lively debates on conceptual clarity, migration versus trafficking issues, systems-building for child protection, and UNICEF's future role and course of action provided a rich source of recommendations for this report.





## II. Child Trafficking in East and South-East Asia

The trafficking of children has become a priority concern to many governments across East and South-East Asia. However, it remains one of the most challenging child protection issues to address, with some advocates and practitioners claiming that the intense focus by governments, development agencies, donors and the media on child trafficking would be better placed on the wider issues of child exploitation, unsafe migration, or child protection more generally.

Child trafficking exists in all countries. In a region where the demand for young brides, adoptive infants, sex with children, images of child pornography, and cheap labour is strong, children may be trafficked at source or during migration, either en route or after reaching their destination. Origin, transit and destination countries for child trafficking exist throughout the East and South-East Asian region, with some countries characterized as origin and destination, transit and destination, and others encompassing all three. Internal trafficking, from rural to urban centres, and from small towns to big cities, is also a considerable dynamic, although less researched in comparison to cross-border trafficking.

The regional picture that emerges from the country assessments and available literature is one in which children experience serious physical, psychological, emotional and social consequences as a result of being trafficked. Children also often encounter re-victimization by the justice system as well as stigma within their communities

when reintegrated. They are at risk of falling back into exploitative situations. When such experiences occur during a child's formative years – when they learn to relate to others and build their identity, self-esteem and trust – the adverse effects can

“ The trafficking of children is thus a critical child protection issue that UNICEF programmes in the region will continue to confront. ”

be devastating, long-lasting and potentially irreparable, depending on the age of the child, the child's relationship with the exploiter, and the severity and duration of the exploitation. The trafficking of children, by whatever means and for whatever purpose, is thus a critical child protection issue that UNICEF programmes in the region have sought to prevent and address – and will continue to confront.

### A. WHAT IS CHILD TRAFFICKING?

Despite years of work on the issue, with many debates and workshops on language and definitions, there remains a resounding lack of clarity on what exactly constitutes child trafficking. At the core of the perplexity are differing interpretations of the terms contained in relevant international instruments. Differences also arise on the nuances of process, actors and evidence required to demonstrate that trafficking has taken place.

For the purposes of this report, UNICEF child protection programme staff in the region and other trafficking experts were presented with an exercise in 'spot the trafficking case'. Each person was provided with 10 cases (see Annex A: Exercise on interpretation of 'child trafficking') and asked whether each scenario described an incident of child trafficking or not. The results revealed differences both between the two groups and within the groups. When presented with Case 10 (below), five out of the nine UNICEF staff members thought it depicted a trafficking case, while only one of the twelve trafficking experts agreed with them.

*The parents of Masayu, a 14-year-old girl from West Java, Indonesia, send her to live with relatives in Jakarta. The relatives have promised Masayu's parents to provide her with education, room and board in exchange for light house work. After she arrives, she is allowed to go to school but is forced to come home immediately afterward and do all the housework, babysitting and cooking throughout the week.*

Even officers within governments, other international agencies and non-government organizations express confusion as to what is and what is not trafficking. In Thailand, varying ideas about what constitutes exploitation, whether the involvement of a broker automatically determines that a person will be trafficked, whether migrating voluntarily means that a person cannot be trafficked, and whether movement from one



place to another is a necessary component of the trafficking process, were among the uncertainties expressed during interviews.

The differing views have translated into a variety of definitions of child trafficking set forth by national legislation across the region, ranging from vague and somewhat liberal interpretations to very specific and narrow classifications. In some countries, more precise definitions of trafficking embraced by governments across the region have followed the trajectory of human rights instruments adopted at the international level.

### **International Human Rights Frameworks**

The landmark Convention on the Rights of the Child (CRC, 1989) raised the visibility of child trafficking, with a clarion call for "States Parties [to] take all appropriate, national bilateral and multilateral measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form."<sup>3</sup> However, the Article does not further elaborate on what the 'traffic' of children entails, and the phrase "for any purpose or in any form" suggests a broad interpretation.<sup>4</sup>

Article 2 of the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (CRC-OPSC, 2000) further defined what the 'sale of children' means: "...any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration."<sup>5</sup> It is worth noting that many instances of child trafficking can also qualify as the 'sale of children,' and that these are not static, mutually exclusive categories. While not always identical, there are intersections and overlaps between these two groups of children. Therefore, *where a child is transferred by any person or group of persons to another for remuneration or any other consideration, for the purpose of exploitation, this constitutes*

both 'child trafficking' in line with the Palermo Protocol (see below) and the 'sale of children' within the scope of Article 2 of the Optional Protocol to the CRC.

The CRC-OPSC was ensued by the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).<sup>6</sup> This instrument contains the most comprehensive legal definition of 'human trafficking' under international law. Created primarily for the purpose of combating the transnational organized crime of human trafficking,<sup>7</sup> the Protocol's intent was to promote convergence in national approaches to the development of domestic criminal offences, thus facilitating international cooperation.<sup>8</sup>

Article 3 of the Palermo Protocol states:

- a. "'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another

person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

**“Where a child is transferred by any person or group of persons to another for remuneration or any other consideration, this constitutes both 'child trafficking' and the 'sale of children'.”**

- b. "The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c. "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d. "Child shall mean any person under eighteen years of age."

<sup>3</sup> Article 35, Convention on the Rights of the Child.

<sup>4</sup> International Organization for Migration (IOM) (2008). "Human rights of migrant children". In *International Migration Law* (15): p. 61.

<sup>5</sup> The Protocol didn't enter into force until January 2002.

<sup>6</sup> Adopted in November 2000, but entered into force in December 2003.

<sup>7</sup> IOM (2008). op. cit. p. 63.

<sup>8</sup> UNODC website on the *UN Convention against Transnational Organized Crime and its Protocols*: <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

<sup>9</sup> Gallagher, A. (2001). "Human rights and the new UN protocols on trafficking and migrant smuggling: A preliminary analysis." *Human Rights Quarterly* 23: 975-1004. "The travaux préparatoires should indicate that the Protocol addresses the exploitation of the prostitution of others and other forms of sexual exploitation only in the context of trafficking in persons. The terms 'exploitation of the prostitution of others' or 'other forms of sexual exploitation' are not defined in the Protocol, which is therefore without prejudice to how States Parties address prostitution in their respective domestic laws." United Nations (2000). Interpretative notes for the official records (*travaux préparatoires*) of the negotiation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (A/55/383/Add.1 Addendum).

The definition of trafficking in the Palermo Protocol is also broad, and deliberately so for two reasons: The drafters wanted to guide states in drafting national legislation aimed at prosecuting persons involved in the recruitment, transfer and exploitation of victims, but the definition of sexual exploitation could not be so narrow that it would discourage governments that had legalized adult sex work from signing.<sup>9</sup>

Where the Palermo Protocol falls short is the lack of definitions on its key terms, such as ‘exploitation’, ‘sexual exploitation’, ‘exploitation of the prostitution of others’, ‘slavery’, ‘forced labour’ and ‘practices similar to slavery’.<sup>10</sup> These terms remain subject to interpretation. Even the term ‘vulnerability’ is ambiguous without further clarification on gauging levels or degrees of susceptibility to harm.

Despite the ambiguity, the Palermo Protocol specifies two critical differences between child and adult victims of trafficking. One is the provision that it is not necessary for a child to have been subjected to a means of coercion, deception or abuse of power, for a case to constitute trafficking. It is enough that a person under the age of 18 years has been recruited, moved, harboured or received for exploitative purposes to be regarded as a victim of trafficking.<sup>11</sup> Second, a child’s ‘consent’ to participate in an exploitative situation is not valid. Adults, on the other hand, may consent to work in exploitative conditions provided there are no imposed means of threats, force, coercion, abduction, fraud, deception or abuse of power or of a position of vulnerability. Conditions of forced labour, slavery or servitude will invariably render consent irrelevant for adults.

According to Article 3, trafficking depends not only on a process, but also on the element of exploitation. Child trafficking occurs when there is exploitation linked to specific point(s) along the ‘process’:

**Key points from Article 3 of the Palermo Protocol on child trafficking:**

- Means of control or deception not a necessary part of the process
- Children cannot legally consent to exploitation or trafficking
- Exploitation can occur at any point in the process of movement

recruitment, transportation, transfer, harbouring or receipt. Trafficking can take place at source, in transit, upon destination, or some combination thereof. What is key in identifying child trafficking is to show two elements: *process* (intended for the purpose of) *exploitation*.<sup>12</sup>

This is made clearer when human smuggling is brought into the picture for juxtaposition. Smuggling is a process (and criminal activity) but not inherently driven by exploitative ends. A person who has been smuggled is in principle free to act on his or her own free will at any point including upon arrival at the destination. A trafficked person, on the contrary, remains under the control or manipulation of the trafficker during the ‘process’, for the purposes of exploitation. Thus, a child who is trafficked is subject to a ‘process’ intended for exploitative outcomes. In many cases, however, what begins as smuggling ends up as trafficking. Similarly, children who voluntarily migrate can also become trafficked en route or subsequent to arrival. Complex scenarios can present practical challenges to establishing trafficking, since evidence of intended or actual exploitation may be difficult to substantiate when various actors and mixed motives are involved in different stages of the process.

**Conflicting interpretations**

Across the region, the spectrum of interpretations of child trafficking is diverse; oft unspoken but widely known, these tend to run the gamut of meanings. On one end are those who believe that all forms of child exploitation (including commercial sexual exploitation and the worst forms of child labour) amount to child trafficking; at the other extreme are those who reject that trafficking even exists. Within this range are those with more nuanced perspectives, analysing situations on a case-by-case basis to discern whether they fall under trafficking or another child protection category. For this group, not all commercial sexual exploitation is trafficking, nor have all children in worst forms of child labour been trafficked.

Yet, there are also stark disparities within this array of views. Consensus breaks down on ‘grey areas’ such as: Can older adolescents consent to prostitution if there are ‘good’ working conditions? Is illegal adoption into loving families exploitative? Do lower thresholds of ‘exploitation’ need to be met for children? Is cross-border street begging by children, orchestrated by their parents for family survival, a form of exploitation or trafficking?

Another area of contention raises questions on the criminality and reach of the offence such as: Does the Palermo Protocol cover internal trafficking, cross-border trafficking and/or transnational trafficking? Can parents, relatives, community members or government officials be prosecuted for trafficking? Do traffickers need to be part of an organized criminal group?

If so, how many persons and how closely should they be involved in carrying out the trafficking offence to qualify as an ‘organized criminal group’?

These questions persist despite:

- (i) The Scope of Application provision set forth in Article 4 of the Palermo Protocol, which states:

“This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.”

// **It is enough that a person under the age of 18 years has been recruited, moved, harboured, or received for exploitative purposes to be regarded as a victim of trafficking.** //

- (ii) The various provisions set forth in the Convention Against Transnational Organized Crime, as excerpted in the relevant part below:

2 (a) Organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established [by] the Convention [or Trafficking Protocol], in order to obtain, directly or indirectly, a financial or other material benefit.

<sup>10</sup> Whereas ‘slavery’, ‘forced labour’ and ‘practices similar to slavery’ are defined elsewhere in international law, the terms ‘sexual exploitation’ and ‘exploitation of the prostitution of others’ are not.

<sup>11</sup> UNICEF CEE/CIS (2006). *Reference guide in protecting the rights of child victims of trafficking in Europe*. Geneva. p. 15.

<sup>12</sup> See following sub-section for a discussion on the scope of the Palermo Protocol’s application.

- 3.2 ...an offence is transnational in nature if:
- (a) It is committed in more than one State;
  - (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
  - (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
  - (d) It is committed in one State but has substantial effects in another State.

While not all countries have incorporated this provision verbatim into their national legislation, substantial divisions remain when reflecting on the scope of the Palermo Protocol's application. Most adherents, including criminal justice officials, legal practitioners and child protection advocates, generally unite around clear cut cases with international dimensions, a trafficking syndicate, and egregious exploitation. The harder cases, however, can lead to tensions within these groups, particularly when protections and services to children hinge on their official classification as victims of trafficking.

Can these differing interpretations co-exist? Some advocates believe that it is tenable. Meanwhile, other advocates believe that the lack of consensus undermines



the basic – let alone comprehensive and integrated – response to child trafficking, and that it is time to reach a working agreement on child trafficking and child protection more generally.

## B. CHILD VULNERABILITY AND DEMAND

There is no single reason why children are trafficked, but rather a wide range of factors and layers of vulnerabilities related to children as individuals, their families, and the socio-economic context in which they live. Child victims of trafficking are rarely affected by only one factor; rather, it is the compounding of several factors that renders them susceptible to being exploited.

Despite the fact that the particular factors which can render children vulnerable to trafficking vary between countries, as well as within localities and communities, key common elements can be identified across UNICEF programme countries in the East Asia and South-East Asian region:<sup>13</sup>

### 1. Individual factors

These factors refer to the child's individual circumstances, life experiences, skills, knowledge, personal documentation, and the physical environment in which he/she is living, such as:

- **Experiences of violence or abuse:** Resulting potentially in loss of self-worth and self-esteem, social isolation, feelings of hopelessness and helplessness, dissociation or emotional withdrawal, feelings of degradation and perceptions that one is a commodity.
- **Dropping out of school:** Lack of educational attainment results in fewer work opportunities and choices, resulting in vulnerability to labour exploitation.<sup>14</sup>

- **Life skills:** Related to knowledge of and ability to apply sound decision-making for self-protection, including awareness of potentially dangerous situations.

- **Living on the street:** A child living on the street typically lacks proper adult supervision and support, is exposed to criminal elements and may be in a situation in which survival depends on finding any type of work, including exploitative and dangerous work.<sup>15</sup>

- **Lack of citizenship and/or personal documentation:** Barriers to legal employment as well as to migration for both work and educational opportunities may lead to decisions to migrate illegally and unsafely. Also, the absence of official evidence of a child's familial connections or age renders the child vulnerable to being sold for the purposes of illegal adoption, labour or sexual exploitation.<sup>16</sup>

- **Desire for adventure:** Other countries and big cities are perceived to be more progressive and offer opportunities not available in small towns and villages. This can influence a child to believe that life will improve there because wages are typically higher and a better standard of living is attainable.<sup>17</sup>

## 2. Family-related factors

These factors pertain to the characteristics, circumstances and experiences within a child's family environment, such as:

// Child victims of trafficking are rarely affected by only one factor; rather, it is the compounding of several factors that renders them susceptible to being exploited. //

- **Family breakdown:** Families in which there is a lack of care and support for children, which can take place within the context of single-parent families, divorced or separated parents or guardians, child-headed households or families with large numbers of children.<sup>18</sup>

- **Domestic violence:** Including spousal abuse and violence and abuse (physical, sexual and emotional) of children in the home.

- **Substance abuse:** Family members who are under the influence of a substance may render a child susceptible to experiencing or witnessing violence or may encourage the child to experiment with alcohol or drugs.<sup>19</sup>

<sup>13</sup> Some of these factors are drawn from: ILO-IPEC (2007). *Child trafficking: The ILO's response through IPEC*. Geneva; and ECPAT (2006). *Combating the trafficking in children for sexual purposes: Questions and answers*. Bangkok. ECPAT Europe. pp. 16–17.

<sup>14</sup> Bu Wei (2008). p. 11.

<sup>15</sup> Ibid. p. 6.

<sup>16</sup> Jersild (2008)b. p. 21.

<sup>17</sup> Ibid. p. 23; Miller (2008)b. p. 15.

<sup>18</sup> Miller (2008)b. p. 14.

<sup>19</sup> Ibid. p. 15.

- **Neglect:** Failing to provide for the physical, emotional and development needs of a child in the context of reasonably available resources, leading to lack of proper supervision and protection as well as potential social isolation and exclusion. Some parents or guardians do not have the time or the parental skills to adequately provide the care and protection that children need.<sup>20</sup>

- **Status and role of children:** Families in which children are perceived as ‘belonging’ to their parents or guardians, who have the authority to treat their children as they see fit, and in which respect for children’s views and participation is not a family value. This is particularly found in social and cultural contexts in which the home is perceived as a ‘private realm’ outside the purview of the State. The child may also have an obligatory role to support the family through his/her labour contribution.<sup>21</sup>

- **Lack of access to information:** Pertaining to legal rights, available assistance and services provided by the State and/or NGOs, as well as information on viable and safe work opportunities and channels.

### 3. Socio-economic factors

Factors relating to the socio-economic context in which a child is living tend to be indistinct and wide ranging, encompassing social norms and attitudes, market forces, economic opportunities or the lack thereof, labour and migration patterns, legal and policy frameworks, influence of peer pressure and the media, such as:

- **Poverty and/or relative poverty:** Poverty can push or pull children and their families into economic migration, lead to economic hardship that incites family breakdown and/or lack of supervisory care for children, or even

lead to the outright sale of children for the purposes of sexual or labour exploitation.<sup>22</sup>

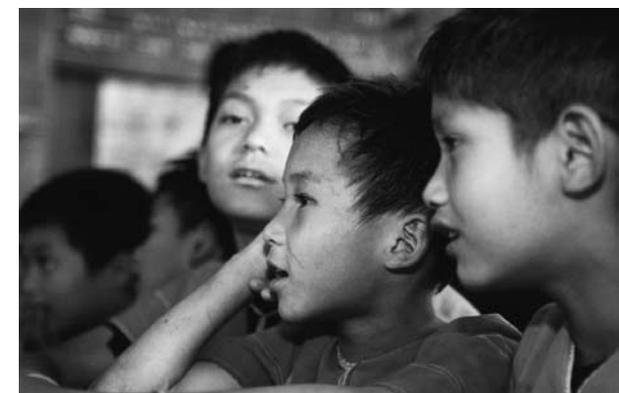
- **Lack of education and viable employment opportunities:** In rural areas, many families struggle to earn an adequate income, largely due to the lack of employment opportunities. Most children, particularly those from large families, are obligated to help out. Working children may be frequently absent from school, or may drop out altogether, leaving them with low levels of education. Such children are frequently vulnerable to exploitation because they are more likely to accept unskilled or lower-skilled employment, such as domestic service or factory work.

- **Wage differentials and lack of labour protection:** Differences in pay rates and other contributing factors are reasons why children may seek work elsewhere. Further, employers sometimes prefer children below the legal minimal working age, as well as children without legal status, because of their lack of labour protection. In fact, many of the sectors into which children are trafficked are not covered by substantive legislation, and work conditions are not regularly monitored.

- **Discrimination:** Discriminatory attitudes and practices by individuals and the State against migrants, undocumented and stateless persons, women and girls, persons with disabilities, ethnic minorities and indigenous peoples, and persons living with or affected by HIV or AIDS, may result in few accessible options for legal protection and decent employment, render girls particularly susceptible to abuse and exploitation, and/or force children to move via irregular channels.

- **A consumerist culture:** Media images and advertising can fuel the desire to accumulate material goods and to ‘keep up’ with their neighbours and peers.<sup>23</sup>

- **Tensions and armed conflict:** Such conflict can lead to the displacement of children and their families, forcing them to move internally or across borders to seek shelter and employment.<sup>24</sup>



### 4. Demand

Although the ‘demand’ side of the issue has gained recognition within trafficking debates, all of its aspects remain largely unaddressed. However, anti-trafficking policies in some countries in the region now include reference to tackling demand for child trafficking, and there are stronger provisions for its criminalization.

Both individuals and groups (e.g. syndicates, organized networks) fuel the child trafficking process, whether they are directly involved in moving a child from one place to another for the purpose of exploitation or not. These individuals or groups operate within a social and political context in which the demand is considered openly acceptable, is quietly accepted or ignored, is able to thrive underground but is hidden, or is able to exist with impunity. A few of these reasons are:

- **Demand for child labour:** The lower cost in employing child workers, the perceived ability to manipulate and control children who are often unaware

of their rights to protection, their lower likelihood of involvement in labour unions, and differing perspectives of childhood, can all contribute to the demand for child labour.

- **Demand for sex with children:** Child sex offenders, as well as paedophiles, spur the demand for sex with both boys and girls, which in certain contexts is supplied through the trafficking of children for sexual purposes. The practice of virginity-seeking by East Asian men has meant that younger sex partners and/or brides are sought after. The fear of contracting HIV is related to this, as sex with children is perceived as less of a risk to the offender.

- **Demand for adoption:** The demand for adoption, whether operating within or outside legal and regulated processes, has fuelled the abduction and sale of children, particularly infants.<sup>25</sup>

<sup>20</sup> Bu Wei (2008). p. 11.

<sup>21</sup> Bu Wei (2008). p. 13.

<sup>22</sup> Poverty on its own, however, is not ‘the’ causal factor for child trafficking, as it is typically the combination of poverty along with other layers of vulnerability that places a child at risk. In some countries, most victims of trafficking are not from situations of severe poverty and are even termed the ‘grassroots elite’, as noted in Bu Wei (2008). p. 13; and Jersild (2008)b. p. 23.

<sup>23</sup> Miller (2008)b. p. 15.

<sup>24</sup> Ibid.

<sup>25</sup> Casey and Mai (2008). p. 6.

### ■ Demand for young brides:

The demand for young brides from neighbouring countries to meet the undersupply of available girls and women for marriage, or to meet social perceptions or individual attitudes that foreign girls and women are more desirable.<sup>26</sup>

## C. REGIONAL SCOPE AND DYNAMICS OF TRAFFICKING

### 1. Magnitude

Due to the invisible and clandestine nature of trafficking, accurate statistics on the magnitude of the problem tend to be elusive and unreliable. Estimates vary so much in scale, with some as high as ten times that of the low estimates.<sup>27</sup> Available figures range from actual numbers of victims rescued and/or repatriated to a plethora of wildly differing estimates of the total numbers of trafficked persons in existence. There are a number of reasons why such statistics tend to be unreliable:<sup>28</sup>

// South-East Asia has long been noted as a veritable 'hot spot' for human trafficking... with key factors that enable trafficking and criminal exploiters to thrive. //

### ■ Limited definition under the law:

Some anti-trafficking legislation across the region only defines human trafficking as applying to certain exploitative acts, such as commercial sexual exploitation, and not other practices. Further, not all anti-trafficking legislation exempts children from offences directly committed as a result of being trafficked. This means that child victims of trafficking may not be recognized as victims but as offenders of criminal or immigration laws.

### ■ Uncoordinated data collection:

Many countries lack a centralized agency or coordinated system for gathering data on trafficking, and if it is collected at all, it is done on an ad hoc basis. Some international organizations and NGOs in the region do maintain databases on victims of trafficking who have been assisted and returned, but these figures represent only a small number of victims.

### ■ Distortions through data management:

The data that is actually collected is often unintentionally mixed together with statistics on human smuggling and irregular migration, which distorts the problem and typically only represents cross-border and transnational trafficking, and not internal trafficking.

### ■ Under-reporting of cases:

The likely under-reporting of trafficking cases to government authorities because the victim is afraid to come forward, the victim may simply not realize that what he or she was subjected to was against the law, and/or child-friendly mechanisms may be lacking.

In recent years, several international organizations and NGOs have taken more cautious steps towards framing the scope of the trafficking problem. Some have used limited proxy data and conservative extrapolations, while others refuse to estimate actual numbers of victims or other statistics that directly reflect the global scale of trafficking. UNICEF EAPRO is also taking a cautious approach, in recognition that the provision of actual numbers of trafficking victims and thus statistics that demonstrate the magnitude of the problem may be ultimately unattainable.

## 2. Routes

South-East Asia has long been noted as a veritable 'hot spot' for human trafficking, with its stark socio-economic and developmental disparities, long contiguous borders, historical intraregional migration patterns and existence of few legal migration alternatives – all considered key factors that enable trafficking and criminal exploiters to thrive.<sup>29</sup> Within the Mekong Sub-region, Thailand is the wealthiest country by far, with its gross domestic product (GDP) accounting for 91 per cent of the combined GDP of the four Mekong countries (Cambodia, Lao PDR, Myanmar and Thailand).<sup>30</sup> This makes it an attractive destination for those searching for better economic opportunities and an environment of stability. Map 1 depicts a few of the sub-region's child trafficking flows, such as:<sup>31</sup>

- Children trafficked from Cambodia to Thailand for begging or for the sale of small items;
- Girls trafficked from Viet Nam to Cambodia or from Myanmar to Thailand for sexual exploitation;
- Boys trafficked from Myanmar to Thailand to work in Thai factories and on fishing boats;
- Boys trafficked from Viet Nam to China for illegal adoption;
- Girls trafficked from rural areas of Cambodia to urban centres for sexual exploitation; and



- Laotian girls trafficked to Thailand for domestic or factory work.

Similar to South-East Asia, trafficking routes in East Asia indicate that origins and destinations tend to come from less- to more-developed countries. However, in contrast with South-East Asia, literature on child trafficking in East Asia is limited. Based on media reports and intervention-oriented studies by UN agencies and other international organizations, some transnational trafficking routes have been identified. These routes, as depicted in the map on the following page, are from the Democratic People's Republic of Korea to north-eastern China, from eastern Russia to Republic of Korea, from Thailand and Philippines to Japan and Republic of Korea, from Republic of Korea to Japan and the United States, and from Colombia and Taiwan (China) to Japan.<sup>32</sup>

<sup>26</sup> Bu Wei (2008). p. 13.

<sup>27</sup> United Nations Office on Drugs and Crime (UNODC) (2006). *Trafficking in persons: Global patterns*. Vienna. p. 45.

<sup>28</sup> Ibid. p. 44.

<sup>29</sup> Regional Thematic Working Group on International Migration Including Human Trafficking (2008). *Situation report on international migration in East and South-East Asia*. Bangkok, IOM. p. 114.

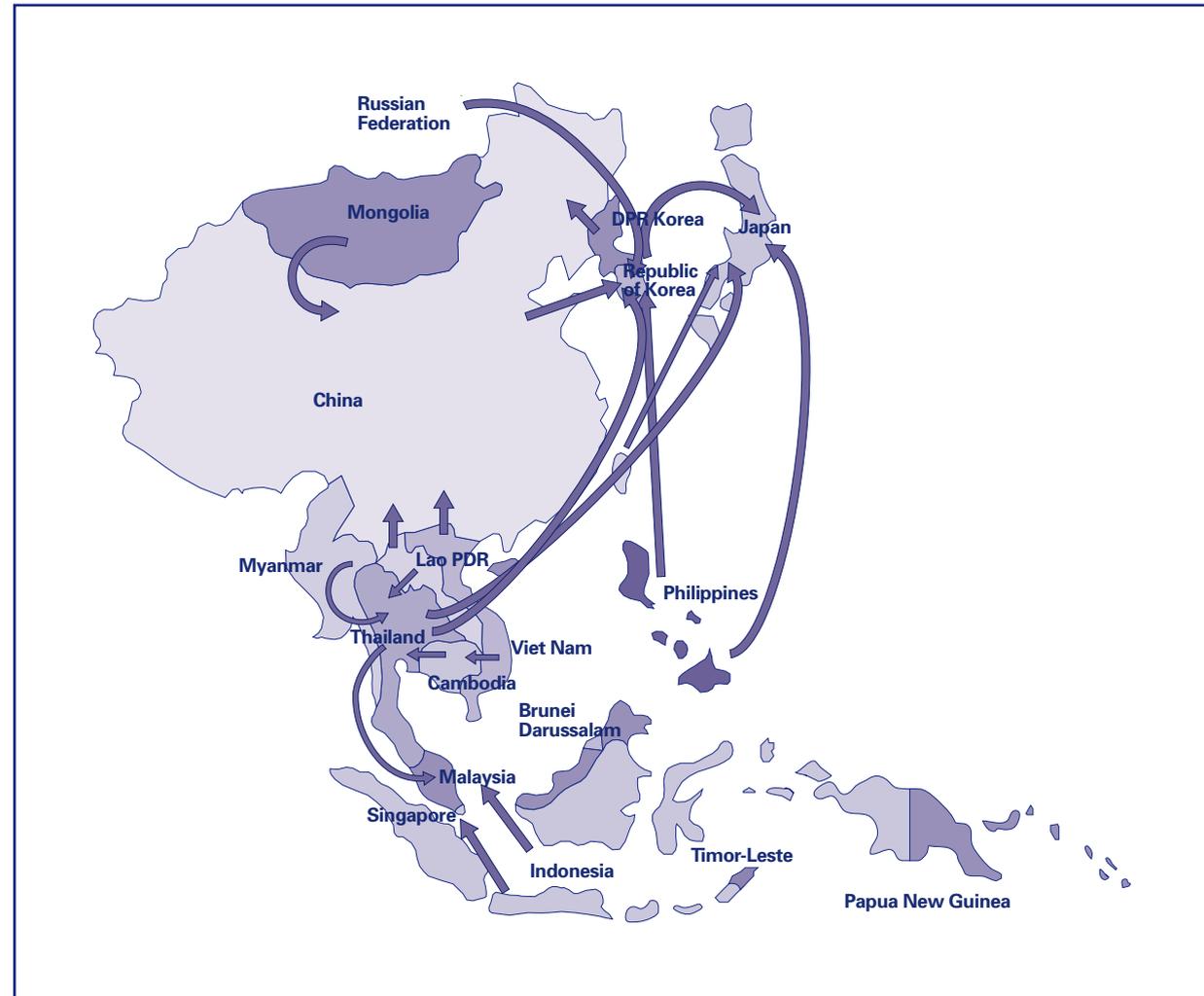
<sup>30</sup> International Labour Organization, International Programme on the Elimination of Child Labour (ILO-IPEC) (2005). *The Mekong challenge: Human trafficking – Redefining demand*. Bangkok. p. 18.

<sup>31</sup> World Vision Asia-Pacific Regional Office (2006). *Taking the journey together: A united response to trafficking in the Mekong region*. Bangkok. p. 5.

UNICEF Viet Nam (2008). *Trafficking in Women and Children in Viet Nam: Assessment of UNICEF-Supported Initiatives*. p. 6.

<sup>32</sup> Lee, June JH (2005). "Human trafficking in East Asia: Current trends, data collection and knowledge gaps." In *International Migration* (43). p. 174.

Map: East and South-East Asia trafficking routes <sup>33</sup>



Studies, media stories and reports by international organizations and NGO field offices indicate that movement between East and South-East Asia and other regions of the world is proliferating. Transnational child trafficking routes include: from Indonesia to Brunei, Australia, Saudi Arabia, Kuwait, Netherlands, Germany and Austria; from Philippines to Costa Rica, New Zealand, USA and the Northern Mariana Islands; from Thailand to South Africa, Germany and Switzerland; and from Myanmar to Pakistan and Bangladesh.<sup>34</sup>



In some countries, such as the Philippines and China, the country assessments indicated that internal trafficking is more of a problem than its cross-border form. In the Philippines, children are mainly trafficked from the rural regions of Visayas and Mindanao to the urban cities of Cebu City, Manila and Quezon City.<sup>35</sup> Trafficking occurs in every province in China, with most victims trafficked to the provinces of Guangdong, Shanxi, Fujian, Henan, Sichuan, Guangxi, and Jiangsu.<sup>36</sup> Although the magnitude relative to cross-border trafficking is unknown in Viet Nam, there are significant instances of internal trafficking. The main centres for prostitution – Hanoi, Ho Chi Minh City, Quang Ninh, Hue, Da Nang, Khanh Hoa, Ba Ria-Vung Tau, Hai Phong and Da Lat – are cited as the major domestic destinations of trafficked victims.<sup>37</sup>

<sup>33</sup> From Lee (2005); World Vision Asia-Pacific Regional Office (2006); and UNIAP Siren Reports, available at <http://www.no-trafficking.org/content/SIREN/SIREN-reports.htm>  
<sup>34</sup> ILO-IPEC (2007). Child trafficking in the Philippines: A situational analysis. Manila. p. 30.  
<sup>35</sup> Miller (2008). p. 11  
<sup>36</sup> Bu Wei (2008). p. 7  
<sup>37</sup> United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (2008). SIREN Human Trafficking Data Sheet: Viet Nam.

### 3. Patterns

Despite the unavailability of reliable statistics, discernable patterns within the internal and cross-border routes do exist. Such patterns can be categorized in relation to four aspects: 1) links between migration and trafficking; 2) the purposes for which children are trafficked; 3) the processes by which they are trafficked; and 4) the profiles of the traffickers.

// The purposes for which children are trafficked in the region are similar across the countries, although the magnitude and conditions of exploitation may well vary. //

#### a) Trafficking and migration links

The first major pattern is in the link between migration and trafficking. Trafficking mainly occurs within the context of irregular migration, and although many of these movements begin voluntarily, the recruitment, movement or receipt of children for exploitation may happen en route or at destination. In this large and predominant category of trafficking, it is the end outcome – the nature, the terms and conditions at the destination point that reveals most cases of trafficking.<sup>38</sup> The relative levels of economic development between countries in the region underpin this migration–trafficking dynamic. Countries with low levels of economic development, coupled with a high rate of working-age population growth, such as China, Mongolia, Timor-Leste and Indonesia, experience out-migration and are source countries for victims of

trafficking. Thailand, on the other hand, at an intermediate level of economic development and with a moderate rate of growth of working-age population, experiences both out- and in-migration and is thus a source, transit and destination country for trafficking. Countries with high levels of economic development and negative or zero rate of growth of working-age population, such as Singapore, Malaysia and Japan, all feature in-migration and are trafficking destinations.<sup>39</sup>

#### b) Purposes

The purposes for which children are trafficked in the region are similar across the countries, although the magnitude and conditions of exploitation may well vary. Existing literature in the region overwhelmingly concentrates on trafficking for sexual exploitation, while systematic research on more diverse forms, such as trafficking of children for adoption and marriage, is lacking.<sup>40</sup> The country assessments place a much greater emphasis on the trafficking of children for the purposes of exploitative labour. Overall, the identified purposes for which children are trafficked in the region include:

- Various forms of bonded and exploitative labour, such as domestic services, factory work, agriculture, fishing, construction;
- Sexual exploitation, such as through child prostitution or the production of child pornography;
- Marriage;
- Adoption; and
- Begging and the sale of small items.

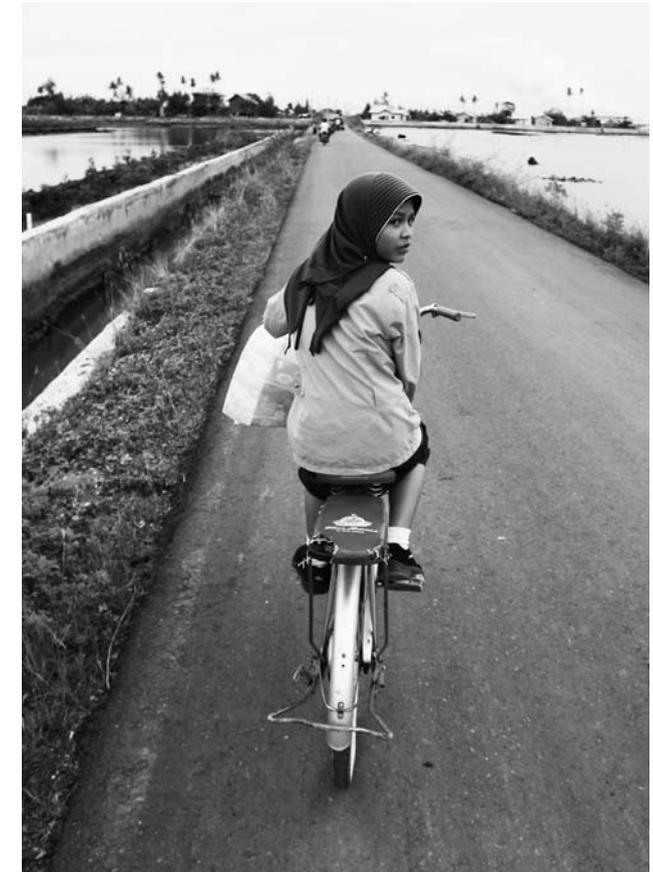
#### c) Process

Another perceptible pattern is the method by which children are trafficked in the region. These means represent the range of examples cited in Article 3 of the Palermo Protocol. The country assessments confirm that a variety of such practices are employed in the region:

- Recruitment or false recruitment;
- Introduction to work by an acquaintance;
- Deception by an acquaintance or relative;
- Outright force;
- Abduction or kidnapping, primarily of infants;
- Abuse of a position of authority;<sup>41</sup> and
- Provision of payments or benefits to garner the consent of an adult in a controlling position over a child.

Following the act of trafficking, further tactics are employed to control child victims while they are being exploited. Such examples include:

- Threat or continued use of force or other forms of coercion;
- Physical or sexual violence;
- Debt bondage;
- Social isolation;
- Restriction of personal freedom or confinement; and
- Confiscation of identification cards and legal documents.



<sup>38</sup> Marshall, Phil. (2001). Globalization, migration and trafficking: Some thoughts from the South-East Asian Region. Paper to the Globalization Workshop, Kuala Lumpur.

<sup>39</sup> Regional Thematic Working Group on International Migration Including Human Trafficking (2008). p. 117.

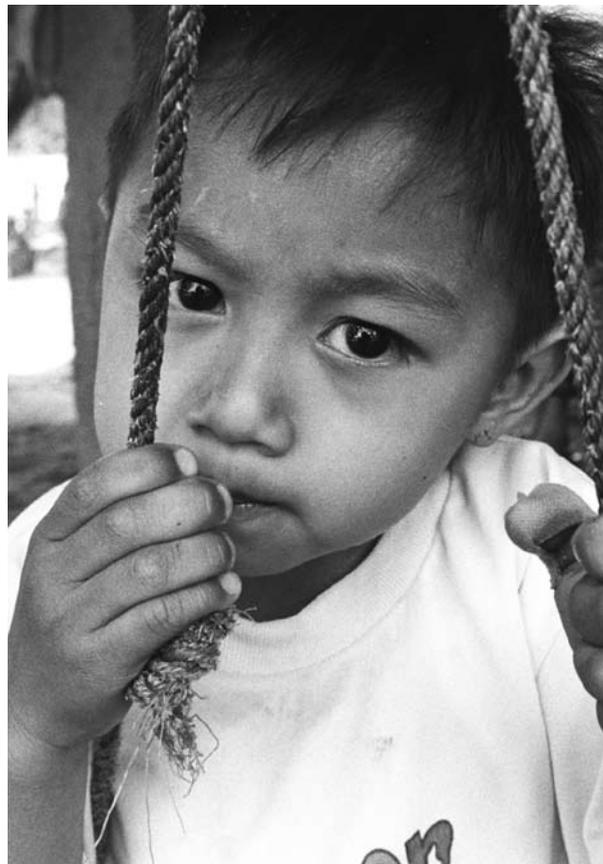
<sup>40</sup> Lee (2005). p. 165.

<sup>41</sup> For example, in China, reports indicate that at least two schools have forced students to work in factories under the veil of 'work-study' programs (Bu Wei, 2008).

#### d) Profiles of traffickers

There is a prevailing pattern in East and South-East Asia in the profiles of traffickers. These profiles change with the purpose and process of the trafficking. Those in organized networks are able to produce and buy fake documents, collaborate with law enforcement officials, avoid immigration requirements, pose as members of the child's family, and use sophisticated means and personal connections to transport victims on fraudulent documents by land, sea and air routes. Such levels of organization tend to relate to cross-border trafficking and the many legal impediments such movement encounters.

However, at least in the Greater Mekong Sub-region, trafficking often takes place through 'loose-knit' networks of criminal entrepreneurs or individuals rather than large scale and highly organized crime



syndicates, which may be the case in other regions.<sup>42</sup> Such individuals and small-scale operators want to seize the opportunity to profit from the particular vulnerability of children and are often persons from local networks of friends, family members and former victims.

### D. ISSUES TO BE PRIORITIZED

Child trafficking is a complex and pressing challenge for governments, international organizations and NGOs and will persist for the foreseeable future. Child-trafficking routes and patterns will continue to alter and evolve as individuals and organized networks outmanoeuvre new regulations and programmatic interventions, as forms of child exploitation change to accommodate new demands, and while social and economic disparities continue to grow. The changing nature of trafficking will give rise to new challenges that must be prioritized and addressed. Such challenges will conceivably occur along three lines: 1) the purposes for which children are trafficked; 2) 'overlooked' children who are particularly vulnerable to trafficking; and 3) the use of new technologies.

#### 1. Emerging and existing purposes

There are several emerging and existing purposes for which children are being trafficked in the region that pose particular challenges. This is because these purposes are relatively unrecognized by the media and the general public, do not fit the archetype of girl trafficking for the purposes of sexual exploitation, or have been under-prioritized by development agencies in the region. Such purposes are:

- **Adoption:** A high profile case in 2003, concerning a US adoption facilitator found guilty for committing visa fraud and money laundering, exposed the corrupt system of adoption and links to trafficking in Cambodia.<sup>43</sup> Existing

reports and the country assessments for China and Viet Nam also indicate that babies are being trafficked both to and within China for adoption, given the patriarchal lineage and inheritance system.<sup>44</sup> The trafficking of infants for adoption also appears to be growing in Indonesia as well.<sup>45</sup>

- **Prostitution of boys:** The sexual exploitation of boys, while not as widespread as that of girls in the region, is still a problem that is legally and socially unrecognized in some countries. Boys are perceived as not possessing virginity and 'honour' that can be lost, meaning that their experiences are often not considered to be harmful or taken seriously. Partly because they are unimpregnable, they are regarded as requiring less protection than girls and as capable of protecting themselves.<sup>46</sup>

- **Involvement in armed conflict:** Reports of the trafficking and forced recruitment of children for active combat, support roles such as mine clearance and spying, as well as for the purposes of sexual exploitation by adult combatants have been documented in Myanmar,<sup>47</sup> and the involvement of children in armed groups and organizations in the Philippines<sup>48</sup> has drawn suspicion to possible trafficking situations.

#### 2. Overlooked children

There are overlooked or 'hidden' types of children who are vulnerable to trafficking and which reflect the changing socio-economic context of the region. These groups will need to be addressed through interventions that take into account their particular needs and circumstances. Such groups include:

// **Child-trafficking routes and patterns will continue to alter and evolve as individuals and organized networks outmanoeuvre new regulations and programmatic interventions.** //

- **Children who either migrate with their families or are 'left behind' by their parents or primary caregivers:** Children in the region who migrate with their parents or primary caregivers are regarded as the most seriously affected in terms of accessing social services or securing a legal identity, but they constitute a smaller group than those who are left behind.<sup>49</sup> The country assessments, particularly those for China and the Philippines, note that children who are left behind, typically in rural areas, are particularly at risk of being trafficked.<sup>50</sup>

<sup>42</sup> World Vision Asia Pacific (2008). Children, Communities, Governments: World Vision's Regional Anti-Child Trafficking Project. p. 6. Available at: <http://www.donttradelives.com.au/dtl/resources/Publications/files/pdf/RACTPbrochure2008.pdf>

<sup>43</sup> See <http://www.brandeis.edu/investigate/gender/adoption/CambodiaNews.html>

<sup>44</sup> Bu Wei (2008). p. 13.

<sup>45</sup> UNICEF (2007). *Trafficking in persons in Indonesia/Malaysia/Philippines: Discussion paper for UNICEF on strengthening cooperation*. (internal paper). p. 7.

<sup>46</sup> Hilton, A (2008). *I thought it could never happen to boys: Sexual abuse and exploitation of boys in Cambodia*. Phnom Penh, HAGAR and World Vision.

<sup>47</sup> The Protection Project. (Undated). Human Rights Report for Myanmar. pp. 2-3. Available at: [http://www.protectionproject.org/human\\_rights\\_reports/index.htm](http://www.protectionproject.org/human_rights_reports/index.htm)

<sup>48</sup> ILO-IPEC (2007).

<sup>49</sup> Regional Thematic Working Group on International Migration Including Human Trafficking (2008). p. xviii.

<sup>50</sup> Miller (2008). p. 11 and Bu Wei (2008). p. 9.

■ **Refugee or internally displaced children:** During the course of flight, refugee families and children are highly vulnerable to exploitation and trafficking, which may continue upon reaching their destination, particularly when host countries fail to recognize their refugee (or asylum) status. This can be compounded by protracted refugee situations that span generations, or when repatriation, local integration and resettlement are not viable options. There have been some NGO reports of children from Myanmar being trafficked out of camps or camp vicinities in Thailand,<sup>51</sup> and the trafficking of children from the Democratic People's Republic of Korea to China.<sup>52</sup> It is important to bear in mind that trafficked children from Myanmar, the Democratic People's Republic of Korea or elsewhere may also be refugees/asylees and therefore entitled to additional protections or legal recourse under laws of the host country. There are also considerable numbers of refugees in Malaysia, including refugees from Aceh province in Indonesia, as well as Chin and Muslim Rohingya refugees from Myanmar. Internally displaced children, too, can face poverty, discrimination and inadequate protections. Both groups of children may also later migrate through irregular channels, thereby increasing their risks of additional or other exploitation and trafficking.<sup>53</sup>

■ **Stateless children:** These children, who may or may not be refugees, often have no legal proof of identity, cannot obtain legal employment, are denied state benefits, are sometimes barred from school enrolment and are even restricted from travel outside certain areas. Due to the limited or absence of protection that comes with lack of citizenship, they are especially vulnerable to exploitation and trafficking. This is a particular concern regarding some populations of hill tribe women

and children in Thailand and Myanmar<sup>54</sup> as well as sizeable populations of stateless persons in Brunei, Cambodia, Malaysia and Viet Nam.

■ **Ethnic and indigenous minority children:** Although not a 'new' issue, ethnic and indigenous minority children in general are vulnerable to exploitation and trafficking and require interventions that are sensitive to their language, culture and context. These children sometimes lack access to education and viable employment opportunities, are denied official documentation and frequently experience discrimination. Ethnic and indigenous minority children may also be refugees and/or stateless, rendering them particularly at risk of exploitation.

### 3. Use of new technologies

The means by which children are trafficked are likely to alter, with a veritable impact on child trafficking dynamics. One key reason for this is the growing use of new technologies. The interconnectedness of people across countries via social networking sites, chat rooms, Voice-Over Internet Protocol (VOIP),<sup>55</sup> and e-mail will continue to thrive as the Internet becomes more accessible and communications technology becomes increasingly mobile. Some of the implications of this with respect to trafficking have already been seen. Cases of trafficking of Thai women and girls to Japan via contact over the Internet have been documented,<sup>56</sup> and there are reports of Korean women being 'lured' to the US through advertisements and websites for the purposes of involuntary prostitution.<sup>57</sup> The country assessment for Viet Nam also points to increasing incidence of students and other adolescents being trafficked via Internet chatting.<sup>58</sup> There may also be linkages between child trafficking and the sexual exploitation of children through child abuse imagery, through the production and dissemination of child pornography or as part of the grooming process by child sex abusers.



<sup>51</sup> Women's Commission for Refugee Women and Children (2006). *Abuse without end: Burmese refugee women and children at risk of trafficking*. New York, Women's Commission for Refugee Women and Children.

<sup>52</sup> US Department of State (2008). *Trafficking in persons report: UNHCR Refworld*, available at: <http://www.unhcr.org/refworld/docid/484f9a32c.html> [accessed 26 November 2008]

<sup>53</sup> Regional Thematic Working Group on International Migration Including Human Trafficking (2008).

<sup>54</sup> The UN Economic and Social Council indicated that lack of citizenship status is a strong risk factor for some hill tribe populations to become victims of trafficking. Cited in Vital Voices (2007). *Stateless and vulnerable to human trafficking in Thailand*. Washington DC, Vital Voices Global Partnerships. p. 14.

<sup>55</sup> Technology that allows telephone calls to be made over the Internet.

<sup>56</sup> ILO (2005). *Human Trafficking for Sexual Exploitation in Japan*. Geneva, ILO Special Action Programme to Combat Forced Labour.

<sup>57</sup> See <http://instructional1.calstatela.edu/tclim/articles/KTTrafficking.pdf>

<sup>58</sup> Casey and Mai (2008). p. 9



### III. Regional Synthesis

In recent years, the East and South-East Asian region, in particular the Greater Mekong Sub-region and ASEAN countries, has been widely recognized for its leadership in regional efforts to combat trafficking. Although a decline in the incidence of child trafficking and exploitation is difficult to measure,<sup>59</sup> there is tangible progress. Efforts range from a sharper, nuanced understanding of the dynamics, patterns and flows of trafficking to greater cooperation among governments to work together, protect trafficked victims and hold perpetrators accountable.

Such initiatives are, however, insufficient in themselves. The factors that leave children vulnerable to trafficking persist at the individual, family and broader socio-economic levels. The proliferation of a culture of impunity remains a formidable obstacle. Despite the many new legal and policy frameworks in the region, the haphazard enforcement of criminal, civil and administrative justice, compounded by inadequate social welfare systems and weak mechanisms to systematically respect and fulfil children's rights, adversely affect countless children.

Conceptually and in practice, child trafficking continues to be conflated with smuggling,

irregular migration and prostitution, or goes undetected because of child-unfriendly procedures, structural deficiencies, inconsistent legal definitions or ambiguity on what constitutes child trafficking in accordance with the Palermo Protocol. Anti-trafficking interventions to date have focused more on the supply-side dynamics

// **Regrettably, efforts to protect children have largely been fragmented – thereby making them difficult to sustain in the long term.** //

without sufficient regard for the demand dimensions.<sup>60</sup> Children have seldom been involved in policy and programme development and responses are rarely based on children's views and suggestions. Regrettably, efforts to protect children have largely been fragmented – lacking overall vision and a comprehensive strategy that prioritizes child protective interventions within the overall context, such as child trafficking, child labour, sexual exploitation of children, child migration, general child protection and broader development goals – thereby making them difficult to sustain in the long term.

<sup>59</sup> The assessment of impact on trafficking is very challenging, especially without baseline information and the unreliability of numbers due to myriad factors, including the clandestine nature of trafficking.

<sup>60</sup> According to Article 9 of the Palermo Protocol, "States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking".

UNICEF’s approach to countering child trafficking is firmly rooted in a child rights framework and has been structured broadly around the following areas of intervention: prevention, protection, recovery and reintegration, and coordination and cooperation at the local, national, bilateral and regional levels. Some common strategies have been employed across the region, such as law reform; policy development, including NPAs; bilateral/multilateral cooperation and joint action plans; strengthening of criminal justice systems; and institutional capacity building. With UNICEF’s support, several countries have piloted and promoted a variety of innovative models for community-based prevention, recovery and reintegration services, social behaviour change, and child participation and empowerment.

“ All seven countries reviewed in this report have criminalized trafficking in persons within existing broader laws or through law reform, although not all have done so within the context of ratifying the Palermo Protocol. ”

This portion of the regional synthesis offers preliminary evidence on promising practices, lessons learned and broad programming trends in anti-trafficking efforts. It draws particular attention to four main areas of emphasis:

- Law and policy development or reform;
- Prevention;
- Child victim identification and protection; and
- Recovery, return and reintegration.

## A. LEGAL AND POLICY DEVELOPMENT OR REFORM

Across the East and South-East Asian region, a record-breaking number of legal

and policy frameworks relevant to child trafficking have been endorsed by and between governments. Bilaterally and multilaterally, governments have worked cooperatively to meet the transnational challenges of trafficking.

### 1. Legal frameworks

All seven countries reviewed in this report have criminalized trafficking in persons within existing broader laws or through law reform, although not all have done so within the context of ratifying the Palermo Protocol.<sup>61</sup> In fact, only Lao PDR and the Philippines have ratified the Palermo Protocol, while China, Indonesia, Thailand and Viet Nam are taking steps towards ratification. Five countries – Indonesia, Lao PDR, Malaysia, Philippines, and Thailand – have enacted legislation specific to trafficking (see Annex B: Legal and Policy Frameworks).

Whether or not as signatories to the Palermo Protocol, the seven countries in this report have varying degrees of gaps in national legislation, such as:

#### a) Scope of protection

- The definition of a child (younger than 18 years) and protections afforded to all children are inconsistent across different laws.
- ‘Child trafficking’ is defined narrowly and/or is not consistent with the Palermo Protocol; for example, to reflect that there is no requirement to demonstrate means of force, coercion, deception, abuse of power, etc., in cases involving children who are recruited, transported, harboured or received for the purpose of exploitation.
- All aspects of the trafficking process are not criminalized, such as recruitment, transport, harbouring or receipt of persons.

- All forms of exploitation are not explicitly recognized, such as forced labour or services, slavery or similar practices, servitude, and removal of organs.
- Lack of reference to comprehensive prevention policies, programmes and measures aimed at the underlying factors that make children vulnerable to trafficking, as well as measures that discourage the demand that leads to exploitation and trafficking.
- There is an absence of explicit protections for non-national and migrant children who have been trafficked, including measures that permit them to remain in the host country temporarily or permanently, where it is in the child’s best interests.
- Lack of provisions mandating respect for children’s views and meaningful child participation at all stages, from prevention and identification through reintegration, and from the local through to international levels.

#### b) Social welfare

- Children’s right to protection and services – housing, medical, psychosocial, education legal and employment – regardless of their cooperation with law enforcement, are not consistently covered.

#### c) Justice

- The exemption of children from criminal prosecution for offences committed during trafficking is not explicitly covered.

- There is no prohibition against the use of imprisonment, and administrative detention or other forms of institutional care for children, except as a measure of last resort and for the shortest appropriate period of time.



- There is no explicit mention of children’s entitlement to safety and protections at all stages of the criminal justice process, including the right to legal assistance in seeking civil remedies and administrative redress.

However, there have been several positive developments in recent months and others are on the horizon. For example, in May 2007, Malaysia enacted comprehensive legislation on trafficking, and Thailand passed new anti-trafficking legislation in late 2007 to be more consistent with key provisions of the Palermo Protocol.<sup>62</sup> China initiated a national law review as a preliminary step towards ratifying the Palermo Protocol, while Viet Nam also has signalled its commitment to ratify the Protocol and enact a comprehensive anti-trafficking law that will address trafficking in children, women and men.

<sup>61</sup> The Palermo Protocol also covers prevention and victim protection and support – not just criminal justice.

<sup>62</sup> Supported by UNICEF through the Subcommittee on Law Reform, the Anti-Trafficking in Persons Act (effective June 2008) consolidates all trafficking-related laws, thereby enabling officials to better identify victims and respond to their needs. The definition of trafficking has been extended to cover all forms of exploitation, protect adult male victims of trafficking, obligate officials to provide protection to trafficked victims, and develop and implement activities aimed at preventing trafficking.

There is growing recognition of broader legal frameworks in the fight against trafficking. For example, Viet Nam's guiding policy framework, the 2004–2010 National Plan of Action Against the Crime of Trafficking in Children and Women, calls for strengthening legal frameworks in the areas of criminal law, administrative law, marriage, child adoption involving foreigners, tourism, the export of labour, exit-entry management and community reintegration of victims. Malaysia recently passed legislation regarding foreign workers and increases the accountability of employers to provide them protection. How this legislation translates into protections for foreign child workers remains to be seen.



In 2003, the Philippines enacted the Anti-Trafficking in Persons Act, and previously the Special Protection of Children Against Abuse, Exploitation and Discrimination Act; the Act Providing for the Elimination of the Worst Forms of Child Labour and Affording Stronger Protections for the Working Child; the Inter-Country Adoption Law; the Revised Penal Code; the Mail Order Bride Law; and the Migrant Workers and Overseas Filipino Act. The challenge now is the extent to which these legal frameworks are harmonized and their implementation is in full conformity with international instruments and standards, in order to effectively prevent and respond to child trafficking and related abuse, exploitation and violence.

Several countries have passed subsidiary legislation to combat trafficking, such as the Presidential Decree to establish an NPA on trafficking in Indonesia.<sup>63</sup> Taking into account decentralized governance, the Indonesian Government also adopted sub-national regulations on anti-trafficking in six pilot districts and three provinces. The Government also approved implementing regulations for integrated service centres in all districts, and for the establishment of a National Anti-Trafficking Task Force.

While every country in the region has ratified the CRC, they are at different stages of ratifying the CRC Protocols and other treaties (see Annex B: Legal and Policy Frameworks). The harmonizing and implementing of national legislation according to international standards is also at varying stages. It is important to emphasize that, in the child trafficking arena, the Palermo Protocol and national legislation specific to trafficking are important but not prevailing. According to Article 14 of the Palermo Protocol:

“Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein”.

Essentially, the Palermo Protocol outlines minimum standards for the protection of trafficked children and is complemented by other international and regional human rights instruments. Since every country across the East and South-East Asian region has ratified the CRC, governments cannot violate their obligations set forth in this instrument, even as they are discharging duties in accordance with the Palermo Protocol. Even in instances where the Palermo Protocol has not been signed or ratified, governments are bound to prevent the trafficking of children in accordance with the CRC.

This must be borne in mind when drafting or amending national legislation to combat child trafficking. Where there are gaps in the Palermo Protocol with regard to special protections and services for children, governments should also look to other sources of law. Anti-trafficking legislation should be harmonized not only with all national laws affecting child protection but also with relevant (ratified) international instruments, such as the CRC and its Optional Protocols, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Protection of the Rights of All Migrant Workers and Members of Their

Families (CMW) and ILO Convention No. 182 on Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

## 2. Policy frameworks

Social policies are instrumental in steering and coordinating multiple national bodies with distinct yet complementary roles to combat trafficking. Policies can shape specific anti-trafficking legislation or fill in the gaps where there is no comprehensive legislation to protect children against trafficking and exploitation. Each of the seven countries in this regional synthesis has adopted various policy frameworks and mechanisms to address child trafficking, such as a NPA, specialized national bodies and institutions, and mechanisms for local, national, bilateral and regional cooperation.

// **Even in instances where the Palermo Protocol has not been signed or ratified, governments are bound to prevent the trafficking of children in accordance with the CRC.** //

With the exception of Malaysia, every country has developed a NPA on trafficking, and some countries have several in place on child labour, sexual exploitation or child protection in general. Sub-national plans of action are also in effect. One province in Indonesia has adopted a provincial plan of action covering 35 districts. However, some gaps in coverage remain, particularly with respect to special protections for children. For instance, in Viet Nam's various laws and NPA on trafficking, there is no comprehensive definition of trafficking in persons in accordance with international standards.<sup>64</sup>

<sup>63</sup> Presidential Decree No. 88 of 2002, Indonesia. The initial NPA on trafficking expired and was evaluated in 2008, with support from UNICEF Indonesia and partners. Evaluation findings were used to inform the new NPA as well as the standard operating procedures for victims of trafficking that were based on Indonesia's anti-trafficking law (enacted in 2007).

<sup>64</sup> Casey and Mai (2008).

In other countries, UNICEF has played an instrumental role in supporting the development, implementation and evaluation of NPAs. Recognizing the value of harmonizing trafficking-related NPAs, in early 2008 UNICEF Indonesia led a collaborative process to evaluate the country's NPAs on trafficking and CSEC.<sup>65</sup> Advantages identified for combining both NPAs include:

- More effective implementation and coordination because the two plans would be under one umbrella and one implementation mechanism;
- Easier coordination of budgeting for national and local institutions;
- Increased cost-efficiency and cost-effectiveness because overlapping and redundant activities are precluded, or streamlined. For example, many efforts in preventing trafficking and CSEC could be done simultaneously;
- Reduced confusion and difficulty in field implementation among multiple stakeholders;
- Anti-trafficking and anti-CSEC efforts would receive equal attention because all implementing institutions would focus on the same NPA and allocate budget for the same plan.<sup>66</sup>

One other approach is thus to combine two or several NPAs (on trafficking, CSEC and the elimination of worst forms of child labour, for example) into one NPA document.<sup>67</sup> The Government of the Philippines is exploring the development of an overarching framework that links inter-agency bodies' NPAs.<sup>68</sup> In light of perennial resource, coordination, cooperation and other constraints in implementing legislation and NPAs, streamlining policy frameworks appears to be the more strategic course of action.

**Cost-efficiency** is one rationale for streamlining policies. However, even more compelling is the need for effectiveness by developing integrated solutions which recognise that:

- The underlying causes of trafficking, CSEC and the worst forms of child labour are similar, if not identical in some instances;
- The same institutions and actors are commonly charged with addressing all three issues;
- General measures of implementation are similar regardless of the issue;
- Child protection rights are interdependent and issues are interconnected;
- Violations do not occur in a linear fashion and the same child can be a victim of trafficking, CSEC and the worst forms of child labour, either simultaneously or successively during childhood; and
- Children are entitled by right to protection against all harm, irrespective of how and when such harms are manifested.

The practicality and specifics of a **comprehensive NPA on child protection** should be further explored. An analysis of the content of different existing NPAs and their implementation presents a good starting point. At a minimum, various areas should be examined: legal and policy frameworks; key stakeholders; cooperation and coordination; child participation; social welfare and justice structures and institutional mechanisms; prevention; victim identification, support and protection; data collection and analysis; and monitoring and evaluation. In consultation with multi-sector stakeholders, the broader context of migration, labour and trafficking in persons should also be analysed to identify and reconcile the specific needs of children with other groups. This is for consistency across policies that may separately address children, adults, subgroups or issues.

Across the region, UNICEF has helped countries set up **specialized national structures** to plan, coordinate and implement government policies on trafficking and/or related issues, such as national working groups, inter-ministerial groups, inter-agency councils, national commissions, focal points or coordinators, etc. The range of technical and financial support extends to all elements of this work.<sup>69</sup> Concrete operational support to implement laws and policies has proven invaluable. Future interventions should continue to focus on implementation strategies and guidance to government agencies tasked with implementing and enforcing policies on various child protection issues.

Further leveraging of **national budgets** is needed for the protection of children. Preliminary steps have been undertaken in Indonesia, including an assessment of the state budget by examining budgetary responsiveness to child protection issues, particularly support to victims of child trafficking. The findings will influence the budgeting of an advocacy plan and serve as the evidence base in the process

of mainstreaming child protection into Indonesia's Medium Term Development Plan (2010-2014) as well as ensuring state budget allocation.<sup>70</sup>



<sup>65</sup> Interagency collaboration, especially with ICMC, ACILS, UNFPA, IOM and Save the Children; interview with Santi Kusumaningrum, Child Protection Specialist, UNICEF Indonesia, September 2008.

<sup>66</sup> Marshall, P., Sofian, A., Palupi, S. and Susilo, W. (2008). Evaluation of the implementation of Indonesia's first National Plans of Action on The Elimination of Trafficking of Women and Children (TWC) and The Elimination of Commercial Sexual Exploitation of Children (CSEC), UNICEF Indonesia.

<sup>67</sup> Ibid. According to various parties, trafficking, CSEC and worst forms of child labor interventions are sufficiently interconnected as to be inseparable. With this in mind, prevention and other intervention efforts would be more effective if they were integrated.

<sup>68</sup> Miller (2008).

<sup>69</sup> In Indonesia, UNICEF supported the development of the National Standard Operational Procedure and Minimum Standard of National Service, as well as the harmonizing of a needs assessment on the National Commission on Child Protection with the National Commission on Human Rights and on Violence Against Women. In Viet Nam, UNICEF contributed to the development of Decision 17, guiding victim reception and reintegration as well as technical and financial support to the drafting of an interagency circular on the handling of cases involving child victims, including victims of trafficking. In the Philippines, UNICEF supported capacity building of barangay councils for the protection of children. At least 7,200 barangay officials and leaders were trained on the council's roles and functions and also provided technical support to the Government in drafting the Philippines Guidelines for the Protection of Trafficked Children.

<sup>70</sup> Interview with Santi Kusumaningrum, Child Protection Specialist, UNICEF Indonesia, September 2008.

### 3. Coordination and cooperation

As stated in the preamble of the Palermo Protocol, “effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights”. Whether emboldened by regional, bilateral, national or provincial legal or policy frameworks, there has been unprecedented momentum towards greater coordination and cooperation to counter trafficking across and within national borders in the Mekong sub-region<sup>71</sup> and South-East Asia.<sup>72</sup> The following chart offers a partial snapshot of how various countries and actors are vigorously forging alliances to combat trafficking and exploitation across the region.

ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (29 November 2004)	Brunei Darussalam Myanmar Cambodia Philippines Indonesia Singapore Lao PDR Thailand Malaysia Viet Nam	
ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (29 November 2004)	Malaysia Singapore Viet Nam	
COMMIT Memorandum of Understanding on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-region (29 October 2004)	Cambodia China Lao PDR	Myanmar Thailand Viet Nam
COMMIT Guiding Principles for the Protection of Victims of Trafficking in the Greater Mekong Sub-region	Cambodia China Lao PDR	Myanmar Thailand Viet Nam
Memorandum of Understanding on Combating and Eliminating Trafficking	Cambodia – Thailand Cambodia – Viet Nam Lao PDR – Thailand Thailand – Viet Nam	
Memorandum of Understanding on Employment Cooperation	Cambodia – Thailand Lao PDR – Thailand Thailand – Myanmar	
Law Enforcement Memorandum of Understanding	Cambodia – Viet Nam China – Viet Nam	
Mutual Legal Assistance Treaty	China – Viet Nam Thailand – Viet Nam	

Extradition Agreement	Cambodia – Thailand China – Viet Nam Thailand – Viet Nam
National Plan of Action	Cambodia China Indonesia Lao PDR Myanmar Philippines Thailand Viet Nam
Memoranda of Understanding on Common Operational Guidelines for Concerned Agencies Engaged in Addressing Human Trafficking	Thailand: Northern region (17 provinces) Eastern region (8 provinces) South-western region (6 provinces) South-eastern region (8 provinces) North-eastern provinces (19 provinces) Upper central region (8 provinces) Lower central region (9 provinces)

Even though a range of national government agencies are involved in the fight against trafficking, not all countries have delegated responsibility to a single lead agency to develop, coordinate and implement laws or policies. Where a lead agency has been designated, approaches are influenced by agency mandates, priorities and perceptions of trafficking. In China and Viet Nam, for instance, a strong criminal justice and cross-border response reflects the mandate and priorities of each country’s respective lead agency, the Ministry of Public Security (MPS). In Indonesia, the rights-based, child and women-centred approach against trafficking is undertaken by the Ministry of Women’s Empowerment, the designated coordinating ministry for the elimination of trafficking.

The absence of policy frameworks can affect coordination and cooperation. For example, until recently in Viet Nam, trafficking was addressed through the Penal Code and other legal normative documents. Thus, limited guidance was available for the various agencies and organizations responsible for trafficking prevention and law enforcement. The NPA on trafficking helped fill these gaps by providing clarity regarding roles and responsibilities. It also offered guidance on the main areas of intervention and in the allocation of government funds for preventing and responding to trafficking. This strengthened the Government’s political will, resulting in circulars on victim identification, reception and reintegration as well as a draft circular to guide law enforcement officials.<sup>73</sup>

<sup>71</sup> The Greater Mekong Sub-region encompasses Cambodia, China, Indonesia, Lao PDR, Myanmar, Thailand and Viet Nam.

<sup>72</sup> ASEAN (Association of South-East Asian Nations) member countries: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.

<sup>73</sup> Casey and Mai (2008).

Informal bilateral agreements also have tremendous value. Since 2001, China and Viet Nam have enjoyed robust levels of cooperation based on an informal agreement and annual joint action plans.<sup>74</sup> In fact, China–Viet Nam’s cooperation to combat trafficking is stronger than several other countries with bilateral formal agreements. As a role model, this should not discourage the practice of formal bilateral cooperation. On the contrary, it should encourage countries to work cooperatively, with the absence of formal MOUs notwithstanding. This model also offers replicable practical strategies and mechanisms for substantive cooperation. Indeed, the China–Viet Nam model served as the basis for China and Myanmar’s Anti-trafficking Cooperation Framework (2007–2010), which covers the following areas: memorandum of understanding, establishment of border liaison offices, joint repatriation and reintegration mechanisms, regular meetings, joint communication activities, capacity building, joint research and ratification of relevant conventions and protocols.<sup>75</sup>



There is evidence that positive efforts have been made to promote multisectoral coordination and cooperation. In China, the NPA explicitly calls on 28 ministries to

play a role;<sup>76</sup> in Thailand, regional inter-agency operational guidelines address victim support and protection in addition to the investigation of trafficking cases. For the first time ever in Viet Nam, an inter-agency circular recognizes the role of victim supporters (social workers) in assisting child victims during investigations and trial processes.

#### 4. Translating frameworks into practice

Model legal and policy frameworks that exist but are never to be put into practice, hold no real value. The reasons for the lack of implementation or enforcement of frameworks are numerous, including: sparse evidence base, ad hoc data collection and information management, resource constraints, weak synergies and coordination amongst actors, absent or ineffective child participation, unmeasurable outcomes and weak monitoring and evaluation.

Stakeholders should resist spreading themselves too thin or pursuing a formulaic path that invariably advocates ratification or law reform, issue by issue. Sometimes the legal authority is already in place, and interventions would be better positioned at the policy, procedural and operational levels. At other times, streamlining policies, standards, prevention efforts, trainings, institutional reform, service delivery, etc., within an integrated guiding framework can be more effective.

More specific lessons drawn from an evaluation of Indonesia’s NPAs on trafficking and CSEC<sup>77</sup> reflect common obstacles across the region in the implementation of policy (and legal) frameworks:

#### a) Low priority

- The Government did not make the NPAs a high priority for departments and ministries. This both reflects and contributes to a lack of understanding on the complexity and impact of these issues.
- Provincial governments have been reluctant to adopt and implement the NPAs because they do not understand the issue of CSEC and lack encouragement and support from national and local governments.
- Although the NPAs were intended to provide a framework, few organizations viewed them as a guiding framework for anti-trafficking interventions.<sup>78</sup>

#### b) Limited knowledge and data

- Anti-trafficking and anti-CSEC activities are generally governed by existing organizational mandates and functions, without reference to the NPA for specific direction.
- Accurate information on trafficking and CSEC has been very limited.
- Information obtained from victims has not been used to improve prevention efforts.
- Government officers had insufficient knowledge of trafficking and CSEC; the frequent rotation of people in charge exacerbated this situation.

- The collection of accurate information to enable systemized responses to issues relevant to CSEC remain inadequate.

#### c) Weak framework design

- Many stakeholders believed the NPAs contained too many activities and thus lacked strategic focus and prioritization.
- The NPAs lacked minimum standards and benchmarks and, in the case of the NPA on trafficking, lacked indicators.
- Monitoring and evaluation was weak; there was a lack of accountability in implementation of the NPAs.
- Few institutions allocated special budgets for anti-trafficking or anti-CSEC activities.

#### d) Ad hoc implementation

- Efforts to prevent trafficking have been limited and focused mainly on awareness raising, with very little monitoring and evaluation.
- Measures in the NPAs to address poverty alleviation (especially for women and children), including increasing access to education and job opportunities, had not been implemented.
- Programmes at the local level remained piecemeal and uneven, being quite strong in some areas while almost non-existent in others.

<sup>74</sup> Numerous joint visits and meetings have taken place. China and Viet Nam created a seven-point agreement for having bilateral meetings, information exchange, joint communication activities, joint trainings, improved repatriation/reintegration, to ratify key conventions and protocols, and sign inter-country agreements and MOUs – largely with the assistance and guidance of both the UNICEF China and UNICEF Viet Nam offices.

<sup>75</sup> China and Myanmar approved three guiding principles: i) Cooperation will touch upon different aspects of trafficking, including prevention, protection and prosecution, and repatriation, rehabilitation and reintegration of victims; ii) Multi-sector cooperation and coordination will be addressed; and iii) Action will be based on new initiatives, knowledge and technology in the areas of anti-trafficking (Wei, 2008).

<sup>76</sup> China National Plan of Action on Combating Trafficking in Women and Children (2008–2012), issued by the State Council of China, December 2007.

<sup>77</sup> Marshall, Sofian et al. (2008).

<sup>78</sup> Globally, there is a general lack of human or resource capacity among professionals working with children to identify victims of trafficking and to provide appropriate support and services. There are also inadequate mechanisms for consulting and involving children in decision-making in meaningful ways (interview with Lena Karlsson, Child Protection Specialist, UNICEF Innocenti Research Centre, December 2008).

### e) Lack of coordination and cooperation

- Although national and local task forces were created, cooperation and effective coordination has been lacking. Divisions within individual departments do not always know what each other are doing, while inter-departmental cooperation is even more limited.
- Many task force member institutions did not have a complete NPA document.
- At the local level, most implementing institutions did not have a copy of the NPA document and some had never seen the NPA.
- Coordination for victim return across districts and provinces remained difficult. The division of responsibility in dealing with victims was not clearly defined; sending and receiving areas had different opinions as to who is responsible for the process.

// UNICEF's policy of primarily supporting government partners is critical towards building sustainable legal, justice and social welfare systems. //

## B. PREVENTION

Recognizing the crucial need to prevent trafficking, both in the first and repeated instance, UNICEF set out to raise awareness, mobilize communities and support vulnerable and previously trafficked children, as well as their families. Child trafficking prevention strategies across the region<sup>79</sup> have focused primarily on information, education and awareness campaigns; multimedia, including TV spots, radio drama, documentary films, karaoke CD-ROMs, Internet, e-learning, billboards and print media; and distribution

of information materials such as leaflets, posters, T-shirts and hats. Prevention activities also cover community mobilization, community surveillance and child protection networks; institutional reform and capacity building; and vulnerability reduction via direct support to at-risk children and families through education, vocational training, micro-credit schemes, counselling, etc.

### 1. Strategic partnerships with governments, the private sector and broader civil society

An unprecedented network of partnerships at every level has emerged in the fight against child trafficking. Strategic alliances have been forged between governments, within governments, and among UN agencies, international and local NGOs, policy-makers, children and youth, community and faith-based groups, donors, professional groups, universities, research institutions, the media, private sector and broader civil society.

UNICEF has supported innovative ventures with the private sector. In partnership with the Viet Nam General Confederation of Labour, UNICEF produced handbooks to sensitize employers on the need to protect young migrants and to encourage good business practices. Similarly in the Philippines and Indonesia, UNICEF teamed up with various hotels and faith-based organizations to promote vocational training and livelihoods for at-risk children. In the Philippines, the Youth Career Development Programme – initially with the Pan Pacific Hotel and then expanding to the InterContinental, Dusit, Diamond and Traders Hotels – offered a five-month training course on hotel operations to empower at-risk youth by equipping them with the skills for finding rewarding employment in the hospitality industry.

UNICEF's policy of primarily supporting government partners is critical towards building sustainable legal, justice and social welfare systems, including institutional mechanisms and services aimed at preventing child trafficking and exploitation. Long-term systems development must be balanced with strengthening the capacity of existing systems to provide immediate assistance, particularly in terms of victim services. Direct service provision requires multi-sectoral partnerships with NGOs and community-based organizations to deliver prevention and early intervention services. In this regard, UNICEF plays a critical convening role in the areas of child trafficking and child protection.

### Partnerships with NGOs are instrumental to effectively combat child trafficking.

#### The strengths of NGOs:

- Community-based programmes;
- Flexible working methods and able to adapt to local situations;
- Strong links and established trust with communities because their presence is more permanent; and
- Operations in hard-to-reach areas.

Public-private partnerships have several advantages. First, they are likely to ensure the delivery of a broad range of quality services, particularly in the short to medium term. Second, increased engagement on the ground helps to inform work at the policy level. Third, partnerships can facilitate the mobilizing of resources, including by

the private sector. The challenge in the future will be integrating NGO services with, or demarcate them from, government systems, services and processes.

Another balancing act is the focus on child trafficking specifically, and recognizing times when it is more useful or efficient to address trafficking in persons. For example, police training, inter-agency agreements and provincial development planning, should involve a broader approach to avoid inefficiencies, duplication and overlap. At the same time, UNICEF could target multi-sectoral prevention programmes specifically for children at risk and child victims, particularly through the strengthening of child protection frameworks.<sup>80</sup>

### 2. Evidence-based campaigns

Based on increasing evidence that most trafficking in this region occurs during voluntary migration, campaigns shifted focus in Lao PDR and Viet Nam to promote awareness on the dangers of ill-prepared migration, including information on workers' rights, decent wages, trafficking and labour exploitation issues, and advice on selecting jobs in the city and where to seek help if needed. However, a stronger evidence base is needed on both child migration and trafficking in all countries across the region. This should inform future prevention messages on safe migration and trafficking, reflecting local realities, including variables in geography, migration flows affecting particular areas, cultural and linguistic implications, and vulnerabilities of diverse ethnic groups.<sup>81</sup>

<sup>79</sup> China, Indonesia, Lao PDR, Philippines, Thailand and Viet Nam.

<sup>80</sup> Marshall (2008).

<sup>81</sup> Jersild (2008)a.

## Safer migration in Lao PDR

UNICEF's 'Be Smart Be Safe' Campaign, officially launched in June 2005, represents the single largest effort made in Lao PDR to raise awareness amongst children and young people on trafficking. It was based on the most significant piece of trafficking research at the time (UNICEF–MOLSW study authored by Chamberlain, 2004), which found that young people were trafficked through brokers who approached them in their villages, offering them very attractive job opportunities in Thailand, where they were then exploited. The approach of the multimedia campaign showed young people in Lao PDR how to migrate safely and how to avoid being trafficked. The campaign used seven types of mediums in conveying its message: posters, leaflets, an emergency contact card, billboards displayed throughout the country, a radio drama, a film entitled 'Lessons of Life', and a karaoke CD.

Quality research has also shaped advocacy and prevention campaigns and interventions. In the Philippines, for instance, research indicating that most trafficked children come from dysfunctional families led to a campaign targeting more than a thousand parents of at-risk children for parenting-effectiveness sessions and family–life development workshops. To address the growing evidence of online trafficking, solicitation and child pornography, UNICEF forged partnerships with a nationwide franchise of 600 Internet café owners, Everything Online Inc., and ECPAT Philippines to adopt safety measures, including drafting and signing an IT Code of Conduct.

The Viet Nam Women's Union conducted an assessment on the situation of Vietnamese women marrying foreigners, especially Taiwanese and Korean men. Findings served as a basis for drafting the Government of Viet Nam's Politburo directive on strengthening the Communist Party to more effectively regulate inter-country marriages to prevent the trafficking of girls and women.

Local contexts also helped guide stakeholders to prioritize partnerships and select interventions. In the Philippines, children's needs and trafficking dynamics as well as government laws, policies and strategic plans have been instrumental in framing prevention activities. For instance, sea routes are commonly used by traffickers to transport children across the archipelago of over 7,000 islands. Monthly awareness seminars target the Philippines Ports Authority personnel, crew of shipping companies, port police, coast guard and port workers to inform them on the problem of trafficking, how to identify and report trafficking cases, and how to assist victims.

### 3. Education as a form of prevention

Recognizing the role of education as a critical means for preventing trafficking and exploitation, a number of countries have promoted formal, non-formal and peer education as well as integrated relevant training into school curricula.

In Viet Nam, UNICEF supported awareness raising on trafficking through peer education initiatives in Quang Ninh, Lang Son, An Giang and Dong Thap provinces. Similarly, UNICEF supported peer education to raise awareness as well as build skills and knowledge to prevent trafficking, exploitation and abuse in Cambodia and Indonesia. In Lao PDR, educational assistance targeted vulnerable children. Non-formal education centres were set up for thousands of at-risk children in the Philippines along with school awareness-raising campaigns on child pornography and sex tourism. In Indonesia, a series of trainings targeted teachers, focusing on child abuse and exploitation prevention in schools.

In Malaysia, UNICEF supported educational programmes for children, in particular undocumented and refugee children and those with no birth registration living in the remote areas of Sabah and Sarawak.

### Cascade training in China

Targeting a highly vulnerable group – graduating middle school female students – in high-risk areas, UNICEF China supported the design and implementation of cascade-style training for teachers. Through the training of trainers and mainstreaming of child protection topics into education curricula, this innovative training method heralds far-reaching implications for current and future generations of schoolchildren, and ensures sustainability.

Aimed at delivering key protection messages and practical tips, the training enhances girls' self-protection skills and teaches them how to safely look for jobs. Through participatory training involving simple, practical stories and role plays, girls are introduced to the likely situations they could meet while job hunting and taught how to deal with them. It also alerts girls to local or common trafficking schemes and offers them guidance on safely entering the labour market and responding to suspicious situations.

From 2005 to 2007, more than 40,000 middle school girls were trained in Sichuan, the most populous province in China.

Source: Telephone interview with Daming Wang, Child Protection Specialist, UNICEF China, December 2008.

Promoting literacy and educational achievement is based on an assumption that fewer children will migrate to urban centres, where the risk of exploitation and trafficking is greater.

Education data, such as school enrolment, can provide important indications of areas from which children are migrating and thus vulnerable to trafficking or exploitative situations. Children who are in school are presumed to be not as vulnerable to trafficking as children not attending school. This data is not without flaws because children enrolled in school might still be engaged in exploitative seasonal labour, nor does education data have any prognostic bearing on other forms of abuse, exploitation or violence to which children may be subjected. However, large numbers of children dropping out of the education system at any particular stage offers a barometer for targeted preventative action against child trafficking or exploitation.<sup>82</sup>

### 4. Universal birth registration and citizenship as a means of prevention<sup>83</sup>

Statelessness is a major problem affecting the fulfilment of children's rights. For instance, in Thailand, there are approximately two million stateless people, including more than 600,000 people from indigenous and ethnic minority groups. Statelessness can lead to denials of children's access to services, such as health care and education, and further increase their vulnerability to trafficking and other forms of exploitation and abuse.

<sup>82</sup> Interview with Simon Baker, UNICEF EAPRO consultant, September 2008.

<sup>83</sup> Interviews with Settasak Akanimart and Sirirath Chunnasart, Child Protection Officers, UNICEF Thailand, December 2008.

In addition, migrants account for several million people in Thailand, some of whom may be stateless, and including those who have entered the country legally and those who are undocumented workers. Undocumented workers in particular are highly likely to be paid extremely low wages and experience physical exploitation, limited access to services, and great uncertainty regarding their future due to inconsistencies in government policy and its application. Children of undocumented migrants born in Thailand prior to 2008 were ineligible for birth registration and thus prone to statelessness, which compounds their vulnerability.<sup>84</sup>



Unregistered children in Thailand account for some 5% of newborns or 50,000 children each year. They include:

- Children born in remote areas or at home to Thai parents unaware of birth registration requirements;
- Children of non-citizens (including a significant number of ethnic minorities who have been residing in-country for over a generation);
- Children of internal migrants who have not changed their household registration; and
- Children of foreign migrants.

UNICEF is supporting a Legal Assistance Center, managed by Payap University, to help stateless residents in northern Thailand acquire Thai nationality or other legal status. Through this assistance, stateless persons have obtained appropriate documents from civil registration offices, including birth certificates, identification cards, and marriage certificates. The Center has also helped stateless residents access other services and entitlements. To strengthen local capacity, the Center has also trained stateless youth on legal status issues, enabling them to work with local authorities on resolving their own legal status problems.

### 5. Strengthening social welfare structures<sup>85</sup>

The concept of a national child protection system has increasingly gained acceptance within anti-trafficking and other circles. While models for operational practice are nascent, each of the seven countries has taken preliminary steps towards building or strengthening social welfare and justice structures (e.g. institutions, including mechanisms, capacities and services) designed to protect children in general, including the prevention of child trafficking and exploitation.

Across the region, UNICEF has supported governments in the creation or strengthening of social welfare structures at the community and provincial levels. This includes the community-based models of trafficking prevention and interventions in Sichuan and Henan provinces, China. In addition, Lao PDR, Indonesia, the Philippines and Viet Nam have established area-based or provincial child protection networks to prevent exploitation, monitor at-risk situations, protect those at-risk, and assist returned child victims. In Thailand, a child protection system is being developed in priority provinces for the prevention, monitoring and reporting of children affected

by abuse, neglect, exploitation and violence, and enabling appropriate responses where needed.

Although the mandate, coverage and capacities of the various social welfare structures are limited, overall, this development represents a positive step forward in cultivating more comprehensive social welfare systems, which are capable of prevention activities and responding to protection issues, including child trafficking. In Viet Nam, UNICEF supported the development of social work as a profession. In several other countries, UNICEF advocated for institutionalizing training and capacity-building measures for social welfare officers while providing technical and operational support.

In Lao PDR, UNICEF-supported training through child protection networks (CPN) has focused on 'less controversial' child protection issues within villages, such as drug use, children in conflict with the law and school drop-outs. The CPN has also become a forum to tackle the 'harder' issues, such as domestic violence and sexual abuse. Due to the sensitive nature of such issues, even among families, CPNs are not yet ready to provide effective safety nets to prevent re-trafficking or care for returned trafficked victims who may have experienced severe forms of exploitation. The programme has yet to define standards and objectives of CPN practice and thus avoid inappropriate interventions.

### 6. Strengthening justice structures<sup>86</sup>

In light of the heavy emphasis of the UN Convention Against Transnational Organized Crime and the Palermo Protocol on criminal justice, the development or strengthening of law enforcement structures and related interventions within the region is not surprising, but the pace and vigour of these developments, backed by solid commitment from governments, are noteworthy.

“ Across the region, UNICEF has supported governments in the creation or strengthening of social welfare structures at the community and provincial levels. ”

Nearly every government across the South-East Asian region has created (or has plans in place for) **specialized law enforcement units** to protect children (and women) from crimes such as trafficking and exploitation. National specialist units are generally reinforced by counterpart units across provincial and district police offices. Responsibilities vary from country to country, but specialist law enforcement officials typically investigate and respond to cases of abuse, violence, exploitation and trafficking of children. In some countries, there are formal referral links to social welfare and health structures for coordinated prevention, protection and response to child protection concerns.

<sup>84</sup> This was rectified in the 2008 amendment to the Civil Registration Act, when all children born in Thailand became eligible for birth registration.

<sup>85</sup> Social welfare structures are introduced here because they are crucial for prevention purposes, though of course they are also important for protection, recovery and reintegration of trafficked children.

<sup>86</sup> Justice structures are introduced here because they are crucial for prevention purposes, though of course they are also important for protection and reintegration of trafficked children.

As noted in the previous section, numerous **legal and policy frameworks** have empowered various justice structures to prevent and respond to child trafficking, abuse and exploitation. To ensure that principles are put into practice, UNICEF vigorously supported across the region the development of operational guidelines and child-friendly procedures, particularly at the investigative, pre-trial and trial stages of the criminal justice process. In Indonesia in early 2008, for example, the national police adopted guidelines for women and children's desks at police stations and on techniques for interviewing child victims and witnesses. One evaluator applauded the interviewing training and recommended similar training for all criminal investigation personnel, regardless of the focus of their units.<sup>87</sup>

// **A common oversight within justice sector reform is the predominant focus on criminal law enforcement and prosecutions, and thus the neglect of civil, administrative and informal justice sectors.**

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To varying degrees, significant momentum has carried forward on **institutionalizing training and capacity-building schemes** for justice sector officials. This is crucial due to the uneven levels of knowledge on trafficking as well as the high degree of rotation of staff working on trafficking and related child protection issues. As a starting point, UNICEF Indonesia developed a sustainable, interactive e-learning package on child protection issues. In the Philippines and in partnership with the Supreme Court, UNICEF supported the Child Protection Unit Network's (CPU-Net) Court Awareness Training Programme to increase the accessibility of courts for sexually abused and exploited children and their families. Although UNICEF supplied much of the initial funding, the Supreme Court now allocates a portion of its annual

budget to sponsor the training. Similarly, the institutionalization of child-friendly procedures that are reinforced with training are in effect in China, Lao PDR, Thailand and Viet Nam to ensure that children's rights are respected, and to protect children from additional trauma throughout the justice process.

Within the criminal justice system, the Asia Regional Trafficking in Persons Project (ARTIP) has been instrumental in rolling out standardized trainings to justice sector officials in ASEAN countries – originally with frontline law enforcement officers and later expanding to prosecutors and judges.<sup>88</sup> The United Nations Inter-Agency Project (UNIAP), the International Organization on Migration (IOM), the United Nations Office of Drug Control (UNODC), and other international organizations have made significant progress in strengthening the capacity of government officials across numerous fields of practice in the Greater Mekong Sub-region. Recognizing that children are at times overlooked, UNICEF and partners have taken steps to mainstream child protection in general efforts to combat trafficking. The necessity of this cannot be overstated, given that children are often commingled with adult groups – during the identification, recovery, return and data collection processes – despite their distinct needs and fundamental right to special protections. However, that does not suggest the need for separate child protection training, as mainstreaming child-centred procedures into existing standardized trainings is more practical. This is particularly valid when other agencies possess comparative advantages in terms of criminal justice expertise and garnering political will, and have specialist recognition in institutionalizing multi-country and multi-sector competency-based trainings as part of mandatory pre-service, in-service, and induction training, or in response to professional specialist requirements.

A common oversight within justice sector reform is the predominant focus on criminal law enforcement and prosecutions, and thus the neglect of civil, administrative and informal justice sectors.<sup>89</sup> One frequent shortcoming is the non-fulfilment of trafficked victims' right to civil redress, in accordance with Article 6 of the Palermo Protocol, which explicitly states that "[e]ach State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered."<sup>90</sup> While UNICEF has supported strengthening the capacity of Thailand's civil justice structures to award compensation to child trafficking victims (and therefore reduce vulnerability for some children), many countries in the region have focused on criminal justice improvements. It is crucial to protect children throughout justice proceedings, and at the same time be cognizant that prosecutions rarely serve children, particularly when the interests of the State take precedence over the best interests of the child. Working through other justice sectors (civil and administrative sectors in particular) may be more effective to prevent trafficking, to hold perpetrators accountable (including businesses), and to achieve justice for child victims.

Within the cross-border or international trafficking context, administrative justice structures (such as immigration) can take a leading role. Child victims of trafficking who slip through the cracks or who are

classified as irregular migrants, may be better served by child-friendly administrative justice procedures. As experiences in Thai immigration detention centres (IDC) demonstrate, children are detained for varying lengths of time, and then deported



to their country of origin.<sup>91</sup> While there are mechanisms for screening trafficking victims at the IDC, there appears to be a large margin of error – although this may be attributed to the false statements that detained individuals give in order to facilitate their speedy deportation (and preclude a lengthy stay in a centre in the name of their 'protection'). It is unclear if the IDCs have developed a prevention strategy to protect detained children from being (re)trafficked or (re)exploited upon release.

<sup>87</sup> Marshall (2008).

<sup>88</sup> With funding from the Australian Government, ARTIP has been working with selected ASEAN countries to build law enforcement capacity to combat trafficking, including law reform, mutual legal assistance agreements, and improved bilateral and multilateral law enforcement cooperation. ARTIP also promotes bilateral and international law enforcement cooperation between ASEAN countries and regularly hosts 'heads of specialist units meetings' within the region.

<sup>89</sup> Informal justice refers to dispute resolution outside of the scope of the formal justice system. It encompasses non-state justice mechanisms as complementary to or surrogates of the formal justice sector, such as the range of traditional, customary, religious and informal mechanisms that deal with disputes at the community level (UN Concept Note, Common UN Approach to Justice for Children, March 2008).

<sup>90</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000).

<sup>91</sup> Jersild (2008)b.

## 7. Weak prevention strategy

Designing an effective trafficking prevention programme is a complex undertaking, requiring careful consideration of the appropriate strategies, target audience(s), messages, as well as an ongoing process of assessment and modification. Several of the country assessments highlighted the need for a more strategic approach to and more sound evidentiary basis for trafficking prevention programmes.<sup>92</sup>



In most countries across the region, prevention activities have been largely project focused, with the strategies, content of materials, targeted locations and duration driven mainly by the priorities of individual agencies<sup>93</sup> or donors. In Viet Nam, for instance, audience surveys (2005, 2007) conducted by UNICEF indicate frequent duplication and overlapping of parallel information, education and communication (IEC) programmes funded by different donor organizations; conflicting, confusing and unclear messages; variances in focus (safe migration vs. anti-trafficking); and a general lack of attention to behaviour change. Lack of agency/donor coordination has resulted in an overemphasis of prevention activities in some locations, with neglect in others.

Too often, prevention strategies do not take into account and incorporate the views of children, or fail to empower children to meaningfully engage in prevention activities and decision-making processes. At other times, the motivation for child participation is misguided. For example, although encouraging children and young people to participate in decisions that affect their lives is a central tenet of development, and encouraging adults to listen to the voices of children has intrinsic merit, it is not clear how the specific activity of child forums, at least in their current form, is intended to significantly impact on the problem. Throughout the region, there is little evidence of realistic new ideas emerging from these forums, even if systems were in place to have them adopted. The role of young people as peer educators appears to have greater merit, but more attention is needed to clarify the specific objectives of peer education programmes and to measure the results.<sup>94</sup> Globally, UNICEF has been moving away from this type of 'event-based' child participation in favour of more systematic inclusion of children in decision-making processes.<sup>95</sup>

## 8. Monitoring, evaluation and use of knowledge

Although respondents in the country assessments in several East Asian countries generally regarded prevention activities as successful in reducing women's and children's vulnerability to trafficking, there has been no comprehensive evaluation on the impact and effectiveness of such activities. Nor has there been a comprehensive quantitative assessment of people's knowledge, attitudes and practices relating to trafficking.

In all fairness, the extent of success is nebulous. In the Philippines, for instance, community education sessions in more than 470 communities across 15 provinces have empowered more than 8,800 community members to better protect children. Increased awareness of child protection

issues has apparently resulted in people reporting suspected cases of trafficking, abuse and exploitation to officials. However, there are no specific figures or comparative baselines from which to draw more conclusive information. Similarly, training impact evaluation references to 'increased knowledge and skills' are tenuous. These assertions are generally unsupported by quantitative or qualitative data, including evidence of how enhanced knowledge and skills are applied in practice for the improved protection and well-being of children.

Further, raising awareness or increasing knowledge does not always lead to modified behaviour or practices. This assertion is based on an assumption, often unspoken, that improving people's awareness will lead to certain actions. Information alone, however, generally does not prevent risky behaviour, particularly among adolescents and young people. In Lao PDR, a review on trafficking campaigns cautioned that "passive material distribution very rarely leads to behaviour change," adding that it is not so much the medium of the materials that is important, but "that there is some discussion or interaction that goes along with the delivery of the materials".<sup>96</sup>

Behaviour change communication (BCC) strategies are intended to transfer knowledge and influence attitudinal and behaviour changes, but they also require closer scrutiny to determine effectiveness.

“ Although respondents in the country assessments in several East Asian countries generally regarded prevention activities as successful... there has been no comprehensive evaluation on the impact and effectiveness of such activities. ”

Although BCC activities in China, for example, have signalled encouraging progress,<sup>97</sup> they are not consistently designed from the target audience's perspective and thus do not reflect the needs of a specific or broader audience. In addition, the BCC strategies carried out in China are not tailored to groups who value the practice of children earning an income to support their families, or who believe that it is acceptable for girls to be contracted out for marriage. Moreover, the BCC activities have not been linked with service provision or consultation with children.<sup>98</sup>

<sup>92</sup> Marshall (2008). Casey and Mai (2008).

<sup>93</sup> UNICEF, for instance, has cooperation agreements with governments to work in certain geographic areas. These decisions are based on a range of criteria beyond child protection and as such do not necessarily reflect priority locations in terms of major source points for trafficking, the need to link source and destination areas, and the activities of other actors. This does not, however, preclude building on working relationships with authorities in the future or replicating models in other locations.

<sup>94</sup> Marshall (2008).

<sup>95</sup> Casey and Mai (2008).

<sup>96</sup> Jersild (2008)a.

<sup>97</sup> One example of this accomplishment is the interactive video activity that took place in a labour market as part of the Sichuan model. An ILO and All China Women's Federation (ACWF) anti-trafficking project encouraged audiences to make use of information technology and promoted information exchange and self-education. This project integrated information, BCC, service provision, consultation and networking into trafficking prevention. Specifically, ACWF created the China Women Labour Occupation Website, which listed 80,000 jobs. In 2005, there were 2.5 million women seeking work through the web site. Provinces with a large demand for labourers and those with a large supply of labourers began cooperating to develop an electronic labour market (ACWF and ILO, 2005). The project also encouraged girls to form networks or groups before leaving home to find work and continue connecting with others via mobile phones and e-mail (Wei, 2008).

<sup>98</sup> Ibid.

## C. CHILD VICTIM IDENTIFICATION

More and more, countries across the region have started tackling all stages of the child trafficking continuum: prevention, identification, assessment, recovery, return and reintegration. When prevention fails, effective identification – whether screened by officials, international organizations, NGOs, faith-based groups or others – is increasingly recognized as fundamental to initiate governmental recognition and protection of child trafficking victims. In this context, the lack of conceptual clarity on child trafficking can have profound implications for determining who is or is not a victim.

// **Victim identification is an inexact science. Without clear and specific guidelines backed by accountability mechanisms, it is left entirely to the discretion - and at times whim - of individual officials.**

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In 2008, ASEAN countries endorsed specific guidelines for responding to child trafficking victims.<sup>99</sup> Earlier in 2007, the Mekong countries endorsed the COMMIT Guidelines for the Protection of Victims of Trafficking in the Greater Mekong Sub-region.<sup>100</sup> Even though the COMMIT guidelines have broader application, they are also discerning of the special needs of children. Although they were developed for the Mekong countries, the guidelines can easily be adapted for other countries across East Asia and other regions worldwide. Recognizing that more targeted assistance is needed to operationalize standards and guidelines, UNICEF developed a preliminary screening tool specifically for child victim identification (see Annex C: Child Trafficking Screening Tool).

Additional progress has been made at national levels. For instance, in Viet Nam two inter-agency circulars to implement the Decision on the Promulgation of Reception and Community-based Reintegration Support Mechanism for Returned Women and Children Victims of Trafficking (“Decision 17”)<sup>101</sup> were issued in 2008, one relating to finance and the other to victim identification and reception. Decision 77 and the circular on victim identification and reception define trafficking in accordance with the Palermo Protocol, but have omitted an important caveat in relation to children, as means of force, coercion, deception, abuse of power, etc., are not relevant in cases involving children.<sup>102</sup> Only the draft circular on criminal liability, currently being prepared with technical support from UNICEF, includes this important protection for children.<sup>103</sup> The draft circular on the handling of cases involving children, and the draft circular on criminal liability for trafficking, highlight the importance of having a support person [parent, social worker, Committee for Population, Family and Children (CPFC) or Women’s Union representative] present whenever a victim is being interviewed by law enforcement authorities. However, this important protection has not been incorporated into the victim interview and screening procedures under the circular on process and procedures for identification and reception of trafficking victims.

Despite these developments, there are significant gaps between policy and practice. Firstly, not every country in the region has ratified the Palermo Protocol, and even when ratified,<sup>104</sup> there is inconsistent harmonization of domestic law with the protocol provisions, including the definition of child trafficking. Secondly, there are limited standardized criteria on the official identification of child victims of trafficking. An exception is Thailand, which is currently amending its screening tool for cross-border victim identification to conform with

its revised legislation on trafficking. More prominent and clearer guidance on who is a victim, however, is required for children.<sup>105</sup>

There are also gaps in inter-sectoral collaboration. There is partial or non-existent systematic inter-agency coordination and collaboration among ministries, civil society, and the private sector on child protection, criminal justice, civil justice and child labour. Despite the numerous trainings of law enforcement officials and officers, there remain many others who lack the knowledge or skills to identify trafficking or its victims. A major gap within international cooperation is the limited number of detailed bilateral MOUs or agreements and implementation arrangements across the region to combat child trafficking, including standard bilateral operating procedures governing the rapid identification of potential or actual victims.

The many varying definitions of what constitutes child trafficking, the different interpretations of an agreed-upon definition (such as in the Palermo Protocol), and the discrepancies on what victim identification criteria will be used has created on-the-ground confusion affecting multiple

stakeholders at various stages and levels of intervention. As the following examples from Thailand will highlight,<sup>106</sup> trafficking victim identification is not clear-cut.



### 1. General confusion among government officials

Victim identification is an inexact science. Without clear and specific guidelines backed by accountability mechanisms, it is left entirely to the discretion – and at times whim – of individual officials. In focus group discussions involving child victims in Thai shelters, there was no uniformity on how officials determined children’s status.

<sup>99</sup> ASEAN Guidelines for the Protection of the Rights of Trafficked Children in South-East Asia (2008).

<sup>100</sup> Guidelines supplementing the COMMIT Memorandum of Understanding on Cooperation Against Trafficking in the Greater Mekong Sub-Region. See [http://www.no-trafficking.org/uniap\\_frontend/Default.aspx](http://www.no-trafficking.org/uniap_frontend/Default.aspx)

<sup>101</sup> Viet Nam Decision on the promulgation of reception and community-based reintegration support mechanism for returned women and children victims of trafficking, Decision 17/2007/QD-TTg dated January 29, 2007, of the Prime Minister.

<sup>102</sup> Anyone younger than 18 who is recruited, transported or transferred for the purpose of exploitation is considered a trafficking victim, regardless of whether any force, threats or deception were used (United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000).

<sup>103</sup> Casey and Mai (2008).

<sup>104</sup> Note that the converse can apply – countries that have not ratified the Palermo Protocol but have enacted an anti-trafficking law consistent with provisions of the Palermo Protocol. Yet, there may still be gaps in implementation.

<sup>105</sup> An inconspicuous end note in the original tool stating, “If the victim is a child, he or she must have the elements stated in (1), (2) AND (4)”, is insufficient. Office of Anti-Trafficking in Persons Committee, National Operation Center on Prevention and Suppression of Human Trafficking (NOCHT), Ministry of Social Development and Human Security, Government of Thailand (undated). “Preliminary Checklist to Identify Potential Victims of Trafficking”. Bangkok, Government of Thailand.

<sup>106</sup> Casey and Mai (2008); Jersild (2008)b.

Some were victims of force, threat, or restricted mobility with no pay. Many more were tagged as victims because they were below 18 years old when ‘rescued’; a broker was involved in their employment (regardless of the amount of profit earned); or payment of wages had been delayed or withheld. Government official respondents in Thailand expressed varying degrees of confidence on their respective interpretations of the legal definition of trafficking.



Although there is a domestic MOU on trafficking in Thailand, the lack of conceptual clarity on terminology contributes to *carte blanche* determinations on who is or isn't a trafficking victim. Provincial officials and officials in Aranyaprathet, for example, regard the province as a potential transit point for trafficking – not as a destination point – whereby trafficking is not viewed as a priority or issue. Without regard for individual circumstances, officials have thus categorized Cambodian children working in the Rongkleu market in Aranyaprathet as a group of voluntary child labourers.<sup>107</sup>

## 2. Uneven recognition of all forms of trafficking

Narrow views of trafficking linked to sexual purposes have broadened over the years. Increasingly, there is recognition of other forms of trafficking, including forced labour in factories, domestic work and seafood processing.<sup>108</sup> However, as fewer Thais are trafficked internally and more migrants from neighbouring countries are trafficked to and within Thailand,<sup>109</sup> it is unclear whether or not they are properly identified.

Meanwhile, other groups remain below the radar. Boys from Myanmar aged 15–18 years old who are trafficked to work on fishing boats in Thailand have largely been unrecognized as victims. Fishing boat work is mafia-controlled and highly exploitative.<sup>110</sup>

Identifying a child victim is much easier in practice when sexual exploitation, slavery or slave-like practices are involved. Overall, the identification of trafficked children for other purposes is a challenge. On a positive note, the Thai Government tends to err on the side of caution and will consider 18- and 19-year-olds as trafficked children.<sup>111</sup>

## 3. Cross-border confusion: Trafficking or migration?

With child migration on the rise, additional uncertainties have begun to surface around issues of trafficking and migration. In the past, more persons were trafficked from neighbouring countries. Currently, more persons, including children, voluntarily migrate to Thailand and it is not until their arrival when they fall victim to trafficking. This has made it more difficult and more complex for the Thai Government to deal with the issue and to determine whether they are irregular migrants or trafficking victims. The multidisciplinary team now in place in nine provinces is making these determinations.<sup>112</sup>

Child trafficking is a matter of interpretation. People have different ideas about what it is and how prevalent it is across the country. For instance, officials in the Ranong and Sakaew provinces in Thailand, bordering Myanmar and Cambodia respectively, believe trafficking cases to be very rare. Instead, they describe current situations in terms of labour and migration issues.<sup>113</sup>

In China, officials continue to return trafficking victims to Viet Nam as part of general deportations, with no clear distinctions between victims of trafficking, other irregular migrants, and even traffickers. This makes it difficult for Viet Nam to provide appropriate services for victims and also presents serious risks of harassment or re-trafficking of victims, whether commingled with known or unknown perpetrators.

## D. RECOVERY, RETURN AND REINTEGRATION

The recovery, return and reintegration process similarly has raised a host of challenges. Within the cross-border trafficking context, bilateral standard operating procedures are not in place (or implemented) for the governing of joint assessments and best-interest determinations, while child-centred bilateral standard operating procedures are not consistently applied. All too often, child victims experience protracted delays in

returning home because their case has gone to court. Coordination and cooperation are at times plagued by miscommunication, inconsistent procedures and other operational missteps.

“ Child trafficking is a matter of interpretation. People have different ideas about what it is and how prevalent it is across the country. ”

Despite such challenges, however, there have been significant achievements over the past few years, including a sharp rise in political will to assist child victims. Governments across the region are increasingly undertaking initiatives to develop national, bilateral and regional policy, standards and practices that take into account the special needs of child victims. A decade ago, countries across East Asia lacked the necessary multilateral/bilateral frameworks or national infrastructure to provide appropriate recovery, return and reintegration services for child victims in accordance with international standards. UNICEF's support to these countries has evolved, and although at an early stage of engagement with governments, UNICEF is focused primarily on supporting locally initiated trafficking prevention and response ‘models’ in border provinces, and is providing direct support for the receiving and reintegration of child trafficking victims.

<sup>107</sup> Jersild (2008)b.

<sup>108</sup> Article 2 of ILO Convention No. 29 on Forced Labour (1930) identifies forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

<sup>109</sup> Observations expressed in two separate interviews with the Thai Bureau of Anti-Trafficking in Women and Children (BATWC) officials and the chair of the Thai National Committee on Coordination on Combating Trafficking of Children and Women, Bangkok.

<sup>110</sup> Chair of the Thai National Committee on Coordination on Combating Trafficking of Children and Women on Trafficking, Bangkok. Jersild (2008)b.

<sup>111</sup> UNIAP staff, Bangkok. Ibid.

<sup>112</sup> BATWC officials, Bangkok. Ibid.

<sup>113</sup> World Vision staff, Bangkok. Ibid.

Some of these activities are ongoing; however, UNICEF's strategic focus has distinctly shifted towards developing more sustainable system-based solutions and practices at all stages of the child trafficking continuum, including recovery, return and reintegration. This includes ensuring that victims are provided with appropriate care and reintegration services aimed at reducing children's vulnerabilities in order to prevent re-trafficking, abuse and exploitation. In general, UNICEF's support has focused on two areas:

1. Strengthening institutional capacity to provide recovery, return, reception and reintegration services for child victims of trafficking; and
2. Promoting the development of an integrated child protection system to provide community-based interventions for the prevention and response to trafficking and related issues of abuse and exploitation.

Across all seven countries in the regional assessment, UNICEF has worked to strengthen justice and social welfare structures – institutions, mechanisms, capacities and structures – to protect children during and after the identification process. Justice (including but not limited to law enforcement) and social welfare interventions have both played an essential role in the recovery, return and reintegration of children who have been trafficked or exploited.

### Child-friendly institutions and practices

Through training, capacity building initiatives and technical/operational support, UNICEF has advanced the mainstreaming of child-friendly procedures, facilities and practices in each of the seven countries featured in this synthesis. More specifically, UNICEF supported institutionalizing policy on child-sensitive guidelines, procedures, and in-service training within the justice system for law enforcement, immigration

officials, border guards and administrators in ministries of justice, interior and immigration. Child-centred training modules and operational guidelines for law enforcement, prosecutors and/or judges, including techniques for interviewing child victims and witnesses, were also developed and implemented across these countries.

In Cambodia, Indonesia, Philippines, Thailand and Viet Nam, UNICEF supported the creation of specialized law enforcement units for children, including victims of trafficking, abuse and exploitation, at the national and provincial levels. In these countries as well as Lao PDR and Myanmar, UNICEF played an instrumental role in strengthening legal representation for children within the justice system. In Thailand and Viet Nam, this includes promoting children's access to justice via seeking redress in civil courts and through administrative justice systems. In Indonesia, UNICEF helped strengthen the capacity of legal institutions, such as Bar Associations, to improve lawyers' knowledge of child protection, institute mandatory pro bono legal services, and increase children's access to justice and legal protections during the recovery, return and reintegration process.

### Community-based services

In Cambodia, China, Indonesia, Lao PDR, Philippines, Thailand and Viet Nam, UNICEF helped strengthen and/or replicate community-based or district/provincial approaches to prevent child exploitation and provide reintegration services to child victims, including the development of database management systems, community-based reporting and monitoring of at-risk children. Recovery and reintegration services (e.g. skills building, development of manuals, creation of guidelines and minimum standards) were improved in these countries. UNICEF provided technical support, training, facilitation and exchange of knowledge and best practices on quality service delivery

to child victims of trafficking and other violations for a range of social welfare institutions and actors, from local up to national levels. This includes training and capacity building for teachers, health professionals, counsellors and/or social workers on prevention, early detection, response and referral, and child victim support services at all levels.

### Ongoing challenges

Major challenges in the area of recovery, return and reintegration, however, continue. The majority of countries have not yet adopted child-friendly screening criteria and standardized forms to identify children. The necessary policy frameworks and mechanisms to protect identified children are not fully in place. The complexities of trafficking, inconsistent legal definitions of child trafficking and differences in government priorities on trafficking have presented additional challenges. Some governments focus more on the justice dimensions of cross-border trafficking: strengthening law enforcement, mutual legal assistance, capacity of border guards and progressing prosecutions. Unfortunately, this has not been balanced by parallel social welfare institutional reform, particularly aimed at prevention, recovery and reintegration of children back into their communities.

Interventions are directed predominantly at strengthening the capacity of justice sector officials to implement child-friendly procedures during the return process, as well as throughout phases of the criminal justice process. What remains unclear is if the investment of resources and energy are best placed from a child protection perspective, if viewed against: low prosecution and conviction records; the placement of the 'best interests of children' to overriding criminal justice goals; weak social welfare systems for effective

prevention, reception and reintegration; risks of re-trafficking and unsafe migration; and children's vulnerability to other forms of abuse, exploitation and violence.



Legal protection of trafficked children is still insufficient. In countries across East and South-East Asia (as elsewhere in the world), assistance to children from another country and granting them legal status are conditioned on a child's ability and willingness to cooperate with law enforcement and the outcome of any legal proceeding. Few countries explicitly protect children by law from criminal prosecution for offences committed in the context of the trafficking process (such as prostitution). Children who have been trafficked risk being misidentified as undocumented migrants, asylum seekers, unaccompanied minors or juvenile offenders. Child victims of trafficking are therefore exposed to numerous forms of secondary victimization, including through detention, legal sanctions, prosecution and deportation. An additional concern is the risk of stigmatizing children who have been trafficked, due to insufficient protection of the child's right to privacy in the criminal justice process, by the media, or during the process of family tracing and repatriation.<sup>114</sup>

<sup>114</sup> Interview with Lena Karlsson, Child Protection Specialist, UNICEF Innocenti Research Centre, December 2008.

There remains insufficient access to services for children, and the services themselves are inadequate. In many countries, these services vary and depend upon national authorities' categorization of the children as being 'victims of trafficking', 'victims of sexual exploitation' or other protection categories. In particular, non-national and migrant children often have trouble accessing services or receive poorer quality services than national children. Some national frameworks grant different standards of services and protection for girls and boys. For example, in some legislation, boys are less protected from sexual exploitation than girls, or the minimum age of marriage may be lower for girls than for boys, which is particularly relevant where early marriage or forced marriage is closely linked to child trafficking.

Although efforts to formalize institutional partnerships and cultivate cooperation have been significant, at times they are constrained by a fragmented vision from the outset. Social welfare and justice systems should form a stronger partnership that is not limited to referral mechanisms alone. During the prevention, recovery and return process, the social welfare sector can provide instrumental support with early identification of risk, joint assessments, family tracing, best-interest determinations and reception. This is critical to ensure that children's best interests are given paramount consideration. There will be times when, due to safety reasons, a child should not be returned to his/her country of origin or reunified with his/her family. Instead of relying on the strength of ad hoc partnerships, the respective roles and responsibilities of justice and social welfare officials, as well as civil society actors, during prevention, recovery, return and reintegration stages, need to be clearly articulated in an overall strategic framework. Substantive and procedural cooperation mechanisms also need to be detailed.

Although a temporary arrangement, individualized interim recovery plans during the recovery process should be developed with the child's participation and in accordance with his/her evolving capacity. Child victims should also be informed of the range of services and support options available, and have their views taken into account in decision-making regarding their interim care and protection. This should, at a minimum, include the establishment of a referral system to provide for:

- Gender and age-appropriate safe accommodation that provides a secure and supportive protection environment;
- Medical care;
- Psycho-social support; and
- Access to legal advice and assistance.

Unfortunately, these standards have not been translated into action. In Thailand, unreasonably long placement in shelters result in children and others sometimes being held against their will, while those who have learned to navigate the 'system' shape their replies to the police to avoid the shelters, which is significant in itself, and opt for quick deportation via the IDC. The questionable 'protection' services offered in the shelters and the lengthy stay against the wishes of the children leave the Thai Government, at best, open to charges of effectively providing a more friendly but lengthy form of deportation service for irregular migrants. At worst, the human trafficking response can be effectively construed as a crackdown on cheap and illegal migrant labour in marginalized sectors of the economy.<sup>115</sup>

The question with any intervention is: Are children's best interests being served? The answer will differ from case to case. The challenge is to maintain the protective principles and standards set out by the Convention on the Rights of the Child.<sup>116</sup>

In Viet Nam, reception and reintegration procedures requiring family assessments before a child trafficked victim returns home have not been incorporated into the Government's Decision 17. Implementing Decision 17 presents practical challenges as its guiding circulars clearly contain gaps. Policy development and debate focused heavily on immediate support in reception and victims support centres – rather than broader reintegration issues. In most provinces, these reception and support centres do not exist as yet, and arguably, the pattern and flow of returned victims does not warrant designated centres.<sup>117</sup> As yet, there has been no further guidance on the bigger challenge of monitoring and support services for victims after they return to their communities.<sup>118</sup>

### Stuck or secure in a shelter in Thailand?

In a group discussion, five Cambodian female trafficking victims, aged 13–18 years (the 18-year olds were 17 at the time of their trafficking experience), were asked about their concern for their safety in going home and about their Baan Kredtakarn shelter experience: Do you fear the broker if you return home? Looking back on the experience of your arrest and the time spent in this shelter, would you have preferred to be deported or stay here? Three of the girls had been in the shelter for three to six months, two for more than two years. Their replies:

- "I wanted to go home directly. I have no concern about the broker. The police told us just to go to the shelter for two weeks or so first before returning."
- "We also prefer to be sent home directly. We have no fear about the employer or the broker. We probably wouldn't meet them again. But even if we were to meet them again, we don't want to come back. We can't be forced, so it's no problem. Plus, there are many others who would like to come anyway."
- "I also would prefer to go back home. I don't want to be reunited with my mother to continue begging in Bangkok. I don't like begging, and I would rather go back to Pailin to live with my father."

When seven boys at the Baan Phumwet shelter were asked about their time there, their feelings about going home, and if they have any fear for their safety, they responded:

- "We want to go home."
- "We are not afraid of the broker or employer; we have no fear for our safety. We are not afraid because they have no idea where we are."

Source: Jersild (2008)b.

<sup>115</sup> Jersild (2008)b.

<sup>116</sup> Ibid.

<sup>117</sup> In fact, the reception centres that have been established in some border areas are empty much of the time because of the sporadic return of trafficking victims. As a result, Decision 17 does not provide guidance on the use of alternative, more viable options for short-term sheltering, such as accommodating victims in low-cost hotels or existing NGO or Women's Union shelters. Therefore, these options have not been allocated resources under the circular on finance. The circular on organization of reception and supporting centres currently being drafted by MOLISA will provide guidance on this issue; however, the current draft focuses narrowly on formal centres rather than looking holistically at accommodation and support options. Casey and Mai (2008).

<sup>118</sup> Ibid.

Issues of coordination and cooperation can also affect the smooth return, recovery and reintegration of children who have been trafficked. In Thailand, a regional Memorandum of Understanding on Common Operational Guidelines for Concerned Agencies Engaged in Addressing Human Trafficking has been successfully applied, for example, in Chiang Mai, where appreciation among MOU signatories for each agency's contribution, their commitment to shared objectives, and strong leadership, has been documented. Obstacles to coordination on the MOU, however, include limited leadership capacity, corruption among the police, lack of organizational commitment and disregard for the MOU as not legally binding, resulting in uneven application.<sup>119</sup>

// **Long-term victim support is an enormous challenge. Support provided by the government does not necessarily guarantee the best assistance for victims.**

Social behaviour change that is fundamental and demonstrates a lasting impact is an area that has been largely overlooked. In Lao PDR, for instance, independent child migration to Thailand is voluntary and can be characterized as a rite of passage; thus out-migration is not necessarily a breakdown in the protective environment. Some parents interviewed for the assessment expressed confidence in their child's capacity to take care of him or herself, despite the child being very young. The large numbers of girls migrating at younger ages than boys points to traditional expectations of girls to provide for their parents.<sup>120</sup>

Realities not taken into account by legal frameworks also create gaps. Systems to provide essential services in Lao PDR, for instance, are not yet in place. As most children in Lao PDR are finished with school by age 12 or 14, and because there are few jobs available, there is little alternative to migration that is attractive and promising for children, particularly for those from rural areas. While the commitment of the Lao Government is exhibited in its national laws and bilateral and multilateral commitments, as well as in its ratification of conventions related to trafficking, issues of limited human and financial capacity are relevant. In some cases, there are only two social welfare officials working at the district level responsible for a large number of villages. Even though the provision of educational opportunities and jobs cannot be considered as a means of preventing trafficking, they can constitute alternatives to migration for children in Lao PDR.<sup>121</sup>

Long-term victim support is an enormous challenge. Support provided by the government does not necessarily guarantee the best assistance for victims. On the other hand, few agencies are in a position to make a long-term commitment to support victim services. Engagement with the private sector may offer a partial solution. However, government support is required to sustain community-based interventions and to provide long-term assistance to trafficked, abused and exploited children, as well as children at risk. At this time, reintegration services are largely provided by NGOs, which is not sustainable in the long term, and raises questions of whether standards can be met.



<sup>119</sup> Jersild (2008)b.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.



## IV. Moving Forward: Strengthening UNICEF's Child Trafficking Programmes

As the seven country assessments reveal, significant achievements have been realised in combating child trafficking in East and South-East Asia. Despite the substantial region-wide efforts and resources devoted to stem trafficking over the past decade, the exploitation and trafficking of children persists. In order to ensure lasting impact on the protection of children against trafficking and other harms, UNICEF must reformulate its strategy to more comprehensively address every dimension of this complex issue. Adopting a systems-building approach to child protection – through the strengthening of legal and justice, social welfare and social behaviour change systems – provides the most logical, sustainable, effective and resource-efficient means for achieving long term impact on issues pertaining to the trafficking of children.

UNICEF must encourage and support governments to build or strengthen national child protection systems. However, governments must also be more proactive in committing the necessary resources, deliver on improved strategic planning and coordination, as well as fully harmonize laws, policies and practices with international instruments and standards on child protection, trafficking and labour, among others. At all times, evidence should inform legislative reform, policy development and on-the-ground programming. Neither UNICEF nor governments act in isolation, as robust partnerships with other international

organizations and civil society members will contribute to the achievement of impact, through complimentary and coordinated service provision aligned with defined government strategies and guidance.

As a prerequisite to this strategic shift, UNICEF and partners need to resolve the general lack of conceptual clarity among programme staff on an understanding of what constitutes 'child trafficking', how child trafficking interfaces with migration and the many other child protection concerns of abuse, exploitation, neglect and violence. A better understanding must be generated on the scope, magnitude and dynamics of these problems, in parallel to the strengthening and replication of promising good practices.

**// UNICEF must encourage and support governments to build or strengthen national child protection systems. //**

Compounding this ambiguity is the deficiency of comprehensive and methodologically sound research on trafficking in the region. Most anti-trafficking programmes are not grounded in solid design, including a viable monitoring and evaluation framework, thereby making it difficult to concretely determine if, where, and how such programmes are making substantive or measurable progress and impact.

We know that over the past decade, the foundations and basic building blocks have been put in place: international instruments are ratified, laws are being enacted, policies have been developed, institutions and mechanisms are established, training is being conducted, awareness raised, capacities strengthened and partnerships forged, and children are being consulted. In relatively small numbers, children are being identified, protected and provided with services and legal and policy frameworks are being developed and implemented. There is some evidence of what works and what does not. However, a long-term vision is not always articulated; nor are outcomes for children and benchmarks conceived at the onset of programmes. More often than not, monitoring and evaluation focuses on outputs and activities, and is based on initiatives or projects disconnected from the overall child protection system, and tangible outcomes for children resulting from laws, policies and other measures are not always apparent.



In moving forward, it is crucial to tackle some of these more challenging issues, including how to: create a long term vision, link programming components to that vision, achieve conceptual clarity, develop an evidence base, effectively utilize data to inform programming, build child protection systems, and leverage broader anti-trafficking and development initiatives for children.

## A. THE IMPORTANCE OF CONCEPTUAL CLARITY

Anti-trafficking approaches and solutions identified by UNICEF are framed by how the problem is defined. If the parameters for defining the issue are fluid or unclear, so too will be the response. This limitation has been borne out in the arena of child trafficking as a result of the differing interpretations among UNICEF staff, as well as government and partners in general, as to what does and does not constitute child trafficking. However, it is hazardous to establish too narrow an interpretation of child trafficking which could undermine the spirit and intent of children's rights to protection as enshrined in the CRC. Narrow definitions of child trafficking or addressing the issue in isolation from other child protection concerns can result in 'zero sum' consequences for children. This can occur where trafficked children are treated as illegal migrants, criminals or delinquents, when, for example:

- The 'movement' element of the trafficking definition is not met;
- There is confusion around the means of coercion, fraud, deception, etc., when in fact the means employed is not relevant to determining whether or not a child has been trafficked;
- Justice officials fail to recognize children as victims of other crimes;
- Justice officials fail to respect children's right to and need for protection and services;
- Social welfare officers recognise, serve and refer children based on category and not a full assessment of needs, thereby excluding groups of children; and
- Societal and donor attitudes and responses lead to sympathy and preferential treatment only for trafficked and exploited children.

The dichotomies of child victims have created a worrying trend. Child trafficking is a heinous crime, but other protection rights violations can be equally egregious, such as sexual abuse in the home and community, the worst forms of child labour, deprivation of liberty and refoulement. To protect only children identified as victims of trafficking is not practical nor founded in the interdependent and indivisible nature of human rights. Given the pervasive conceptual confusion, it is highly likely that distressing numbers of child trafficking victims will continue to be unrecognized, or worse, criminalized. To 'privilege' one type of harm experienced by a child over another and thereby offer protections to a select group of children is ill advised. The arbitrariness of categories unfolds, for instance, when the same child has been a victim of trafficking, sexual abuse, violence and labour exploitation; depending on the timing, perspective and priorities of an adjudicating official or NGO member, that child may be deprived (or afforded) protection and services if the child is classified into one category rather than another.

The importance of conceptual clarity on child trafficking thus invokes the need for further discussion and debate, at least amongst UNICEF officers in the region. This would highlight the respective positions, and the implications for programming and collaboration with partners. Such a debate should include consideration of the links and intersections between trafficking and migration, and ultimately lead to an approach that addresses all child protection concerns.

The starting point of this discussion should focus on the interpretation of the elements of the Palermo Protocol that frame the issue. As mentioned in Part II of this report, the definition of child trafficking set forth in Article 3 refers to a process continuum, from recruitment to transportation and transfer to harbouring and receipt.

Exploitation, if intended, can occur at any point along the way. Children do not have to be deceived, coerced or controlled to be trafficked, and consent by the child is irrelevant. To reiterate, in essence a trafficked child is a person under 18 years of age who has been recruited, moved, harboured or received for the purpose of exploitation, which is intended for and can occur at any point in the process continuum.

// **Narrow definitions of child trafficking or addressing the issue in isolation from other child protection concerns can result in 'zero sum' consequences for children.** //

While this explanation seems straightforward, application to real life (or even hypothetical) situations reveals a resounding lack of consensus as to what constitutes child trafficking (see Annex A: Exercise on Interpretation of Child Trafficking). To start moving towards conceptual clarity, an in-depth analysis is necessary to discern where there is common understanding regarding what is and is not child trafficking, and at what point(s) does this shared understanding start to unravel. This analysis needs to raise questions such as:

- **Movement:** Is movement necessary? If so, how much movement? Does movement need to cross streets, neighbourhoods, towns, provinces, or national borders?
- **Process:** How organized, if at all, must the trafficking process be? Does it need to be part of a seamless continuum or single trafficking scheme? Does a combination of voluntary migration plus exploitation (without process) at the destination point constitute trafficking? Does it matter at what stage of the trafficking process the exploitation occurs?

- **Means:** Is the means of process (coercion, deception, fraud, abuse of power, etc.) relevant for children?
- **Consent:** Can children ever consent to engage in prostitution, pornography, hazardous labour, combatant duties or exploitation generally? Can children consent to work in harsh conditions that do not rise to the level of exploitation?

“ Child protection can be advanced irrespective of the entry point, be it child trafficking, sexual exploitation of children, child labour or child migration. ”

- **Purpose:** Can there be a general intent to exploit by various actors along the process continuum, or does it need to be specific to the actual incidence of exploitation? When apprehension occurs during the process (e.g. transportation) and the intended exploitation has not occurred, is this trafficking? What if there are others rights violations (although not exploitation) committed against children during the process? Are these children entitled to any protections and services?
- **Exploitation:** Is there a nuanced interpretation of ‘exploitation’ that depends on the child’s age, maturity and evolving capacities? Do illegal adoption and street begging qualify as exploitation? What are the other forms of exploitation that fall under the remit of the Palermo Protocol?
- **Actors:**<sup>122</sup> Does trafficking need to be orchestrated by an organised criminal group? If so, what qualifies as an organised criminal group? What if it all occurs within the context of an extended family? If parents are complicit, is it trafficking, abuse and/

or both? Can parents who knowingly participate be held liable as traffickers? Can public officials and/or military members who facilitate or are actively involved in trafficking be held liable as traffickers?

This is not to advocate for revamping the definition of child trafficking, but rather to work toward a shared understanding on interpretation of the key terms and their application. While unanimity may not be achieved, this will bring stakeholders closer to a standard working definition and a better coordinated response. There is value, too, in identifying shortfalls of the Palermo Protocol. As noted above, harmonizing national legislation with the Palermo Protocol does not require verbatim replication; rather, it sets minimum standards for incorporation. Therefore, where there are Protocol gaps and tensions within the country context, national legislation should fill these gaps and reconcile tensions for more effective child protection. Clear and concise definitions of terms such as ‘sexual exploitation’, ‘slavery’, and ‘servitude’; clarity on other forms of child exploitation; who can be held liable as a trafficker; and other sticking points,<sup>123</sup> can be addressed in national law and policy frameworks, joint working plans, standard operating procedures (SOPs) and accountability mechanisms.

At the same time, it is important to note that the breadth and scope of child trafficking, as defined in the Palermo Protocol, invariably intersects with child migration, child exploitation and child labour. This underscores the need to think more broadly about child trafficking. This involves identifying the immediate, underlying or structural causes of trafficking and related child protection issues; clustering underlying vulnerabilities and causes into various patterns of relationships; and focusing on comprehensively preventing and responding to the outcomes, which are abuse, exploitation, neglect and violence. Such a comprehensive approach

is part of strengthening child protection systems at the national, provincial and community levels. It is also a vital strategy for preventing child trafficking and other related harms, where the myriad vulnerability factors related to individuals, families and the socio-economic context can be addressed through a broader child protection strategy and programme.

Going forward, the interventions should be designed and implemented with the objective of protecting the rights and well-being of all children. Currently, some efforts protect victims of sexual exploitation while others protect trafficking victims or victims of the worst forms of child labour. Child victim identification screening tools, for example, are not developed to detect all child victims of abuse, exploitation, neglect and violence, nor do they elicit information designed to identify the needs (versus

category) of children for appropriate follow-up. Invoking the ‘best interests of the child’ principle provides each child with services appropriate to his/her needs, making the classification as a trafficking victim less important, and in particular, less urgent.<sup>124</sup>

Child protection can be advanced irrespective of the entry point, be it child trafficking, sexual exploitation of children, child labour or child migration. For instance, victim identification screening tools can build in another mandatory step whenever children are involved. Standardized identification tools for both government officials and service providers would lend itself to more consistent identification of all children who are victims or require care and protection. The following table illustrates one possible avenue for ensuring that protections are extended to other child victims, as appropriate.

DECISION	
<p>Is individual a victim of trafficking?</p> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>Remark:</p>	<p>If NO, please mark ALL that apply to the individual:</p> <p><input type="checkbox"/> Refugee/Asylum Seeker</p> <p><input type="checkbox"/> Victim of Labour Exploitation</p> <p><input type="checkbox"/> Victim of Sexual Exploitation</p> <p><input type="checkbox"/> Victim of other crime</p> <p>Other _____</p> <p>Referred to: _____</p>

<sup>122</sup> While the Palermo Protocol does not specify persons who can be held liable in Article 3, this is an important element in analysing the definition of child trafficking.

<sup>123</sup> This can also include a review of criminal cases and interviews with justice officials to identify some of the legal and technical hurdles in investigating and prosecuting child trafficking cases. Similarly, this can include interviews with social welfare practitioners to identify practical challenges in identifying and serving child victims.

<sup>124</sup> Marshall (2008).

## B. BUILDING NATIONAL CHILD PROTECTION SYSTEMS

Historically, child protection interventions have adopted a ‘symptom-specific’ approach in which particular issues, such as child labour, street children, sale of children, etc., are identified and solutions then sought to specifically address them. Whether addressing the poor record on conviction of traffickers, the absence of child-friendly reporting mechanisms, or insufficient skills

prevention and response systems via legal and policy frameworks, the justice system, the social welfare system for children and families, and social behaviour change.<sup>125</sup>

Promotion of national child protection systems is imperative for undertaking prevention and response measures, including awareness raising; provision of child-friendly legal, social welfare, medical and psychosocial services; and information management, such as data collection tools to monitor the prevalence of child trafficking and service provision.

Lessons Learned	Practical Reasons	Strategic Reasons
<p>Issue by Issue approach leads to:</p> <ul style="list-style-type: none"> <li>→ <b>fragmented responses</b> although interventions are similar for all child victims/witnesses (regardless of Issue, e.g., trafficking, CSEC, violence, etc.) and offenders</li> <li>→ <b>unintended consequences</b> (e.g. only children categorized as victims of specific issues are protected despite similar harm experienced by others)</li> <li>→ <b>unsustainability</b> due to limited resources, redundant or contradictory responses, etc.</li> </ul>	<p>Often <b>same justice structures, institutions, and professionals</b> responsible for working with alleged child offenders, child victims and child witnesses</p>	<p><b>Comprehensive and integrated support</b> with wide-ranging partners to ensure <b>protection of all children</b> from abuse, exploitation and violence</p>

by caregivers for recovery and reintegration, anti-trafficking interventions all too often target individual problems in isolation. This is evident both within the field of child trafficking as well as the broader realm of child protection. Increasingly, it has become clear that taking a systems-building approach to child protection, as opposed to addressing single manifestations of child protection concerns, is more strategic, effective and sustainable. This regional assessment clearly supports this approach, which entails the development and strengthening of both formal and informal

### Why this shift?

In recent years, UNICEF child trafficking programmes have encompassed prevention, legal protection, recovery and reintegration, and cooperation and coordination. As the systems-building approach gained recognition among UNICEF child protection staff, there has been a concerted shift within programmes in the region towards building and strengthening social welfare, social behaviour change, and legal and justice systems for child

protection.<sup>126</sup> This is not a revolutionary turn-around; rather, a systems-building approach consolidates past gains and offers a more clear-cut conceptual framework that ensures sustainable and better outcomes for children, so that they are protected against all forms of abuse, exploitation, neglect and violence.

While child protection practitioners can identify strategic entry points or design targeted strategies on an issue-by-issue basis, the solution must be broader than any single child protection symptom or manifestation, especially when there are clear interconnections between individual child protection issues. To address child trafficking at any level without harmonizing efforts to counter unsafe child migration, sexual exploitation, child labour, weak alternative care, and juvenile injustice across the social welfare, social behaviour change and justice systems, will likely result in disjointed and unsustainable solutions and subsequent harm to the child.

One particular example of the harm that can be caused by the lack of coherence and pursuit of partial system-building is the long term institutionalization of child victims of trafficking or exploitation. Enhanced public awareness and stronger criminal law enforcement capacity have led to improved identification of child trafficking victims. However, while the number of shelters has grown rapidly to serve these children, this has not been matched by systematic strengthening of the social welfare system, including domestic alternative care options, such as kinship care, community-based foster care and guardianship, as well as monitoring and accountability mechanisms.

As a result, child victims of trafficking, sexual exploitation and abuse can be placed in residential care for lengthy periods of time throughout their childhood, which is detrimental to their cognitive, behavioural, emotional and social development.

“ One particular example of the harm that can be caused by the lack of coherence and pursuit of partial system-building is the long term institutionalization of child victims of trafficking or exploitation. ”

In order to harmonize approaches in the region to address child trafficking, UNICEF, in collaboration with governments, partners and the international community at large, must mobilize and take a concerted stance to promote children’s right to protection, and protect children against all forms of abuse, exploitation, neglect and violence. Too often, interventions are carried out by different actors with distinct mandates that focus, narrowly, or at worse in a vacuum, on specific stage(s) of the trafficking continuum, diverse fields of intervention and/or discrete target groups. Priorities are not established, and the overall approach lacks cohesion and a common purpose.

Taking a systems-building approach to child protection requires more strategic thinking and methodical planning to promote the parallel development and strengthening of the three prevention and response systems (legal and regulatory system, social welfare for children and families, and social behaviour change). It is imperative that at the outset, UNICEF officers are clear on the country context and programmatic

<sup>125</sup> See Child Protection Programme Strategy and Programming Process, UNICEF East Asia and Pacific Regional Office, April 2007. The systems-building conceptual framework is an analytical tool designed to help UNICEF child protection practitioners better understand the relationship of child protection issues and underlying or structural causes, and how to analyse various prevention and response systems to facilitate more strategic, comprehensive and integrated rights-based programming.

<sup>126</sup> UNICEF (2009). UNICEF East Asia and the Pacific Child Protection Programme Strategy Toolkit. Bangkok, UNICEF.

steps to be undertaken, and that they are able to frame, position and articulate a systems-based approach before engaging in dialogue with partners on child trafficking. In collaboration with partners, priorities also have to be set and interventions selected carefully. These need to be periodically reviewed, evaluated and refined so that interventions are relevant and effective.

// **Systems-building efforts must ensure that the best interests of the child prevail in all actions.** //

The premise for this systems-building approach draws upon core child rights principles, which are relevant to all three systems – legal, social welfare, and social behaviour change. Systems-building efforts must ensure that the best interests of the child prevail in all actions, whether undertaken by government officials, international organizations, NGOs, private entities, families, communities or broader civil society. Also, it is essential that non-discrimination is consistently promoted on both de jure and de facto levels, taking into account realities of access, capacity and empowerment for different groups of children based on gender, age, language, ethnicity, nationality, culture, religion, disability, sexual orientation, socio-economic status, level of education, immigration status, etc., with concrete measures to address discrimination. Finally, children and communities must be engaged in meaningful ways to ensure their active involvement in decision-making processes. Children’s views and experiences should help inform the development of more strategic, relevant, far-reaching and harder hitting interventions to protect children. International standards and the general measures of implementation of the CRC also need to be taken into consideration. Caution must, however, be exercised to avoid token or unethical child participation activities.

In addition to this grounding in the core principles, building effective systems for child protection must also involve the development of sustainable and strategic national policies that cut across all three systems. These policies and interventions must place the overriding emphasis on prevention by addressing the multiple underlying vulnerabilities and structural causes of child trafficking and exploitation, such as poverty and relative poverty, barriers to accessing education and other social services, lack of employment opportunities, poor labour protection, less than basic remuneration, and other standard differentials.

Priorities should also be placed on advancing children’s economic, social and cultural rights to social welfare, identity and citizenship, property, education and health services. Policies based on integrated and child-centred trafficking prevention strategies developed under the leadership of a designated agency (or agencies) would prove useful to coordinate and monitor prevention activities at the national and sub-national levels. Given shifts in trafficking patterns and trends, prevention strategies should draw from quality research and evaluations, experiences (including accounts from returning child trafficking survivors), and a clearer understanding of existing community knowledge, attitudes and practices relating to trafficking and the complex factors contributing to vulnerability.<sup>127</sup>

In addition, policies must be created that ensure the development and implementation of integrated local, national and bi/multilateral procedures and protocols that protect all children against all types of harm, and which also support all child victims – whether trafficked, exploited or subjected to violence – from the prevention stage through the identification, return, recovery and reintegration phases. In all these areas, sufficient resources must be allocated to ensure effective

implementation of such policies. In addition, it is critical that such policies and strategies should take account of research and studies which highlight children’s resilience in the face of adversity, and that such policies and strategies should incorporate factors which encourage and build resilience in children into prevention programmes.

To the extent practical, comprehensive and integrated child-centred principles, guidelines and procedures should be integrated into broader training at all levels across relevant ministries (e.g. justice, interior, public security, social welfare), departments, law enforcement units, prosecutors’ offices, courts, corrections, and civil tribunals. Where these guidelines exist, this should be the starting point in order to preclude duplication of efforts and move towards consistent, standardized practice. The UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime provide a practical framework for enhancing the protection of child victims and witnesses in the justice and social welfare systems. The UN Guidelines serve multiple purposes by assisting in the:

- Review of national and domestic laws, procedures and practices to ensure full respect for the rights of child victims and witnesses of crime;
- Design and implementation of legislation, policy, programmes and practices addressing issues related to child victims and witnesses of crime;
- Professionals working with child victims/witnesses in their day-to-day practice in the adult and juvenile justice processes at the national, regional and international levels; and

- Those caring for children in dealing sensitively with child victims and witnesses of crime.<sup>128</sup>



There are national and local measures that UNICEF needs to support in order to specifically strengthen the three prevention and response systems. The varying status of ratifications of international instruments, the wide range of social welfare and legal and policy frameworks (see Annex B: Legal and Policy Framework Matrix), and the different stages at which social welfare systems are in place defy a formulaic solution. It is also crucial to bear in mind that country context and geographical variations have very real implications for local-level programming. The following recommendations, therefore, are not intended to be prescriptive for all countries and contexts, but aim to position measures to address child trafficking within the broader child protection framework and better leverage impact.

<sup>127</sup> Casey and Mai (2008).

<sup>128</sup> The Guidelines on Justice for Child Victims and Witnesses of Crime set forth good practice based on the consensus of contemporary knowledge and relevant international and regional norms, standards and principles. For the full version of the UN Guidelines, visit: [www.un.org/docs/ecosoc/documents/2005/resolutions/Resolution%202005-20.pdf](http://www.un.org/docs/ecosoc/documents/2005/resolutions/Resolution%202005-20.pdf). For a child friendly version, visit [http://www.unodc.org/pdf/criminal\\_justice/Guidelines\\_E.pdf](http://www.unodc.org/pdf/criminal_justice/Guidelines_E.pdf).

Furthermore, UNICEF should enhance and scale up prevention measures by expanding its focus to address the multiple root and structural causes of child trafficking and exploitation. There should be a stronger emphasis on advancing children's socio-economic and cultural rights and on building social welfare institutions for the more effective reintegration of child victims. Equally needed is the strengthening of justice institutions to regulate labour, migration, adoption and other areas in keeping with the rights of all children to be protected against all forms of abuse, exploitation, neglect and violence. Cooperation and coordination should also be promoted among various justice (and social welfare) sectors within governments and with stakeholders, including children and youth. Prevention and victim protection should be included in bilateral agreements.



At all times, UNICEF and partners should promote child participation by engaging children (and communities) in meaningful ways to ensure their involvement in the development of more strategic, relevant, farther-reaching and harder-hitting interventions to protect children.

### C. STRENGTHENING THE EVIDENCE BASE: RESEARCH AND DATA

Strengthening the evidence base for UNICEF's child trafficking programmes

would require several actions to be taken. One is an analysis of gaps in child trafficking and migration research, which needs to be conducted to inform critical areas for regional- and country-level research agendas. Another is the encouragement of partnerships between professional researchers, international organizations, and NGOs so that sound research methodologies are employed, while building on the experiences of local organizations and direct service providers. Finally, a network of academic institutions focusing on trafficking and/or migration should be fostered by UNICEF in the region, ideally with at least one such institution in each country as members. This will support and facilitate a community of shared knowledge and research skills, whereby exchanges can lead the way to improved coordination and better programming. UNICEF needs to build the evidence base for addressing child trafficking in the following five main ways:

#### 1. Use of monitoring and evaluation systems

UNICEF must promote effective and sustainable monitoring and evaluation systems, including mechanisms for data collection, analysis, dissemination and use. Monitoring and evaluation should be part of the programme design process and reflect the CRC's core principles. Governments, academics, international agencies and NGOs that are working to address trafficking need to develop monitoring and evaluation systems that facilitate the detection of children leaving their communities or who are left behind – how many of them are in these circumstances, what conditions and hardships they face, what forms of exploitation they are subjected to, how they return (when and if they do), and how well they are reintegrated into their families and communities. Such a monitoring system should help determine the relative success of interventions. Simple, low-cost techniques can be used for this purpose, such as conducting quick surveys at community events. This would be a first

step in assessing the impact of awareness raising programmes, which, unlike many other interventions, often have limited spin-off benefits and are therefore a potentially massive drain on resources.<sup>129</sup>

In certain instances, enhanced use can be made of qualitative measures. For example, although it is often claimed that trafficking programmes are having little impact in Indonesia, complaints which have been raised by international organizations and NGOs include: harassment of IOM staff assisting returning victims at the border, which reveals that outreach assistance programmes at choke points can have a significant disruptive effect; traffickers changing their methods to escape detection; and an increase in trafficking cases being stymied by judges. All of these suggest impact in some form, with an increase in complaints about court process being common to most countries working on the issue as the performance of the police improves. 'Most Significant Change' is one specific technique that could be used to provide rich and informative indications of progress.<sup>130</sup>

A framework for measuring progress in discrete areas – covering protection and prevention – would help stakeholders in defining targets, assessing progress and developing specific, measurable, attainable, realistic and time-bound (SMART) objectives.<sup>131</sup> In Indonesia, for instance, UNICEF has supported the development of monitoring and referral systems for children at risk which reach to the kampung (village) level. Although this initiative is just beginning, the absence of specific and measurable objectives makes it difficult

<sup>129</sup> Marshall, Sofian et al. (2008).

<sup>130</sup> Marshall (2008).

<sup>131</sup> Ibid.

<sup>132</sup> Pilot projects should be linked to broader systems-building objectives. International experience and best practices are clear that 'scale' has to be designed into the basic strategies and goals of every programme from the outset. It is rare, if ever possible, to begin with yet another 'pilot', assuming that it can be scaled up, if successful, and only then try to take it to scale (Hong, S. and Bridle, R., Child Protection Programme Strategy and Programming Process, UNICEF East Asia & Pacific Regional Office, April 2007).

to gauge performance or successes, particularly at the district and sub-district levels. This is a common feature of pilot trafficking projects.<sup>132</sup> Although qualitative information invariably provides richer feedback than quantitative information,

### // UNICEF must promote effective and sustainable monitoring and evaluation systems. //

it has limitations with regard to issues such as assessing changes in knowledge and attitudes. Ideally, efforts to measure progress would combine both qualitative and quantitative methods.

#### 2. Better use of Multiple Indicator Cluster Surveys

UNICEF could adapt the Multiple Indicator Cluster Survey (MICS) so that more in-depth information on trafficking is obtained. This survey has the potential to gather a multitude of data on the relationships between different vulnerability factors and child trafficking. However, in its present form, MICS offers very 'surface-level' information that does not allow for a deeper analysis of how individual, family and socio-economic factors interplay with respect to most child protection issues. If this survey is to be useful and relevant to UNICEF's anti-trafficking programmes in the region, child protection staff must collaborate more closely with programme monitoring and evaluation officers to identify and prioritize the required data and to analyze the findings.

### 3. Creative use of other data

UNICEF needs to use other available data in a more creative manner. An example would be to use education data as a proxy. While children are in school, they may still be victims of abuse, violence, neglect or other forms of exploitation, but they are not being trafficked. When children drop out of school, they are particularly at risk of ending up in exploitative situations or falling victim to traffickers. Mapping those geographical areas with high rates of school drop-outs, or with high rates of child migration during school breaks, can show where relatively large numbers of children are at risk, and thus, where resources should be channelled to counter the supply side of trafficking.<sup>133</sup>



### 4. Broadening the scope of research

Better research is needed on the links between child trafficking and other child protection issues, such as the protection of children's rights in migration or other forms of mobility. Child vulnerability needs to be discussed in closer relation with other child protection concerns, as such these include violence and abuse in the community, at home or in institutions; gender-based and other forms of discrimination; social

and economic marginalization; livelihood opportunities for children and young people; and social norms and structural factors that put children at risk.<sup>134</sup>

### 5. Identifying gaps in qualitative research

UNICEF needs to determine what gaps exist in qualitative research. One key issue, for example, raised in the Thailand Country Assessment Report and at the recent UNICEF Child Trafficking Workshop for the East Asia Trafficking Assessments Dissemination, is the confusion on whether the placement of child victims in institutions is in their best interests. Research is lacking on the views of children with regards to institutionalization as part of the rehabilitation process. Such research, conducted in a child-friendly and ethical manner, should explore whether children in particular countries and contexts would have preferred to be sent directly back to their place of origin or if they would rather first spend time in an institution as part of the rehabilitation process. How child victims feel when they reside in these institutions and their views about their experiences once they return home are aspects that should be explored in order to capture trends in overall experiences.<sup>135</sup>

Qualitative research is also necessary for finding out:

- Which children are most vulnerable to being trafficked;
- What techniques have been used to traffic children;
- What types of people traffic children;
- What types of people pay for sexual activity with children and who makes a profit from the exploitation; and
- Which are the most effective ways of supporting child victims.<sup>136</sup>

Data is seldom disaggregated by age, gender, national origin or form of exploitation. Little information is available on

the social background of persons who have been trafficked and the modus operandi of traffickers. Where disaggregated qualitative and quantitative data exists, it provides important information and evidence that can inform national policies and other responses, such as information about risk factors and children's views of available services.<sup>137</sup>

## D. RECOMMENDATIONS FOR MOVING FORWARD

More specific recommendations aimed at building systems to protect children are as follows:

### 1. Strengthening legal and justice systems

The diverse status of ratifications of the Palermo Protocol and other international instruments in the region, and the wide range of legal and policy frameworks, preclude a formulaic solution to trafficking that correlates with other ratifications, formal bilateral agreements, additional legislation and policies with increased effectiveness in preventing trafficking, protecting child victims or bringing perpetrators to justice.<sup>138</sup> Thus, success is better measured by the extent to which laws, policies and principles are translated into actions that are fully consistent with international norms. In some countries, tangible actions may be conditional on, or

facilitated by, ratification of the Palermo Protocol, bilateral MOUs on trafficking, or the enactment of anti-trafficking legislation. In other countries, there is latitude to push forward concrete measures to prevent trafficking, protect victims and prosecute offenders without first ratifying the Palermo Protocol or promulgating anti-trafficking legislation.

The following are general recommendations for consideration when engaged in law/policy and justice system reform to combat child trafficking:

- **Ratify legal instruments, conventions and protocols relevant to child trafficking, abuse and exploitation**, including but not limited to: the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the Optional Protocol on the Involvement of Children in Armed Conflict; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the Worst Forms of Child Labour Convention (No. 182); and the Forced Labour Convention (No. 29).

<sup>133</sup> Interview with Simon Baker, consultant, September 2008.

<sup>134</sup> Interview with Lena Karlsson, Child Protection Specialist, UNICEF Innocenti Research Centre, December 2008.

<sup>135</sup> It should be emphasized, however, that an accurate assessment of the circumstances of each child victim would inform the best response, and only where a child cannot be immediately returned home should alternative forms of care be utilized in accordance with the child's needs. As far as possible, children should be returned to their family at the earliest point of contact.

<sup>136</sup> Interview with Lena Karlsson, Child Protection Specialist, UNICEF Innocenti Research Centre, December 2008.

<sup>137</sup> Ibid.

<sup>138</sup> Overall impact in eliminating trafficking cannot be ascertained due to lack of baseline information. However, effectiveness on other scales, such as protections for child victims, access to justice, services to children, child-friendly mechanisms, etc., can be measured as part of a well-designed monitoring and evaluation framework.

- **Harmonize national legal frameworks and streamline national policy** on the interrelated issues of child trafficking, child labour, child abuse and neglect, exploitation and child migration across various justice sectors (e.g. criminal, civil, administrative and informal) – at all times guided by the best interests of the child, in conformity with ratified instruments and international standards. Ensuring implementation, including the mobilizing of resources and implementation of effective programmes and interventions, explicitly authorizes the social welfare, education, health and justice systems to protect children against abuse, exploitation, neglect and violence.

- **Promote child rights-based legislation and policies that explicitly incorporate a clear definition of child trafficking** that is consistent with the Palermo Protocol and other international instruments, that places children in custody only as a measure of last resort and for the shortest appropriate length of time, keeps children safe during all stages of the criminal justice process, provides children with the right to legal assistance, and safeguards the privacy and confidentiality of children at all times (see Annex B: Legal and Policy Framework Matrix).

- **Adopt child-centred evidentiary procedures and general protocols** for detection, identification and assessment for the return, recovery and reintegration stages and throughout social welfare<sup>139</sup> and justice<sup>140</sup> proceedings. Such procedures and protocols should ensure practical cooperation among national social welfare and justice institutions charged with combating child trafficking, including a designated lead agency for developing, coordinating and implementing policy with all stakeholders, including civil society. Capacity-building efforts should target all justice and other sector officials working directly and indirectly with or for children.

- **Apply standard criteria to victim identification** to ensure the prompt and accurate location of child victims of trafficking, child victims of exploitation, child refugee or asylum seekers, unaccompanied minors, child victims of violence, migrant children, etc., including through routine screening of deported migrants.

- **Criminalize all forms of exploitation**, including but not limited to: sexual abuse and sexual exploitation, domestic servitude, debt bondage, involvement in armed conflict, organ/tissue removal and transport, illegal adoption and forced marriage. Also, decriminalize actions (e.g. prostitution, drug smuggling, immigration violations) perpetrated by children during the course of exploitation, regardless of their role in the offence.<sup>141</sup>

- **Increase children’s access to justice in seeking redress** through criminal, civil and administrative options. Protection of children, including against trafficking and exploitation, should be mainstreamed into all rule of law initiatives. Children’s imprisonment, detention, arrest, pre-trial custody,

involuntary commitment to shelters, etc., should be imposed only as a measure of last resort and for the shortest appropriate period of time.

## 2. Strengthening social welfare systems

- **Build and empower social welfare systems for children and families** to provide a continuum of quality services at the primary (universal), secondary (targeted) and tertiary (individual) levels. Advocate for and ensure adequate human and financial resources are available for the functioning and operationalization of these systems.

- **Delineate the aims, objectives, roles and responsibilities** of social welfare system interventions. The objective of promoting and protecting children’s well-being should be emphasized while enhancing the capacity of families to carry out their responsibilities. This includes reference in legal and policy frameworks, whether covering social welfare overall or specifically with regards to trafficking and exploitation.

- **Put mechanisms in place for developing capacities** within the social welfare system, including the implementation or strengthening of an accreditation system for social workers, the incorporation of regular refresher courses into training programmes, and the adoption of a mentoring and supervision system for new and long standing professional staff.

- **Ensure that a solid basis of research and evidence** guides clear policies, procedures and services. This should include a constant re-evaluation and exploration of social problems and their relationship to child trafficking, exploitation, abuse, neglect and violence.



- **Bolster measures for rehabilitation and reintegration** by according priority to kinship and community-based foster care for children who cannot return home. Alternative care should include a range of available options, such as fostering, guardianship, and residential care, and must be conceived as temporary solutions that are part of the continuum of care. Minimum standards of care should be put in place, with independent monitoring mechanisms established for institutional and residential care, foster care and other creative care solutions, such as supported housing.

“ **Build and empower social welfare systems for children and families to provide a continuum of quality services at the primary (universal), secondary (targeted) and tertiary (individual) levels.** ”

- **Put in place measures to regulate and monitor** recruitment agencies, marriage brokers, adoption agencies, travel agencies, work establishments, etc., as a means of preventing rights abuses and violations, and hold offenders accountable.

<sup>139</sup> This includes decision-making on the range of recovery and reintegration services, including alternative care options, length of stay in residential shelters, returning home, and livelihood and training opportunities.

<sup>140</sup> This encompasses the criminal justice arena (law enforcement and criminal prosecutions) and civil justice (civil claims for restitution and family court), administrative justice (immigration detention proceedings and victim compensation boards) and informal justice (village courts and tribal councils).

<sup>141</sup> Diversion should also be promoted in all instances involving children in conflict with the law.

### 3. Strengthening social behaviour change systems

- **Promote social behaviour change at all levels** to ensure that child protection laws, policies and measures are put into practice to respect and protect the rights of all children against abuse, exploitation, neglect and violence. Information and awareness-raising campaigns, and other public education initiatives are important but not sufficient in themselves.
- **Address underlying individual-, family- and community-related vulnerabilities** by encouraging school retention, promoting social inclusion, supporting life skills education, addressing substance abuse and domestic violence, and promoting child and human rights education.
- **Address harmful social and cultural attitudes and beliefs** by targeting traditional practices, ethnic and gender discrimination, stigmatization, lack of accountability, impunity, the perception of children as commodities, and rampant consumerism. Attitudes and beliefs that stimulate the demand for child trafficking and exploitation should be addressed through sustained education, particularly regarding sexual activity with children, child marriage, involvement of children in armed conflict, and illegal adoption.
- **Advance protective social norms** that bolster children's resilience and foster healthy and safe family and community environments for children, such as respect for children's participation, positive perceptions of domestic adoption and foster care, intolerance of child exploitation and violence, support for a culture of social responsibility, etc.
- **Base social behaviour change strategies on evidence**, including qualitative research with children (including those previously trafficked), perpetrators of child exploitation, and diverse communities on a variety of targeted issues, such as motivations for migration, notions of justice, demand for child labour and illegal adoption, attitudes toward child sexual abuse and exploitation, access to and utilization of social services, experiences in varying alternative care arrangements, and the status and role of children in families and communities.
- **Promote knowledge and skills-building on safe migration** so that current and potential migrants are aware of labour protections under the law, legal channels for migration, risks and opportunities of employment in various sectors, and what to do should they be placed in dangerous or exploitative situations.
- **Involve children and young people in programming.** Child-friendly and participatory mechanisms need to be developed and stakeholders trained to ensure the involvement of children and young people in programming and policy development. Programming should be based on children's specific needs and expressed views, as well as the needs and views of caregivers and field personnel who work directly with children. Children and young people can play an important role in contributing to the development of prevention programmes and monitoring their effectiveness, as well as in decision-making structures and processes. Children and adults can work together to determine how to consult with and involve children in these initiatives.



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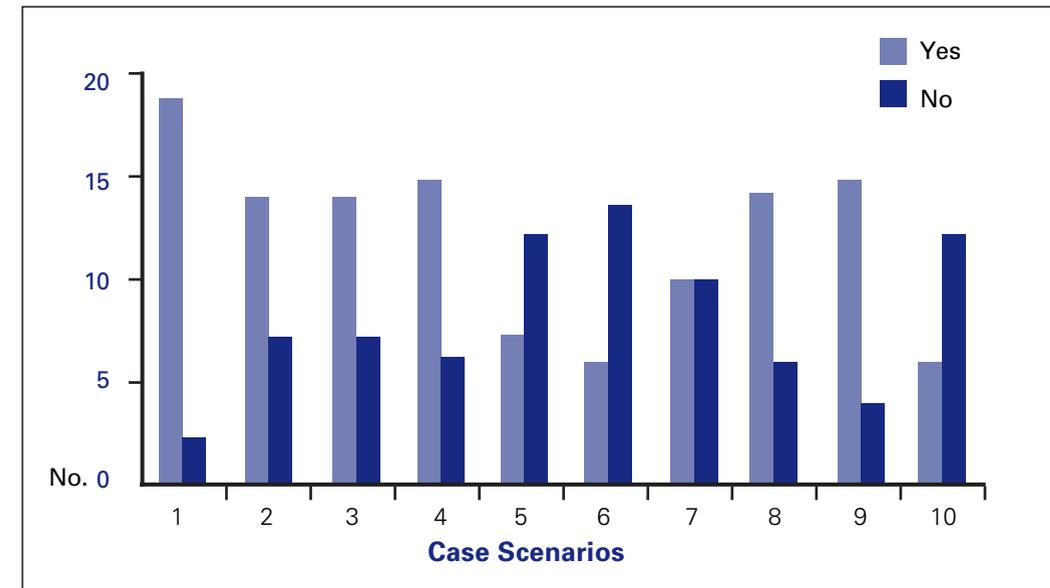
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## ANNEX A – EXERCISE ON INTERPRETATION OF 'CHILD TRAFFICKING'

### Case scenario survey: What constitutes child trafficking?



Source: Baker 2008

In mid 2008, UNICEF conducted an informal survey on interpretations of child trafficking, as defined by the Palermo Protocol. Ten case scenarios were presented to 21 respondents from UN agencies and INGOs working in trafficking and related areas to determine whether or not trafficked occurred. While acknowledging that additional information is inevitably required to make final decisions, this survey emulates the reality faced by many officials: preliminary determinations based on scant information. These case scenarios were also carefully constructed to ascertain experts' analysis of the different legal elements of trafficking, e.g. process, means, exploitation, as it applies to children.

Although not a rigorous survey, results revealed that no two respondents answered all ten questions in the same way. Moreover, certain case scenarios elicited wide disparities, e.g. respondents were split evenly on whether case scenario 8 constitutes trafficking.

While some variance on interpretation is to be expected, this degree of confusion undermines actions taken against child trafficking. Survey results reflect a more pervasive lack of conceptual clarity. Inconsistent measures for screening and identifying potential child trafficked victims also continue to hinder justice officials and other key actors across the region. In an effort to demystify child trafficking, UNICEF has taken a few preliminary steps, which aim to address the vacuum of screening tools specific to children. For example, UNICEF created a child trafficking screening checklist (drawing from existing ARTIP and IOM resources) aimed at taking relevant stakeholders through the process of preliminary determinations in cases involving children.

## CASE SCENARIOS

1. Dariya, 13-year-old girl from Cambodia, was recruited by Mr X to work in a shoe-making factory in Thailand. She arrives and finds herself working around the clock with restrictions placed on her movement. Rent and food expenses are inflated and docked from her pay but the balance of her earnings is given to her.
2. Sie Wing, a 17-year-old girl from China, agrees to an offer made by recruiter Mr Y to work in a brothel in Viet Nam for 5 days/week for low wages. She arrives at a brothel in Viet Nam and the terms of agreement (time/wages) are honoured.
3. Sombat, a 16-year-old boy from Thailand, migrates to Malaysia to find gainful employment. He arrives in KL and is duped into working for a KL factory where he is held against his will and forced to work 16 hour days, 7 days a week.
4. Maria, a 15-year-old girl from an island province of the Philippines, migrates to Manila looking for work. En route, she comes across a group of people being transported via ship (part of loosely organized trafficking scheme) to her destination and strikes up an agreement with the receiving handler to work as a go-go dancer in Manila. She arrives and is unhappy to find that she has to serve up to 3 clients per day as a prostitute but decides to stay until she earns enough money to pay for her education.
5. Sophea, a 15-year-old girl migrates with her family illegally using a human smuggling network, and ends up working as a beggar with her family on the city streets. Although she is not attending school, there are no restrictions on her movement, and she gets her cut of the earnings.
6. A group of more than 100 persons (children and adults) from Myanmar crossed illegally – 10,000 baht paid to smugglers – to Thailand via boat and were then packed into an airtight container measuring 6m by 2m on a lorry to Phuket. En route, 54 persons died after suffocating due to poor ventilation and many others suffered from dehydration. Were the children within this group trafficked?
7. Van, an 8-year-old Viet Nameese boy, was forced by his family to work at a local brick factory. He labours every day carrying 40-pound loads of bricks on his head and engages in other hard physical labour. The owner of the brick factory insisted that he had to work for another two years to satisfy the outstanding debt owed by his parents.
8. Dong, a 17-year-old boy from North Korea, crosses illegally into China with hopes of a better life and immediately finds a job paying the equivalent of \$1.25 per day. Soon thereafter, he is recruited and transported by a neighbour to work for a construction factory in another city where he is initially paid \$1.75 per day but after a few months, the employer forces Dong to work around the clock, withholds wages, and subjects Dong to slavery-like conditions.
9. The parents of Layla, a 12-year-old girl from Laos, respond to an ad by a marriage broker and eventually marry her off to a man in China on the condition that he pays an initial fee to Layla’s family. The broker facilitates Layla’s fake documents and transport to China where she is met by her husband. The first few months, Layla’s new husband does not mistreat her but then suspects her of infidelity after which point he starts to repeatedly rape her and lock her in the house.
10. The parents of Masayu, a 14-year-old girl from West Java, Indonesia, send her to live with relatives in Jakarta. The relatives have promised Masayu’s parents to provide her with education, room and board in exchange for light house work. After she arrives, she is allowed to go to school but is forced to come home immediately afterward and do all the housework, babysitting and cooking throughout the week.

## ANNEX B – LEGAL AND POLICY FRAMEWORK MATRIX

	China	Indonesia	Lao PDR	Malaysia	Philippines	Thailand	Viet Nam
<b>International (Ratified)</b>							
Convention on the Rights of the Child (CRC)	●	●	●	●	●	●	●
Optional protocol to the CRC on the involvement of children in armed conflict	●	●	●		●	●	●
Optional protocol to the CRC on the sale of children, child prostitution and child pornography	●		●		●	●	●
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	●	●	●	●	●	●	●
Convention against Transnational Organized Crime	●		●	●	●		
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children			●		●		
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)					●		
International Covenant on Civil and Political Rights	●		●		●	●	●
International Covenant on Economic, Social and Cultural Rights	●		●		●	●	●
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	●	●	●		●		
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	●	●	●		●	●	●
Convention on the Rights of Persons with Disabilities	●		●		●	●	
Convention relating to the Status of Refugees	●				●		
Convention relating to the Status of Stateless Persons							
Hague Convention on Intercountry Adoption	●				●	●	
Forced Labour Convention (C29)		●	●	●	●	●	●
Migration for Employment Convention (C97)							
Abolition of Forced Labour Convention (C105)		●			●	●	
Minimum Age Convention (C138)	●	●	●	●	●	●	●
ILO Convention concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (C143)					●		
Indigenous and Tribal Peoples Convention (C169)							
Worst Forms of Child Labour Convention (C182)	●	●	●	●	●	●	●

	China	Indonesia	Lao PDR	Malaysia	Philippines	Thailand	Viet Nam
<b>Regional</b>							
ASEAN Declaration against Trafficking in Persons Particularly Women and Children		•	•	•	•	•	•
ASEAN Mutual Legal Assistance Treaty		•	•	•	•	•	•
ASEAN Guidelines on Child Trafficking Victims		•	•	•	•	•	•
COMMIT Memorandum of Understanding (MOU) on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-region	•		•			•	•
COMMIT Guiding Principles for the Protection of Victims of Trafficking in the Greater Mekong Sub-Region	•		•			•	•
<b>Bilateral</b>							
MOU between Cambodia and Thailand (Thailand and Cambodia) on Bilateral Cooperation in Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking						•	
MOU between Cambodia and Thailand (Thailand and Cambodia) on Cooperation in the Employment of Worker						•	
Cambodia-Thailand (Thailand-Cambodia) Extradition Agreement						•	
MOU between Lao PDR and Thailand (Thailand and Lao PDR) on Cooperation to Combat Trafficking in Persons, Especially Women and Children			•			•	
MOU between Lao PDR and Thailand (Thailand and Lao PDR) on Employment Cooperation			•			•	
MOU between Myanmar and Thailand (Thailand and Myanmar) on Cooperation in the Employment of Workers						•	
Bilateral MOU on the Elimination of Trafficking in Women and Children between Vietnam and Cambodia							•
Bilateral Law Enforcement Cooperation Procedures between Vietnam and Cambodia							•
MOU on trafficking between Thailand and Vietnam						•	•
Mutual Legal Assistance Treaty between Thailand and Vietnam						•	•
Extradition Treaty between Thailand and Vietnam						•	•
Informal Bilateral Cooperation Agreement between China and Vietnam	•						•
Bilateral Law Enforcement MOU between China and Vietnam	•						•

	China	Indonesia	Lao PDR	Malaysia	Philippines	Thailand	Viet Nam
Mutual Legal Assistance Treaty between China and Vietnam	•						•
Extradition Treaty between China and Vietnam	•						•
MOU on Labour Migration between Malaysia and Indonesia							
MOU on Domestic Workers between Malaysia and Indonesia		•		•			
Joint Repatriation Guidelines		•		•			
<b>National</b>							
<b>Legislation</b> <sup>142</sup>							
Child Protection	•	•	•	•	•	•	•
Trafficking in Persons		•	•	•	•	•	
Sexual Exploitation of Children					•		
Child Labour	•				•	•	
Social Welfare for Children & Families					•		
Adoption and Alternative Care					•	•	
Juvenile Justice			•		•	•	
Violence against Children					•	•	
Child Migrants					•	•	
Refugee and Internally Displaced Children							
Children affected by Armed Conflict							
Stateless Children						•	
Universal Birth Registration			•			•	
Domestic Violence			•		•	•	
Education	•		•		•	•	•

	China	Indonesia	Lao PDR	Malaysia	Philippines	Thailand	Viet Nam
<b>Policy</b>							
National Plan of Action on Trafficking	●	●			●	●	●
National Plan of Action on Sexual Exploitation of Children		●	●		●	●	
National Plan of Action on Child Labour		●			●		
National Plan of Action on Overall Child Protection					●		
Inter-agency Operational Guidelines on Trafficking						●	●
Child Trafficking Victim Identification Guidelines						●	●
Child Trafficking Victim Reintegration Guidelines							●
<b>Local</b>							
Local Regulations on Child Protection		●					
Provincial Plan of Action on Trafficking		●				●	●
District Plan of Action on Trafficking		●					

## ANNEX C – CHILD TRAFFICKING SCREENING TOOL

This standardized tool aims to provide guidance on the initial screening of potential child victims of trafficking. Based on UNICEF, ARTIP and IOM resources, this tool is specifically tailored for children and structured around the required legal elements of trafficking for children in accordance with the Palermo Protocol:

### Child victims: Process • Exploitation

Please note that this tool is not exhaustive but designed to provide some guidance to government officials responsible for screening suspected child trafficking victims. It is important to bear in mind that the purpose of this preliminary interview is to establish whether or not the individual has been trafficked. This is not an investigative interview aimed at eliciting evidence for the investigation and prosecution of trafficking crimes. Authorities can conduct a more in-depth interview of individuals who are identified as victims of trafficking to gather information on the elements of a criminal case. Also remember that a collective assessment is necessary to gain an overall understanding of the situation; no single question or response will determine whether or not an individual has been trafficked.

It is worth emphasizing that interviewing law enforcement officials do NOT need to ask every question contained in this checklist. As soon as the interviewing official determines that the child has been recruited, transported, harboured or received with the intent to exploit that child, AND the child has been exploited (any form to any degree), then there should be a preliminary determination that the child is a trafficked victim. As such, the child should not be held in detention and should be provided interim care, shelter and protections pending return.

<sup>142</sup> This encompasses both primary and subsidiary legislation on particular child protection issues, which may be found in various legal codes or different types of legislation – generally covered under separate codes or acts, in special provisions/chapters in a country’s standard substantive and procedural acts, or in a separate section within a broader child protection act that also covers child rights.

## Screening tool for children

PROCESS	<b>Recruitment</b>	
	When and why did you leave home or your last address?	
	Were you recruited for work? If yes, by whom and how?	
	If you were not approached by anyone, did you respond to some form of advertisement?	
	Where were you promised work (name of city and/or country)?	
	Did you sign any form of contract before leaving home or your last address?	If yes, provide details of contract.
	Did you pay any money to the recruiter in advance?	If yes, how much?
	If travel costs were incurred before departure, who paid them?	
	<b>Movement</b>	
	How did you arrive at this location – ie, travel route, means of travel (plane, ferry, land transport, foot, etc)?	
	Who organised the travel arrangements?	
	If you travelled by plane/bus/train/etc, who paid for your transportation?	
	Did you cross any official border entry points?	If yes, please specify if known.
	Did you have a passport/travel papers/identity card?	
	Did you use your own identity documents or were false identity documents provided?	If false docs, who supplied them?
	Who keeps your passport/identity document now?	
	Did you have to get a visa to come to this location?	
	If yes, did anybody assist you to obtain the visa?	
	Were you told that you would have to repay any debts?	
	Were you escorted or accompanied on the journey?	
Did you spend any time in transit countries or cities?	If yes, please specify.	
Did you engage in any activity in these transit cities or countries?	<input type="checkbox"/> Au pair <input type="checkbox"/> Babysitter <input type="checkbox"/> Agricultural work <input type="checkbox"/> Domestic work <input type="checkbox"/> Sweatshop labour <input type="checkbox"/> Selling <input type="checkbox"/> Begging <input type="checkbox"/> Minor criminal activities <input type="checkbox"/> Military service <input type="checkbox"/> Dancer/ Entertainer <input type="checkbox"/> Sex work <input type="checkbox"/> Waitress <input type="checkbox"/> Other	

EXPLOITATION	What type of work or service did you provide at your final destination?	<input type="checkbox"/> Au pair <input type="checkbox"/> Babysitter <input type="checkbox"/> Agricultural work <input type="checkbox"/> Domestic work <input type="checkbox"/> Sweatshop labour <input type="checkbox"/> Selling <input type="checkbox"/> Begging <input type="checkbox"/> Minor criminal activities <input type="checkbox"/> Military service <input type="checkbox"/> Dancer/ Entertainer <input type="checkbox"/> Sex work <input type="checkbox"/> Waitress <input type="checkbox"/> Other
	What were your working conditions? <i>(Specific details do not need to be provided)</i>	<input type="checkbox"/> Excessive working (specify) <input type="checkbox"/> Total deprivation of wages <input type="checkbox"/> Partial deprivation of wages <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Physical abuse <input type="checkbox"/> Sexual abuse <input type="checkbox"/> Rape <input type="checkbox"/> Deprivation of adequate supply of food and water <input type="checkbox"/> Lack of medical care when ill <input type="checkbox"/> Poor sanitary living conditions <input type="checkbox"/> Imprisonment <input type="checkbox"/> Intimidation <input type="checkbox"/> Threats made against individual or loved ones <input type="checkbox"/> Seizure of documents <input type="checkbox"/> Ideological pressure <input type="checkbox"/> Freedom of movement totally denied <input type="checkbox"/> Freedom of movement restricted <input type="checkbox"/> Traded to various employers <input type="checkbox"/> Forced consumption of alcohol <input type="checkbox"/> Forced drug use <input type="checkbox"/> Other

## ANNEX D – CHILD TRAFFICKING LEGISLATION AND POLICY CHECKLIST

This checklist offers some tips on areas that should be explicitly incorporated in child rights-based anti-trafficking legal and/or policy frameworks.

Please note that this list is not intended to be exhaustive. Also, while there are some matters with general applicability to both children and adults, other matters are specific to children which should be reflected in broader legislation and policy on trafficking.

### Core Principles

- ✓ Definition of a child as a person younger than 18 years;
- ✓ Best interests of the child as a paramount consideration at all times;
- ✓ Non-discrimination principle, including recognition of boys, stateless persons, refugees and non-citizens as entitled to protections;
- ✓ Child's right to participation on all matters affecting their personal situation and on wider policy and programming levels;

### Definition

- ✓ Clear definition of child trafficking consistent with the Palermo Protocol, including the exemption of children from the requirement of threat, force, coercion, abduction, fraud, deception, or other means for the purpose of exploitation;
- ✓ Clear and concise definitions of all key terms, including forms of exploitation;

### Criminalization

- ✓ Criminalization of all forms of exploitation including but not limited to: sexual exploitation, domestic servitude, in armed conflict, criminal activities, organs/tissues removal and transport, in adoption, debt bondage, and forced marriage;
- ✓ Decriminalization of actions (e.g. prostitution, drugs smuggling, immigration violations) committed by children as part of the trafficking or exploitation, regardless of their role in the offence;
- ✓ Additional penalties in aggravating circumstances, including the exploitation of children;
- ✓ Liability of individuals and 'legal persons', as well as punishment of corrupt public officials;

### Prevention

- ✓ Prevention measures including but not limited to: education, training and livelihood programmes; regulation and monitoring of recruitment agencies, marriage brokers, adoption agencies, travel agencies, work establishments, etc.; targeted and systematic prosecution of 'small time' offenders on the tail end of the trafficking continuum with direct links to exploitative practices; addressing all aspects of

demand; social behaviour change strategies, including collaboration with traditional, customary, religious and local leaders, as well as previously trafficked or exploited children and youth, to develop culturally, linguistically and practically relevant interventions and counter social and economic inequalities, discrimination and stigmatization; regularization of the status of child labour migrants aged 15–18 years; and promoting protections for child migrants in legal and policy frameworks;

### Protection & Services

- ✓ Protection of child victims irrespective of their cooperation with law enforcement and prosecutions;
- ✓ Safeguards on the privacy and confidentiality of children at all stages;
- ✓ Continuum of support services to children and their families at the prevention, early identification and family support, specialized response, and out-of-home care levels;
- ✓ Priority accorded to kinship and community-based foster care for children who cannot return home; minimum standards, limits on length and independent monitoring of institutional/residential care;
- ✓ Imprisonment, administrative detention or other forms of custody of children used only as a measure of last resort and for the shortest period of time;
- ✓ Children's entitlement to safety and protections at all stages of the criminal justice process, as well as the right to legal assistance facilitating access to justice including civil remedies and administrative redress;
- ✓ Child-centred and friendly evidentiary procedures and general protocols throughout social welfare<sup>143</sup> and justice<sup>144</sup> proceedings at all stages;
- ✓ Child-centred and friendly procedures and measures in place from detection, identification, and assessment through to return, recovery and reintegration;
- ✓ Clear measures for implementation; child-friendly reporting and complaint mechanisms; and effective monitoring and accountability mechanisms linked to measurable effects and impact on children;

### Evidence Base

- ✓ Mechanisms for harmonized, systematic and disaggregated data collection, analysis, dissemination, and use on various aspects of trafficking across all involved government agencies;
- ✓ Evidence-based national policy grounded in ongoing child trafficking research; nexus to regional/global child migration context; and links to other child protection issues, underlying causes, and social and behaviour change dimensions;

### Coordination & Cooperation

- ✓ Mechanisms for practical cooperation among national social welfare and justice institutions charged with combating child trafficking, including a designated lead agency for developing, coordinating and implementing policy with all stakeholders, including civil society;
- ✓ Standard criteria and operating procedures to identify child trafficked victims, as well as child victims of exploitation, refugees/asylum seekers, unaccompanied minors, victims of violence, migrant children, etc., and inter-agency referral mechanisms for the provision of appropriate services and protections to all children;

## Resources

- ✓ Allocation of sufficient resources to ensure effective implementation of legislation and policy;
- ✓ Fund to support child trafficking victims, with assets, goods and proceeds confiscated from traffickers to finance the fund; and

## General

- ✓ Safeguards against misinterpretation or misapplication of provisions.

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<sup>143</sup> This includes decision-making on the range of recovery and reintegration services, including alternative care options, length of stay in residential shelters, returning home, and livelihood and training opportunities.

<sup>144</sup> This encompasses the criminal justice arena (e.g., law enforcement, criminal prosecutions) as well as civil justice (e.g., civil claims for restitution, family court), administrative justice (e.g., immigration detention proceedings, victim compensation boards) and informal justice (e.g., village courts, tribal councils).



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