

TRAFFICKING IN PERSONS **A RESOURCE PACKAGE**





Introduction

This Human Trafficking Resource Package has been developed by World Vision Australia and is informed by years of working on the issue, both in Australia and in many countries in Asia, especially the Greater Mekong Sub-region. It is informed through work with many stakeholders: the victims and survivors of trafficking; our staff who have worked to protect the rights of the most vulnerable; law enforcement authorities and social welfare agencies; governments and international organisations.

The Resource Package is a response by World Vision Australia (WVA) to the incredible amount of concern expressed about the issue and the gaps that are found in knowledge concerning the issue. There are four sections in the package. The first section deals with the basics needed to understand trafficking, including problem definition, common misconceptions, the magnitude of the problem, why trafficking occurs, what the interventions are and who is responsible. A glossary of key terms and useful links is also provided to encourage further reading. The second section deals with WVA's trafficking strategy and case studies that document the implementation of this strategy. Section 3 looks at anti-trafficking work in Australia, focusing on the work of the government. Section 4 then outlines the international legal framework around trafficking and the instruments that can be used to address the issue.

This resource package is intended to be a living document. While most information in Section I will likely remain constant with only minimal changes, information in other sections shall change over time. Hence, regular updates will be necessary to keep the package relevant and useful.

This package targets a number of audiences. Lay people interested in the issue; project staff responsible for anti-trafficking work; policy makers responsible for ensuring a responsive policy environment. Weblinks provided in the document cater to the needs of those with a broader and more in-depth interest.

WVA is honoured to share this Resource Package on Human Trafficking with our development partners, to provide assistance to the work that is of concern to us all.

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World Vision Australia's Human Trafficking Resource Package

Section 1. Trafficking in persons: The basics

Who are the victims of trafficking?

Identifying the root causes of trafficking

Who is responsible?

The magnitude of the problem and the challenges

Addressing the issue: The 'four Ps approach' to trafficking - prevention, prosecution, protection, policy

Misconceptions about trafficking

Case study of men trafficked into sex work

Case study of a girl trafficked into sex work

Acronyms

Glossary

Useful weblinks

Section 2. WVA Strategy to Combat Trafficking and selected case documentation

WVA's Strategy to Combat Trafficking: A partnership approach

The goals

The beneficiaries

Promoting a Rights-based approach

Rationale

Implementation plan

Guiding principles

Affirmation

Annex 1 (Explanatory notes)

Annex 2 (Background)

Case Study Closing the cycle to human trafficking

Case Study Regional Youth Forum on Human Trafficking

Overview of human trafficking in Asia

Overview of child labour

Overview of trafficking into sex work

Section 3. Anti-trafficking work in Australia

Overview of Australia's efforts to combat trafficking in persons

Anti-trafficking work in Australia

Section 4. International legal instruments

International legal framework: The basics

Selected international instruments on trafficking

The UN Protocol

CEDAW

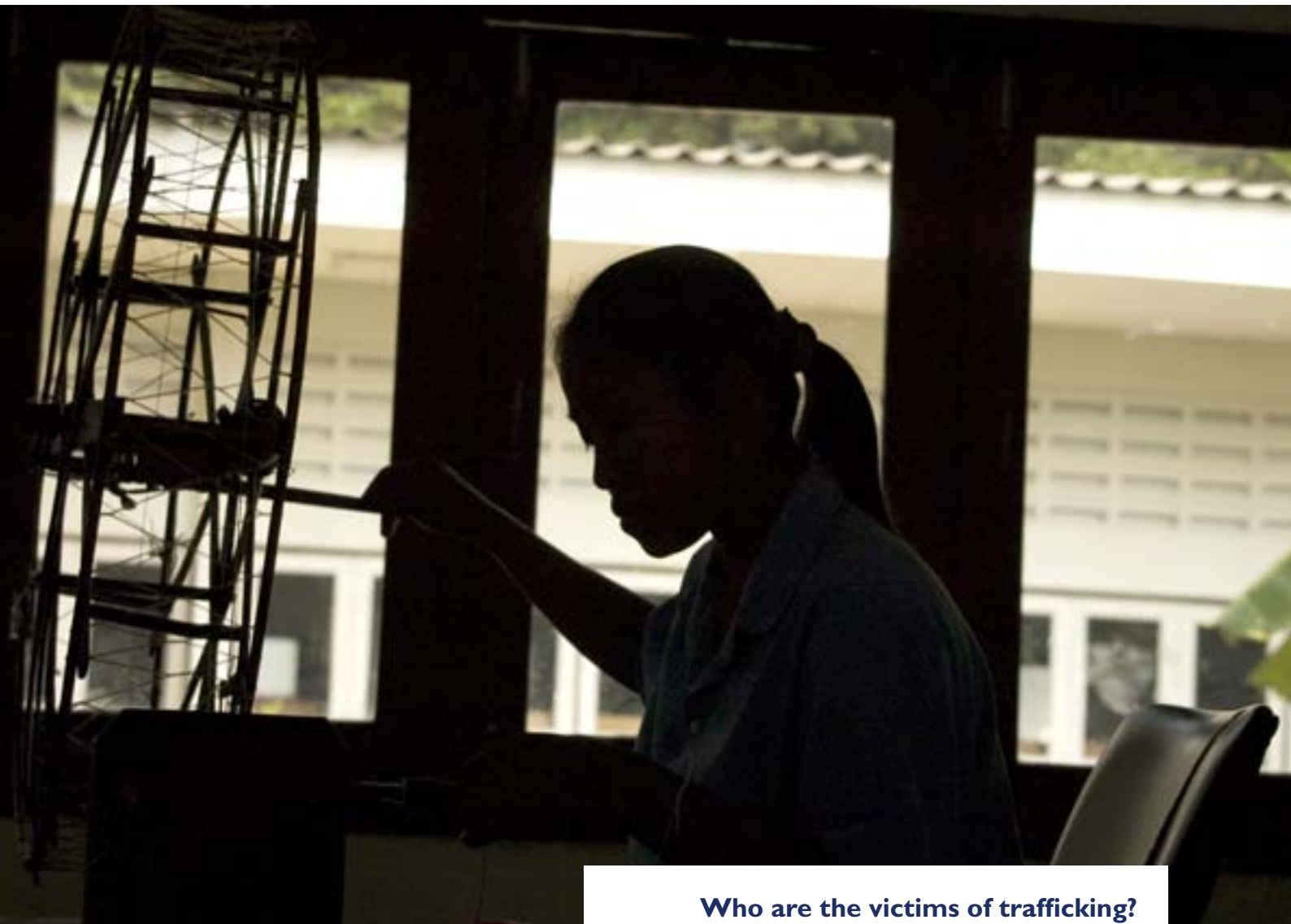
CRC

The Optional Protocol to the CRC Annex 2 (background)

ILO No. 138 and No. 182

Section I

Trafficking in persons: The basics



Who are the victims of trafficking?

Identifying the root causes of trafficking

Who is responsible?

The magnitude of the problem and the challenge

Addressing the issue

Misconceptions about trafficking

Case Study: Men trafficked for sex work

Case Study: The director and the trafficking chain

Acronyms

Glossary

Useful weblinks



Defining the problem: What is 'trafficking in persons'?

The technical definition

Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of the UN Trafficking Protocol, which came into force in December 2003, records the following definition:

'(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 purposes 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;

'(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, 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.'

And what it means

This definition is by no means easily understood by most readers. For ease of interpretation of the above definition, and to test out whether an incident is trafficking or not, break down the definition (paragraph (a)) into three chunks as follows. The definition, when broken down, becomes a tool to identify whether or not an incident is trafficking:

The Act: involving either recruitment, transportation, transfer, harbouring or receipt of persons

'Reflecting the above acts, i.e., any of the acts, against the means identified in the definition'



The Means: Has there been use of threat or force or other forms of coercion, or abduction, or fraud, or deception, or the abuse of power?

'If the above means can be proven in undertaking any of the acts described in the first box, then the incidence is almost certain to be that of trafficking.'



The Purpose: The end purpose for which any of the acts has been undertaken needs to be identified.

However, there is one last criteria that would assist in confirming the case as trafficking, and that is whether or not the outcome was for the purposes of exploitation (as defined above).



Who are the victims or the potential victims of trafficking?

Using the definition, especially 'the means' identified to undertake 'the act' and the end purpose of trafficking, let's ask ourselves the following questions for a general understanding of who the potential victims of trafficking are. The following sample questions are useful to guide us in our identification.

1. Who in society is more susceptible to threat, use of force and coercion? Men or women? Those in power or those with none? Ethnic majority or the minorities?
2. Who is more susceptible to abduction, deception and coercion? Adults or children? Those who are well educated and those who are informed about their rights, or those who have very little understanding or information about their rights?
3. Who in society is normally in control of power? Men or women? Those in authority or those with no access to positions of power?
4. Who would be in the position to abuse this power? Who are the vulnerable? Who is likely to be the victim of such an abuse? And who is likely to be the target of various forms of exploitation?

Victim profile

The following profile of a trafficking victim has been compiled from information collected from hundreds of trafficked persons returned home. There will of course be exceptions to the profile. Victim profiling gives us a good understanding of what makes people vulnerable. It further assists us in developing anti-trafficking projects and programs designed to reduce the vulnerability of people and communities to trafficking.

Age range: From few weeks' old babies (trafficking for adoption) to late 70s (trafficked into begging)

Sex: Most of the returned victims of trafficking have been women and girls. Boys and men are beginning to be identified and assisted as victims of trafficking.

Family situation: Most problems identified within families have economic elements, eg, there is not enough food to put on the table, or families are too in debt to be able to send school age members of the family to school. Other problems include emotional challenges as a result of broken homes and abuse at home.

Education: Most have primary education or at least have basic literacy. Very rarely are illiterate persons trafficked (those that are illiterate are found to lack the confidence displayed by the literate to take on the journey).

Place of origin: The majority of victims are from rural areas where job opportunities are either minimal or non-existent.

Exposure to relevant information about the place of work: There is often very little of this, or it is non-existent. Most information is based on word of mouth and victims are rarely in the position to verify it.

Skills: Most have very little skill-set in terms of work skills or life skills, including language skills.

Reasons for leaving home: Little opportunity for decent, or any, employment; political instability; enthused by stories of making big bucks; desire to support family and also experience life elsewhere.

Note: It is absolutely essential that we do not impose any person with the status of 'a potential trafficked person' through association with these vulnerabilities.



Identifying the root causes of trafficking

Trafficking has been identified as a human rights crime. From an operational point of view it is important to recognise that trafficking comprises a range of composite crimes, many of which often involve blatant breaches of human rights. These crimes may include deprivation of liberty, rape, other violence, kidnapping, even murder. In general, 'rights abused' covers the whole range of rights: from economic, social and cultural rights to civil and political rights.

Factors that lead to a trafficking incidence need to be viewed from the point of view of the trafficked victim, as well as from the point of view of the perpetrator. These factors include the systems and structures that allow trafficking to prevail. In analysis of this, it is important to distinguish between the reasons that people migrate and the reasons they are vulnerable to trafficking.

Essentially, people migrate as a result of 'push and pull' factors. Some factors push people into moving from their place of origin and there are factors that pull them to particular destinations. It is important to note that, generally speaking, these are not factors that directly result in persons being trafficked. However, push and pull factors can make people more vulnerable to becoming trafficked (victims of trafficking).

Factors that make a person vulnerable to becoming a victim of trafficking include:

- Lack of opportunity for decent earnings
- Poverty, both absolute and relative
- Lack of skills and education
- Lack of migrant protection at all stages of the migration process
- Lack of access to critical information (including information about the workplace and their rights)
- Lack of understanding of individual rights
- Instability in the community of origin (civil wars, military conflicts, etc.)
- Individual as well as family situations, etc.

Factors that create opportunities for traffickers and potential traffickers to engage in the crime include:

- Abundance of unskilled labour at the source community. When people have little opportunity and/or choice, they can be more easily controlled
- Illegal status of workers. When people aren't protected by standards relating to terms and conditions of work, they can be more easily controlled
- Direct as well as indirect demand for cheap goods and services (garments, seafood, sex, etc.) drives the forces of labour and sexual exploitation
- Absence of specific anti-Trafficking in Persons law (TIP law)
- Weak law enforcement (where TIP law exists), which includes weak cooperation between different regions and different countries
- Weak enforcement of labour standards
- Weak monitoring mechanisms of labour standards, etc.
- Widespread discrimination against vulnerable groups – migrants, women, ethnic minorities, children, etc.
- Lack of awareness at destination communities or by end-users of links between products and services consumed and exploitation.



Who is responsible?

As an issue that affects individuals, local communities, countries and the global community, the responsibility to address this issue also lies at all levels. Individuals, communities, non-government organisations, states and national governments, international organisations – such as various United Nations agencies – as well as regional affiliations and bodies share the responsibility. ASEAN and the European Union are examples of bodies working to combat the issue at a consolidated regional level.

Nation-states

For many, primary responsibility lies with national governments. They are responsible for driving the agenda forward within their jurisdiction and for the creation of an enabling policy environment. Such an environment is one that diminishes opportunities for exploitation to take place and effectively prosecutes perpetrators once the crime has been committed. Nation-states are responsible for developing and implementing National Plans of Action (NPA) against trafficking, and undertaking appropriate legislative changes or establishing comprehensive laws against trafficking. They are further responsible for initiating regional and international actions, programs, policies and frameworks, to ensure a protective international environment where there is zero tolerance for human rights abuses in any shape or form.

The United Nations

Representing all member states, the United Nations (UN) is a body with the responsibility to bring together all nations to work for peace and development based on the principles of justice, human dignity and the wellbeing of all people. Intolerance to trafficking (which is sometimes referred to as modern-day slavery) can be clearly traced back to the Universal Declaration of Human Rights. 'No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.' (Article 4)

Other international instruments that directly and indirectly assist anti-trafficking work can be found in the links provided under the International legal framework section.

Non-government organisations

Non-government organisations (NGOs) and other civil society advocates, including religious affiliations, youth groups and women's groups, have an active role to play in combating the problem of trafficking. Civil society organisations often have the trust of communities and can be their eyes and ears. They have a critical role to play in terms of strengthening community resilience to the abuses and exploitation that lead to trafficking. The role of NGOs in feeding into policy changes and effectively implementing policy is being increasingly recognised globally.

Families and individuals

Families and individuals, as the first line of defence against abuse or exploitation, can take an active interest in the issue of human trafficking. As alert citizens and members of the community, we can keep an effective look out for exploitative practices in our neighbourhoods and report them to relevant organisations and authorities. As consumers, we can become more responsible by making a conscious effort to ensure that what we buy (clothes, sportswear, coffee, tea, etc.) has been fairly traded and was not derived from forced or exploitative labour practices. We can also start to challenge the kinds of social attitudes that help create environments in which traffickers are able to flourish. This is an acknowledgement that trafficking does not occur in a vacuum but against a background of widespread discrimination against others based on issues like sex, age, nationality, ethnicity, religion, caste, etc.



The magnitude of the problem and the challenges

Often, it is the magnitude of the problem or the severity of the issue that draws our attention and prods us into some kind of action. It was discoveries in the late 1980s and early 1990s – of large numbers of women and girls trapped in sexual slavery in Asia, and a network of criminal groups illicitly moving women and girls from Eastern Europe into the West – that first prompted activists into putting the issue on the global agenda.

Since then, a number of global studies have been undertaken (see the page on web links). But despite this research and other information collected, estimates on the magnitude of the problem remain varied. A number of organisations have collected and collated information that relates to returned victims of trafficking and their traffickers. However, this information is inherently limited in coverage since it only documents those victims of trafficking who have been identified as such.

These are the main four reasons why the numbers of identified victims are commonly regarded as just the tip of the iceberg:

1. The crime is clandestine in nature
2. Before the UN Protocol on Trafficking came into force in 2003, there was no universally agreed upon definition of trafficking. This resulted in different organisations using different definitions of the problem. Even the agreed UN definition is not always easy to apply to on-the-ground realities in a way that guarantees a consistent approach between countries.
3. Until recently, most attention has been focused on the sexual exploitation of women and children, especially in prostitution. Information on other forms of exploitation – such as forced or exploitative labour within the domestic, agricultural, or industrial contexts – has received little attention.
4. There are in most countries a limited number of ways in which victims may come to be noticed. Few mechanisms exist for victims to identify themselves and there are many reasons why victims of trafficking choose not to come forward.

These are some of the recent trafficking figures:

According to Kevin Bales (2000): Over 27 million people are in slavery.

According to UNICEF (2002): 1.2 million children are victims of trafficking every year (per the report to the UN Special Session on Children, 2002).

According to the ILO (2005): of the 12.3 million in forced labour worldwide, the estimated minimum number of persons in forced labour at any given time as a result of trafficking is 2.45 million.

According to the US Government (2007): approximately 800,000 men, women, and children are trafficked across national borders, which does not include millions more trafficked within their own country.

Other estimates range from four million to 27 million. The extraordinary range of these estimates highlights the challenges faced in relying on one particular statistical value to accurately describe the precise magnitude of the problem. From World Vision's perspective, one person trafficked is one person too many.



Addressing the issue: The ‘four Ps approach’ to trafficking - prevention, prosecution, protection, policy

Human trafficking is a multi-dimensional problem that is also multi-sectoral – it implicates the social, economic, education, health, and political and criminological sectors in societies where it occurs. As such, efforts to combat trafficking need to adopt an integrated, holistic approach. All the interventions developed to combat trafficking can be clustered under three major headings, namely, prevention, protection and prosecution. Policy is the framework that encompasses these interventions.

The underlying principle of all trafficking interventions is that they are rights-based and are done in the best interest of the victim.

Prevention means reducing the vulnerability of a person (or a community) to becoming a victim of trafficking. Effective ‘prevention’ work requires a clear identification of what makes a person (or a community) vulnerable. It necessitates a reduction of vulnerability throughout the whole cycle: vulnerability at the place of origin, during the trafficking experience, and at the place of destination.

Prosecution targets people who profit from human trafficking. It requires vigorous law enforcement, corruption fighting, the identifying and monitoring of trafficking routes and cross-border coordination. It is also concerned with seeking full justice for the victim of trafficking.

Protection begins when a victim is rescued and ends when he or she is repatriated and re-integrated to his/her family and/or community. This involves keeping victims safe from threat, violence and abuse; providing basic needs like shelter, food, medical and psychological care; and providing legal protection that upholds individual rights, confidentiality, judicial redress and witness protection.

Policy can be defined as the course of action adopted by a government, a party or an organisation on a particular issue. The factors that influence national policies include, among others, a country’s international obligations – such as conventions, national legislation, bilateral agreements – and very importantly, public opinion. An enabling policy environment is critical. In combating trafficking, policy is the pillar supporting all anti-trafficking initiatives under prevention, prosecution and protection.

Key concepts

Multi-dimensional/multi-sectoral approach:

Recognises that a single sectoral approach is inadequate for combating the problem. This approach requires all anti-trafficking interventions to understand that while one intervention may focus on one specific area, to be effective, it needs to be part of a broader context of development and human rights.

Partnership approach:

This follows on from above. Not every organisation or agency has the expertise to combat every aspect of the trafficking phenomenon. Hence, the most practical approach to ensure that an effective multi-sectoral approach is adopted is through developing a partnership strategy with organisations that are working on the issue and which have different but complementary expertise.

A rights-based approach to trafficking: As an approach, this means placing the individual at the centre of all interventions and as the active participant and owner – not just the beneficiary – of an intervention undertaken in his or her best interest. It is not only the outcome of an intervention that is important, but the process through which the outcomes are achieved. An approach or a process can often be determined as being rights-based or not, depending on whether the process has been empowering or disempowering.



World Vision's framework for combating trafficking is expressed in the following diagram:

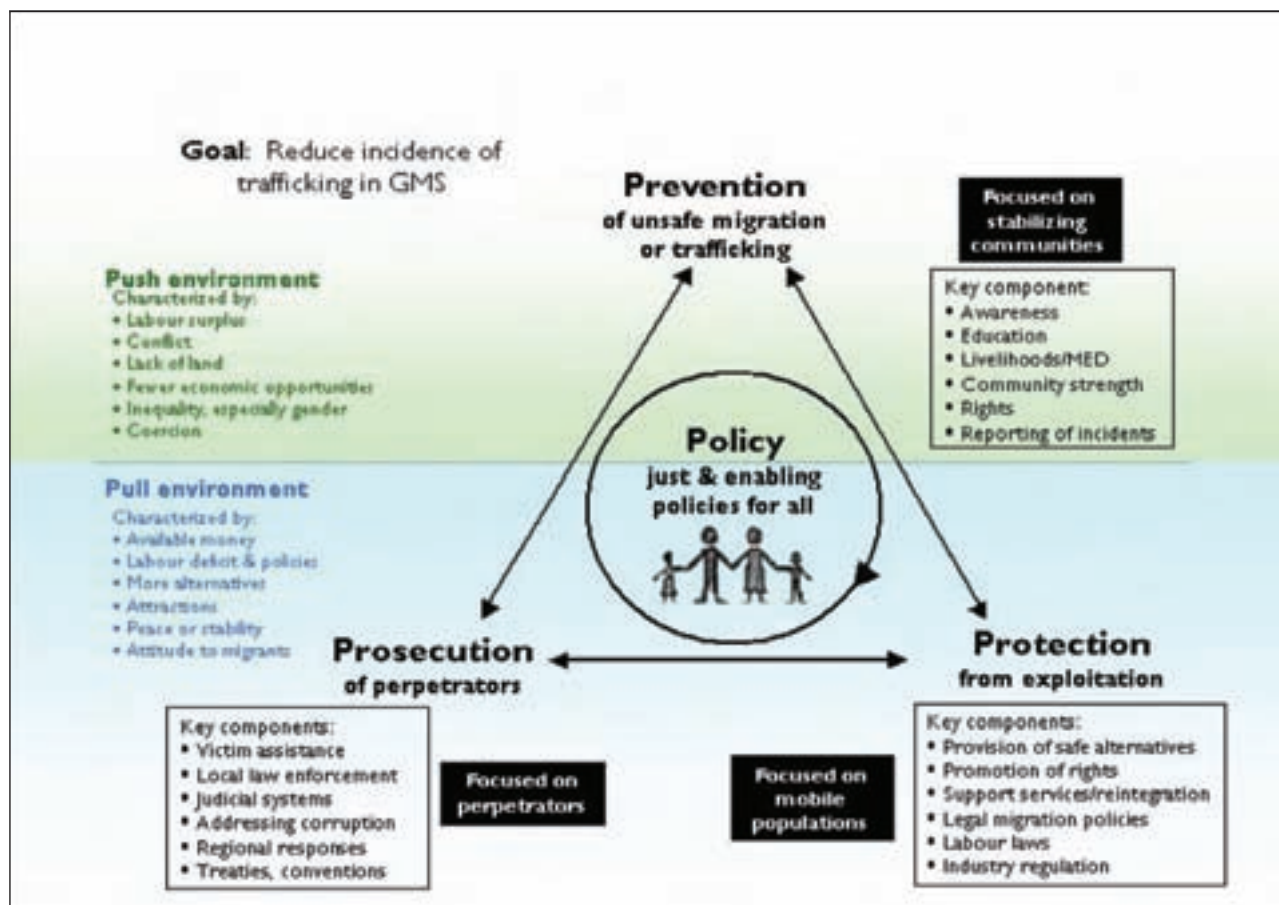


Figure 1.4 Four P's relationship



Misconceptions about trafficking

The issue of trafficking has received attention for well over a decade. Yet despite years of research on the issue and considerable financial and human resources dedicated to the problem, it continues to grow unabated. The imbalances of the globalisation process can be considered as one causal factor (trafficking has been described as the downside of globalisation). However, the review of a number of anti-trafficking initiatives indicates some obvious misconceptions that have negative consequences for our anti-trafficking work. The following highlights some of the most frequently misconceived notions about trafficking and its consequences. The solution? We need to get smart about the reality of the issue and generate greater conceptual clarity around the problem. What follows is the first step towards this realisation.

Misconception	Explanation	Consequences
1. Equating 'traffickers' with 'movement facilitators' and 'people brokers'	'Traffickers' are the key exploiters in the overall trafficking chain. However, 'movement facilitators' may not always be aware of the intention to exploit, or themselves be intending to exploit, other than by taking fees for moving people from one place to another. Similarly, 'people brokers' may or may not be involved criminally in the overall trafficking chain. This is because a number of people brokers have worked as informal employment agents in countries where such formalised or developed mechanisms of employment do not exist.	Confusion over these terms, especially by law enforcement officials, can have severe consequences for those who may not be part of the exploitative chain. From the point of view of the perpetrator, the severity of the punishment may not fit the crime. This has a negative impact on the overall goal of achieving justice.
2. Confusion over 'trafficking', 'smuggling' and 'illegal migration'	In the case of trafficking and illegal migration, movement may or may not be facilitated by a third person, but there is always a third person involved in 'smuggling'. Smuggling is across national borders whereas trafficking can be both internal and cross-border. Some countries have also noted that one can be an 'illegal migrant' within one's national border, if the necessary papers are not in place. From a legal immigration perspective, smuggling or illegal migration is considered a crime against the state, while trafficking is considered a human rights crime. Whether the trafficked person was initially smuggled or he or she initially chose to illegally migrate should not affect his or her status as a victim of trafficking.	Confusion over these distinctions, especially by law enforcement officials, can have severe consequences for the victims of trafficking. A lack of proper documents (which can be due to confiscation or because papers have been faked) can lead law enforcement officers to assume people are illegal migrants, and take action against them accordingly. Instead of receiving the victim support that they are entitled to, trafficked people are frequently penalised, fined and deported. Confusion over these critical concepts can – and frequently does – lead to the re-victimisation of a trafficked person.



Misconception	Explanation	Consequences
3. Those people are not trafficked. They came voluntarily as illegal migrants.	A significant number of today's victims of trafficking began their journeys voluntarily and even illegally, but somewhere in their travels, they were preyed upon by traffickers who recognised their vulnerability. However, because their journey started intentionally, some people believe, incorrectly, that they are not trafficking victims. Discriminatory attitudes towards migrants and migrant workers also contribute to this misconception.	As above, this has led to unacceptable incidences where victims of trafficking have been re-victimised.
4. Trafficking happens because of poverty	Poverty alone has not been found to be the sole or the key determinant of trafficking. See Sheet 1.3, about why trafficking occurs.	This misconception has been detrimental for the determination of the types of anti-trafficking initiatives required, and for the selection of project sites.
5. Trafficking occurs mainly for the purposes of sexual exploitation	This is the result of the initial discovery that women and girls were being trafficked into sex work. Over-enthusiastic media coverage of this aspect of trafficking appealed to the general public on moral and emotional grounds.	Enthusiastic NGOs and governments have assumed that everyone who works in the sex industry is a victim of trafficking, and this has led to 'forced' as well as false 'rescues'. Also, various sectors such as domestic labour, organised begging and the garment industry have not been given the attention that is needed to comprehensively address trafficking within them.
6. Women and girls are victims of trafficking. Men can't really be victims!	This is based on gender stereotyping and has been reinforced by early international conventions on trafficking, as well as national instruments that dealt only with the trafficking of women into prostitution.	This has resulted in men seldom being identified as victims of trafficking and even when they are clearly victims, organisations working on the issue are not in a position to provide men with assistance. From a law enforcement point of view, male victims of trafficking have been punished for crimes they were forced into.



Misconception	Explanation	Consequences
7. We can reduce trafficking if we tighten our national borders.	This is a standard approach of a significant number of states (governments) around the world. It is associated with the confusion between trafficking, smuggling and illegal migration. (Misconception 2) For most governments, border security is prioritised above concerns about victims of trafficking.	Tightening border controls has in fact led migrants to take greater risks. While it may reduce the numbers of migrants using the official border checkpoints to cross national borders, it ultimately drives the whole migratory process underground.
8. If we raise awareness and educate these poor villagers about the dangers of migration, they will not be trafficked.	This is a simplistic assumption based on the notion that if people didn't migrate, they wouldn't be trafficked. It also assumes that if people knew the dangers, they wouldn't want to leave their villages for the big cities. It does not acknowledge the reality that many people choose to take the 'risk' to find a better life for themselves and their families.	This has led to many interventions based on awareness-raising but these campaigns suffer from the lack of strong support in other areas. Very little change in behaviour can be expected from these awareness campaigns unless a viable alternative for risky migration is in place.
9. Trafficking is a transnational crime.	This misconception has evolved because the UN Trafficking Protocol is presented as an Annex to the Convention against Transnational Organised Crime. Until recently, the focus has been on transnational trafficking, at the expense of intervention at the national level.	Internal trafficking has been neglected as an area of concern.
10. We don't have trafficking in Australia. We are a developed country.	This is linked to the misconception that trafficking is the result of poverty, and shows a poor understanding of the reality of the issue. Most exploitation of trafficked people, wherever they originally came from, occurs in the 'developed' world. This means that we have as much responsibility as the developing world in combating the crime.	This misconception has put the burden of responsibility and the 'blame' on the developing world. As a result, insufficient attention has been given to the 'destination communities/countries' and the demand side of trafficking has not been addressed.

N.B. In addressing many of the misconceptions above, it is important to recall one of the recommended Principles on Human Rights and Human Trafficking which states that, 'Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as a trafficked person.' (OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2002, New York and Geneva)



Case study: Men trafficked for sex work

Wunchai and two of his friends who work as cooks at a local restaurant saw an advertisement in the local newspaper: 'Wanted: young Thai male chefs required in South Africa for a soon-to-be-opened restaurant at a hotel.' The ad promised a good package with travel assistance, provided in the form of arrangement of air tickets and visas. Accommodation and a friendly work environment were also guaranteed. Wunchai and his friends contacted the number on the ad, and sought a meeting with the agent who ran his office from home. They were promised a sum of 60,000 Baht (around AUD\$1,300) per month, with all travel expenses to be taken care of by the agent. Their visas were processed at the consulate and within a period of one month, they were able to leave Thailand to work in South Africa.

They were met at the airport by a couple who said they were assigned to pick them up and take them to the hotel where they would be working. When they arrived, they were given a room to share and a man appearing to be the manager encouraged them to rest before work started the next day. The same evening however, they were asked to come into the manager's office to share their experiences as cooks in Thailand. There were three other men present in the room.

The next day, Wunchai and his friends were taken by car to another place where they were told they would be working. It was around two hours drive from their original location. They stopped on a busy street and entered a dingy looking building whose interior was

brightly decorated. There were well-built men standing inside the entrance of the building. Feeling disconcerted, Wunchai and his friends began asking questions about the place and their work. No answers were given and they were taken to the back of the building and pushed into separate rooms. The doors were locked. When they started banging on the doors, demanding release, one of the men from the entrance came into Wunchai's room, hit him in the face and told him to shut up. Wunchai's friends went silent upon hearing the physical abuse he received.

From that evening onwards, they were each visited by men who forced them to have sex. Refusal would arouse anger and physical violence from what they came to realise were the guards of the place. They were not allowed out of their rooms for the first few days, but after a while, they were given permission to wander in the building and the back yard, which had a high fence under careful watch of their guard. There were other young men in similar situations, many of them from Asia, but also some from Africa.

After a few months, when they were allowed to accompany their clients out of the building, one of the friends escaped and ran to the Thai consulate. He informed the consulate of their situation and immediate action was taken. Cooperation from the police led to the rescue of all the others held in the brothel.

Following their testimonies, Wunchai and his friends were repatriated back to Thailand.



Case study: The director and the trafficking chain

The standards required by Director Chua when selecting girls to go Malaysia: good body shape, 160cm tall, as young as possible and “priority” given to single girls. (Source: People’s Police Newspaper)

Several years ago, a 39-year-old Malaysian businessman called William Chua Jee Hai (Chua) took a job in Vietnam. While working as a company director, Chua met Nga, a beautiful 26-year-old woman who had been an air hostess. Over the next few years, the couple travelled to Malaysia many times to see Chua’s friends and discuss business development ideas for restaurants and hotels in Kuala Lumpur.

In 2004, the two budding entrepreneurs shared their ideas with Nga’s aunt Dung, who lived in Ho Chi Minh City. The three of them began discussions around a business plan ‘to recruit beautiful girls to go to Malaysia’, and made a clear agreement about sharing the benefits. In June 2004, Chua, Nga and Dung met various girls who were Nga and Dung’s friends and relatives – two of them were Dung’s daughters – and their business was underway.

The girls were promised good jobs as saleswomen in a supermarket in Singapore with a salary of more than \$1,000. But while telling 16 girls that they would soon be on a plane to Singapore, Nga, Chua and Dung secretly prepared tickets and passports for them to go to Malaysia.

To encourage the girls to trust them, Chua, Nga and Dung had promised to cover the costs of air tickets, passports, and visa fees. Nga told the girls that it would be easy for them to reimburse her later.

In Malaysia, a man called Xem paid Nga and Chua between \$3,500 and \$4,000 per girl, the price dependent on the beauty of the girl.

When they arrived in Malaysia, Xem collected the girls and all their papers and passports, then took them to a house where they were locked in a room and forced to become prostitutes.

The customers paid Xem \$120 to \$150 per time for sex with the girls. For many months the girls received no money at all, only food. After a time the girls refused to work and then he agreed to give them \$50 per month for clothes and cosmetics. He continued to force them to provide sex to customers and told them that if they wanted to go back to Vietnam, they would have to pay him \$7,000-\$10,000 each.

Fortunately, due to the kindness of some customers, several girls were able to borrow mobile phones and called their families in Vietnam for help. Their families provided information to the police who were investigating the case.

On 23 June, 2005, the Criminal Police Department in Vietnam, with collaboration from the Malaysian authorities, completed the case file and transferred it to the Supreme People’s Court for prosecution.



Acronyms

ADB	Asian Development Bank
ADP	Area Development Program
ANCP	AusAID NGO Cooperation Program
APRO	Asia Pacific Regional Office
ARTIP	Asia Regional Trafficking in Persons Project
ASEAN	Association of Southeast Asian Nations
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CRC	Convention on the Rights of the Child
CSEC	Commercial Sexual Exploitation of Children
GMS	Greater Mekong Sub-region
LEASECT	Law Enforcement Against Sexual Exploitation and Trafficking of Children
MOU	Memorandum of Understanding
MDRTS	Mekong Delta Regional Trafficking Strategy
NGO	Non-government organisation
NPA	National Plan(s) of Action
OHCHR	Office of the United Nations High Commissioner for Human Rights
TIP	Trafficking in Persons
UN	United Nations
WFCL	Worst Forms of Child Labour
WV	World Vision
WVA	World Vision Australia



Glossary

Many of the terms used in this resource package have been taken from relevant international legal instruments, and as such they have legally sanctioned definitions. In this glossary, terms such as these are given their legal definition and the source of this is referenced. Other terms have technical or sectoral relevance and these have been explained for ease of reading.

Accession: the act of giving official sanction or approval to a formal document such as a treaty or a convention after it is in force. It includes the process of adopting an international treaty by the legislature, a constitution, or another nationally binding document (such as an amendment to a constitution). When a State Party accedes to an instrument, the state becomes legally bound to it.

Bonded Labour: 'Work performed under conditions of servitude. A form of modern slavery, under which workers sign contracts to work for a specific period of time, for which they are paid only with accommodation and sustenance, or these essentials in addition to limited benefits such as cancellation of a debt, or transportation to a desired country. Debt bondage is a well-known form of indenture.' (ILO <http://unterm.un.org/dgaacs/unterm.nsf/WebView/4F8CE320ED03EE0E852569FD00067E4B?OpenDocument>)

Child Labour: 'work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children; and interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.' (ILO <http://www.ilo.org/ipecc/facts/lang--en/index.htm>)

Child Soldier: 'any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity – including, but not limited to, combatants, cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms. Some boys and girls might have been abducted or forcibly recruited; others have been driven to join by poverty, abuse and discrimination, societal or peer pressure, or to seek revenge for violence against them or their families.' (UNICEF, http://www.unicef.org/protection/files/Armed_Groups.pdf)

Demand Factors: can be viewed from three levels. Employer demand (employers, owners, managers etc), consumer demand (clients in the sex industry, corporate buyers in manufacturing etc) and third party demand (the recruiters, agents and transporters who participate knowingly in the process of trafficking).

Destination Community: The target community at which the migrant or the facilitator plans to end the journey.

Domestic Labour: 'performing tasks such as cleaning, ironing, cooking, minding children and gardening. In many countries this phenomenon is not only socially and culturally accepted but might be regarded positively as a protected and non-stigmatised type of work, and therefore preferable to other forms of work, especially for the girl child. The perpetuation of traditional female roles and responsibilities within and outside the household, and the perception of domestic service as part of a woman's apprenticeship for adulthood and marriage, also contribute to the low recognition of domestic work as a form of economic activity and of child domestic labour as a form of child labour.' (ILO <http://www.ilo.org/ipecc/areas/Childdomesticlabour/lang--en/index.htm>)



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.' (UN Trafficking Protocol)

Forced Labour: 'Work or service which is exacted from a person under the menace of a penalty and for which the said person has not offered himself voluntarily. Excluded from this definition are compulsory military service, normal civil obligations, penalties imposed by a court, action taken in an emergency and minor communal services. Forced labour often involves the promise of a good job, which becomes the means of tricking workers into accepting employment in locations where they instead find themselves as good as enslaved. Signed 'contracts' provide a veneer of legitimacy for masters, who threaten the labourers with violence or deportation to prevent them from leaving.'
(United Nations, <http://157.150.197.21/dgaacs/unterm.nsf/WebView/0F288E83792736F4852569FD000681A1?OpenDocument>)

Forced Migration: 'the non-voluntary movement of a person in order to escape armed conflict, a situation of violence, violation of his or her rights, a natural disaster, or a man-made disaster. This term applies to refugee movements and forced exchanges of populations among States.'
(IOM <http://www.iom.int/jahia/Jahia/pid/523>)

Human Smuggling: 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.' (Protocol against the Smuggling of Migrants by Land, Sea & Air, supplementing the United Nations Convention against Transnational Organized Crime, Article 3).

Human Trafficking: See Section 1 for definition.

Irregular Migration: 'the movement of a person to a new place of residence or transit using irregular or illegal means, without valid documents or by carrying forged documents. This term also covers smuggling of migrants.'
(IOM <http://www.iom.int/jahia/Jahia/pid/523>)

Organised Crime: The Convention against Transnational Organized Crime does not define what 'organized crime' is but defines an 'Organized Criminal Group' as 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 in this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.'

Prevention: reducing the vulnerability of a person or a community from being trafficked or becoming victims of trafficking. Effective 'prevention' work requires a clear identification of what makes a person or a community vulnerable.

Protection: begins when a victim is rescued until he or she is repatriated and re-integrated into his/her family and community. This involves keeping victims safe from threat, violence and abuse; providing for basic needs: shelter, food, medical and psychological care; providing legal protection that upholds individual rights, confidentiality and provides for judicial redress and witness protection.

Pull Factors: Attractive conditions or elements such as employment opportunities, better working conditions, access to various forms of liberty that pull people to a certain place.

Push Factors: Undesirable conditions or elements such as poverty, family breakdowns or instability, that push people to leave their place of residence.

Ratification: is the act of giving official sanction or approval to a formal document such as a treaty or a convention prior to it being in force. It includes the process of adopting an international treaty by legislature, a constitution, or another nationally binding document (such as an amendment to a constitution). When a State Party ratifies an instrument, the state becomes legally bound to it.

Repatriation: 'refers to refugees returning to their places of origin, prisoners of war under the Geneva Convention of 1949, civilians in times of war, and diplomats in times of crises, as per the Vienna Conventions on Diplomatic and Consular Relation of 1961 and 1963, respectively.' (IOM <http://www.iom.int/jahia/Jahia/pid/523>) Within the trafficking paradigm, repatriation refers to a part of the protection process, whereby a trafficked person is assisted to, as far as possible, voluntarily return to their homes.



Sex Tourism: 'trips organized from within the tourism sector; or from outside this sector but using its structures and networks, with the primary purpose of effecting a commercial sexual relationship by the tourist with residents at the destination.' (World Tourism Organization)

Sexual Exploitation: 'actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another' (United Nations, <http://157.150.197.21/dgaacs/unterm.nsf/WebView/32C82976B9A89AA785256FC4004E3908?OpenDocument>)

Signature: the act of officially indicating an interest in the issue represented in a treaty or a convention by a state (government). Becoming a signatory to a treaty or convention is not legally binding.

Smuggling of Migrants: 'procurement, in order to obtain, directly or indirectly, a financial or other material benefit, from the illegal entry of a person into a State of which he or she is not a national or a permanent resident.' (Protocol to the UN Convention Against Transnational Organized Crime)

Source Community (Community of Origin): Location from where a person begins his/her journey - where she or he has resided either permanently or for a period of time.

Transit: Location where a person who has already left his/her original place of residence stops for a period of time before continuing the journey.

Worst forms of Child Labour: (a) 'all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour; including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.' (IOL <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182>)



Useful weblinks for further information

Anti-Slavery International:

<http://www.antislavery.org>

Child Trafficking Digital Library:

<http://www.childtrafficking.com>

Global Alliance Against Traffic in Women:

<http://www.gaatw.org>

Human Rights Watch:

<http://www.hrw.org/backgrounder/wrd/trafficking.htm>

Human Trafficking:

<http://www.humantrafficking.org>

International Labour Organization:

<http://www.ilo.org>

International Organization for Migration:

<http://www.iom.int>

Internet Portal for the Promotion and Protection of the Rights of Migrants:

<http://www.december18.net/web/general/start.php>

OSCE National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook (Warsaw, OSCE, 2004):

http://www.osce.org/documents/odihr/2004/05/2903_en.pdf

OSCE Anti-Trafficking Guidelines, June 2001:

http://www.osce.org/documents/odihr/2001/06/1563_en.pdf

Protection Project:

<http://www.protectionproject.org>

Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime:

<http://www.baliprocess.net>

End Child Exploitation Campaign (United Kingdom Committee for UNICEF):

<http://www.endchildexploitation.org.uk/>

Nordic-Baltic Campaign against Trafficking in Women:

<http://www.nordicbalticcampaign.org>

United Nations Inter-agency Project on Combating Trafficking in Women and Children in the Sub-Mekong Region, Training Manual for Combating Trafficking in Women and Children:

http://www.no-trafficking.org/content/COMMIT_Process/commit_process.htm and http://www.un.or.th/TraffickingProject/Publications/trafficking_manual.pdf

United Nations Economic and Social Commission for Asia and the Pacific:

<http://www.unescap.org/esid/GAD/Issues/Trafficking/index.asp>

UNGIFT – United Nations Global Initiative to Fight Human Trafficking:

<http://www.ungift.org/>

United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002):

http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf

United Nations Office on Drugs and Crime (UNODC): trafficking in human beings:

<http://www.unodc.org/unodc/en/human-trafficking/index.html>

UNODC Guide for policy makers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power:

http://www.unodc.org/pdf/crime/publications/standards_policy_makers.pdf

Section 2

WVA Strategy to Combat Trafficking and case documentation



WVA's Strategy to Combat Trafficking

**Case Study: Closing the cycle to
human trafficking**

**Case Study: Regional Youth Forum on
Human Trafficking**

Overview of human trafficking in Asia

Overview of child labour

Overview of trafficking into sex work



World Vision Australia's Strategy to Combat Trafficking: A partnership approach

Since the late 1990s, World Vision has been an active player in combating human trafficking, particularly in the Asia region, on many different levels. Given that the alarm to the problem was raised when incidences of sexual exploitation of women and children were uncovered, it was appropriate that one of the first initiatives against trafficking was research into the sexual exploitation of children from Vietnam into Cambodia.

This research was published under the title of 'Regaining Honor'¹. It shed some much-needed light on the nature of the crime and assisted both World Vision and other anti-trafficking advocates to better understand the plight of children involved. Since then, World Vision has worked on a number of fronts, maintaining the focus on prevention and protection for the victims of trafficking.

World Vision Australia began supporting World Vision's anti-trafficking work in the Asia region in 2000. Recent developments – such as the establishment in 2004 of a Memorandum of Understanding (MOU) on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region² and the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children³ – provide World Vision Australia with the necessary working environment to heighten its engagement on the issue. This is an unprecedented opportunity.

In many ways, it was inevitable that World Vision's experience working on trafficking at a community level and directly with victims of trafficking would be translated into policy inputs. The strategy outlined in this document is a setting out of the ways in which World Vision Australia (WVA) can build upon this experience and capitalise on opportunities.

The goals of WVA's strategy

The goals of WVA's Strategy to Combat Trafficking in Persons in Asia are:

- To ensure an enabling policy environment⁴;
- To increase the commitment⁵ toward eliminating trafficking in persons and most especially child trafficking; and

- To oversee the effective implementation of policies and measures as required.

The beneficiaries (key target groups):

The ultimate targets of WVA's Strategy to Combat Trafficking are the most vulnerable in communities: those that have a high risk of being trafficked (or subjected to similar kinds of exploitation), as well as those who are victims of trafficking.

However, the immediate target group will be those decision makers and/or senior government officials responsible for providing technical inputs that influence other decision makers, and policies, processes and practices.

One of the indirect "beneficiaries" will be the whole of the anti-trafficking community, especially those working at grassroots level, who will be in a better position to see how their work feeds into the decision-making process at the national level. WVA aims to open up greater space for civil society organisations to have more say and greater input into the work of national governments and those working at regional and international levels.

Promoting a Rights-based approach⁶

i. An integrated and partnership approach

Trafficking in persons is, by definition, a crime committed against an individual's freedom, human rights and dignity. To effectively address the problem, WVA believes that engagement at the highest policy level with national governments is necessary. National governments are the primary actors responsible for the protection, promotion and realisation of human rights.

Human trafficking is a human rights crime. It obstructs freedom of movement, freedom from discrimination, the right to equal pay, the right to decent working conditions, freedom from slavery or slavery-like practices, and the right to dignity. When the victim is a child, a whole range of additional rights are abused, including the right to education, play, security and development.

¹ "Regaining Honor: Street Children's Experiences of Prostitution and Rehabilitation", Laurence Gray, Steve Gourley and Delia Paul March 1996. World Vision Cambodia.

² This MOU has come to be known as the COMMIT MOU and is the core part of the Coordinated Mekong Ministerial Initiative against Trafficking that brings together the six governments from the Greater Mekong Sub-region. The MOU was signed in Yangon, Myanmar in October 2004.

³ The Declaration brought together the ten ASEAN nations and was signed in Vientiane, Laos in November 2004.

⁴ See Annex I on Explanatory Notes.

⁵ See Annex I.

⁶ See Annex I.



Though it is impossible to identify a single root cause of the problem, information gathered from trafficked victims indicates that there are a number of factors that when combined, make a person more vulnerable and more easily exploited. Some of these factors are poverty, both absolute and relative; lack of access to education and viable employment; discrimination; family dysfunction; political instability; and the lack of an overall protective environment.

Taking the complex and multi-faceted nature of the crime into consideration, WVA seeks to address the problem with an integrated, multi-sectoral approach. It also intends to advocate that this approach be established systematically. Finding an enduring solution to the problem requires the collaboration of many, including those working on a legal framework; in law enforcement; in social support; in economic development; in education; and in medical support. WVA on its own does not have the skills or the resources to deal with all these elements, but it is fully aware of the necessity of a consolidated effort. WVA recognises the pivotal role played by national governments, within their respective jurisdictions and regions, in anti-trafficking work overall. Furthermore, all of WVA's initiatives are guided by the view that for any issue to be effectively tackled to achieve sustainable results, national institutions must take the lead and claim ownership. Hence, WVA strongly advocates a partnership approach with government and other institutions to effectively address the problem.

The diagram in Section I, entitled 'Four P's relationship', illustrates the dynamics of an integrated approach by source and destination communities within the push and pull environments. Interventions are classified in four major areas: prevention, protection, prosecution and policy (the 4 P's approach). Policy encompasses the three other components. (In the diagram, the elements of the push and pull environments and the key components are indicative and not intended to be exhaustive.)

ii. A regional approach

It is clear that traffickers are linked by extensive networks along trafficking routes, often across national borders. To fight trafficking, we must fight traffickers; which means that anti-trafficking work must be similarly networked. Programs in source areas must be linked to those in destination areas, while being responsive to the vulnerabilities faced during the movement process. Linkages and coordination mechanisms are urgently needed, both within

countries and at a regional level. Work undertaken by the Mekong Delta Regional Trafficking Strategy (MDRTS) project (2004-2006) – which was financially supported by the US Department of State through World Vision US – is one such initiative. Given the overall policy environment where governments in Asia have forged a regional infrastructure of cooperation, in the form of COMMIT MOU and ASEAN Declaration, WVA aims to work closely with WV's Asia Pacific Regional Office and respective National Offices to realise this vision and support the establishment of a regional mechanism of cooperation. (See Part 5 of this section, the implementation plan.)

WVA also holds the view that its anti-trafficking work must be rights-based. This requires the work to be gender-responsive, child sensitive and victim-centered. Our anti-trafficking work must aim to create an enabling environment with systems and structures, standards and norms to allow vulnerable persons access to all of their human rights. This includes not just civil and political rights, but also economic, social and cultural rights.

WVA's anti-trafficking work is based on the recognition that trafficking occurs as a result of the abuse or neglect of an individual's human rights. A rights-based response is essential for those seeking to influence the policy environment.

iii. Gender-responsive approach

Gender biases, beliefs and discriminatory socio-cultural practices have been found to exacerbate the situation of the vulnerable and the trafficked. These biases are often reinforced by policy initiatives and the bias needs to be carefully looked at and effectively addressed.

A case in point is the One Child Policy in China, which has led to demographic imbalances that have created a demand for "bride trafficking" from neighboring countries and from within China. However, it is important to recognise that while the policy has created an environment for such crimes to prosper, the issue, with regard to trafficking, is not the policy itself. The issue, in this particular instance, lies in the failure to develop migration regimes that acknowledge the realities the policy has caused.

Paternalistic measures that call to "protect" women from various potential abuses have also led to the establishment of restrictive immigration regulations. This has led to further restrictions on the already



limited opportunities for women, who in particular have neither a formal education nor the skills to explore their potential in a highly competitive marketplace.

Other cases in point are the boys and men who have been trafficked onto fishing boats. In fact, this was found to be a gap area when legislation was reviewed within the ASEAN countries. Cultural values in Asia have often prevented men from being identified as victims of exploitation. While it is acceptable for women to be identified as victims of trafficking or other forms of abuse, men are viewed simply as illegal migrants. Hence, reparations or remedies are not available for male victims of trafficking. While a few countries like Thailand are currently reviewing their legislation to address this gap, many remain unresponsive.

For WVA, a gender-responsive approach to trafficking requires actions that address both the structural dimensions and the socio-cultural elements. Legislation, policy, and other institutional elements that strengthen gender biases must be addressed along with the norms, values and practices – held by communities, families and individuals – that further exacerbate discriminatory practices.

iv. Child-sensitive approach

In promoting a human rights-based approach in all its work, WVA seeks to actively promote, protect and support the special needs and rights of children. As a child-focused organisation, WVA adheres to the principle that all interventions in trafficking – whether prevention, protection or prosecution – must be undertaken with the best interest of the child in mind. WVA ensures that all its anti-trafficking programs are guided by the norms, standards and principles set out in the Convention on the Rights of the Child (CRC), the UN Protocol on Trafficking as well as the Office of the High Commissioner for Human Rights' (OHCHR's) Principles and Guidelines on Human Rights and Human Trafficking.

WVA recognises, as do all child rights activists, that children are still in their formative stage of physical, emotional, sexual and cognitive development. Their knowledge and experience of the world is limited and special attention must be paid to children in all anti-trafficking activities. This includes activities across the 4 Ps – prevention, protection, prosecution and the policy framework.

WVA also understands the importance of a protective, holistic environment as an effective way to prevent

child trafficking. As is the case with the gender-responsive approach, the child-sensitive approach to trafficking requires work at two levels: one at the structural or institutional level and the other at the socio-cultural level.

At the structural level, policies, laws and systems to protect the child must be in place. At the socio-cultural level, the attitudes, traditions and practices or interpretations of these practices that have adverse effects and impinge on the protective environment must be addressed.

In adopting a rights-based approach to trafficking, WVA places the most vulnerable and the most easily exploited individuals at the core of its work. Opportunities are to be actively sought and created at national, regional and international levels to undertake advocacy initiatives, to influence policies and programs that directly affect the lives of the most vulnerable and victims of trafficking. Systems are to be established so that the voices of the vulnerable are factored into larger policy inputs that affect their lives.

It is absolutely essential to promote the genuine participation of children and youth in affairs that affect them.

v. Rationale

Human trafficking is a hideous crime, committed by those seeking to profit from the pain and suffering of vulnerable individuals and communities. As an organisation that seeks to eradicate poverty and ensure that the Millennium Development Goals are met, WVA sees human trafficking as a major hurdle to overcome.

In 2003, as part of its ten-year strategy, WVA made the commitment “to outlaw child trafficking in Asia” (Lighthouse Strategy) and in its three-year objective, “to ensure effective commitments by global, regional and national policymakers to work towards the elimination of child trafficking in Asia.”

In order to combat trafficking, WVA has chosen to collaborate closely with the Asia-Pacific Regional Office (APRO) as well as national offices (NOs) throughout Asia. Given the Australian Government's engagement on the issue and in particular its concern over trafficking in Asia⁷, WVA plans to continue to actively engage with the government and to promote rights-based approaches that complement its current law enforcement-focused approach. WVA has been involved with anti-trafficking activities since

⁷ WVA notes the Australian Government's continued investment in anti-trafficking measures through its contribution of \$21 million to the Asia Regional Trafficking in Persons Project (ARTIP) for 2006 – 2011, which targets the Greater Mekong Sub-region and selected ASEAN countries, and builds on the \$20 million investment initiative in 2003.



the late 1990s. Having reviewed all the major anti-trafficking interventions in the Asia region (often referred to as the hub of trafficking) (see Annex 2), WVA considers that the time is ripe to heighten its engagement and move ahead with its plan to combine programmatic experience with advocacy work. This will create an enabling environment that will reduce vulnerability and thereby reduce the number of trafficking incidents.

In developing its anti-trafficking strategy, WVA has kept in mind the complexities involved, the human rights and development dimensions, and the transnational nature of the crime. Given its past experience working with the Australian Government and its recent recruitment of a Senior Policy Advisor on Child Trafficking, WVA is in the position to support the work of APRO and the NOs, and to systematically address the challenges of the problem. The complementary skill-sets between the NOs, APRO and WVA, including solid on-the-ground contextual experience and policy advocacy and technical expertise, will ensure a harmonised and consistent approach.

Unless interventions and lessons from the community are up-streamed, and unless these interventions are backed by an enabling policy environment that touches the whole cycle of trafficking from prevention to protection to prosecution, there will be no synergy. Achievements will remain scattered and unsustainable, with little impact on the problem as a whole.

Implementation Plan: Taking the strategy forward

To effectively implement its strategy to combat trafficking in Asia, WVA considers the following steps critical:

- i. **Capitalise on its strengths:** WVA will work closely with and provide necessary resources to APRO and NOs, as well as assist in the establishment of mechanisms to ensure vertical links between community and policy level initiatives.
- ii. **Take a phased approach:** Beginning initially with the three countries already identified in the GMS and expanding to cover all six GMS countries and the broader Asia region. In collaboration with the APRO, continuing to:
 - a) Nurture support from participating NOs
 - b) Mobilise support from the next set of NOs

iii. Strengthen internal capacity, both in terms of staff capacity and structure (WVA to provide technical support for this):

- a) Building national staff capacity on the issues of human trafficking.
- b) Increasing staff understanding of advocacy work: What is advocacy? How does it influence our work? And how can our work influence it? (This involves understanding socio-economic and political environments in the country and region.)
- c) Strengthening knowledge of existing international mechanisms, such as the various conventions and regional frameworks and their links and implications at national level.
- d) Generating understanding of the significance of working beyond national borders.
- e) Supporting mobilisation of political will among NOs to establish regional mechanisms of cooperation.

iv. Capitalise on existing structures and mechanisms at both national and regional levels. Eg, identify critical forums and entry points to undertake advocacy work at the highest level, both nationally and regionally (COMMIT National Taskforces in all six GMS countries; other thematic and technical working groups such as UNIAP working groups; NPA working groups; ASEAN framework, etc.).

v. Build coalition among civil society actors. Eg, establish an "NGO Working Group on Advocacy and Human Trafficking".

vi. Ensure effective documentation of lessons learnt and dissemination of relevant information among the WorldVision Partnership and the anti-trafficking community.

Monitoring and evaluation

- i. Establishing baseline information on key indicators of policy environments. These indicators could include an existing anti-trafficking law; the ratification of the Protocol and other relevant international instruments; the existence of National Plan(s) of Action (NPA) on trafficking in persons; bilateral MOUs in trafficking and/or labour.
- ii. Carrying out internal monitoring of WVA's supported anti-trafficking projects with regional and Support Office (SO) involvement. This should be done a minimum of once a year.



iii. Performing a mid-term review of the strategy (with revision if and as necessary) with documentation of best practices and worst challenges.

iv. Commissioning an external, independent evaluation.

Guiding principles

In implementing its strategy, WVA will be guided by a number of key principles. They are:

- i. Advocate for the consistent application of the definition of trafficking as stated in the UN Protocol on Trafficking in Persons.
(Explanation: The technicalities of applying this consistently require adopting a broader understanding of trafficking in persons than trafficking for sexual purposes and that all persons, including men and boys, have been identified as victims of trafficking.)
- ii. Address the problem as a regional issue while taking national specificities into account.
- iii. Ensure a good understanding of other anti-trafficking initiatives, especially those either currently or planning to be undertaken by the Partnership, and their implications for input into advocacy work.
- iv. Recognise the complementarity of existing Area Development Program (ADP) interventions and the potential to contribute to them (look for integration where possible).
(Explanation: By building on existing intervention, WVA will ensure minimal (ideally none at all) duplication and maximise the use of existing mechanisms, leading towards efficiency in output.)

v. Recognise the importance of the COMMIT process and align its interventions with COMMIT's Sub-regional Plan of Action.

vi. Recognise the potential to expand work to influence ASEAN and its work on trafficking, which has received strong support from the Australian Government.

vii. Recognise that while expertise on the issue is necessary, the skills to impart this expertise (to policymakers) are essential.

viii. Build trust with national counterparts and other partners.

ix. Build a strong and credible coalition as a requisite to successful advocacy.
(Explanation: WVA, through the regional advocacy project, will establish an NGO working group on policy advocacy at the regional level to institutionalise its efforts on policy advocacy.)

x. Adopt a rights-based approach to trafficking with special attention given to the protection of the rights of the child, in line with the CRC, and ensure gender-sensitive approaches, as stated in the CEDAW.

xi. Commit to ensure all work is evidence-based.

Affirmation

WVA takes its responsibility as a Support Office seriously and engages with regional and national offices as an equal partner in ownership, responsibility and accountability in all its undertakings. This includes the issue of human trafficking, especially as it relates to child trafficking, and projects designed to address this issue.



Annex I: Explanatory notes

Policy environment: An enabling policy environment for combating trafficking can be gauged by assessing countries in the region against a number of criteria including, but not limited to:

1. It being a state party to the relevant UN Conventions, including the UN Protocol to Trafficking in Persons;
2. There being the existence and enforcement of anti-trafficking in persons and related laws;
3. There being the existence and status of implementation of the Child Law;
4. There being the existence and effectiveness of a specialist anti-trafficking investigative unit or not;
5. There being the existence and practice of child-friendly court procedures, etc.;
6. There being the existence of and status of implementation of a National Plan of Action;
7. There being the existence and effectiveness of national and regional mechanisms for a coordinated approach to combat trafficking;
8. There being appropriate provisions for safe and legal migration.

Commitment: Commitment can be measured in a variety of ways, such as:

1. The level of financial contribution/allocation as part of foreign aid and from the national budget;
2. The level and number of officials designated to undertake the task of combating trafficking;
3. The quality and frequency of anti-trafficking campaigns;
4. The type of media engagement, etc.

(Note: some commitment indicators overlap with factors leading to an enabling policy environment)

Rights-based approach: Several definitions on what constitutes a rights-based approach to development can be found. The following, which is taken from the Office of the United Nations High Commissioner for Human Rights' (OHCHR) definition of a rights-based approach to trafficking, comes close to the concept used in this document:

A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.

Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights systems into the plans, policies and processes of development.

The norms and standards are those contained in the wealth of international treaties and declarations. These principles include equality and equity, accountability, empowerment and participation. A rights-based approach to development includes the following elements:

- *express linkage to rights*
- *accountability*
- *empowerment*
- *participation*
- *non-discrimination and attention to vulnerable groups⁸*

⁸ Office of the United Nations High Commissioner for Human Rights, Human Rights in Development, viewed online <http://www.unhcr.ch/development/approaches-04.html>



Annex 2: Background

Statement of the problem

Asia is recognised as a region where there is a high prevalence of human trafficking⁹. Today, well over 100 anti-trafficking projects in the Greater Mekong Sub-region¹⁰ exist. The increase in the number of anti-trafficking initiatives is phenomenal. But as encouraging as this is, the proliferation of anti-trafficking interventions has not yet had a significant impact¹¹.

While the goals and objectives of each of these interventions are noteworthy and have had positive impacts on various thematic and geographical areas of the problem (eg, the interventions have had a positive impact on the child sex tourism sector in Siam Reap in Cambodia), many interventions have been piecemeal and sector-driven; either depending on the area of expertise of the organisation, or driven by donor interest rather than a direct response to the need. This piecemeal approach has led to a shifting of the problem from one geographical area to another, in what has been referred to as the “push-down pop-up” phenomenon¹². Combined with the short term nature of projects¹³ and a lack of opportunity to address the problem in a sustained manner, this is a major challenge that needs to be addressed immediately.

The recognition of the problem in the late '80s and early '90s was jump-started by NGOs and international organisations, with governments picking up the issue gradually and incrementally. As was the case of HIV and AIDS, countries in Asia, many of which are countries of origin, began their engagement with denial. It is only

in recent years that a fully fledged recognition of the scale of the problem has been acknowledged. Limited resources to undertake interventions on a scale that is required to effectively address the problem has done little to help.

Compounding the problem further has been a lack of conceptual clarity about the issue, the absence of a clear definition of the issue and therefore a diversity of interpretation, and confusion over a number of critical concepts, such as prostitution and trafficking, and illegal migration, smuggling and trafficking. The problem has been further fuelled by the attitudes of those involved. ‘Attitude’ has had an impact not on just the problem itself, but also on the interventions (solutions). The attitude in many source communities is that it is an accepted practice for children, especially the girl-child, to take on the responsibility of the family, and in particular, pay back the parents for the ‘milk debt’. Traffickers have exploited these values, which traditionally have not served as an exploitation opportunity but a belief and practice that bonded a child to his or her parents.

Paternalistic values that women and girls need protection has led to an over-emphasis on preventative interventions in some source communities. Stringent standards have been placed on girls and women travelling overseas, and inadvertently, this has had negative consequences. The attitudes of destination communities toward migrant workers have also been extremely detrimental¹⁴ and have led to a high level of tolerance of the abuse suffered by migrant communities.

⁹ The US Department of State's annual report on trafficking in 2007, asserted that of the 600,000 to 800,000 trafficked annually, 250,000 were from the South East Asia region. However, these numbers in no way do justice to the magnitude of the suffering caused by this problem, including not just the victims but their families and friends, those who have suffered severe exploitation but fall short of being called trafficked, those negatively affected by inappropriate responses and the resources spent on fighting it which could have been allocated in other ways.

¹⁰ The Greater Mekong Sub-region covers about 2.3 million sq miles with 240 million people comprising six countries that share the Mekong River that runs through the Yunnan Province China, Myanmar, Lao, Thailand, Cambodia and Vietnam.

¹¹ One example is the annual Trafficking in Persons Report by the US Department of State. In 2003, the report cited 800,000 to 900,000 being trafficked across borders annually while its most recent report, (2008) cites some 800,000 being trafficked across borders each year.

¹² Marshall, P. and Thantun, S., ‘Miles Away: The trouble with prevention in the GMS’ in Kempadoo, K., Pattanaik, P. and Sanghera, J. (eds), *Shifting the Debate: New Approaches to Trafficking, Migration and Sex Work in Asia*, Paradigm Publishers, 2005.

¹³ Most projects range from two to three years, while some are even funded for one year. Rarely is a project longer than three. To the credit of AusAID, one project recently funded by them called ARTIP is funded in its second phase for a total of five years (2006 – 2010).

¹⁴ A study commissioned by UNIFEM and the ILO in November and December 2006 noted that in a survey of over 4,000 Thai households, some 67.3% of respondents said migrant workers should not be able to apply for any job available in Thailand, and roughly one in two respondents (50.3%) said migrant workers should not be provided with the same legal working conditions as Thais. More than half (59.7%) said migrant workers should also not be allowed freedom of expression. About 77.3% agreed that migrant workers should not have the right to form unions. (United Nations Development Fund for Women News Release, 18/12/06, <http://www.unifem-eseasia.org/newsroom/UNIFEM%20ILO%20DEC%2006%20THAI%20MIGRANT.htm>)



Changed environment: Challenges and opportunities

Today, despite the initial challenges already described, a shared understanding of the problem, its complexity and its multi-faceted and transnational nature, has gained ground. Since the emergence of the COMMIT process in 2004¹⁵, the opportunity to engage the GMS governments – at both national and regional levels – has increased significantly. The November 2004 ASEAN Declaration Against Trafficking in Persons Especially Women and Children is an additional avenue for engagement. We now have the opportunity to affect policy, and the potential to influence the whole sector holistically – from prevention to protection to prosecution.

This provides World Vision Australia with the requisite working environment and an unprecedented opportunity to heighten engagement beyond the conventional community-level approach. World Vision's experience in the repatriation of trafficking victims, its efforts to ensure a protective environment for all victims, its ADP interventions – many of which target a range of outcomes, from the elimination of vulnerability to exploitation – place us in a strong position to undertake effective policy level advocacy work.

However, not everything is rosy.

Despite COMMIT and advances made in the process, a number of challenges are evident. For example, current national policies and efforts remain narrowly focused on women and children, and only on the prevention of trafficking for sex work. Little attention is given to other forms of trafficking and exploitation. Trafficking of children and women into other sectors such as domestic work, the carpet industry, plantations, child labour and child soldiers has received little attention. Similarly, trafficking of boys and men, a rising phenomenon as indicated by a number of documented cases, is largely being ignored. The policy environment in the region, while improved over the past several years, continues to be a challenge.

Even where favourable policy prevails, as a result of capacity and/or political commitment, there is still a gap between policy and implementation. Similar challenges remain within the ASEAN process. Additionally, while the Declaration, which includes the Vientiane Plan of Action, provides us with the opportunity to link up our work, the challenge for World Vision (WV) as a non-affiliated NGO of the ASEAN needs to be overcome.

WV remains convinced that it is in a unique position to work on a problem that hinges on a number of vulnerabilities having either a direct or indirect effect on trafficking. Additionally, given the prevalence of WV's project sites across borders in a number of Greater Mekong Sub-region countries, it is once again ideally placed to address an issue that transcends national borders and requires inter-country and regional solutions.

Many WV NOs in the GMS have been working in collaboration with both international and national (both governmental and non-governmental) partners for the safe and dignified repatriation, reintegration and rehabilitation of trafficked victims. It has in recent years initiated work with the law enforcement sector, by providing its experience for a number of rights-based approaches, including child-friendly interviewing techniques and gender-sensitive approaches in handling witnesses, among others.

WV's networks in the Asia region have grown over the years and its credibility has been strengthened. WV's varied and rich experience of the trafficking issue, and in particular of child trafficking, is unparalleled in this region where trafficking affects the lives of so many people. Given this, WVA considers it timely to heighten its engagement and move ahead with combining programmatic experience with advocacy work to actively engage at the policy-influence level.

¹⁵ The six GMS governments signed a Memorandum of Understanding to combat trafficking on 29 October 2004 in Yangon, Myanmar. Subsequently, a Sub-regional Plan of Action was developed that now provides the whole sector in the GMS with a framework to combat trafficking in persons in a consolidated manner. This initiative has gained strong support from the international community including UN agencies and bilateral and multi-lateral partners. AusAID provided initial seed support of some US\$ US\$45,000 for the process.



Case study: Closing the cycle to human trafficking

Frameworks for effective law enforcement collaborations in the Mekong Sub-region

Recent World Vision (WV) partnerships in the Greater Mekong Sub-region (GMS) challenge a cynical but often held misconception: that strengthening law enforcement while improving human rights is contradictory.

The GMS covers about 2.3 million square kilometres, has a combined population of 240 million people and comprises six countries that share the Mekong River; running through Yunnan Province in China, Myanmar, Lao PDR, Thailand, Cambodia and Vietnam.

Productive and unique collaborations between WV and police in a number of these countries are actively improving prosecutorial conditions for victims of human trafficking. These improvements are enabling and empowering victims to come forward and testify against their abusers, and are thereby improving the rate of effective prosecutions.

The rise of human trafficking in the GMS

In the early 1990s, a shift from socialist to more open-market economies, combined with the Asian Development Bank's (ADB's) program for greater economic integration, facilitated a significant enhancement of connectivity between the various countries of the GMS. This has resulted in a much greater flow of goods, trade, commerce and communication between the countries. However, this economic progress has not, as yet, dramatically eased the economic disparity among and within the various countries. Thailand's GDP per capita, for example, is eight times more than the neighbouring countries of Myanmar, Laos and Cambodia.¹⁶

Legal opportunities to work and migrate within the region have been limited by the various governments' slow development of labour agreements. And the demand to capitalise on new business opportunities has resulted in extreme impatience with formal and legal migration procedures for workers.

A consequence of this market impatience has been the growth in human trafficking, the modern form of slavery. Opportunists have moved into this labour policy void and brought the supply and demand sides of the labour market together illegally. The recent US State Department Report suggests that of the 600,000 to 800,000 people trafficked globally, some 250,000 of them are from South-East Asia.¹⁷

World Vision – an integrated strategy

Many initial attempts by non-government organisations (NGOs) – including WV – to address the consequences of this growing phenomenon were predominantly welfare oriented. Interventions largely focused on prevention and protection of trafficked persons. WV's anti-trafficking initiatives also focused on prevention through intensive community engagement in education, health and micro-enterprise development. These initiatives are primarily aimed at district level and align with community development programming.

However, WV's presence in all countries in the GMS gives it solid community-level relationships and presence on both sides of all borders. Within the anti-trafficking field this is an extremely useful advantage since the same agency can work in places of origin and in a cross-border or point-to-point manner. It also provides working links with some of the poorest and most isolated areas where communities sometimes have few options other than unsafe migration.

Since 2002, WV has leveraged its relationships and presence to develop initiatives aimed at strengthening the prosecutorial mechanisms of anti-trafficking. A 'prosecution' approach operates predominately in the 'pull environment'; the environment where money and markets combine to con, coerce or convince migrants to take risks. By assisting local authorities to build their capacity to address the rising crime of human trafficking, WV has worked directly with and alongside the law enforcement authorities at the community level. These

¹⁶ United Nations Development Programme, Annual Report, 2005. See <http://www.undp.org/>

¹⁷ US Department of State, Trafficking in Persons Annual Report 2008, <http://www.state.gov/g/tip/rls/tiprpt/2008/>



efforts work to preserve the dignity and rights of migrants by providing victim care and case management while police gather evidence for successful prosecutions.

These efforts do in part help reduce the potency of the pull environment, but more needs to be done to shift the focus from victim care and case management to working proactively with police on prosecutions.

Until recently, direct partnerships between international NGOs and law enforcement authorities were often marked with tension. The notable exception has been Thailand, and to a lesser degree Cambodia, where government-NGO partnerships collaborating on criminal justice issues and processes have been relatively stronger; compared to other countries in the region. For WV, Thailand has provided opportunities for projects to operate at the community level, to connect and empower authorities, rather than isolate them. This is a bid to ensure a better protective environment for migrant workers as well as victims of trafficking, and thereby reduce the incidence of trafficking.

An integrated approach to trafficking: World Vision's approach to prosecution

WV's initial collaboration with law enforcement, and in particular the police, took place in Cambodia in 2000, with the implementation of a project called the Law Enforcement Against Sexual Exploitation and Trafficking of Children (LEASECT). World Vision strategically partnered with UNICEF and the International Organization for Migration (IOM) to build the capacity of the Ministry of Interior's Anti-Human Trafficking and Juvenile Protection Department to undertake better investigation and more effective prosecutions. Other key components of this initiative included:

- Community peer educators – which include police officers and cadets
- Support to set up a hotline – now annually reporting over 800 cases of trafficking and sexual exploitation
- Counselling training – for those in authority including police and local authorities
- Police training – specialised police units, at both national and provincial levels, trained in the legal and technical issues concerning law enforcement and the sexual exploitation of women and children
- A national Sex Crimes Database - established to record all information on child sexual exploitation and trafficking cases.

Provincial databases were also established in four Cambodian provinces: Siem Reap, Banteay Meanchey, Battambang and Sihanoukville. The database is proving to be extremely useful in monitoring cases of child sexual exploitation and human trafficking, following trends and illustrating the project's impact on police capacity.

In recent years, WV has continued to expand its partnerships with law enforcement authorities in other countries. It has played a significant role in developing trust among vulnerable communities (such as undocumented migrants in Thailand, ethnic Vietnamese in Cambodia, etc). Staff have assisted community members to seek assistance and redress when relatives, friends or associates go missing and/or are believed to have been trafficked. Case management approaches such as these, which try to minimise gaps and create links between police and the community, invariably work only when there is complete trust in the agency working on the case.

By developing a close working partnership, WV in Vietnam has been able to increase the skills and confidence of the police – while also increasing their understanding of trafficking and its impacts. Furthermore, WV's extensive experience in repatriation work and its close collaboration with the police has also helped in linking trafficked victims with the judicial system. Police have reported improved understanding and capacity to identify early problems as a consequence of this collaborative work.

In its Mekong Delta Regional Trafficking Strategy (MDRTS) project, WV is also developing its capacity to collect and manage data on missing persons, particularly in Laos. WV in Laos has been sharing information with the Lao specialist police unit to assist in tracing missing persons and in providing crucial information in high risk cases. With its multinational community networks, WV is not only developing the potential to track individuals at risk of trafficking, but has also started mapping patterns of movement and behaviour for use in future responses.



Key reflections

WV's experience working with law enforcement, toward a more effective criminal justice response to human trafficking has prompted the following insights:

1. Collaborating with authorities while keeping the best interests of the victims and the communities in mind is proving indispensable in WV's work fighting trafficking in all spheres, from prevention and protection to prosecution.
2. As an agency with a strong community presence in the region, WV's local, regional and cross-national networks and relationships with authorities are resulting in proactive victim identification as well as carefully assessed rescue strategies.
3. The nature of collaborations between WV and the police have to date indicated that there is significant potential for expansion, both within the organisation and by other NGOs; for example, by addressing the challenges and protection requirements of trafficked people seeking to take action through the criminal justice system. It is extremely important that more enabling conditions are created, to encourage and allow more victims to come forward as survivors and testify against their abusers. This would lead to more effective prosecutions and act as a deterrent to other traffickers.
4. There are still constraints to working further up the judicial ladder.

WV's short timeframes for trafficking projects, usually two to three years, don't facilitate a greater depth of work beyond local and district level policing. Prosecution also remains a 'specialised' area of work, requiring a high capacity and calibre of staff. Sufficient numbers of skilled prosecutors are also needed to oversee the cases that can be quite complex in nature.

Moving forward

In many respects, WV's partnership approach to law enforcement agencies disproves the common misconception that strengthening law enforcement and protecting human rights are contradictory.

The expansion of WV's activities to assist with law enforcement moves the agency's efforts to combat trafficking onto a new arena. Increasingly, all aspects of the crime are now being addressed as part of a single package, which includes prevention, protection and prosecution across several regions and several countries. The rising rate of prosecution and witness cooperation attests to these achievements.

WV's support through the LEASECT for the first specialist law enforcement response to trafficking has been the precursor to the establishment of similar units under the auspices of the Asia Regional Trafficking in Persons Project (ARTIP) in four of the six GMS countries. Such units are now recommended by ASEAN as a regional standard. It is outcomes such as these that highlight the important role NGOs can take in creating a more effective law enforcement response to trafficking while undertaking their primary responsibilities to serve those that have been victimised by various forms of exploitation.

Program details

Programming overview: Since 2003, World Vision Australia has supported 16 different programs aimed at addressing child and human trafficking within, but not limited to Thailand, Myanmar, Cambodia and Vietnam.

Project start date: World Vision Australia's first child trafficking initiatives started in Thailand and Myanmar in July 2003.

Current project portfolio: As of June 2007, World Vision Australia was supporting eight separate child trafficking programs in the GMS.

Since 2003, funding for GMS programming has come from both WV's fundraising programs and other sources. These are:

- AusAID NGO Cooperation Program (ANCP)
- Child Sponsorship (WV)
- UNICEF
- Child Rescue (WV)
- Bounceback (WV)
- Corporate and Major Donors (WV)
- Wills and Bequests (WV)

Funds remitted to GMS programs from World Vision Australia by Financial Years (FY):

- FY 2003 US\$24,477
- FY 2004 US\$211,941
- FY 2005 US\$528,260
- FY 2006 US\$790,845
- FY 2007 US\$566,305

Total funds remitted from World Vision Australia to GMS programs over five years: US\$2,121,828

Other information: In addition to field program support, an essential part of WV

Australia's response to child and human trafficking has been through high level advocacy and campaigning over several years.



Case study: Mekong Regional Youth Forum on Human Trafficking

Children and youth from the Greater Mekong Sub-region speak up!

Many adults would be intimidated by the thought of presenting and discussing complex socio-economic and human rights-related problems with their government representatives. This is not so for a team of youth and children from the Greater Mekong Sub-region (GMS). In September 2007, they came together with each other and governments from the region to engage in a detailed dialogue about human trafficking.

The Mekong Youth Forum on Human Trafficking, sponsored by Save the Children Fund, World Vision, the International Labour Organization and the United Nations Inter-agency Project on Human Trafficking, provided a unique opportunity for young people (aged 12 to 19) from the GMS to discuss and voice their concerns, thoughts and opinions about human trafficking in the region.

The delegation consisted of thirty elected youth representatives from six countries: Cambodia, China, Laos, Myanmar, Thailand and Vietnam. The delegation, accompanied by chaperones and translators, spent one week in Bangkok, learning, discussing and deliberating on aspects of human trafficking and the impact this social dilemma has had, and is likely to have, in their country. Dr Susu Thatun, who is Senior Policy Advisor on Child Protection and Trafficking at World Vision Australia and the Senior Advisor to the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), was asked to facilitate the dialogue between senior government officials from the GMS countries and the youth delegates.

Young people and trafficking in the GMS

Of the 2.5 million people who are trafficked annually, over half come from Asia. Children in the region are regularly exposed to the dangers of human trafficking: they are potential victims, the children of victims, witnesses, and children of potential consumers of their labour and services. Despite the veil of protection adults often use to shield their children from harsh practices, when the practice is so widespread, risk of potential harm is amplified.

Human trafficking is a crime against an individual or a group of individuals, as opposed to a crime against the state. As in the case of smuggling, and where the crime occurs within our communities, it is vitally important to

generate greater awareness, especially among potential victims and tomorrow's leaders.

It is paramount that youth are targeted, because many of those trafficked are children and youth. Further, as it is accepted that children and youth listen better when their peers speak, it is imperative for international organisations and government agencies working on trafficking to seek active engagement with youth, and thus ensure the most effective delivery of anti-trafficking programs. Child sponsoring organisations were of the mind that if we are to win the war against trafficking, genuine participation of children in affairs that affect their lives is the only way forward. This is one of the cornerstones of the Convention on the Rights of the Child (CRC).

Through discussion and exchange, the Mekong Youth Forum succeeded in facilitating a cohort of young advocates who:

- understand the transnational dynamics of trafficking;
- appreciate the factors that push and pull the crime in the region;
- acknowledge the risk and impact of trafficking on children;
- understand the role governments play in protecting citizens and prosecuting offenders; and
- ensure the participants have the capacity to disseminate the information/ knowledge among their peers upon their return.

Regional and national youth forums: A breakthrough

The regional forum was preceded by a series of national and provincial level local forums. A number of provincial forums on trafficking were organised in each of the participating countries. Children and youth from provincial levels elected their representatives to take part in the national forum and they in turn elected their national youth representatives to participate in the regional level forum. Each national forum ran from three to five days, with youth participants from each country submitting national level recommendations to the government officials responsible for dealing with the problem. Each national level forum culminated in a national dialogue between government officials and the youth delegates.



Mekong youth (regional) forum

The regional Mekong forum saw five full days of activities. The participants engaged in extensive discussion regarding a plethora of trafficking-related issues, including country-specific trafficking trends, regional push and pull factors, migration/citizenship concerns, the role of education, the plight of stateless people, repatriation services, and the treatment given to trafficked victims at their destinations. In addition to the discussions, the representatives played educational games on the theme of trafficking, built a mock 3D regional map of trafficking trends, and engaged in group skits/ plays demonstrating protection and security related trafficking risks.

The centrepiece of the forum was D-Day, or Dialogue Day, when the children and youth delegates sat face-to-face with their government representatives, presented their views and exchanged concerns. They were also able to ask questions of the representatives responsible for, or enmeshed in, anti-trafficking initiatives in their respective countries. The participants took great advantage of this opportunity and engaged openly and fulsomely with their government officials. Ultimately, the delegates submitted thirty recommendations to the government officials, and these were incorporated into the discussions in Beijing in December 2006, at the fifth Senior Officials Meeting of the COMMIT Process.

The lobbying of the sponsoring organisations, the recognition by government representatives of the significance of listening to children and youth and the dedication of the youth themselves made this initiative a real breakthrough in the fight against trafficking.

Outcomes

The forum generated many possibilities for participants. There were immediate opportunities to mix with other youth from the region, to learn more about trafficking and to openly engage with government representatives from their respective countries. The forum allowed for meaningful dialogue between young people and their government – a rare opportunity for both youth and government representatives in the region.

A long-term view is that the forum offered a platform for a cohort of gifted young individuals to learn, disseminate and work towards greater awareness of trafficking issues in their respective communities.

Human trafficking is a multi-dimensional problem involving many different countries. The forum highlighted and exemplified the need for a regional response to the issue. For World Vision, it provided an anti-trafficking advocacy opportunity and the space to promote, in a meaningful way, the essentials of a child-focused organisation.



Overview of human trafficking in Asia

World Vision Australia's work to combat trafficking in persons, especially children, has its focus in Asia. World Vision Australia seeks to engage the Australian Government and people by campaigning actively on the issue. The following summarises the situation of trafficking in Asia; what WVA is doing about it; and some of the current themes and challenges that trafficking presents.

Background: Human trafficking in Asia

- According to the ILO, some twelve million people are enslaved in forced labour; bonded labour; forced child labour; sexual servitude and involuntary servitude at any given time.¹⁸ More people are being trafficked for labour exploitation than for the purposes of sexual exploitation. Of the above figure, 55% are from the Asia Pacific region and between 40% and 50% are children.
- Asia is recognised as a region with a high level of trafficking incidences. (Of the 600,000-800,000 persons trafficked annually, 250,000 are estimated to be from South East Asia and 150,000 from South Asia – Annual TIP Report, US Department of State, 2005.)
- Vulnerability to being trafficked differs across countries and geographical areas. Family and community vulnerabilities – including weak policies and systems and weak law enforcement – provide space for the crime to take place.
- From the point of view of 'supply' (or source community), vulnerabilities include poverty (both absolute and relative), lack of access to employment opportunities, lack of access to education and life-skills training, dysfunctional family life and discriminatory practices like gender-based discrimination.
- On the "demand" side (or the destination side of trafficking), there are again a number of factors that lead people to become vulnerable. There is the direct demand, which includes employers' demand (for cheap as well as easily exploitable labour) to satisfy competitive world markets. There is also indirect demand, which includes consumer demand for particular types of services such as sex work and domestic work, and cheaper goods.
- The end outcome of trafficking varies. It may include domestic work, agricultural work, work in garment factories, fishing, seafood processing (eg, shrimp peeling), construction or sex work.
- While the majority of documented cases of rescued and repatriated victims of trafficking continue to be women and girls, cases of men and boys being trafficked are increasingly being documented.
- Trafficking occurs both internally (within one country) and across borders, eg, from Laos to Thailand; from Vietnam to Cambodia; Myanmar to Thailand, and also internationally, to Taiwan, Japan, Australia, the Middle East and the US.

World Vision Australia's approach to human trafficking (for details, see WVA's Strategy to Combat Trafficking)

- World Vision Australia identifies trafficking as a human rights crime – a crime against an individual. As such, WVA considers engagement at the highest policy level – with national governments – as essential to effectively address the problem of human trafficking. National governments are the primary actors responsible for the protection, promotion and realisation of human rights.
- WVA recognises the complex and multi-faceted nature of the crime and sees an integrated multi-sectoral approach as vital.
- Related to the above is the adoption of a partnership approach to the issue. WVA seeks to partner with key stakeholders working on the issue, including other NGOs, UN agencies, various government ministries including law enforcement and social welfare entities, to advocate against trafficking. Partnership with other WV National Offices is also critical.

¹⁸ International Labour Organisation, (2005) *The end of child labour: Within Reach*, <http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf>



Current themes and challenges

- Numbers regarding the victims of trafficking continue to be highly debated (See 'The magnitude of the problem' in Section 1).
- Although there is growing recognition that trafficking pervades other sectors, especially exploitative labour, interest and resources continue to be disproportionately concentrated on trafficking in the sex industry.
- Despite the acknowledgment that the focus of law enforcement agencies should not be to the detriment of the human rights approach to the issue, challenges continue to prevail. The trafficking visa regime in Australia is a case in point. (See 'Overview of Australia's efforts to combat trafficking' in Section 3.)
- Although there is now widespread commitment to placing the rights of the victim at the heart of all anti-trafficking interventions, this is yet to be consistently demonstrated in government responses across the region.
- Comprehensive national plans of action that are time-bound and have clear benchmarks are lacking. Where they exist, their implementation remains inconsistent.
- Inconsistencies between national laws and international obligations create barriers to both bilateral and multilateral cooperation.
- Socio-cultural values and attitudes need to be systematically tackled at both source and destination communities.



Overview of child labour

Introduction

The ILO's 2006 Global Report, *The end of child labour: Within reach*, estimates that 217.7 million children aged between five and 17 are engaged in child labour. Of these, some 126 million are in the worst forms of child labour (WFCL) category. The highest numbers of child labourers have been noted to be in the Asia Pacific region where there are 122 million working children. Some 30%, or about 63 million, are found in Sub-Saharan Africa with most engaged in agricultural work, including cocoa farming.

The work that these children do interferes with their education, harms their health and damages their physical, mental, spiritual, moral and social development. The worst forms of child labour, which include trafficking, armed conflict, slavery, sexual exploitation and hazardous work, are what almost 75 percent of all working children are engaged in.¹⁹

However, it is important to note that not all work undertaken by children is classified as 'child labour'. A child's or an adolescent's participation in work that does not affect their health and personal development or interfere with their schooling is generally regarded as a positive experience. This work includes activities such as helping with the housework, assisting in a family business or earning pocket money outside school hours and during school holidays. These kinds of activities, it's been noted, contribute to a child's development and to the welfare of their family, as it provides them with skills and experience that can lead to them becoming productive members of society in adulthood.

'Child labour' has a distinct definition.

Defining child labour

Child labour is:

- labour performed by a child whose ages is less than that specified by state or national legislation as the minimum for that particular work;
- labour that is likely to interfere with that child's education or development
- labour that is "hazardous", i.e., could jeopardise the physical, mental or moral well-being of a child, due to its nature or conditions.

The worst forms of child labour

The worst forms of child labour (WFCL), are defined by the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,²⁰ and comprise slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for armed conflict, prostitution and pornography, and other illicit activities,²¹ as which are internationally agreed upon and unconditionally accepted.

Case study

In September 2006, some 70 Myanmar migrant workers were rescued when Thai authorities raided the Rayanpaew seafood factory in Samut Sakorn Province close to Bangkok. Of them, some 30% were children.

The factory had high walls with barbed wire and was under 24-hour TV surveillance. The factory was notorious for ill-treating and exploiting its migrant workers, all of whom were from Myanmar. Many of them were paid extremely low wages, while some of them had not been paid for over a year. They were forced to work long hours, usually 16 hours a day, seven days a week. They rarely had days off and many of them had to work even when they were sick.

They were not allowed to leave the premises. One of the girls interviewed had her hair shaved off as punishment for trying to escape. Another girl, a 16-year-old, could hardly lift her arm as, sobbing, she recalled how she was beaten up by the owner of the factory when she and her friend were caught escaping. They had come to work in the neighbouring country because there were no job opportunities back home; they had dropped out of school because their families did not have enough money to send them; and what their parents earned as hired labourers was insufficient to make ends meet. They were beaten in front of everyone, tied up against a pole in the centre of the compound, and left the whole day in the sun as a warning to others not to attempt to run away.²²

These women, men and children have now won a long civil and criminal suit against the factory owner and have been awarded financial compensation.

¹⁹ *Child Labour*, ILO, http://www.ilo.org/global/Themes/Child_Labour/index.htm

²⁰ *Coming into force* 19 November, 2000

²¹ *Child Labour Statistics*, ILO Bureau of Library and Information Services 2007 <http://www.ilo.org/dyn/clsurvey/1/survey/home>

²² *Personal interview with the survivors by Susu Thatun, World Vision Australia*



The problem: magnitude and trends

Despite states' almost unanimous support for the Convention on the Rights of the Child (all countries except the US and Somalia have ratified the convention) and the commitment of world leaders to the realisation of a world fit for children, child labour continues to be a fact of life for many:

'Denied an education and a normal childhood, some children are confined, beaten and treated like slaves. Some are denied freedom of movement—the right to leave the workplace and go home to their families. Some are abducted and forced to work.'²³

UNICEF reports that children living in the poorest households and in rural areas are most likely to be involved in child labour:

In Asia, child labour occurs in mostly, but is not limited to, the following sectors:

- Organised begging
- Domestic work
- Bonded child labour
- Fishing industry
- Seafood processing
- Sex venues
- Construction
- Brick kilns/brick making
- Agriculture
- Child soldiers
- Textiles (including soccer balls)
- Tourism, including sex tourism

The health risks to child labourers are extensive. Exposure to pesticides, chemicals, dusts and carcinogenic agents in agriculture, mining and quarrying and manufacturing increase the risks of developing bronchial complaints, cancers and a wide variety of diseases, while ergonomic factors such as heavy lifting and poor posture increase the chances of musculoskeletal problems developing in later life.²⁴

Factors contributing to the trend

There are many factors that combine to increase the severity of the problem of child labour. These include:

- the profit motive of both direct and indirect users
- cultural factors such as a high level of tolerance for child labour in the source and destination communities
- weak protection (the disproportionate ratio between labour inspectors and the number of venues needing inspection, quality of training received, etc.)
- weak enforcement regimes, and linked to this, complicity and corruption in the public sector.

Why do children work?

'Most children work because their families are poor and their labour is necessary for their survival. Discrimination on grounds of gender, race or religion also plays a part in why some children work.'²⁵

Interviews with a number of families and communities have indicated that many see little or no reason to send their children to school. Where there is a lack of understanding of the importance of education, and where there's little day-to-day evidence that education can lead to a decent job, many families consider education to be a waste of time and money (and the cost of school uniforms and supplies can be prohibitive for some) and only represents a potential to lose income that a young family member might bring in.

For other children, school is not an option because it is physically inaccessible or because lessons might not be taught in a child's own language.

The reasons children are employed are varied. Generally speaking, they are cheaper to hire than adults, they are more vulnerable to exploitation and they are less likely to demand higher wages or improved working conditions. Some employers maintain that children are better suited to certain kinds of work, simply because they are smaller.

²³ Children's Rights, Human Rights Watch, <http://www.hrw.org/children/labor.htm>

²⁴ Understanding Children's Work – Child Labour and Health, 2002 <http://www.ucw-project.org>

²⁵ Child Labour' Anti-Slavery <http://www.antislavery.org/homepage/antislavery/childlabour.htm#why>



Other reasons given for child labour:

- Family traditions and expectations
- Child abuse, which has caused a child to run away from home, after which they must fend for themselves
- The lack of good schools and day care
- A lack of other services, such as healthcare
- A prevailing public view that downplays the dangers of children working
- Lack of care by employers
- Limited choices for women.

Child labour is often a symptom of poverty, but it also perpetuates it. When children don't have the opportunity to go to school, they grow into adults who are trapped into poorly paid jobs. Then they themselves are likely to turn to their own children for income supplementation.

Economic development can lead to poverty reduction, and this can in turn, result in the seemingly natural elimination of child labour. However, it is important to stress that this is not an automatic process: policy choices matter and they must be coherent. This leads us into our next section.

Solutions: What can we do about it?

The challenge for the new millennium is to convert the recent surge in international interest in the problem of child labour into a sustained, coherent and effective effort on behalf of working children.

While direct action has its role, the effective abolition of child labour is only possible if national development policies and efforts address its causes by, inter alia, increasing jobs and incomes, improving access to quality education, and reducing discrimination. Such policies and efforts have to be made more relevant to the elimination of child labour.

Through the Millennium Development Goals (MDGs), a global commitment now exists to attacking poverty and providing education for all. The realisation is growing that many of the eight goals cannot be achieved without addressing the problem of child labour. The MDGs, therefore, provide a critically important vehicle for eliminating child labour.²⁶

The international community's efforts to achieve education for all (EFA) and the progressive elimination of child labour are inextricably linked. Education is a key element in preventing child labour.

At the same time, child labour is one of the main obstacles to EFA because involvement in child labour is generally at a cost to children's ability to attend and perform in school. Understanding the interplay between education and child labour is therefore critical to achieving both EFA and child labour elimination goals. Without access to free, quality education, child labourers become youth with poor employment prospects who cannot assist their families out of the vicious cycle of poverty. In turn, they become parents who cannot give their children a better life. They are also unable to contribute effectively to national development.

Areas of further research of particular relevance to identifying supply-side policies for reducing child labour and raising school attendance include the effects of school quality in retaining children in school and in avoiding drop out, as well as the degree to which children are "pushed" into work by poor quality, irrelevant or inaccessible schools, or, alternatively, children are "pulled" from school and into work by household poverty or other economic motives.²⁷

Finally, developing comprehensive, local approaches to deal with the issue is paramount. The first step is to acknowledge child labour as a problem, rather than part of the solution to overwhelming social, economic and cultural disadvantage in developing nations. Where all levels of government are committed to ensuring adult workers are paid adequate salaries, and social welfare structures are developed to assist disabled or unemployed parents or guardians, children are less likely to need to work full-time. Second, for rights-based principles to be relevant in all developing nations, cultural beliefs, attitudes and practices regarding the value of children, childhood, education and leisure have to be re-assessed in the light of both global trends and local opportunities.²⁸

²⁶ *The Worldwide Movement Against Child Labour*, ILO 2007

²⁷ *Understanding Children's Work - Child Labour and Education For All: an issue paper*, Nov 2006

²⁸ *Towards Eliminating Child Labour: The Power of the Law*, 2002 <http://motspluriels.arts.uwa.edu.au/MP2202acl.html>



Overview of trafficking into sex work

Trafficking for sex work is one among a range of potential purposes of the trafficking of people. Victims of sex trafficking can be forced into various forms of commercial and non-commercial sexual exploitation, including prostitution, pornography, stripping, live-sex shows, mail-order brides and sex tourism. While victims of sex trafficking can be men, women, boys and girls, the majority are women and girls. This has been linked to gender inequality and the world-wide subordinate status of women. There is a proliferation of sex trafficking within the larger framework of trafficking in persons, and this is attributed to a number of factors: that women are often marginalised in communities, because they've been denied equal access to education and job opportunities; that the nature of sex work is hidden; and that women and children are seen as more compliant and easier to control.

Case studies below are provided in order to highlight the existence of this exploitative work throughout the world – in the East and the West, the past and the present. However, it should be noted that the incidence of parents selling their own children is extremely rare. The case below is an exception to the norm.

Case study: The East, the West, the present and the past

A report in 2002 on sex trafficking in Thailand documents a man selling his 13 year-old daughter into prostitution for the price of a television set. While he had no regrets, his wife Lu did when she discovered that her daughter wasn't actually working in a bar in Mae Sai – as the agent who bought the girl had promised – but was selling her body in a Bangkok brothel to as many as eight men a day. She wept bitterly upon hearing the news. Her tears, however, were not for her daughter: "I should have asked for 10,000 baht (then equivalent of US\$228), not 5,000. He robbed us!"

In 1885 in London, the editor of the Pall Mall Gazette, working undercover to document the sale of young women and children for forced prostitution, wrote an article entitled 'The Maiden Tribute of Modern Babylon'. The article describes in detail how mothers and fathers negotiate to sell their daughters as virgins into prostitution – often as young as 11. In one of the stories, the mother of a 13-year-old girl sold her daughter for the price of a cappuccino in Australia to buy drinks for herself and her husband.

Both these stories caused public outrage which affected the policies of the day at national and global levels. Yet over a century has passed and instead of abating, the problem seems to have gained a fresh impetus. This is viewed as a negative outcome of the globalisation process and due to weak legal frameworks, poor law enforcement and distorted social values providing opportunities for exploitation to take place.

The problem: magnitude and trends

There are no universally accepted estimates of trafficking numbers throughout the world. Indeed, difficulties in identifying victims and differences in applying the trafficking definition to local realities make such estimates virtually impossible. However, the following figures provide some sense of the magnitude of the problem.

- Globally, around 10 million (equivalent to half of Australia's entire population) children – mainly girls – are subject to various forms of sexual exploitation worldwide. A further one million or so children are estimated to enter the commercial sex trade each year. UNICEF estimates that a third of all sex workers in Southeast Asia are between the ages of 12 and 17.
- A recent study by the International Labour Organization estimates that 43% of all victims of forced labour worldwide are trafficked for sexual exploitation²⁹. Others estimate this figure as high as 90%.
- According to another UN report in 2004, transactions in prostitution were noted at the equivalent of US\$4.1 million a day, totaling some US\$8.5 billion per year. Although not all prostitution involves trafficking, it is clearly an inherently exploitative trade, characterised by deep involvement of organised criminal groups, even in places where the trade is legal. Estimates of the proportion of women in prostitution who have been trafficked are commonly in the order of 20-25%.
- In some areas, there has been a major and continuing demand for younger and younger girls. Ignorance about HIV and AIDS transmission has contributed to this demand and reinforced myths to make virginity highly prized. According to one local NGO in Thailand, 'Agents come to the village with orders

²⁹ A Global Alliance against Forced Labour, ILO 2005 http://www.ilo.org/dyn/declaris/DECLARATIONWEB.GLOBALREPORTSLIST?var_language=EN



to fill. The people in Bangkok, mostly foreigners, order girls like pizza. My own personal interview with a “customer” in Mae Sot, a town bordering Thailand and Myanmar, says he prefers a younger girl with a preference for a virgin because she is likely to be “clean”. The prize for a girl’s virginity can reach several hundred dollars, with her “value” subsequently dropping to just a few dollars³⁰.

- Studies by UNIFEM and IOM (International Organization for Migration) as well as by Sigma Huda, the Special Rapporteur on Trafficking in Persons (2006) document a massive increase in the migration of women for all forms of labour, especially in the informal sector, where protection of rights is often weak or non-existent. Many women who start off in domestic or restaurant work end up in direct or indirect sex work.
- According to Child Wise, an Australian NGO working on the issue both domestically and overseas, more than 250,000 sex tourists visit Asia each year, with 25 percent coming from the United States, 16 percent from Germany and 13 percent from both Australia and the United Kingdom. This includes those seeking sex with children, known as child sex tourism, and those specifically targeting pre-pubescent children, that is, pedophilia.
- However, in most countries the major demand which creates a market for commercial sexual exploitation of children is domestic. Local perceptions of childhood, which often differ from the international legal norm, contribute to this phenomenon. In Indonesia, for example, it is common to see someone who has married as an adult, even if she is 14 or 15 or younger. This holds true for a number of countries in Asia.

Contributing factors

The factors contributing to trafficking can be broken down into:

i. Those that make people vulnerable to being trafficked

This first category includes factors such as poverty – both relative and absolute. It is, however, important to note that studies by the ILO, ADB and UNIAP indicate that it is not always the poorest that migrate. Those living close to transport (roads) and having access to television are often the ones that leave

home in search of better opportunity. When the choice to migrate is coupled with a lack of information or knowledge, dormant vulnerabilities surface for traffickers to exploit.

It also includes push factors which, in the absence of adequate social protection measures, lead to risky migration. Exposure to abuse within the home as well as in the community also make children and women more vulnerable to various forms of exploitation including sexual exploitation, as do other factors such as debt, natural disasters and land alienation.

ii. Those that make trafficking a profitable business

In the second category, the range of factors contributing to the profitability of trafficking include, among others, weak legal frameworks and enforcement; inherent difficulties in investigating the crime across borders; a dominant focus on the movement rather than the exploitative aspects of trafficking; and, in many instances, government complicity.

iii. The attitudes and behaviour that allow this problem to persist

These factors do not occur in a vacuum but against a background of social tolerance for sexual exploitation. Hence the third category. Examples include:

- a. Twisted and distorted use or abuse of traditional values/norms
- b. Gender discrimination and attitudes, eg the perception that having sex with many women/ girls reinforces males’ masculinity
- c. Generalised discrimination by both men and women against those in the sex trade
- d. Racial discrimination which creates a tolerance for abuse of migrants
- e. Growing materialism contributing to the actions of parents and traffickers as well as the children
- f. Attitudes which see debt bondage as legitimising forced labour
- g. The promotion of tourism without a supportive framework, which has resulted in “mainstream ing” of sex work in such legitimate business as tourism and other hospitality industries. (In Thailand for example, it is estimated that some 14% of the GDP comes from sex work.³¹)

³⁰ The Development and Education Program for Daughters and Communities – DEPDG

³¹ ILO, 1998



Solutions

There is an urgent need to address the contributing factors comprehensively and at all levels, from grassroots level, including individuals, family and communities, to national levels targeting politicians and national governments. We need to strategically up-stream programs that engage community members and empower them at the same time as we apply the lessons we have learned from activities at grassroots level. Not all anti-trafficking programs need to bear the anti-trafficking flag. However, many of the outputs from programs targeting poverty alleviation are important in the fight against trafficking. These include education for all formal and non-formal education, micro-credit or micro-finance schemes, and life skills development to minimise the vulnerability of source communities. Activities like these are inherently beneficial for communities in ways that go way beyond trafficking and sexual exploitation.

At the same time, it is now recognised that it is no longer enough to address the vulnerability factors found on the supply side only. The 'demand side of the problem' must also be confronted. Again, this includes addressing the problem at individual, societal and national levels. We need to be asking some tough questions about the values that at all levels make it acceptable to discriminate against the 'other', in terms of pay, benefits and working conditions, as well as abuse

– simply because they are not 'us'. Who are the people that demand the services of young girls and what within the system allows this to take place? What changes are possible and what is required? We need to look at the structures and systems that allow such abuses to take place. Biases and discrimination that impinge on a woman's right to productive labour must be addressed. Unjust social values as well as structural factors that allow the crime to take place need to be challenged.

In summary, further work needs to be carried out that deals directly with the traffickers and their accomplices. These include the effort to end impunity for traffickers, better protection for migrant workers and working towards attitudinal change in destination communities.

The often transnational nature of sex trafficking demands that nations and organisations working across national boundaries, such as the UN, the Salvation Army, and World Vision, must also work together throughout the trafficking cycle. This should include preventing potential victims from becoming victims, prosecuting traffickers and their accomplices and protecting trafficked victims once they are rescued.

Only when all this is possible, can we begin to hope for a difference in a crime that profits from inhumanity and has plagued our society for centuries.

Section 3

Anti-trafficking work in Australia



**Overview of Australia's efforts to
combat trafficking in persons**

Anti-trafficking work in Australia



Overview on Australia's efforts to combat trafficking in persons

General overview

World Vision (WV) recognises the efforts and investments Australia has made to combat human trafficking in the past several years, in financial and technical terms both domestically and overseas.³² The Australian Aid White Paper (released in 2006) acknowledges the government's recognition of the global community demand for its leadership in critical development issues, including what it describes as trans-boundary threats. Of the four themes guiding its aid program over the next ten years, trafficking in persons was specifically mentioned under the theme of promoting regional stability and cooperation. WV welcomes the Australian Government's focus on the issue and its longer term view on addressing the problem.

Australia's engagement in the Asia region, first through the Bali Process and later through its ARCPT/ARTIP projects, has succeeded in demonstrating its commitment to tackling the problem overseas. At the same time, many organisations working in the field have noted Australia's predominant focus on the legal and law enforcement side of anti-trafficking interventions while recognising the support it has provided for the protection of victims of trafficking. The support, both in terms of financial and technical contributions, is strongly tilted in favour of a law enforcement approach.

On the domestic front, the government's efforts to respond to the problem have also been significant. Its 'whole-of-government' approach³³ to the problem, launched in October 2003, is widely noted. Various measures taken by participating agencies, such as the establishment of the Australian Federal Police's (AFP's) Transnational Sexual Exploitation and Trafficking Team (TSETT), the introduction of a new visa regime under the auspices of the Department of Immigration and Citizenship, the victim protection initiatives under care of the Office for Women – Department of Family and Community Services are welcomed. The 2004 Action

Plan to Eradicate Trafficking in Persons, the introduction in 1999 of the legislation to criminalise slavery, sexual servitude and deceptive recruiting for sexual services, and the 2005 Criminal Code Amendment are also recognised.

Australia's efforts to step up its domestic efforts have been significant over the past several years. The legal framework, law enforcement and protection aspects of trafficking are generally considered to be in the right direction but more needs to be done to reflect Australia's commitment to combat the problem in all its incarnations. Australia should not limit itself to selected sectoral interventions such as sex trafficking. Greater emphasis now needs to be placed on the implementation of what Australia has committed itself to at the policy level. Australia's effort to move in the right direction is recognised.

Since 2003, Australia's response to trafficking has moved away somewhat from the more traditional response to the issue, which has been within the 'people smuggling' framework, where the priority is to simply move trafficked persons back to their home country as quickly as possible. Today, the anti-trafficking community expects Australia to implement an effective, holistic response – a 'whole of a government approach' – integrating some of the best practices in the international, anti-trafficking field.

Selected issues and recommendations

See table on next page

Conclusion

A candid appraisal of domestic anti-trafficking programs may assist the government to effectively respond to the issue of trafficking in its own back yard. Through this Australia can also aspire to become a genuine leader globally in setting human rights standards in dealing with a problem which is essentially a human rights issue.

³² WV notes the government's continued investment on the issue of trafficking through its contribution of \$21 million on the Asia Regional Trafficking in Persons Project (ARTIP) for 2006 – 2011 targeting the Greater Mekong Sub-region and selected ASEAN countries, building on its earlier investment of \$20 million in 2003.

³³ Key agencies involved in the fight against trafficking include: Australian Federal Police – Transnational Sexual Exploitation and Trafficking Team; Attorney-General's Department; AusAID; Commonwealth Director of Public Prosecutions; Department of Immigration and Citizenship; DFAT; Office for Women – Department of Family and Community and Community Service.



Issues	Observations and recommendations
The 2005 Act looks at trafficking of 'persons', not just women and children, however, in reality the focus is on women and girls and men are overlooked.	Recognise this gap and plan to address this through programs/training/capacity building, etc. of all agencies responsible for addressing this problem. Conceptual clarity of the issue is much needed.
The 2005 Act acknowledges labour trafficking but focus is placed on trafficking for sex.	As above. Independent studies, labour unions, etc. are noting a growing problem with severe forms of labour exploitation.
The victim identification process is weak, the outcome of which is poor victim identification. Identification is the responsibility of TSETT, a special unit under the jurisdiction of the Australian Federal Police.	Obviously, this is a consequence of the above two challenges; that is, trafficking only being seen in terms of sex trafficking, and the response only being focused on law enforcement. Other countries have formed multi-agency taskforces, involving NGOs and social welfare organisations, for the identification of victims.
State-centric approaches to victim protection as opposed to victim-centric approaches (including the visa regime). As is written and practiced, Australia's approach is yet to be in line with the victim-centred (rights-based approach) as per the OHCHR Principles and Guidelines. Eg, 30 Day Bridging F visas that can be revoked any time.	Concept of victim/witness protection predominantly for the purposes of assisting the criminal justice process should be reviewed and made more victim-friendly. The availability of Witness Protection visas on a post-trial basis should also be reviewed.
The 457 visa and conditions within this visa framework disproportionately disadvantage the employee and possibly places them in a position of vulnerability. Eg, linking the holder of the visa to their employer and change of employer to be done within 28 days.	There is opportunity to further liberalise the visa scheme to ensure better protection for the worker and yet maintain Australia's interest.
Victim support work is given to the private sector, which works in pursuit of profit. This is anathema to the prevailing practice of victim protection internationally.	Review the process and criteria involved in selecting organisations to provide victim support; seek greater engagement of those civil society groups, including NGOs, working on the issue.
Juxtaposing of, and subsequent confusion between, trafficking and smuggling and its negative consequences.	Linked to the first issue of conceptual clarity.
The way in which victims are provided support (not the package) can be made more culturally sensitive. Eg, victims staying alone in hotel rooms, etc.	Review domestically and internationally and adjust as appropriate.
Possible gap between the federal level of engagement on the issue and the state level by all agencies involved (police, immigration, AGO, etc.)	Assessment on engagement, eg, the capacity or readiness of the state police to deal with trafficking, followed by capacity building plans.



Anti-trafficking work in Australia

Australian Government Action Plan to Eradicate Trafficking (2004)

http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications_AustralianGovernmentsActionPlantoEradicateTraffickinginPersons-June2004

Criminal Code Amendment (Trafficking in Persons Offences) Act (2005)

<http://www.comlaw.gov.au/ComLaw/Legislation/ActI.nsf/0/F4098E5D96AC7E71CA2570380025CCBA?OpenDocument> (2005) and

<http://www.austlii.edu.au/au/legis/cth/bill/ccaipob2004483/> (2004)

Criminal Justice Stay VISA Package (CJSV).

Stage 1 - Bridging visa F (subclass 060), lasting 30 days

Stage 2 - Criminal justice stay visa (Part 2, Division 4 of the Migration Act 1958). In the context of the new trafficking visa regime, a CJSV would be granted to persons in relation to the investigation of an alleged trafficking offence, or who are needed to testify if the matter proceeds to trial. Work and study rights would be attached to this visa.

Stage 3 - Witness protection (trafficking) (temporary) (subclass 787). If the CJSV holder meets the relevant criteria and accepts the offer to apply, the person may be issued with a Witness protection (trafficking) (temporary) visa - subclass 787 for a period of 3 years.

Stage 4 - Witness protection (trafficking) (permanent) (subclass 852), visa may be granted if the person has held the corresponding temporary visa for at least 2 years and if, in the opinion of the Minister for Immigration and Citizenship, they would still be at significant risk were they to return to their own country.

http://www.facs.gov.au/guides_acts/ssg/ssguide-9/ssguide-9.1/ssguide-9.1.2/ssguide-9.1.2.130.html

Section 4

International Legal Instruments



**International legal framework:
The basics**

**Selected international instruments
on trafficking**



International legal framework: The basics

A basic principle on which nation-states have operated in the international area for hundreds of years (since the Treaty of Westphalia in 1648) is the principle of sovereignty and non-interference of states in the domestic affairs of others. The dent to the concept of sovereignty, sanctified but never really watertight, came about as a result of the anti-slavery movement of the 19th Century. The horrendous plight of people traded and sold into slavery once brought to the forefront challenged the widely accepted sanctity of sovereignty.

The creation of the United Nations at the end of WWII, in 1945, advanced and institutionalised human rights standards and norms in international relations, while at the same time upholding the principle of sovereign equality of all its members. The Universal Declaration of Human Rights (1948), and two Covenants, one on civil and political rights (ICCPR) and the other on economic, social and cultural rights (ICESCR) form the basis of international human rights law. A series of other treaties, in the form of conventions, have also been drafted to protect specific groups which are vulnerable and marginalised, as well as highlighting issues of concern to the international community. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of the Child (CRC); and the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment are all relevant examples.

These international instruments provide the framework for states to conduct their affairs. In varying degrees, they also bind the state to the obligations and responsibilities stated in them. The signing, ratification or accession to a particular instrument indicates a state's level of concern and commitment to address a particular issue.

International instruments, such as the Convention on Transnational Organized Crime and the accompanying UN Protocol to Suppress and Prevent Trafficking in

Persons especially Women and Children, are important, for a number of reasons, in combating trafficking as well as other criminal activities. First and foremost, they set international principles and standards (for example, in the repatriation of trafficked persons). Secondly, they help to strengthen national systems (structures and procedures) related to the issue and thirdly, they allow the international community to monitor the state's compliance with its obligations.

States that are parties to a particular instrument are obligated to ensure that their national legal framework, for example, is in line with standards set forth in the instrument. Australia's Criminal Code Amendment (Trafficking in Persons Offences) Act 2005, which made amendments to the Criminal Code Act 1995, is a good example of how an international instrument impacts the work of national governments.

Selected international instruments on trafficking

The following provides a summary of some of the key international instruments often used in addressing the multi-dimensional nature of trafficking. For the full text on these instruments, online links are provided.

The UN Protocol on Trafficking

http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

The Protocol was open for signature in Palermo in December 2000. Hence, it is also referred to as the Palermo Protocol. Following the specified number of ratifications, the Protocol came into force in July 2003. As of 2007, 117 countries have signed the Protocol and 116 have ratified it. Australia ratified the Protocol in September 2005. Unlike the previous conventions on trafficking, the protocol clearly defines what trafficking is. This has paved the way for a much-needed universal understanding of the issue.



Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

<http://www2.ohchr.org/english/law/cedaw.htm>

The convention entered into force in 1981. Australia ratified the convention in July 1983. The convention is recognised as the most comprehensive instrument advancing the rights of the women. While the convention does not define what trafficking is, Article 6 defines the role and responsibility of State Parties regarding trafficking in women: "State Parties shall take all appropriate measures, including legislation, to 'suppress all forms of traffic in women and exploitation of prostitution of women.'" In a comprehensive way, the convention identifies measures to promote equality and non-discrimination through modifying social and cultural patterns of conduct, suppressing exploitation of women, equality in education, national laws, employment and health among others. All of these provisions have a direct bearing on the prevention of and protection against trafficking, as well as the prosecution of traffickers.

Convention on the Rights of the Child (CRC)

<http://untreaty.un.org/English/TreatyEvent2001/pdf/03e.pdf>

In January 1990, the convention was open for signature and by September of the same year, it received the required number of ratifications and came into force. Today, except for the US, all 192 countries have ratified the convention, making it the most ratified human rights treaty ever. Australia became a State Party to the convention in December 1990. Regarding trafficking in persons, Article 35 states that 'State Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purposes or in any form. This article provides blanket protection covering a wide range of situations. Article 36 reinforces the blanket protection and requires States to 'protect the child against all other forms of exploitation prejudicial to any aspect of the child's welfare'.

The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (The Optional Protocol)

<http://www2.ohchr.org/english/law/crc-sale.htm>

The Optional Protocol came into force in January 2002. One of the key factors that led to the adoption of the Optional Protocol was concern for the 'significant and increasing international traffic in children'. The Optional Protocol extends the measures that States Parties must take to protect children from sale, prostitution and pornography. Both the CRC and the Optional Protocol can be used in many ways to eliminate trafficking in children. Australia became a State Party to the Protocol in January 2007.

ILO Minimum Age for Admission to Employment Convention No. 138 and ILO Elimination of the Worst Forms of Child Labour Convention No. 182

<http://www.ilo.org/ilolex/english/convdisp1.htm>

Convention 138 on minimum age for admission to employment, which came into force in 1976, targets the abolition of child labour and seeks to 'prohibit child labour and provide a minimum age for work that corresponds to the end of compulsory schooling'. Australia has not yet become a State Party to this convention.

Convention 182 on the worst forms of child labour came into force in November 2000 and is the fastest ratified convention in the history of the ILO. This convention complements the minimum age convention and seeks to take immediate and comprehensive action to prohibit and eliminate the worst forms of child labour. Article 3 of the convention defines the worst form of child labour as comprising among others 'all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict'. Australia became a State Party to the convention in December 2006.