

2 MIGRATION AND HUMAN TRAFFICING

2.1 Introduction

It is in general difficult to distinguish clearly between human trafficking and migration and there are many notions and views about what really constitutes illegal and exploitative trafficking. The “Protocol to Prevent Suppress and Punish Trafficking in Persons, especially Women and Children” gives the following definition: *Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of 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 of another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or slavery or practises similar to slavery, servitude or the removal of organs.*

There are different perceptions or notions of the links between migration and trafficking among government authorities and organisations working with the issue of trafficking. Three of the most commonly held views are:

- Trafficking occurs as a more or less fixed percentage of migrants;
- Trafficking affects certain vulnerable groups of migrants more than others;
- Trafficking is in many cases not linked to migration;

All the statements can be said to be relevant as they probably capture the realities of migration in the region, describing situations that may be true to a certain extent or situations that are occurring in certain areas and in some settings.

Given the economic development and increasing economic integration the Mekong, entailing increased movement of good and people, trafficking is a phenomenon and problem that is growing. Therefore, governments, international organisations and NGOs are increasingly mounting different types of responses to combat it.

2.2 Regional Perspective

2.2.1 Thailand

In Thailand the leading institution working with human trafficking is the Bureau of Anti-Trafficking in Women and Children under the Department of Social Development and Welfare, Ministry of Social Development and Human Security.

The role and responsibility of the Bureau is to serve as a focal point for the coordination among the networks of concerned agencies for the protection and welfare of victims of trafficking. It is also charged with the responsibility to conduct relevant studies and analyses on human trafficking, and to provide welfare assistance, protection, and vocational development for women and children who are victims of human trafficking.

Thailand is a receiving, sending, and transit country for trafficked men, women and children. Within the country, women are trafficked from the impoverished Northeast and the North to Bangkok for labour and sexual exploitation. People who are trafficked are usually the rural poor, often belonging to ethnic minorities. As a destination country, Thailand receives trafficked women, children, and men from Burma, Cambodia, Yunnan Province of China, and Laos. Children are often trafficked to work in begging gangs while men end up doing farm, industrial, and construction labour.

Consciousness about human rights issues has risen since the new Constitution was drafted in 1996 (ratified in 1997). Trafficking has been addressed legally in the "Measures in Prevention and Suppression of Trafficking in Women and Children Act" (1997).

2.2.2 Vietnam

In Vietnam the responsibility for dealing with human trafficking lies with the "Department of Social Evils Prevention" in the Ministry of Labor, Invalids and Social Affairs (MOLISA). It is the focal point for of the Government's activities to combat trafficking. The Department is charged with formulating and implementing a National "Plan of Action to Combat Trafficking in Persons". Counter measures taken include increasing sentences for trafficking and increased investigation and prosecution efforts.

In Vietnam, the most pertinent law to counter the trafficking of women and children is the Criminal Code of 1985. In addition the 1992 Constitution has various provisions to support the rights of women and children, including Section 65, which states that, "Children shall enjoy protection, care and education provided by the family, the state and society." Furthermore, the 1991 Law on the Protection, Care and Education of Children has indirect provisions against trafficking.

Trafficking of women and children is a significant problem in Vietnam. There is a critical lack of solid statistical information and investigations into the problem but trafficking is generally believed to involve persons being trafficked both domestically and internationally for purposes of sexual exploitation, labour, forced marriage, and domestic servitude. The majority of trafficking victims in Vietnam are teenage girls and women trafficked into Cambodia from the southern provinces and into China from the northern provinces.

Within Vietnam itself, most Vietnamese trafficking victims are engaged in the substantial commercial sex industry that exists. Children and teenage girls in

southern Vietnam are particularly at risk for trafficking as prostitutes, primarily for work in brothels along the Vietnam-Cambodia border and in Phnom Penh.

2.2.3 *Regional Initiatives and Programmes*

A number of organisations, governments and international organisations are taking initiatives and implements programmes to combat trafficking in the region. These include the following:

- UN Inter-Agency Project on Trafficking (UNIAP) in the Greater Mekong Sub-region
- UNICEF East Asia Regional Project Against Abuse, Exploitation and Trafficking of Children
- The International Organisation for Migration (IOM)
- ILO Mekong Sub-regional Project to Combat trafficking in Children and Women
- The Australian Agency for International Development (AUSAID) - Asia Regional Cooperation to Prevent People Trafficking Project
- The Asian Regional Initiative Against Trafficking (ARIAT)
- UNESCO / Principle Regional Office for Asia and the Pacific (PROAP)
- COMMIT (Co-ordinated Mekong Ministerial Initiative against Trafficking): A conference is to be held in Yangon September 2004 between Thailand, Cambodia, China, Vietnam, Myanmar and Lao PDR to agree on measures and arrangements to combat trafficking in the region

2.3 **National Perspective**

2.3.1 *Introduction*

In the Lao PDR voluntary and irregular cross-border migration of people is widespread throughout the country, especially in the areas bordering on Thailand where extensive cross-border networks and contacts facilitates the finding of employment. Due to the irregular nature of the labour migration it is difficult to give any estimates of the present scale. The reasons for Lao citizens leaving their country to seek employment in Thailand, for longer or shorter periods of time, are manifold and complex. Poverty and lack of employment opportunities in their own country does not appear to be the only causes. The cultural factor also plays an important role as Thai language skills are widespread amongst the Lao population. Particularly after rice harvest when farm labour demands are low many Lao in the border areas use the opportunity to go for short term employment across the border to supplement family incomes, and to be able to satisfy their consumer aspirations. Among adventurous young people Thai culture and modern urban lifestyle may also constitute a considerable attraction, representing an alternative to their present village life and prompting them to leave their farming duties to fulfil their visions of prosperity in the cities.

However, as previously noted, migration also constitutes a risk for ending up in a situation that clearly is abusive and falls under the category of trafficking as defined by UN. In areas close to the border, where there are extensive cross-border networks, people most often cross the border unaided utilizing their contacts and knowledge from earlier stays or from friends or relatives who have been there before. Agents (who are often well known and trusted) are sometimes used, but mostly avoided where possible due to their high fees. More remote areas are subject to the activities of agents. Where there is little knowledge of means to cross the border undetected and find satisfactory employment unassisted, a facilitator's services gives the impression of reducing the risk of being exposed. However it is under these conditions that villagers are most susceptible to fall victim to traffickers and end up in slave-like and exploitative situations.

2.3.2 *Legal and Institutional Framework against Trafficking*

Although there exist little information on the extent of trafficking across the country's borders human trafficking has been recognized as a serious and growing social problem by the GoL. The government agency that has been given the responsibility for preventing and following up human trafficking is the Ministry of Labour and Social Welfare (MoLSW) where the Social Welfare Department has established an office for "Child Labour and Assistance for Trafficked Women and Children". Of the mass organisations it is the Lao Women Union that has taken responsibility for human trafficking and reintegration of returnees.

A number of laws, decrees and international conventions provide the legal framework and legal instruments for addressing trafficking in Lao. Relevant laws and decrees include:

- Ministry of Public Security Decree No 110/97
- Prime Minister Office's Decree No. 031
- Lao Labour Law, 1994
- Law on Lao Nationality, November 1990
- The Lao Penal Code, 1990
- The Family Law, 1990

The Penal Code has provisions against violations of children's rights. This includes Sections 119-120, which protect children against sexual abuse, and Section 92, which penalizes the trade and abduction of children for ransom or sale. Article 69 also provides for penalties against individuals who mislead officials in sending people abroad or aid in illegal immigration.

The 1990 Family Law Decree dictates parental responsibilities towards children, and the 1990 Labour Law, updated in 1994, prohibits forced labour and protects the rights of women and children at work, the minimum working age being 15. The Government is also working on a "Law on Violence and Trafficking" that may be passed by the National Assembly in September 2004.

The Government of Lao PDR are party and signatory to a number of international conventions which are covering human trafficking either directly or indirectly. The most important include:

- UN Convention on the Rights of the Child

- UN Convention on the Elimination of all Forms of Discrimination Against Women
- Protocol to Suppress and Punish Trafficking of Persons, especially Women and Children, Supplementing the United Nations Conventions Against Transnational Organised Crime
- Un Protocol Against the Smuggling of Migrants by Land, Sea and Air
- UN Convention against Trans-national Crime

In addition to the international conventions against trafficking Lao PDR has already entered into one bilateral MOU with Thailand on labour migration. Another MOU with Thailand, entitled “Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking”, is under preparation.

2.3.3 *Studies and Research into Trafficking and Migration*

A limited number of studies on migration and trafficking in the country have been undertaken. The most important include:

- How I Got Here: Commercial Sexual Exploitation of Children in Lao PDR, Ministry of Labour and Social Welfare, UNICEF, Vientiane, Lao PDR (not dated)
- Report on the survey and the situation regarding the trafficking of children in the Lao PDR, UNICEF (not dated)
- Trafficking in Women and Children in the Lao PDR – Initial Observations. UN Inter-Agency Project (UNIAP) – Ministry of Labour and Social Welfare, Division of Trafficking in Women and Children, Vientiane 2001;
- Labour Migration Survey in Khammouan, Savannakhet and Champasack 2003 Ministry of Labour and Social Welfare / Committee for Planning and Cooperation / ILO, 2003,

The MoLSW and UNIAP report, “Trafficking in Women and Children in the Lao PDR” studied migration and trafficking from Sayaboury and Saravanh provinces and points to a number of characteristics of the current migration patterns. Common characteristics of the migration to Thailand can be summarised as:

- Migration and movement rarely occurs out of pure economic need
- Movement across the border is mostly occurring on a voluntary basis but there are cases involving girls from Saravanh where coercion and force has been applied, and girls have allegedly ended up in slave-like working conditions in Bangkok or have been sold into prostitution
- Cultural traits may play a leading role in relation to migration and risk behaviour as young people are adventurous and find the idea of travelling to Thailand exciting

The report states that the reasons and logic for migration across the Thai-Lao Border is so strong that “it supersedes immigration laws and its force is such that police on either side is helpless to act against it”. It concludes that tightening of the border probably will not work as measure to prevent migration and trafficking.

The “Labour Migration Survey in Khammouan Savannakhet and Champasack 2003” is perhaps the report that currently provides the best information and in-

sights into trafficking and migration in the country. The finding and results are presented under 2.4-Local Perspective.

Due to the fact that so little is known about migration of trafficking more research is underway. Important upcoming reports on the subject are:

- a nationwide trafficking study undertaken by UNICEF
- a UNIAP qualitative based study of 30 villages entitled “TRACE: From Community to Exploitation”
- a study undertaken by the Save the Children UK, Lao Youth Union and MoLSW entitled “Migrant Children and Youth in Lao PDR: Migration Along the Border of Thailand”

2.3.4 *Projects and Initiatives*

There are a number of Organisations currently working on migration and human trafficking in Lao PDR. These projects represent an important resource base for acquiring information on trafficking and activities undertaken to combat it. In the following are listed projects that are ongoing or have recently been implemented in Lao PDR.

Table 1: Current Projects and Programmes on Human Trafficking in Lao PDR

Organisation	Project Designation	Location / target group
UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP)	UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP)	Various areas / Lao nationals at risk of trafficking
UNICEF	UNICEF East Asia Regional Project against Abuse, Exploitation and Trafficking of Children	Children of 10-18 years with special focus on ethnic minorities
Village Focus International (VFI)	Laos Anti-Trafficking (LATC)	Salavanh Province / Children and youth, repatriated young men and women
Save the Children UK	Participatory action research / capacity building Project to prevent trafficking	Children and youth at risk of trafficking in Luang Namtha, Bokeo and Sayaboury
Save the Children Australia (SCAU)	Youth at Risk	Children up to 18 years of age in Sayaboury Province
Norwegian Church Aid (NCA)	Project for Prevention of Violence against Women and Children	Xayphoutong District in Savannakhet
International Organization for Migration (IMO)	Return and Reintegration of Trafficked Women and Children (Lao component of a regional programme coordinated from Bangkok)	Bangkok, Vientiane, Lao PDR especially southern provinces
ILO - IPEC	ILO Sub-regional Project to Combat Trafficking in Children and Women	Lao nationals at risk of trafficking in Savannakhet, Khammouane and Champasack
Consortium in the Lao PDR	Prevention of Human Trafficking through Awareness Raising and Occupational Development in Mekong Border Communities	Sang Thong and Pak Ngeum Districts in Vientiane Municipality
Lao Women Union	Combating Trafficking and Violence against Women	Lao PDR
ACIL	Asia Regional Cooperation to Prevent People Trafficking	Strengthening of law enforcement against trafficking in the Lao PDR
UNESCO	Regional Programme on Research on Trade in Minority Girls from Yunnan, Myanmar and Lao PDR into Thailand	Lao PDR

In addition to the projects mentioned above “Give2Asia.org”, founded by the “Asia Foundation to Promote Philanthropy to Asia”, announced the launch of the first comprehensive women’s shelter and counselling centre for victims of violence and trafficking in Lao PDR. A national Plan of Action against Commercial and Sexual Exploitation of Children is also being prepared by the Lao Government.

2.4 Local Perspective

2.4.1 Labour Migration Survey

As noted above, there exist only a few studies that shed light on the issue of labour migration and human trafficking in Lao PDR. The most recent and comprehensive is a study undertaken by the Ministry of Labour and Social Welfare in cooperation with the Committee for Planning and Cooperation through the National Statistical Centre and with technical assistance from the ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women (MoLSW/CPC, 2003). The study looks at the situation in 3 provinces in the middle part of Lao PDR, Khammouan, Savannakhet and Champasack. The sample population had a composition as shown in Table 2.

Table 2: Provincial and Urban/Rural Distribution of Sample population

Province	Urban	% ³	Rural ¹	% ³	Rural ²	% ³	Total	% ⁴
Khammouan	789	12.8	4,762	77.3	606	9.9	6,157	16.9
Savannakhet	4,043	21.9	9,627	51.9	4,876	26.2	18,546	51.0
Champasack	1,471	12.6	9,187	78.6	1,035	8.8	11,695	32.1
Total	6,303	17.3	23,576	64.8	6,517	17.9	36,398	100

1 Rural villages with road access; 2: Rural villages without road access; 3: Percentage of province sample; 4: Percentage between provinces

The ethnical composition of the sample population was dominated by the Tai-Kadai group (Lao Loum) with around 78% of the interviewed households, while the Austroasiatic group (Lao Theung) constituted around 22%. Only 0.2 % belonged to the Hmong-Yao group (Lao Soung).

Age and Gender Distribution

The results of the study indicates that a substantial part of the population migrate in search of employment to find work, and that women constitute a majority of the migrants. Of the female sample population 7.5% were found to migrate while the percentage of male migrants was lower with 6.2 %. Of the total migration population women constituted 55% while men accounted for 44%. However, there were considerable gender differences regarding age group composition and destinations as shown in Table 3 and Table 4. From 10 and up to 26 years the majority of migrants are female while above 26 there is a slight male dominance. It is especially between the age of 15 and 20 that the female majority is pronounced. Females in this age group makes up 28% of the migrant population while men only account for 16.1%.

Table 3: Migrants by Sex and Age

Province	<10	10-14	15-17	18-20	21-25	26-30	31-35	>35
Male	0.5	0.8	5.8	10.3	13.2	8.3	2.3	3.0
Female	0.2	2.9	11.4	16.6	15.1	6.4	1.9	1.3
Total	0.7	3.7	17.2	26.9	28.3	14.7	4.2	4.3

In relation to internal versus trans-border migration the study also found considerable gender differences as well as differences between the 3 provinces. The results show that men dominates the internal migration, especially in Khammouan, where it, in contrast to Savannakhet and Champasack, is the overall most common form of migration.

Table 4: Distribution of Internal and Trans-border Migration

Province	Inside Lao PDR			Trans-border		
	Male	Female	Total	Male	Female	Total
Khammouan	68	39	55	32	61	45
Savannakhet	17	9	12	83	91	88
Champasack	32	25	29	68	75	71

As can be seen from the figures Savannakhet and Champasack show a migration pattern that is predominantly oriented towards Thailand while Khammouan is more oriented to the internal labour market. Still, around 45 of the sample migrant population for the province migrate abroad for work.

Destinations

Those who migrate across borders to seek work are predominantly ending up in Thailand, although the study indicates that a considerable part of them goes on to other Asian counties or even Europe or America. Thus, 82% of the migrant population covered by the study found work in Thailand while 8.3 and 8.2 % ended up in other Asian countries and in America respectively. Only 0.5% ended up in Europe.

Education

In relation to education level among the migrants the study found significant differences between the provinces. Among those originating from Khammoauan around 18% had no education at all while the same figure for Champasack was 6.6%. Around 52% of the migrants had primary education and 25% had finished lower secondary school. There were also large differences in education level with regard to ethnicity. Whereas around 30% of the migrants belonging to the Austroasiatic group had no formal education only around 12% of those belonging to the Tai-Kadai group had no formal schooling.

Trafficking Risks

With regard to risk for exploitation and trafficking the study sought to access this through a couple of proxy indicators. It was suggested that those who kept in contact with the family and sent remittances were those who were least likely to be trafficked, and conversely, those who could not be contacted and never sent remittances were those who might have ended up in exploitative conditions that qualify as trafficking. The study found that 60% of the women and of the 47% of

the men sent remittances home while the overall figure for both genders was 55%. There were differences between age groups and between migrants of different ethnicity. There was a tendency that the percentage of migrants sending remittances increased with age and that a higher percentage of migrants belonging to the Tai –Kadai group sent more than those belonging to the Austroasiatic group.

Regarding the degree of contact migrants are kept with their families the study found that younger age groups could be contacted to a lesser degree than the elder age groups. There were also gender differences as women in general were less contactable than the men, Ethnicity was found to be a factor as the migrants from the Austroasiatic group kept less in contacts with their families than those of the Tai-Kadai group. This can, however, possibly be attributed to the unavailability of mail and telephone services in the villages they originate from.

Combining the above mentioned factors and that had elapsed since departure, the study assessed which age group could be considered as having the highest risk of being trafficked or exploited. The percentage of the migrants in an age subgroup where no information on livelihood could be obtained, no remittances had been sent and no contacts had occurred since departure were deemed to be at high risk. Not surprisingly, as shown in Table 5, the assessment found that the youngest female age groups from 10 to 18 years of age had the highest percentage of persons at high risk of being trafficked in to prostitution or slave-like working conditions.

Table 5: Migrant Groups Considered at High Risk

Migrant Group	Age	% of migrants with no info, contact or remittance		
		Male	Female	Total
10 - 14	-	-	3.2	3.2
15 - 17	-	-	1.8	1.8
18 - 20	0.2	0.2	0.2	0.4
21 - 25	-	-	0.4	0.4
> 26	-	-	0.8	0.8

Migrant Population

The survey also collected baseline information directly from village household registries and from the village authorities. This information provided additional insights into on the composition and activities of the migrant population. Overall in the 3 provinces the migrants constituted close to 4% of the sample population (women 2.4% / men 1.6%). The age composition of the migrants differed slightly between the provinces with Savannakhet having the youngest female migrant population with 31% being under 18 years of age, the corresponding figures for Khammaouan and Champasack being 27% and 21% respectively.

Types of Work

With regard to what type of work the migrants end up with information from the The Ministry of Labour in Thailand provides some insight. A registration of migrant workers from Lao PDR was carried out in September – October 2001 and comprised 59,358 individual workers.

Table 6: Percentage of Migrant Workers in different types of Employment

Type of Work	Male	Female	Total
Domestic work	2.6	25.8	28.4
Plantation work	6.7	2.9	9.6
Agricultural work (livestock)	4.4	1.5	5.9
Fishing	2.9	0.6	3.5
Construction	2.5	1.1	3.6
Porters in warehouses	1.1	0.4	1.5
Potteries	0.2	0.1	0.3
Rice mills	0.1	0.1	0.2
Mining	0.1	-	0.1
Unspecified with employers	19.6	20.2	39.8
Unspecified without employers	3.2	3.9	7.1
Total	43.4	56.6	100

Although the largest category in the registration was unspecified work, domestic work stands out as the dominant occupation for women while it for men was plantation work.

2.5 Future Developments

Given the economic development trends that are prevalent in the region there is reason to fear that migration will increase, and with it, trafficking, even though it may be argued that there is no fixed relationship between migration and trafficking, Countermeasures will most probably have some effect but will not be able to halt the increase of trafficking. As long as economic disparities prevail between countries and areas within a country labour migration will continue and along with it, trafficking. The demand for domestic workers and workers for sweatshop industries in the region will continue to be a driving force in the years ahead.

In a more local perspective the developments diverge a little from this general pattern. It should be noted that Khammouan differed somewhat from Champasack and Savannakhet according to the findings of the migration survey referred above. In Khammouan a larger percentage of the migrants traveled to other districts or provinces within the country. Given the advent of the NT2 Project and other industrial developments it may very well be that this tendency will reinforce itself as people will be attracted by the prospects of employment closer to their home. It is thus conceivable that the NT2 project will have a positive effect dampening cross border migration. On the other hand, the improved road system and increasing contacts with the outside world may lead to increased out migration of groups from the project area that are more susceptible and vulnerable to internal and cross-border trafficking. There is also a danger that trafficking or trafficking-like conditions may start to develop inside of the country, most notably in the Svannakhet and Khammounan provinces where the commercial sex and prostitution scene may develop further. In this respect NT2 will add to the economic growth and together with other infrastructure developments boost the regional economy so as to create conditions that are conducive for the commercial sex business, which again is linked to increased risk for trafficking.

2.6 Recommendations

The NT2 Project has not yet made an action plan for addressing human trafficking problems that may arise in connection with the project. Neither have any study on the occurrence of trafficking and migration in the area been carried out. It is recommended that a plan for preventing trafficking in connection with the NT2 construction activities is worked out by the Developer.

Although the NT2 Project can put measures in place that prevents and minimises trafficking in connection with workers camps the response to trafficking on the wider area need to be institutional. Law enforcement obviously needs to be strengthened and in this respect training and awareness raising within the police force would be a possible activity the NT2 project could sponsor. Furthermore the local Lao Women Union along with the Youth Union could be facilitated and strengthened through training and operational support so that a community mobilisation against trafficking can be initiated and sustained.

Since a national and regional framework for increased counter trafficking activities now are being put in place through bilateral MOUs and sub-regional initiatives this can be utilized in the context of NT2. For instance, the National Plan of Action against Commercial and Sexual Exploitation of Children currently under preparation, can also be utilised through local adoptions and targeted sponsorship of certain activities in the provinces and districts surrounding the NT2 Project.

Awareness raising activities need to be focused to be effective. This will mean targeting directly groups that are most in danger of becoming victims of trafficking. These groups will for instance include ethnic minority youth. In the resettlement villages and awareness raising should be supported through the education activities the NT2 Project will support.

In terms of law enforcement stricter border control to prevent migration and trafficking will be difficult due to the fact that the border is long and mostly unmanned. Instead targeting the facilitating persons involved in trafficking could be more feasible. Local law enforcement need to be strengthened and trained to for instance take action against recruiting agents coming into the area. Perhaps the most fruitful approach will be to raise awareness in the local communities and villages so that villagers themselves can protect their young population better. This should be incorporated in the social development programmes that will be implemented by the NT2 Project.

Traditionally, trafficking reduction interventions tend to focus on areas like income and employment generation to keep young people from leaving their village. These options should also be explored although the efficiency of these measures is questioned by some organisations and persons working to reduce the trafficking problem.