



*Labour Migration and Trafficking:  
A Gender and Human Rights Approach*

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Manila, Philippines  
29 May 2007**

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In today's global world, trafficking in human beings is increasing dramatically, both within and across regions.<sup>1</sup> An estimated 600,000 to 800,000 persons are trafficked across international borders each year, not including the unknown number trafficked within countries. About 80 per cent of those trafficked across international borders are women and girls, and 50 per cent are minors.<sup>2</sup> Now a multi-billion dollar industry, it affects vulnerable individuals, particularly women and children, in every region of the world, and has become a major human rights concern. A communique from the G-8 countries on combating transnational organized crime identified the phenomenon as 'the dark side of globalization.'<sup>3</sup>

Trafficking in persons includes prostitution, debt bondage, forced labour and slavery, along with the exploitation of children as captive labourers, child soldiers and sex slaves.<sup>4</sup> The ILO estimates that some 12.3 million people are enslaved in forced or bonded labour or sexual or involuntary servitude at any give time. In fact, trafficking for the purpose of slave labour, while more difficult to identify, is likely to be far greater than sex trafficking.<sup>5</sup> This makes it important to look at trafficking within the broader context of labour migration (legal and illegal) as well as the movement of people from conflict and crisis situations.

Migration and trafficking should also be seen as part of a complex and shifting continuum, short and long-term, voluntary and involuntary. Movement intended to be temporary may become permanent; migration undertaken voluntarily may later become forced; and those who have been trafficked may later choose to remain in the place of destination. The ILO estimates there are about 120 million migrant labourers, primarily drawn from poorer South and East Asian countries, such as Bangladesh, Indonesia and the Philippines to take short term work in richer Asian, European and Arab States, including Malaysia, Saudi Arabia and United Arab Emirates<sup>6</sup>.

In addressing migration and trafficking, we recognize that population movements, whether voluntary or forced, are not new. What has changed is their regulation, as border controls are tightened and migrants carefully screened. Those who fail to meet entry criteria become illegal, giving rise to people smuggling and trafficking. This has in turn increased the involvement of organized crime, for whom trafficking is a growing source of profits. The U.S. Justice Department ranks human trafficking as the third largest criminal enterprise worldwide, second only to drugs and arms; it generates an estimated US\$9.5 billion each year for the procurers, smugglers, and corrupt public officials who make it possible.<sup>7</sup>

The dramatic growth in migration and trafficking flows results from both push and pull factors. Push factors include uneven economic growth and rising inequality, war and armed conflict, environmental degradation, natural disasters, and high levels of gender discrimination and family violence. At the same time, economic growth, stability and relative prosperity in developed countries act as 'pull' factors, creating increased demand for imported labour. Migrant workers thus form two streams—on the one hand, the highly skilled professionals demanded by new economies and technologies, and on the other, the much larger group of unskilled workers willing to take the low-wage, insecure jobs that citizens may be reluctant to take. While one stream is welcomed and legitimized by the receiving state, the other is carefully monitored; many low skilled workers enter illegally and are thus vulnerable to exploitation and abuse by employers and officials alike.

Changes in both the supply of and demand for female labour have also increased the proportion of women and children in migration streams, and therefore of women and girls being trafficked. Globalization has opened up new opportunities for those with the skills, capital and connections to access them while shutting down employment and livelihood options for those without them, especially in poor countries and rural areas that fail to compete in the global marketplace. Market liberalization and privatization have created an increasing need for cash incomes to purchase the most basic needs, including those once provided by the state. Often this demand cannot be satisfied in local labour markets, forcing family members out into the global workplace.

In poorer regions especially, women and girls may also be pushed toward trafficking as an alternative to the drudgery, danger and exploitation that characterizes their daily lives. In regions throughout Asia, South Asia and Africa, young women may be running away from the prospects of early or forced marriage, the dangers of pregnancy and childbirth, and the drudgery of fetching fuel and water, caring for families, and contributing to the family income through agricultural work of other low paid and unskilled jobs available locally.

In Central Asia and Eastern Europe, the rapid integration of former socialist economies into the global economy, involving wholesale privatization, worker layoffs, the end of subsidies for basic goods and services, took place with almost no regulatory oversight. While many women initially embraced staying home and caring for their children, the loss of income, the elimination of nurseries, the abrupt dismantling of state services, along with a dramatic increase in alcoholism, violence, and crime, has led many women to seek better lives elsewhere.

On the demand side, globalization is fueling a growing demand for cheap, low-skilled labour in both developed and developing countries in agriculture, food processing, construction, labour-intensive manufacturing, home health care, domestic work and the service sector in general. As industries continually seek to cut costs, some have relocated to low wage economies while others remain 'flexible' through worker layoffs, part-time work and increased use of subcontracting—undermining the power of trade unions to protect jobs, wages and basic rights. At the same time, there has been a weakening of regulatory and monitoring mechanisms to protect working conditions, minimum labour standards or basic human rights. Yet the wages and working conditions that are substandard in rich countries can be attractive to those from poorer countries where wages are even lower, and options fewer. Trafficked workers are usually unaware of minimum standards or how they are enforced. They are also unaware of their human rights or of any means by which they might claim those rights. In addition, their status as illegal workers deprives them of the means of enforcing minimum wages and working conditions. Young women are in particular demand because they are often regarded as more compliant and less likely to rebel against substandard working conditions.

In addition, the increasing entry of women into the paid labour force has created a huge demand in developed countries for the labour of women and children, particularly girls, in unpaid household and care work, since men in most cases have not increased their share of such work. The wages, low status, isolation and demanding hours of such jobs are such that women in these countries avoid them if they can, adding to the demand for illegal and trafficked labour.

The work available to illegal migrants leads to widespread human rights violations, particularly for women and children. Because of their sub-standard practices, and the use of undocumented

workers, employers often hide these workers. Domestic workers are particularly vulnerable, since their work is confined to the employer's household, a private domain beyond the reach of regulation. The resulting psychological isolation exacerbates the unequal power relations between the migrant or trafficked worker and the employer, which makes women and girls especially vulnerable to physical violence and sexual abuse. At the same time, the low wages combined with frequent withholding of pay by employers and the high fees charged by traffickers, often forces women trafficked into other areas of employment to resort to prostitution in order to survive, or to repay the debts incurred during the process of being trafficked.

In short, it is not the mere existence of the demand for cheap labour in other countries that generates the conditions for trafficking. It is the restriction on the right to work in response to this demand that determines migrant worker status and leaves the undocumented migrants vulnerable to trafficking. While the vulnerability of women and girls is greatly increased as a result of gender inequalities at every stage, the fundamental issue is the lack of legal channels through which migrant workers can access protections that should be theirs by right.

### ***Trafficking and Armed Conflict***

Another factor that facilitates trafficking is the outbreak of armed conflict. Traffickers often go through countries in conflict, since border controls are reduced. Refugee and displaced women and girls are taken as hostages and later trafficked into slavery, prostitution or forced military recruitment. The UN estimated a total of 20.8 million refugees and internally displaced persons in 2006, mostly women and children.<sup>8</sup> Refugee and displaced women and girls may be forced to provide sexual services in exchange for safe passage or to obtain needed documents. Girls who become separated from their parents risk sexual abuse or forced recruitment into the fighting.

The lack of protection mechanisms in refugee and displaced persons camps leave women and girls subject to physical and sexual attacks, rape and other forms of violence. The loss of social support networks means they have less power to defend themselves or obtain the help needed to survive. Lack of security and poorly lit camps leave women and girls at risk of attack both inside and outside the camps. In some cases, prostitution, drug trafficking and other illegal activities have been seen as normal activities, part of the refugees' "culture", by authorities in charge—who may themselves be perpetrators.

The effects of trafficking and sexual slavery are profound, especially for young girls. They face a myriad of physical and mental health problems due to rape, sexual abuse, sexually transmitted infections, including HIV/AIDS, trauma and unwanted pregnancies. Torn from their families, women and girls are brutalized by their kidnappers and then often rejected by their families. In some cases young girls who had been abducted by soldiers or rebels and escaped spent months searching for family members, only to be turned away in disgrace when they did find a relative. In some places orphanages set up for children separated from their families and communities have themselves facilitated trafficking in children, particularly girls.

The trauma women and girls experience often leaves them unable to discuss these abuses, particularly during asylum or refugee status hearings, making it more likely their requests will be denied. Moreover, immigration policies that fail to address the impact of armed conflict on women may force them to return to their countries, where they risk further violence. Women and girls may be forced to stay in abusive marriages to avoid losing their visas and having to return.

### ***Gender Discrimination in Families and Communities***

A number of more personal factors increase women's vulnerability to trafficking. In patrilineal systems, daughters may be seen as a liability by their families, who are obliged to ensure their sexual purity, provide substantial marriage expenses and continue to offer material resources to the daughter's marital family. Households, especially poor households, cope with this in various ways. If an opportunity arises, families may trade undervalued women and girls with little thought for their rights or future well-being. Examples include the sale of women and girls into marriage and a willingness to marry off young girls to men who make no monetary demands.

Women are manipulated by family loyalty to fulfil family needs in the name of cultural tradition – even if it means engaging in pornography or prostitution. This occurs frequently in situation of agricultural debt, even in cases where a daughter provides economic security to ageing parents. On the other hand, where sexual purity is imperative, non-conformity to sexual codes, along with rape or sexual abuse, result in stigma and loss of self-worth, leaving them vulnerable to trafficking. Infidelity, family violence, desertion and divorce also increases the risk of women being trafficked. It is important to note, however, that while trafficked women may see themselves as victims of structural forces at one level, they also see themselves as being able to solve urgent economic problems faced by their families.

On the demand side, a burgeoning marriage market and bride-trade has developed, especially in rural areas. A surplus of bachelors has been created owing to increasing options for women in Japan, South Korea and elsewhere in Southeast Asia as well as the traditional preference for sons in countries such as China and India. In India, for example, the dowry system and pressures to have sons has generated inter-state movements of girls from states such as West Bengal and Assam to fill gender gaps in better off states such as Punjab.<sup>9</sup> The image of Asian women as docile and subservient has generated another form of trafficking, 'the mail-order-bride' system, while commercialization of women's bodies via pornography, advertising, entertainment and the media also increases demand.

### **A Gender Responsive and Human Rights-based Approach to Trafficking**

Until recently, the international human rights framework has been slow to catch up with the impact of globalization on population movements, including illegal migration and trafficking. To the extent that the right to a decent livelihood is recognized, the obligation for realizing that right is placed on the state in which the person resides, rather than the global community. As long as capital moves more freely across borders than does labour, vulnerabilities will be created in some countries and demand in others, thereby encouraging illegal migration and trafficking. There is a need to develop international understanding along with norms and standards to address these issues.

Recent years in fact have seen some progress, as awareness has increased about the need for concerted action at global and national, as well as local levels. I will discuss these changes, along with some of UNIFEM's work, in terms of a six-point action agenda to address trafficking and make migration a safer option. This includes: 1) global agreements to set norms and standards; 2) strategies to ensure implementation; 3) measures to increase the costs of trafficking; 4) stronger provision of support services, including alternative livelihoods; 5) greater public awareness; and 6) empowerment of women to claim their rights.

In terms of global agreements, the International Protocol to Prevent, Suppress and Punish Trafficking in Persons, which came into force in December 2003, seeks to promote cooperation among States Parties—which now number 111—to prevent such trafficking, paying particular attention to women and children and to protect and assist its victims, with full respect for their human rights. There is also a special rapporteur on human rights aspects of victims of trafficking, especially of women and children. Last year, a UN resolution on trafficking in women and girls, adopted in November, specifically recognizes the need to address the impact of globalization on the problem of trafficking in women and girls and calls upon Governments to eliminate the demand for trafficked women and girls and on the supply side, to address the factors that increase their vulnerability, including poverty and gender inequality—and requests the Secretary-General to submit a report on the gender dimensions of the problem in 2008.

This resolution, along with one on improving coordination efforts, calls on governments, together with the UN, to strengthen measures to combat trafficking through increased regional and international cooperation. On 26 March this year, on the 200<sup>th</sup> anniversary of the abolition of the trans-Atlantic slave trade, the UN launched a Global Initiative to Fight Human Trafficking and Slavery, designed to generate the political will and financial resources needed to make a significant impact worldwide. Regional meetings will take place over the summer to strengthen networks and develop national action plans, culminating in an International Conference against Human Trafficking in Vienna in November.

A number of regional agreements to combat trafficking are also being put in place, including the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, for which UNIFEM advocated, and more recently, the EU Convention on Action against Trafficking in Human Beings adopted in 2005.

Migration is more challenging, but here too there has been progress. The Convention on Migrant Workers, which came into force in 2003 is now one of the seven UN core human rights treaties, each of which has a special rapporteur.<sup>10</sup> That same year, the Commonwealth adopted a Commonwealth Code of Practice for the Ethical Treatment of Health Workers, for whom there is great demand in affluent countries, which has generated efforts to adopt a similar code for teacher recruitment.<sup>11</sup> In addition, the CEDAW Committee is working to finalize a recommendation to clarify how the Convention should apply to the issue of migration and how it is affected by gender inequality and discrimination.

All of these agreements set out global norms and standards regarding the rights of the individuals who are trafficked and the need to protect those rights. However, rights, to be meaningful, must be implemented. Legal and institutional measures are needed to guarantee the rights and dignity of trafficked persons. States, as signatories to international human rights agreements, are accountable for protecting these rights. These must be complemented by immigration and anti-trafficking strategies that enable individuals, including women and young people, to claim their rights effectively.

UNIFEM's work to combat trafficking in women and girls is located in the broader framework of labour migration. Focusing both on the demand and on the supply side, it combines: 1) strengthening gender sensitivity in institutions (law enforcement, justice, health care); 2) partnering with communities and municipalities to create safe cities and neighborhoods and protect border crossings;

and 3) working with governments to extend labour protections to migrant workers in receiving countries and create livelihood options for women in sending countries.

Almost by definition, trafficking is a cross-border problem, whether that border lies between regions, between countries, or even between village and town. An example is the situation in South Asia, where each year thousands of girls from villages throughout the region are trafficked into India to work as sex slaves. To address this, UNIFEM initiated a regional programme in five countries – working with governments, police and justice officials, medical practitioners and the media to secure ratification by all countries of the SAARC Convention on Preventing Trafficking in Women and Children, which was adopted in 2002. UNIFEM’s advocacy on anti-trafficking issues has resulted in eight recommendations to widen the scope of the SAARC Convention on Trafficking and embrace a rights based response to victims/survivors. The programme has also developed Minimum Standard Guidelines to Facilitate Rights-based Rescue and Rehabilitation. In Nepal the National Judicial Academy has drawn up minimum standards of judicial conduct in dealing with trafficking victims and is training district judges to apply these.

What we have learned from our work on trafficking is the need to increase the costs of trafficking, at all levels. At the national level, this includes closing the legal loopholes exploited by criminal networks as well as strengthening the courts and justice systems to make business more risky and increase the likelihood of incarceration . At the community level, it means mobilizing village leaders on both sides of the borders to monitor routes and report trafficking. In the case of cross-border trafficking between Nepal and India’s state of Uttar Pradesh, for example, UNIFEM works with grassroots NGOs to set up zero tolerance zones in villages along unprotected trafficking and migration routes—on both sides of the main transit point. Village committees have been formed comprising representatives of panchayats and block organizations as well as respected elders and citizens.

Together with this is the need to strengthen provision of support services, including alternative livelihoods. In South Asia, for example, the programme also works with governments and NGOs to create a network of support services for trafficking survivors, including legal assistance, mental health and trauma counseling and other forms of support. We supported a Mumbai-based NGO to create an Anti-Trafficking Centre in the heart of the city’s red-light district. The centre is open for use by all anti-trafficking NGOs as well as police and state employees interested in learning about or taking action against sex trafficking. We are also developing partnerships with mainstream religious organizations, and inter-faith religious leaders on the supportive role of men in addressing trafficking and other forms of violence against women, both in sending and receiving countries, in order to reduce the social attitudes that condone such behavior. In a number of communities, religious leaders are now advocating steps to reduce violence and trafficking in their regular sermons and interactions with their constituencies.

Importantly, UNIFEM is also working to support organizing by home-based and other informal women workers throughout the region. In Nepal, we supported the formation of the first ever organization of returnee migrant women workers, *Paurakhi* and is partnering with them to build their capacity for advocacy and alternative livelihoods. At the same time, we are working with men’s groups and religious groups in receiving locations, to build social pressure against exploitation of migrant workers and for legal and other protections.

Critical to safeguarding human rights of migrant workers is the adoption of mechanisms to

combat trafficking and promote legal migration between and among states. In East and Southeast Asia, women are increasing migrating to the Arab States, especially to Bahrain, Oman, Saudi Arabia and United Arab Emirates. Most come from South and Southeast Asia, especially Sri Lanka, Indonesia and the Philippines, all of which send women in much greater numbers than men.<sup>12</sup> Remittances these women send home from Arab States countries are increasingly important in countries such as the Philippines, which in 2000 received more than \$6 billion; Bangladesh, which received almost \$2 billion, and Indonesia and Sri Lanka - \$1.1 billion.

Unlike male migrants, who are able to find a larger variety of jobs, the overwhelming majority of women who migrate to the Arab States countries are engaged in domestic work. According to the ILO, most middle-income Arab States are receiving thousands of women migrants, some of them well-educated, into domestic work annually. Domestic work is regarded as one of the more vulnerable occupations, as it is still seen largely as a private domain that is outside of labour regulations or social protection. This leaves these workers among the most marginalized and vulnerable to coercion and abuse. Their most frequently cited concern according to ILO, was physical and psychological abuse, including sexual abuse by employers or male relatives.

The recruitment system in sending and receiving countries is an important perpetrator of exploitation of women migrant workers – domestic workers especially reported being forced into a debt arrangement to cover passport or other fees, obliging them to work without pay. The other important problem is the absence of contracts, especially among domestic workers.

Starting in Jordan, UNIFEM worked with the Ministry of Labour to develop a “Special Working Contract for Non-Jordanian Domestic Workers,” which is now mandatory for the recruitment of foreign domestic workers, many of whom come from Southeast Asia. It enshrines migrant women’s labour rights in law, including minimum wage and medical insurance, and prohibits the holding of their passport by employers and the withholding their salaries by either employers or recruiting agencies. If recruitment agencies do not meet these minimum standards, they may face fines or have their government-issued licences revoked. The contract was a first of its kind and is becoming a model for other countries in the region, including Lebanon and Syria.

Sending countries, including Thailand, Laos and Cambodia, are also adopting contracts to protect women migrant women workers, especially domestic workers. Nepal is considering a Foreign Employment Bill and Regulation and a draft code of conduct for the Nepal Association of Foreign Employment Agencies (representing 500 recruiting agencies) has been agreed. In November 2005, the Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers was adopted at a meeting in Bangkok. UNIFEM translated the Covenant into Arabic and is lobbying for holding recruitment agencies accountable to the covenant. As a result, the Ministry of Labour in Jordan has acted to hold all licensed agencies accountable to the Covenant, regularly inspecting recruitment offices to ensure compliance.

And finally, critical to ending trafficking and strengthening workers’ rights is public awareness, and empowering women migrant workers and trafficking victims to claim their rights. Starting in countries of origin, UNIFEM is building migrant women networks in countries in East and South Asia. In Indonesia, a cross-district network of 10 community based organizations has developed a data base on migration, set up village information centers in several districts in partnership with local government and community organizations and has begun to handle cases of contact loss,

financial exploitation, death and unpaid salary for migrant workers. A local village system and mechanism to protect workers has been introduced in the District of Malang where a worker is required to undergo a pre-departure orientation conducted by the community-based organization.

### *Integrating human rights and development strategies*

The UN Recommended Guidelines on Human Rights and Human Trafficking and the latest UN resolutions call for national action plans to combat trafficking. To be effective, these need to be integrated into national development strategies, so that push factors are not increased. Currently while recipient countries see the growth of trafficking and illegal migration as a danger, source countries do not. This makes it difficult to persuade departments of commerce and industry or even macroeconomic planners in source countries to consider the impact of their policies on trafficking.

However, that is exactly what is needed: macroeconomic policies and development planning in poor areas need to be assessed in terms of their potential impact on trafficking. At the same time, strategies to prevent trafficking must address the macroeconomic policies in both developed and developing countries that generate the push and pull factors in labour migration and, where that movement is illegal, directly promote trafficking. Governments seeking to combat trafficking must consider the possibility that, in a globalized world, their own policies contribute directly to the phenomenon they seek to eliminate.

The current contradictions in trade policy are a case in point. On the one hand, the economic liberalization promoted by industrialized countries exposes poor countries to greater competition from imports in local markets. On the other, their own products continue to face trade barriers in developed country markets. The result is strong pressures in poor countries to migrate to richer countries in search of better livelihoods, often becoming victims of trafficking in the process.

In addition, industries and households in more affluent countries create markets for cheap (often trafficked) labour in labour-intensive sectors such as agriculture and textiles, thereby providing a market for the same trafficking their governments seek to combat. By encouraging women's entry into the paid labour force while cutting the social services needed to support women's household and care-giving roles, they also create the demand for cheap domestic workers.

In terms of macroeconomic policy, there are signs that the preoccupation with economic growth to the virtual exclusion of social impact is also under review, especially following the financial crises in Asia and Latin America. A number of developing countries that embraced market liberalization and structural adjustment policies as the road to economic growth – often at the insistence of international financial institutions – are finding that economic growth itself is endangered by the negative social and political impact of those policies. Civil society movements, most notably those struggling for more equitable global trade, are forcing a reconsideration of the balance between social and economic objectives.

Ultimately the problems created by global phenomena such as migration and trafficking require global solutions. In an age that has been marked by a huge upsurge of rhetoric about human rights and women's human rights, such global solutions must take full account of the persistence of gender inequality and discrimination and the need to seriously accelerate implementation of commitments by all countries to create more equal and just societies.

## Notes

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<sup>1</sup> One report estimated it grew almost 50% from 1995 to 2000; see *Financial Times*, 19 March 2001.

<sup>2</sup> U.S. Department of State, *Trafficking in Persons Report*, Washington, DC, 2006.

<sup>3</sup> Communique on Combating Transnational Organized Crime, G-8 Ministerial Conference, Moscow, October 19-20, 1999.

<sup>4</sup> Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, 20 May 2002.

<sup>5</sup> U.S. Department of State, *Trafficking in Persons Report*, Washington, DC, 2006.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> UNHCR, *Refugees by the Numbers*, 2006..

<sup>9</sup> Coalition Against Trafficking in Women, <http://www.catwinternational.org>;

<sup>10</sup> Others include the Convention on Political and Civil Rights; Convention on Economic, Social and Cultural Rights; CEDAW; Convention on Rights of the Child; Convention on Elimination of Racial Discrimination; Convention against Torture.

<sup>11</sup> Commonwealth Secretariat. “Commonwealth code of conduct for the recruitment of health workers.” London 2003; “Protocol for the Recruitment of Commonwealth Teachers, adopted by Ministers of Education,” UK, 2004.

<sup>12</sup> By 2001, for example, between 85% and 94% of Sri Lankan workers in Jordan, Kuwait and Lebanon were women; 80% of Philippine workers in Qatar, Kuwait and Lebanon were women. (ILO 2004).