



**Human Trafficking and its Ramifications: The Nexus between
Conflict and Trafficking in Persons: A Case Study of the Union of
Burma**

by

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ABSTRACT

Human trafficking often affects people who are marginalised, disadvantaged, isolated, unprotected or in desperate situations. Disempowerment, social and political exclusion and economic vulnerability are results of policies and practices that marginalize groups of people and make them particularly vulnerable to being trafficked. Natural disasters, conflict and political turmoil weaken already tenuous protection measures. However, individuals are vulnerable to being trafficked not only because of conditions in their countries of origin. The allure of opportunity, the relentless demand for cheap and inexpensive goods and services and the expectation of reliable income also play a role in driving people into potentially risky situations where they can be exposed to human trafficking and exploitation.

Conflict creates a unique set of vulnerability factors that must be addressed in any discussion on the issue of human trafficking in conflict situations. The disruption of community life, along with its protective framework, and the resulting displacement create extreme vulnerability to human trafficking and exploitation. Trafficking in conflict situations is a subject on which little research has been done, and which is seldom addressed in counter-trafficking initiatives. Significantly, the proliferation of conflicts around the world, from the Middle East, South East Asia to Africa, which largely affect civilians and result in unprecedented numbers of displaced people and refugees, thus, human trafficking and exploitation would appear as unintended consequences. In conflict settings such as the Union of Burma¹, human trafficking flourishes. Therefore, failure to realise and address these issues can result in the permanent entrenchment of this phenomenon. Accordingly, this research aims to build insights into the nexus between conflict and human trafficking to stakeholders involved in counter-trafficking, so that they can put forward and develop solutions best suited to the conditions in conflict situations. The study explores the relationship between armed conflict and human trafficking using the Union of Burma as a case study.

¹ In 1989 the State Law and Order Restoration Council (SLORC) changed the name of the country from 'Burma' to 'Myanmar'. The name has not been internationally recognised, and the non-Burman ethnic groups view this as part of the government's efforts to 'Burmanize' national culture. In this study, the old name of Burma will be used, primarily for reasons of clarity and familiarity. Moreover, the name Burma will be used interchangeably with the Union of Burma for style purposes. 'Burman' is used to refer to the majority ethnic group and 'Burmese' to citizenship or language.

LIST OF ACRONYMS

AFPFL	Anti-Fascist People's Freedom League
ATTFs	Anti-Trafficking Task Forces
ATU	Anti-Trafficking Unit
BCATIP	Border Cooperation on Anti-Trafficking in Persons
BLOs	Border Liaison Offices
BSPP	Burma Socialist Program Party
CBTIP	Central Body for Suppression of Trafficking in Persons
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COMMIT	Coordinated Mekong Ministerial Initiative against Human Trafficking Process
DKBA	Democratic Karen Buddhist Army
GMS	Greater Mekong Sub-Region
IDMC	Internal Displacement Monitoring Centre
ILO	International Labour Organisation
IOG	International Organisations
IOM	International Organisation for Migration
KIA	Kachin Independence Army
KIO	Kachin Independent Organisation
KKY	Kar-Kwe-Ye
KNPP	Karenni National Progressive Party
KNU	Karen National Union
KWAT	Kachin Women's Association of Thailand
MoHA	Ministry of Home Affairs
MOU	Memorandum of Understanding
MPS	Ministry of Public Security
NDF	National Democratic Front
NGO	Non-Governmental Organisation
NPA	National Plan of Action
Palermo Protocols	United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, and United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
SIREN	Strategic Information Response Network
SLORC	State Law and Order Restoration Council
SPA	Sub-Regional Plan of Action
SPDC	State Peace and Development Council
SSA	Shan State Army
SWAN	Shan Women's Action Network
TIP Report	Trafficking in Persons Report
TOC	Transnational Organised Crime
UN	United Nations
UNIAP	United Nations Inter-Agency Project

UNICEF	United Nations Children’s Fund
UNGIFT	United Nations Global Initiative to Fight Human Trafficking
UN OHCHR	United Nations High Commissioner for Human Rights
UNODC	United Nations Office on Drugs and Crime
USDP	Union Solidarity and Development Party
WCRP	Woman and Child Rights Project

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CHAPTER 1

INTRODUCTION AND BACKGROUND

1.0 Introduction

Civil strife devastates nations and causes incalculable injuries and deaths, mass displacements, and widespread abuse, killing, rape, and human rights violations. Armed conflict forced people from their homes and thrusts them away from their environment, leaving them vulnerable and easy prey to become objects of exploitation. In the mists of war, human trafficking flourishes.²

The twenty-first century has witnessed high levels of violence and conflict around the world: from the September 11th terror attacks on America to the war in Afghanistan, Iraq, Mali and Burma, to the insurgencies in Egypt, the Central African Republic (CAR) and Thailand. The nature and impact of these conflicts vary. These may include political, economic, religious or ethnic dimensions, which often relate to the satisfaction of basic human needs, such as security, community recognition and distributive justice. Zones of conflict tend to be characterised by a lack of basic human security. People are left physically unprotected and have no legal protections or remedies because of the absence of law enforcement and the dysfunction of legal systems. Livelihoods are disrupted, poverty increases, individuals are displaced from networks of family and community, and social systems break down. Conditions of this kind increase vulnerabilities to exploitation and human trafficking, especially for marginalized groups because it aggravates conditions of existent deprivations and exclusion. Thus, conflict creates conditions and an environment that is conducive for trafficking in human beings.

This chapter introduces the study and presents an in-depth background of the research problem. The chapter also presents the purpose of the study and the key research questions and research objectives. The research methodology and discourse analysis are discussed. The

² Nagle, L., E (2013) How Conflict and Displacement Fuel Human Trafficking and Abuse of Vulnerable Groups: The Case of Colombia and Opportunities for Real Action and Innovative Solutions, *Groningen Journal of International Law*. Vol. 1, No. 2, p. 1.

profile of Burma is also presented with the view to prepare the reader's mind-set – including those who might not be knowledgeable about the study area. The chapter concludes by outlining the chapters which constitute this dissertation.

1.1 Background of the Study

Trafficking in human beings is a global phenomenon which has been subject to increasing international attention in recent years. The past decade has seen a substantial increase in the trafficking of people worldwide, a trend which has been characterized by the abuse of human rights.³ The magnitude of human trafficking differs from one region to the other and among different countries. The Greater Mekong Sub-region - Cambodia, China, Lao PDR, Burma, Thailand and Viet Nam - have been no exceptions.

The approaches to human trafficking are numerous and are the subject of significant and heated contestation among academics and transnational actors. From a broad and general perspective, human trafficking denotes a continuum of exploitative experiences. Nevertheless, there are opposing perspectives on the definition and conceptualisation of the phenomenon, its causes, its victims, the traffickers, and responses.⁴ Consequently, much conjecture exists as to what constitutes human trafficking and how it may be defined. Some scholars have followed a historical perspective, which identifies human trafficking as a modern variant of the age-old slave trade.⁵ Others have followed an ahistorical trajectory which lays the blame on globalization and the new threats which have emerged due to the end of the Cold War between the Eastern and Western blocs.⁶

As a result, a legal definition was formulated and enshrined in the *United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* in 2000.⁷ However, even with a legal definition that has for the most part been accepted internationally, there is still contestation as to how to define the phenomenon.

³Marshall, P. (2001) "Globalization, migration and trafficking: some thoughts from the South- East Asian region", Occasional Paper No. 1, Globalization Workshop in Kuala Lumpur, UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-Region, 8-10 May.

⁴Lobasz, J., K (2012) *Victims, Villains, and the Virtuous: Constructing the Problems of "Human Trafficking"*, University of Minnesota.

⁵Picarelli, J, T (2007) 'Historical approaches to the trade in human beings', in Maggy Lee (Ed.), *Human Trafficking*, Devon: Willan Publishing.

⁶Emser, M (2013) *The Politics of Human Trafficking in South Africa: A case study of the Kwazulu-Natal Intersectoral Task Team and South African Counter-Trafficking Governance*, University of Kwazulu-Natal.

⁷Emser, M (2013), *op. cit.*

Henceforth, it has boiled down to the forms that human trafficking may take and the acts which constitute human trafficking. Thus, the international discourses of the phenomenon conceptualise human trafficking as: (i) a modern form of slavery, (ii) a sexual exploitation or prostitution problem (iii) a problem of transnational organised crime, (iv) a migration problem, (v) a problem of globalisation, (vi) a problem of labour exploitation, or (vii) a human rights problem.⁸

Human trafficking has become a global phenomenon affecting almost all societies in different parts of the world. The Union of Burma, which is no exception in this regard, will be used in this study to demonstrate the impact of human trafficking and its ramifications. Importantly, this subject will be tackled in this dissertation with the view to establish the nexus between conflict and human trafficking. The Union of Burma is one of the most ethnically diverse countries in Asia, which continues to suffer one of the longest internal ethnic armed conflicts in modern times.⁹ Burma is a country of cultural and historic traditions and is rich in natural resources, but nearly half a century of armed conflict has left Burma with a legacy of deep-rooted problems which have weakened its ability to cope with a growing host of new ones: economic and social collapse; hundreds of thousands of refugees and displaced people; environmental degradation; narcotics; AIDS and human trafficking.¹⁰

The Union of Burma is a source country for men, women, and children subjected to forced labour, and for women and children subjected to sex trafficking primarily in East Asia, as well as destinations including the Middle East, South Asia, and the United States.¹¹ Men are most often subjected to forced labour, mostly in the fishing, manufacturing, and construction industries abroad while women and girls are primarily subjected to sex trafficking, domestic servitude and recently, forced marriages to Chinese men.¹² Burmese children are particularly trafficked to forced labour within the country, as well as being trafficked into neighbouring

⁸ Lee, M (2011), Contested definitions of human trafficking. In Trafficking and global crime control. (pp. 15-37). London: SAGE Publications Ltd

⁹Sakhong, H., L. (2012) The Dynamics of Sixty Years of Ethnic Armed Conflict in Burma, *Burma Centre for Ethnic Studies, Peace and Reconciliation*.

¹⁰Smith, M (1994) Ethnic Groups in Burma: Development, Democracy and Human Rights, *Anti-Slavery International*.

¹¹TIP Report (2014) Country Narratives, *Trafficking in Persons Report 2011*, [Accessed 16 April 2015], Available at: <http://www.state.gov/j/tip/rls/tiprpt/2014/164233.htm>.

¹² TIP Report (2014), *op. cit.*

countries as forced street hawkers and beggars, or to work in shops, agriculture, and small-scale industries.¹³

Moreover, in Burma, human trafficking occurs within the context of large-scale migration, both internal and cross-border migration. There are several push factors determining the trafficking of Burmese men, women and children, namely, a vulnerable society and economic and political instability. These factors are interconnected and are perpetuated by the conflict. Furthermore, armed conflict encourages the displacement of individuals from networks of family and community, and their access to economic and social safety nets. The dire political and poor social and economic conditions within Burma continue to drive large numbers of Burmese men, women, and children to migrate through both legal and illegal channels. Most of them find themselves in vulnerable situations and becoming easy prey for human traffickers. These factors tend to exert pressures on victims that “push” them into migration and hence into the control of traffickers. Ethnic discrimination and conflict in Burma have resulted in minority groups often ending in tragic consequences. Amidst these upheavals, gross human rights abuses have been committed, including the forced conscription, over the years, of millions into labour duties, the ill-treatment or extrajudicial executions of ethnic minority villagers in war-zones, rape, killings, and the forcible relocation of communities.¹⁴

Significantly, in Burma, human trafficking illuminates some forms and trends of the phenomenon that are not present in trafficking during periods of relative peace. Conflict creates a unique set of vulnerability factors that enable trafficking to occur. Firstly, forced migration induced by conflict intensifies existing vulnerabilities and creates new conditions which are conducive for exploitation and trafficking to occur.¹⁵ Secondly, in conflict situations, existing crippling conditions and prevalence of gender discrimination within the society are aggravated, resulting in extreme vulnerability of women and girls to trafficking and exploitation.¹⁶ Thus, refugees, IDPs and asylum seekers, find themselves in highly risky situations and without traditional protection mechanisms, as a result, heightening their vulnerability to trafficking and exploitation. Finally, the disruption of societies during

¹³ TIP Report (2014), *op. cit.*

¹⁴ Smith, M (1994), *op. cit.*

¹⁵ UN. GIFT, (2008), *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, UNODC.

¹⁶ UN. GIFT, (2008), *op. cit.*

conflict creates vulnerability to trafficking of children for forced conscription into armed combat.¹⁷

In Burma, ethnicity is a fuelling factor for political upheavals, which in turn influences human trafficking. It is the “push” factors associated with forced migration, factors such as armed conflict, poverty and political upheaval, that lead to gross forms of exploitation. In a country such as Burma, where ongoing conflict threatens the security of millions of citizens, failing to address the “push” factors, some of which are enumerated above, has resulted in a burgeoning trafficking crisis in the country. This makes the present study relevant and the proposed case study even more appropriate in enabling the researcher to delineate the extent and magnitude of human trafficking as well as accompanying ramifications.

The relationship between conflict and human trafficking is an issue that has recently received a surge in international attention. However, in Burma, this is largely overlooked.¹⁸ Several factors driven by conflict influence the processes by which Burmese people are trafficked, as a result, understanding the structural ways in which the conflict supports trafficking of Burmese men, women and children is therefore a crucial first step toward finding productive solutions. This study will make meaningful contribution to this body of research by unpacking and illuminating conflict as one of the root causes of human trafficking.

Notably, human trafficking discourses create and institutionalise regimes of knowledge that set boundaries for how scholars, activists, legislators, and citizens both individually and collectively conceive of human trafficking. They establish what trafficking is and who counts as trafficked, and create narratives that explain how trafficking has become a problem and what should be done to fix it.¹⁹ Therefore, in this study, I will provide an examination of the influence of the conflict on the trafficking of Burmese men, women and children. In this manner, the study will deconstruct the domestic human trafficking discourses and underlying agendas of state and non-state actors involved in counter-trafficking. In the context of Burma, the domestic discourse and competing political agendas that influence the trajectory of policy formulation and implementation and counter-trafficking responses closely reflect the dominant regional and international discourses. The trafficking discourses in Burma are

¹⁷ UN. GIFT, (2008), *op. cit.*

¹⁸ Kamler, E., M (2015) *Women of the Kachin Conflict: Trafficking and Militarized Femininity on the Burma-China Border*, University of Southern California.

¹⁹ Lobasz, J., K (2012) *Victims, Villains, and the Virtuous: Constructing the Problems of “Human Trafficking”*, University of Minnesota.

constructed rather than inherent, and inseparable from the political context through which they are produced. Therefore, in this study, I postulate that the conflict is the primary and crucial “push” factor driving and perpetuating human trafficking in Burma. For this reason, I suggest that counter-trafficking responses and policies should realise the influence of conflict on trafficking. This is the guiding hypothesis for this study. From that, effective responses and solutions to this pandemic can be drawn. It is within this broader context that the present study was conceived.

1.2 Purpose of the Study

The forces of globalization have often been identified as factors connected to the rising levels of migration around the world as well as an increasing prevalence of abusive and irregular forms of migration, including human trafficking.²⁰ Like migration, human trafficking is not a new phenomenon, however rapidly changing circumstances and structures in the global arena have led to a continuous development of new forms, purposes, routes and sources of human trafficking.²¹ These developments have become a major concern in South-East Asia and the Pacific, where irregular migration has become a growing and persisting problem. Asia constitutes a region often described as a hub of trafficking in persons, particularly for the purposes of sexual exploitation. The largest number of trafficked victims are said to be within or from Asia.²² In this sense, trafficking is not only a national and international issue, but also essentially a regional issue.

Trafficking within and from the region has, since the beginning of the 1980s and especially in the 1990s, become a topic of concern to most countries in South-East Asia.²³ The problem affects the various countries in the region differently, depending on a variety of factors, thereby dividing countries into sending, transit or receiving countries. While estimates of the number of persons trafficked worldwide vary, the International Labour Organisation (ILO) research from 2012 indicates that an estimated 20.9 million persons, are subjected to forced

²⁰ Derks, A. (2000), *Combating Trafficking in South- East Asia: A review of Policy and Programme Responses*, International Organisation for Migration.

²¹ Derks, A. (2000), *op. cit.*

²² Derks, A. (2000), *op. cit.*

²³ Derks, A. (2000), *op. cit.*

labour.²⁴ The Asia-Pacific region records by far the highest rates of human trafficking in the world, with an estimated 11.7 million people from the region in conditions of forced labour at any given point in time (See Figure 1.1).²⁵ Nevertheless, variations of prevalence also exist within the regions. The United Nations Office on Drugs and Crime’s (UNODC) 2012 Global Report on Trafficking in Persons demonstrated that, while human trafficking is a global phenomenon, it most commonly occurs intra-regionally, with each region and sub-region experiencing unique and geographically characterized patterns of origins and destinations.²⁶ Within the Asia-Pacific region, the Greater Mekong Sub-Region features some of the most extensive and specific flows of migration and human trafficking. These flows are characterized by strong cross-border patterns shaped by factors such as cultural linkages, traditional migration trends, long and porous borders, as well as significant disparities in the socio-economic development levels of the countries therein.²⁷

Figure 1.1

ILO Global Estimate of Forced Labour Report, 2012



Source: UNIAP (2014)²⁸

²⁴ United Nations Inter-Agency Project on Human Trafficking (UNIAP). (2014). United Nations Inter-Agency Project on Human Trafficking (UNIAP), Final Report Phase III: 2007 – 2014. Bangkok: *United Nations Inter-Agency Project on Human Trafficking (UNIAP)*.

²⁵ United Nations Inter-Agency Project on Human Trafficking (UNIAP). (2014), *op. cit.*

²⁶ United Nations Office on Drugs and Crime (UNODC) (2012), Global Report on Trafficking in Persons, UNODC.

²⁷ United Nations Inter-Agency Project on Human Trafficking (UNIAP). (2014), *op. cit.*

²⁸ United Nations Inter-Agency Project on Human Trafficking (UNIAP). (2014), *op. cit.*

In the Greater Mekong Sub-Region, Burma is primarily and predominantly a source country for men, women and children trafficked for the purposes of forced labour and commercial sexual exploitation.²⁹ Thailand, on the other hand has been the major destination and transit country for migrants in the Mekong Region, with over one million undocumented migrants and the vast majority from Burma currently employed in eight employment sectors in just over half of the provinces in Thailand.³⁰ In addition, it is estimated that as many as one-third of Burma's population have migrated between urban and rural areas within their lifetime, with Thailand being the main destination country.³¹ Though the migration figures differ, one mid-point estimate suggests that out of one million illegal immigrants in Thailand, 75% are from Burma.³² The poor political and economic development in Burma to drive high levels of migration, much of which occurs through informal and consequently high-risk channels. Irregular migration has routinely placed migrants at increased risk of exploitation, with victims being trafficked throughout East Asia, but also further abroad to the Middle East and North America.³³ In Burma, trafficking takes place within the context of large-scale migration, both internal and cross-border migration.

Accordingly, in Burma, unique sets of vulnerability factors exist that need to be put forward and develop solutions best suited to the conditions in conflict situations. Of note, trafficking within Burma continues to be a significant problem primarily due to the military's unlawful conscription of child soldiers and the fact that it is the main perpetrator of forced labour inside the country.³⁴ Military and civilian officials have for years systematically used men, women, and children for forced labour for the development of infrastructure and state-run agricultural and commercial ventures. It is estimated that thousands of children, including boys as young as 11 years old, are forced to serve in Burma's national army as desertions of men in the army continue.³⁵ Those living in areas with the highest military presence, including remote border areas populated by ethnic groups, are most at risk for forced labour. The regime's treatment of ethnic minorities makes them particularly vulnerable to

²⁹ <http://www.humantrafficking.org/countries/burma>

³⁰ Caouette, T., M (1999), *Small Dreams Beyond Reach: The Lives of Migrant Children and Youth Along the Borders of China, Myanmar and Thailand*, *Save the Children*.

³¹ US Department of State (2011), *Trafficking in Persons Report*. Washington, DC: U.S. Department of State.

³² US Department of State (2011), *op. cit.*

³³ <http://www.humantrafficking.org/countries/burma>

³⁴ US Department of State (2011), *op. cit.*

³⁵ US Department of State (2011), *op. cit.*

trafficking.³⁶ Although many causes of human trafficking in Burma exist, the military regime's climate of impunity, gross economic mismanagement, human rights abuses, and its continued widespread use of forced and child labour, as well as recruitment of child soldiers, remain the top causal factors for Burma's significant trafficking problem, both within the country and abroad.³⁷ The lack of job opportunities and the presence of higher incomes in neighbouring countries have significantly contributed to the out-migration of hundreds of thousands of people. Such a situation has created an environment conducive for trafficking. The Union of Burma, was selected for this study to demonstrate the impact of human trafficking with the view to establish the nexus between conflict and human trafficking.

In addition, as alluded above, human trafficking is a widely studied phenomenon, attracting academic interest across disciplines. However, in Burma, there has not been significant research conducted to explore the relationship between the conflict and human trafficking. Many approaches to the study of human trafficking are compartmentalised, operating in competition with one another, and based on conflicting political agendas. Most of the research conducted has focused almost exclusively on trafficking of women and girls for sexual exploitation, to the detriment of other forms of trafficking and tends to exclude men as victims. Such research tends to be ideologically, morally or politically driven.³⁸ Most studies on human trafficking in Burma have tended to neglect the push factors which in this case are intertwined and are perpetuated by the conflict. The poor social and economic conditions that fuel migration are to a large extent influenced by the political instability in the country. The role that the conflict plays in influencing the trafficking of Burmese people is vital in understanding the phenomenon, yet, it has been given little and insignificant attention. Previous studies on the link between the conflict in Burma and human trafficking are few.

Therefore, this study is important in terms of identifying the gaps that need to be filled in the existing literature. This will be done by moving beyond the 'snapshot type' of existing research as well as beyond an 'ideologically motivated' discourse on trafficking. New conceptual tools and methodologies are needed to capture the complexities of the trafficking phenomenon which would lead to a set of principles offering a new way of thinking about trafficking. Human trafficking is the ultimate manifestation of many of the systemic social, structural, economic, cultural and political problems which continue to entrench

³⁶ US Department of State (2011), *op. cit.*

³⁷ US Department of State (2011), *op. cit.*

³⁸ Emser, M (2013), *op. cit.*

discrimination, inequality, exclusion and exploitation across the globe. In the context of Burma, the trafficking issue can be moved forward in a meaningful manner and yield important policy recommendations if significant attention is invested in researching and unpacking the root causes of trafficking— an area which has largely been neglected. To address the root causes of trafficking in Burma means that one has to understand the conflict and its impact on the political, social and economic factors that have proved to be significant push factors to the trafficking problem. This is the purpose and context in which the issue of the nexus between trafficking and conflict was proposed as an analytic focal point in the study at its inception phase.

This study seeks to shift from the oversimplified perceptions of the dimensions and causes of human trafficking that have abounded since the early 1990s. The study will illuminate the complexity and multidimensionality of the phenomenon itself which is embedded in an array of social relations and thoughts. Emerging research has begun to probe into the historical, social, cultural and political dimensions of human trafficking, and have attempted to adopt different frameworks, methodological tools and analysis to explain aspects of this phenomenon.³⁹ It is this perception of the human trafficking paradigm that this dissertation adopted. It is anticipated that this study will effectively contribute to a more nuanced understanding of the phenomenon in the context of conflict. Moreover, in the broader sense, such an approach will deepen our understanding of how issues like globalisation, poverty, conflict, ethnic discrimination and migration create vulnerability to trafficking.

1.3 Research Questions

The questions which this study hoped to find answers to were the following:

- What is human trafficking and how is it conceptualised internationally and in the context of Burma?
- In what way does the trafficking issue in Burma illuminate the conditions that have sustained the conflict?

³⁹Goździak, E., M and Micah, N., B (2008) *Data and Research on Human Trafficking: Bibliography of Research-Based Literature*, Institute for the Study of International Migration, Walsh School of Foreign Service: Georgetown University.

- In what way has the armed conflict influenced conditions that support and perpetuate human trafficking?
- What suggestions or recommendations can be drawn in this research?

1.4 Research Objectives

Over the past two decades, human trafficking has come to be seen as a threat to peace and security. The Internal Displacement Monitoring Centre (IDMC) estimates that up to 642,600 internally displaced people (IDPs) in Burma.⁴⁰ Moreover, hundreds of thousands of refugees from Burma have fled into neighbouring countries escaping armed conflict and rampant human rights violations.⁴¹ Forced migration induced by the conflict has resulted in large numbers of refugees and IDPs who often find that safety eludes them in these desperate situations, leaving them vulnerable to traffickers. Against this backdrop, the objectives of this study are threefold:

- To explore and unpack the human trafficking problem in Burma from a multidimensional perspective, including its political, economic, migration, displacement, and vulnerability aspects. This will provide an understanding of human trafficking and illuminate the nature of the trafficking issues in Burma.
- To deconstruct the dominant human trafficking discourses which have abounded in Burma, that have oversimplified the perception of the dimensions and causes of human trafficking as well as influenced research and responses to the trafficking issue. This will show the complexity and multidimensionality of the trafficking phenomenon itself.
- To contribute to the literature on the nexus between conflict and human trafficking in Burma.

⁴⁰IDCM (2014) 'MYANMAR: Comprehensive solutions needed for recent and long-term IDPs alike', International Displacement Centre.

⁴¹Women's Commission for Refugee Women and Children (2006) Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking, *Women's Commission for Refugee Women and Children*.

1.5 Research Methodology

This dissertation is a desktop review that seeks to explore the nexus between armed conflict and human trafficking in Burma using a qualitative methodology. According to Babbie and Mouton, a qualitative methodology seeks to explore, describe and explain a topic, situation or phenomenon.⁴² A qualitative approach to research in social sciences begins with assumptions, a worldview, the possible use of a theoretical lens, and the study of research problems inquiring into the meaning individuals or groups ascribe to a social or human problem.⁴³ Therefore, a qualitative methodology was deemed appropriate for this dissertation which seeks to investigate the human trafficking phenomenon in the context of Burma, adopting complexity analysis as the theoretical framework. This study is based on a single illustrative case study. According to Creswell, case study research is a qualitative approach in which the investigator explores a bounded system (a case) or multiple bounded systems (cases), through detailed, in-depth data collection involving multiple sources of information such as interviews, documents and reports.⁴⁴ In addition, specific selection was applied in determining which case contains key variables or components of the phenomenon under study.

Discourse analysis was applied in this study to reveal and disentangle hidden motivations of the human trafficking phenomenon, in particular, those documented in textual form. Discourse analysis is defined as a broad analytical approach which is concerned with deconstructing spoken and written language in order to examine its relationship to the prominent ideologies and social norms of a given culture and/or society.⁴⁵ The purpose of discourse analysis is to locate this within the larger social and historical contexts within which they occur, so that they may acquire a different significance and provide the basis for a possible critique and transformation of existing practices and social meanings. The use of discourse analysis is compatible with the theoretical framework of this study, as it attempts to facilitate an understanding of and insight into the conditions/assumptions informing the phenomenon of human trafficking, both internationally and in Burma.

⁴² Babbie and Mouton (2001, p. 80)

⁴³ Lightfoot, (2004, p. 13)

⁴⁴ Creswell, 2005, p. 73

⁴⁵ British Library (n.d) Social Science Collection Guides: Qualitative Methods in Social Research, *British Library*, [Accessed 15 July 2015], Available from: <http://www.bl.uk/reshelp/findhelpsubject/socsci/topbib/methsocial/methodsresearch.pdf>

Notably, discourse analysis does not provide a tangible answer to problems or phenomena based on scientific research, however, it enables “access to the ontological and epistemological assumptions behind a project, a statement, a method of research, or a system of classification.”⁴⁶ The motivation behind such an approach is to enable a more comprehensive view of human trafficking. Discourse analysis is generally used to analyse literary and non-literary texts.⁴⁷ There is a set of discourses surrounding the phenomenon of human trafficking, consisting of individual and overlapping or amalgamated discourses of (sexual) slavery, (forced) prostitution, debt bondage, child trafficking, organ trafficking, organised transnational crime, migration and so forth. Thus, in the investigation of the human trafficking phenomenon in Burma, discourse analysis allowed me to delve into the episteme surrounding it.

For data collection, this thesis employed document or textual analysis. According to Mason, textual sources of data such as documents and journal articles can be considered as a source of data in their own right as they can be an alternative to interviews or observations or means to supplement other data.⁴⁸ In addition, Lee notes that documents are important sources of data that exist as mute, inert, non-reactive, isolated source of evidence that is particularly well suited for social science research.⁴⁹ The documents that were used in this study were reliable secondary materials including official documents, legislation and policy documents, government websites, agency and organisation websites, textbooks, scholarly articles, published and unpublished theses, newspapers and media releases.

Content analysis was utilized in the dissertation to scrutinize the information adopted from the secondary and primary documents and to construe meaning from the context of the data text. To determine the validity of the data collected, this study applied four criteria for assessing the quality of evidence in the data sources. These include authenticity, which assessed the genuineness of the evidence gathered for the study, credibility which looks at whether the evidence attained is typical or characteristic of its kind.⁵⁰ Representativeness establishes the extent to which the documents consulted are representative of the totality of

⁴⁶ Emser, M (2013), *op. cit.*, p. 117.

⁴⁷ Howarth, D (2000) *Discourse*, Buckingham: Open University Press.

⁴⁸ Mason, 1996, p. 70 Mason, J. 1996. *Qualitative Researching*. London: Sage Publications.

⁴⁹ Lee, R., M. (2000) *Unobtrusive Methods in Social Research*. Buckingham: Open University Press.

⁵⁰ Scott, J. A. 1990. *Matter of Record*. Cambridge: Polity Press.

the relevant documents and meaning which assessed the extent to which the evidence gathered is coherent and comprehensible.⁵¹ This was the guiding motive in the study.

1.6 Profile of Burma

The Union of Burma is one of the most ethnically diverse countries in the world. The Burmese government recognizes 135 distinct ethnic groups out of a population of roughly 55 million. The Burman majority ethnic group comprises an estimated 68% of the population, Shan 9%, Karen 7%, Rakhine 4%, Chinese 3%, Indian 2%, Mon 2% and other 5%.⁵² Burma is divided into seven ethnic states and seven divisions: the divisions are predominantly Burman, while the states are home to particular ethnic minorities. These include: Chin, Kachin, Karen, Karenni, Mon, Rakhine and Shan State.⁵³ This ethnic diversity reflects Burma's position on the Asian continent.⁵⁴ Burma is located in the eastern part of the Asian continent, in a geographical area rich in natural and mineral resources, which provides significant economic potential.⁵⁵ The country borders with Bangladesh, China, India, Lao PDR and Thailand. For more than six decades, however, Burma has been subject to political crisis that has alienated it from the international community and made it one of the 'least developed nations' in the world.⁵⁶ Moreover, according to the Human Development Index (HDI), Burma ranks 32 among a list of 50 least developed nations surveyed by the United Nations (UN).⁵⁷ The lack of adequate infrastructure and access to resources affects millions of people in the country, who live in extreme poverty conditions, with little access to health and education services.

Ethnic diversity and ethno-nationalist ambitions and aspirations as well as the communist movement, created challenges for political integration from the time Burma gained

⁵¹ Scott, J., A. (1990), p. 6.

⁵² Roycee, A. (Ed). (2008). *Burma in Tyhujio9urmoil*. New York: Nova Science Publishers, Inc.

⁵³ Wiskin, A (2010) *Genocide in Burma: The Forgotten Tragedy*. ICAR.

⁵⁴ Smith, M (1994) *Ethnic Groups in Burma: Development, Democracy and Human Rights*, *Anti-Slavery International*.

⁵⁵ Smith, M (1994), *op. cit.*

⁵⁶ UNODC. (2005) *Myanmar Country Profile*, Yangon: UNODC.

⁵⁷ UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing Countries. *List of Least Developed Countries (LDCs)*, Accessed 18 April 2015, Available from: <http://www.un.org/specialrep/ohrlls/ohrlls/default.htm>.

independence in 1948.⁵⁸ Around this time, various factions of the communist movement went underground to conduct an armed struggle against the government.⁵⁹ Immediately thereafter, various ethnic rebellions broke out beginning with the Karen who were followed by the Mon, the Karenni, the Pao, the Kachin, the Rakhine and the Muslim *Mujahid*.⁶⁰ In addition, since General Ne Win took power in 1962, Burma has been ruled by a series of military governments, which were initiated by brief periods of self-appointed rule.⁶¹ Between 1988 and 1996 however, in an effort to bring democracy and stability to the Union of Burma, the military government negotiated 17 cease-fire agreements with the ethnic minority groups, who traditionally opposed the government and fought for autonomy.⁶² Nevertheless, conflict has been endemic in Burma and has resulted in problems that continue to threaten peace, security and development.

1.7 Outline of the Study

The key themes of this study are divided into six chapters which are structured as follows:

Chapter One: Introduction and background

This chapter introduces the study and presents an in-depth background of the research problem. The chapter also presents the purpose of the study and the key research questions and research objectives. The research methodology and discourse analysis are discussed. The chapter further presents the profile of Burma, drawing on the political, ethnic and geographical characteristics are outlined. The chapter concludes by outlining each of the six chapters which constitute this dissertation.

Chapter Two: Literature Review

This chapter presents a literature review and unpacks and links the study's key concepts. Literature on human trafficking will be reviewed and the approaches in which human trafficking has been conceptualised and problematised in the international and domestic

⁵⁸Rajah, A (2001) Burma: Protracted Conflict, Governance and Non-Traditional Security Issues, *Institute of Defence and Strategic Studies*.

⁵⁹ Rajah, A (2001), *op. cit.*

⁶⁰ Rajah, A (2001), *op. cit.*

⁶¹ UNODC. (2005), *op. cit.*

⁶² UNODC. (2005), *op. cit.*

literature will be explored. This chapter also reviews existing literature on the link between conflict and human trafficking. Any existing gaps in the literature will be spelt out as justification for the present study.

Chapter Three: Theoretical Framework

Chapter three reviews and discusses the theoretical framework of the study. The discussion focuses on complexity theory as the theoretical foundation for this study. This theory is not only relevant for this study, but also useful in understanding the structural and root causes of conflict and how human trafficking illuminates these causes. This theory will provide a nuanced understanding of the relationship between conflict and human trafficking in the context of Burma. This approach provides a better understanding of the complex and multidimensional nature of human trafficking, and the numerous interactions within and across systems, and the human trafficking discourse itself.

Chapter Four: Setting the Scene

Chapter Four positions the research problem within the context of Burma. The chapter will present the background of the conflict. This will provide an understanding of the conflict and will illuminate its nexus with the trafficking issue. The chapter will also discuss the ways in which Burmese men, women and children are trafficked. In addition, the current responses to human trafficking in Burma will be presented. This will be done by reviewing the national and regional responses.

Chapter Five: Research Results/Findings

Chapter five will present the key findings of the study and also provide the analysis of the same in order to give them meaning in line with the research questions and objectives of the study outlined in Chapter one. The nexus between conflict and human trafficking will be unpacked. This will illuminate the ways in which conflict creates unique sets of vulnerabilities which need to be taken into consideration in any discussion on human trafficking in conflict settings. This will in turn show how the human trafficking discourse in Burma closely reflects that of the international discourse. This has resulted in the creation of a dominant discourse, namely, trafficking for the purposes of sexual exploitation, at the

detriment of other forms of trafficking. The influence of conflict on human trafficking is overlooked. Human trafficking needs to be conceptualised as a complex and multidimensional problem which cannot be reduced to a singular perspective or a partial view that fits a particular political or moral agenda or that, in practice, is based on exclusion.

Chapter Six: Summary, Conclusions and Recommendations

The last chapter of the dissertation will present a summary of the study emphasizing on the results obtained and how these results can contribute for future reference. It will pull the study together by drawing some conclusions. Recommendations and suggestions for further research will also be presented.

1.8 Chapter Summary

In the present chapter, I introduced the study and outlined the research problem. Conflict creates unique sets of vulnerability factors that expose individuals to human trafficking. In the context of Burma, the influence of conflict on human trafficking is an area that has not received significant attention. Therefore, failure to realise and address these issues has resulted in the permanent entrenchment of the human trafficking phenomenon.

In the next chapter, I review the literature on human trafficking and consider the methodologically contested nature of the human trafficking discourse. I consider the ways in which human trafficking has been problematised and conceptualised in the international and domestic literature.

CHAPTER 2

LITERATURE REVIEW

2.0 Introduction

The multi-dimensionality of the problem, and the general vagueness of its definition have however, allowed it to become the focus of attention, for the wrong as well as the right reasons. Holding a position on trafficking as a migration, or labour, or human rights problem, is not in itself harmful. But, zealously adhering to a particular perspective as the "only" acceptable view - as the "received truth"--and attacking and undermining all others is harmful. Each of the different approaches addresses some aspect of trafficking.⁶³

Various scholars and researchers have traced the genesis of human trafficking back to the late nineteenth century and the spread of trafficking in women or ‘white slavery’.⁶⁴ Jahic and Finckenauer note that while this issue did not completely fade out of interest, it was revived and reinvented and gained increased international attention only in the 1990s, as a result of increased reports of trafficking in women from Eastern Europe and the former Soviet Union.⁶⁵ Moreover, rapidly changing structures and circumstances in the modern era have led to a continuous development of new forms, purposes, routes and sources of trafficking. Thus, research on human trafficking has become urgent and widespread, with anti-trafficking initiatives mushrooming, nationally, regionally and globally, and trafficking projects have become an important item on international development agencies’ agendas.⁶⁶

Research and studies on human trafficking have been conducted in nearly every major region of the world over the last two decades, however, the bulk of this research has been conducted in Europe and Asia (see Figure 2.1).⁶⁷ South-East Asia in particular has been of great interest

⁶³ Jahic, G and Finckenauer, J. O., (2005) ‘Representations and Misrepresentations of Human Trafficking.’ Trends in Organized Crime, Vol.8, No.3, p. 38.

⁶⁴ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

⁶⁵ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

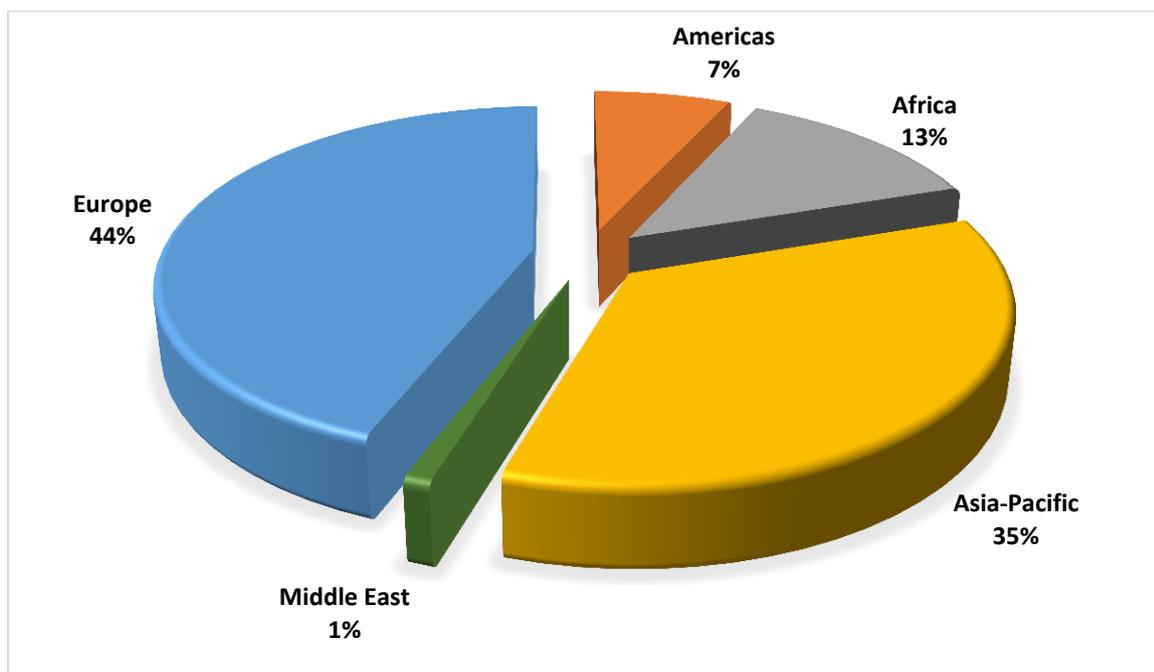
⁶⁶ Marshall, P (2001) “Globalization, migration and trafficking: some thoughts from the South- East Asian region”, Occasional Paper No. 1, Globalization Workshop in Kuala Lumpur, UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-Region, 8-10 May.

⁶⁷ Piper, N (2005), *op. cit.*

to researchers analysing domestic and international trafficking flows.⁶⁸ However, Burma has been subject to very little research in the context of trafficking. Moreover, there has not been much grounded research on the trafficking issue and how the conflict supports and maintains the trafficking of Burmese people. Existing studies on human trafficking in Burma can be divided into two broad categories distinguishing those following a sexual exploitation perspective and those following an irregular migration approach. However, most of the existing literature on trafficking in Burma is related to the increased demand and supply of women in the sex industries, resulting in the creation of exclusive narratives within the domestic discourse.

FIGURE 2.1

REGIONAL DISTRIBUTION OF STUDIES ON HUMAN TRAFFICKING



Source: Lackzo⁶⁹

In this chapter I address the methodologically contested discourse on by unpacking the literature surrounding it. The controversy surrounding definitions of human trafficking is discussed in the chapter. The chapter will also consider the ways in which human trafficking has been conceptualised and problematised in the international and domestic literature. The

⁶⁸ Piper, N (2005), *op. cit.*

⁶⁹ Lackzo, F. (2003) 'Developing Better Indicators of Human Trafficking', *Brown Journal of World Affairs*, Vol. X, Issue 1: 179 – 194.

chapter will also explore the challenges of measuring the scope of human trafficking as well as the role of the media in the debate. Any existing gaps in the literature will be noted and spelt out as justification for the present study.

2.1 A Methodologically Contested Discourse

The late twentieth century and early twenty-first century saw the emergence of a number of state bodies, non-governmental organisations, civil society organisations, specialised networks of counter-trafficking agencies, United Nations and other international organisations that have produced a number of agreements, international and regional conventions and declarations against trafficking, research reports, conference papers, action plans, good practice guidelines and technical assistance toolkits.⁷⁰ However, more than two decades later, human trafficking is still being defined and redefined, and interpreted and in some cases misinterpreted. Thus, Jahic and Finckenauer note that human trafficking is politicized and has become a vehicle for other causes and issues on the agendas of different organizations, interest groups, and governments.⁷¹

For emphasis, Lee notes that, “much of ... scholarly research on trafficking is underpinned by the assumption that human trafficking is a phenomenon whose ‘truth’ can be uncovered – who are the traffickers and victims? How big is the problem? Exactly what type of exploitation is involved?”.⁷² However, in practice, the answers to such questions are neither straightforward nor linear, human trafficking is both a phenomenon and a concept that is vague and highly indefinite. The definition of human trafficking is highly contested, it has been purported to encompass a variety of illicit activities entailing “the loss of free will, appropriation of labour power, and violence or threat of violence”.⁷³ This has resulted in inconsistent definitions, a fractured discourse and a lack of verifiable data and statistics.⁷⁴ Nonetheless, even with the bulk of research conducted on human trafficking, there is limited academic, holistic and theoretically grounded research on the phenomenon.

⁷⁰ Lee, M (2011), Contested definitions of human trafficking. In Trafficking and global crime control. (pp. 15-37). London: SAGE Publications Ltd

⁷¹ Jahic, G and Finckenauer, J. O., (2005)

⁷² Lee, M (2011), *op. cit.*, p. 16).

⁷³ Lobasz, J., K (2012) *Victims, Villains, and the Virtuous: Constructing the Problems of “Human Trafficking”*, University of Minnesota, p. 10.

⁷⁴ Emser, M (2013), *op. cit.*

There are numerous, in some cases oppositional, and shifting understandings of human trafficking. Indeed, Lee strongly emphasises that different understandings and ideas of trafficking are constructed into information as ‘truth’, making empirical and moral claims, “... while some forms of trafficking become more obscure, be deemed less politically significant, or less morally offensive than others in the trafficking debate”.⁷⁵ Contestations around the definition of human trafficking are often dominated by governments, NGOs, international organizations and other influential groups, whose definitions of the phenomenon vary considerably.⁷⁶ Moreover, the focus of attention also provokes varying perspectives depending on whether one is concerned with the unregulated sex industry, with irregular migration, or with the involvement of organized crime.⁷⁷ As a result of the contesting definitions, the issue of trafficking has ostensibly become a ground for different positions on prostitution, immigration, and the position and status of women. For this reason, the focus of attention has appeared to shift more from the realities of trafficking and to move into the sphere of political contestation and self-interest. Nevertheless, one thing that the different actors and academics agree on, is that human trafficking is an egregious violation of human rights that must not be overlooked, irrespective of the shape it takes or the context in which it occurs.

2.2 International discourses of human trafficking

One of the most challenging, yet, important area in attempting to understand complex phenomena such as human trafficking, is the question of definition. Efforts to define and understand an ambiguous and multidimensional phenomenon like human trafficking has proven tedious and difficult. Due to the multidimensional nature of the phenomenon, there has been much dissention and conjecture as to how human trafficking should be defined.⁷⁸ Divergent and indeed diverse definitions of what constitute human trafficking have emerged with some being broad in scope, whilst others were issue driven and thus narrow. Thus, Lobasz notes that researchers and different organisations have a tendency of reciting a ‘laundry list’ of practices that may be identified as forms of trafficking, including debt bondage, forced labour, forced marriage, sexual exploitation, serfdom, and slavery.⁷⁹ The

⁷⁵ Lee, M (2011), *op. cit.*, p. 16.

⁷⁶ Lee, M (2011), *op. cit.*

⁷⁷ Lee, M (2011), *op. cit.*

⁷⁸ Emser, M (2013), *op. cit.*

⁷⁹ Lobasz, J., K (2012), *op. cit.*

author further notes that these categories are rarely approached and treated as problems of equal importance, "... nor is it self-evident that such practices should be linked as different manifestations of a single phenomenon".⁸⁰

In addition, the method of categorising and aggregating the different forms of trafficking has proven to be problematic, it fails to convey the varying perceptions surrounding the phenomenon and hinders efforts to fix the definition of what remains a highly contested concept.⁸¹ Notably, Lobasz argues that decisions to categorize the different forms of human trafficking reflect political judgments rather than objective classifications.⁸² Furthermore, these divergent definitions and competing agendas and ideologies have greatly impacted on our understanding, as well as definition of human trafficking. As a result, in 2000, a legal definition was established through the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Trafficking Protocol) and has become central to defining and countering human trafficking across the globe.⁸³ However, even with the formulation of a legal definition, much controversy still surrounds the definition of the concept.

As a result, it has come down to a question of what forms human trafficking may take and which acts constitute human trafficking. Therefore, this study will discuss seven key conceptual approaches commonly used to conceptualise and define human trafficking, as: (i) a modern form of slavery, (ii) a sexual exploitation or prostitution problem (iii) a problem of transnational organised crime, (iv) a migration problem, (v) a problem of globalisation, (vi) a problem of labour exploitation, or (vii) a human rights problem.⁸⁴ These conceptual approaches to human trafficking represent competing and diverging perceptions and understandings of the nature and causes of the trafficking problem. In some instances, these approaches coexist, intersect, change over time, or contradict each other. Noteworthy, interventions and responses to trafficking are inseparable from conceptualisations of the problem. The approach that would be adopted depends on the conceptualisation of the problem, whether it is considered a problem of illegal migration, prostitution, forced labour or organised crime.⁸⁵ As a result, "... different interventions will be developed, and trafficked

⁸⁰ Lobasz, J., K (2012), *op. cit.*, p. 10.

⁸¹ Lobasz, J., K (2012), *op. cit.*

⁸² Lobasz, J., K (2012), *op. cit.*

⁸³ Emser, M. (2013), *op. cit.*

⁸⁴ Lee, M (2011), *op. cit.*

⁸⁵ Lee, M (2011), *op. cit.*

persons will be dealt with differently, depending on whether they are considered illegal migrants, prostitutes, victims of trickery or of ignorance, or the abused bearers of human rights”.⁸⁶ Significant to note, my presentation of these seven conceptualisations in this study is not intended to establish the dominance of any particular approach or to depict them as mutually exclusive. Rather, my aim is to orient the reader regarding contemporary debates surrounding the phenomenon.

2.2.1 Human trafficking as modern- day slavery

*A country’s experience with trafficking is a function of its past experiences with the trade in human beings, thus, history influences trafficking today. Plenty of anecdotal evidence supports the hypothesis that contemporary trafficking is but the latest form of a trade in human beings practiced for millennia. ... Historical experience with the trade in human beings is a predictor of contemporary manifestations of trafficking in persons.*⁸⁷

Various scholars such as Bales (2005), Smith (2007) and Miers (2003) have conceptualised human trafficking as a modern form of ‘slavery’.⁸⁸ In March 2007, when the United Kingdom commemorated the bicentenary of the 1807 Abolition of the Slave Trade Act, human trafficking was identified as one of the many forms of slavery in the contemporary world.⁸⁹ Old forms of slavery entailed kidnapping, auction blocks and chattel slaves forced to work in chains, however, these are rare and uncommon today. Nevertheless, a scholars who follow this perspective have argued that practices and acts of contemporary human trafficking contain elements of extreme, severe and direct physical or psychological coercion that allows one person control over another’s life, which are similar to slavery.⁹⁰ According to Picarelli, the end of chattel slavery gave rise to new forms of servitude like indentured servitude and debt bondage.⁹¹ In his study on historical approaches to trade in human beings, he showed

⁸⁶ Lee, M (2011), *op. cit.*

⁸⁷ Picarelli, J., T (2007), ‘Historical approaches to the trade in human beings’, in Maggy Lee (Ed.), *Human Trafficking*, Devon: Willan Publishing, (2007): 1.

⁸⁸ Lee, M (2011), *op. cit.*

⁸⁹ Lee, M (2011), *op. cit.*

⁹⁰ Lee, M (2011), *op. cit.*

⁹¹ Picarelli, J., T (2007), *op. cit.*

that variations in historical experience correlate to variations in the scope of contemporary trafficking in persons.⁹²

Briefly looking back at the history of international efforts in the abolition of slavery, a definition of slavery first appeared in an international agreement, the *League of Nations' Slavery Convention*, in 1926.⁹³ While the definition did not mention nor identify human trafficking as a form of slavery, specific agreements and conventions about human trafficking for commercial sex purposes had been established in 1904 and 1910, containing the term “white slave” in their titles.⁹⁴ Moreover, Sasaki notes that in 1956, the United Nations adopted the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, which extended the definition of slavery to include acts having the same effects as slavery, such as debt bondage, serfdom, and exploitation of the labour of women and children.⁹⁵ In addition, the International Labour Organization had tackled the issue from the perspective of forced labour, and framed an international standard, the *Abolition of Forced Labour Convention, C105*, 1957.⁹⁶

Significantly, Sasaki associates the usage of the term of “modern-day slavery” with the renaming of the Working Group on Slavery, established in 1975, to the Working Group on Contemporary Forms of Slavery in 1988.⁹⁷ This change was followed by a number of initiatives to abolish slavery, ranging from monitoring the application of slavery laws, conventions, and situations in each country.⁹⁸ Of note, based on a report from the sub-commission of 1988, the Economic and Social Council recommended that the General Assembly decided that, at the time of the fortieth anniversary of the adoption of the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, 1989, and the same date in following years, should be proclaimed the World Day for the Abolition of Slavery in All its Forms”.⁹⁹

⁹² Picarelli, J., T (2007), *op. cit.*

⁹³ Sasaki, A (2012), "Human Trafficking and Slavery: Current Anti-Trafficking Efforts in Japan" in Cuadra-Montiel, Hector (ed.) "Globalization - Approaches to Diversities". InTech.

⁹⁴ Sasaki, A (2012), *op. cit.*

⁹⁵ Sasaki, A (2012), *op. cit.*

⁹⁶ Sasaki, A (2012), *op. cit.*

⁹⁷ Sasaki, A (2012), *op. cit.*

⁹⁸ Sasaki, A (2012), *op. cit.*

⁹⁹ United Nations Economic and Social Council (1988), Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on Its Fortieth Session, [E/CN.4/Sub.2/1988/45].

In line with these actions, NGOs began to highlight human trafficking as ‘modern-day slavery.’¹⁰⁰ For instance, in her review, Miers cited the Anti-Slavery International, a long-established organization that has tackled slavery since its foundation in 1839, which published several reports on modern-day slavery in countries including Brazil, Nepal, and the United Kingdom.¹⁰¹ In addition, Asia Watch and the Women’s Rights Project, which was founded in 1978 as a division of Human Rights Watch, published *A Modern Form of Slavery*, a report on trafficking of Burmese women and girls into brothels in Thailand in 1993.¹⁰² These early works not only contributed to shaping the concept of ‘modern-day slavery’ but also accelerated the global ‘abolition movement’ in the later 1990s.¹⁰³

Various scholars have insisted on the value of using the term ‘slavery’ synonymous with human trafficking, arguing that it creates urgency to the fundamental and vital elements of established violence and its threats, absolute control, economic exploitation and that it guarantees a wider audience in the fight against current injustices.¹⁰⁴ Of note, Lee points to a number of institutions and conventions associated with the United Nations and regional bodies such as the Organisation for Security and Cooperation in Europe, the Council of Europe, the North Atlantic Treaty Organisation, that regard trafficking and slavery as fundamentally linked human rights violations because both involve the severe exploitation of an individual.¹⁰⁵ According to the International Criminal Court’s Rome Statute, enslavement entails “the exercise of any or all of the powers attaching to the right of ownership over a person”, including “the exercise of such power in the course of trafficking in persons, in particular women and children”.¹⁰⁶ For Bales, modern day slavery refers to the complete control of an individual for economic exploitation by violence or the threat of violence.¹⁰⁷ He holds that “new slavery is not marked by legal ownership of one human being by another or permanent enslavement; instead, it is marked by temporary ownership, low purchase cost, high profits, debt bondage and forced labour”.¹⁰⁸ In sum, Bales asserts that modern slavery is

¹⁰⁰ Sasaki, A (2012), *op. cit.*

¹⁰¹ Miers, S. (1996) Contemporary Forms of Slavery, Slavery and Abolitions, 17 (3): 238-246.

¹⁰² Sasaki, A (2012), *op. cit.*

¹⁰³ Sasaki, A (2012), *op. cit.*

¹⁰⁴ Lee, M (2011), *op. cit.*

¹⁰⁵ Lee, M (2011), *op. cit.*

¹⁰⁶ Under Articles 7.1 and 7.2 of the Rome Statute of the International Criminal Court, 1998, UN Doc. A/CONF.183/9, 17 July 1998, enslavement has also been defined as a ‘crime against humanity’.

¹⁰⁷ Lee, M (2011), *op. cit.*

¹⁰⁸ Lee, M (2011), *op. cit.*, p. 21.

part of an illicit, unregulated economic realm in which people are treated as completely disposable tools for making money.¹⁰⁹

Although history is often cited when identifying the significance of fighting the trade in human beings and is used to understand the problem of human trafficking, Picarelli argues that “experts have rarely engaged history to inform our present-day understanding of trafficking... [yet] history matters”.¹¹⁰ Few interrogate the history of human trafficking, instead, much experts and scholars have followed ahistorical approaches and trajectories which have focused on globalisation and the new threats which have emerged with the end of the Cold War as the causes of human trafficking.¹¹¹ The history of human trafficking is rarely interrogated as a complex phenomenon than the dominant human trafficking discourse.¹¹² Thus, Munro cautions that “whether a particular phenomenon constituted a form of enslavement would depend on a range of factors, including the level of control displayed, the measures taken to prevent escape, the use of force or coercion, any evidence of abuse, and so on”.¹¹³

According to Picarelli, “the evolution of the trade in human beings holds significant implications for the way in which we understand trafficking's operation today”.¹¹⁴ Thus, from his influential study, Picarelli drew three implications that are significant in the understanding and addressing contemporary human trafficking. The first implication is that ahistorical models and approaches of human trafficking provide an insufficient understanding of the phenomenon.¹¹⁵ Picarelli affirms that human traffickers are as much a part of and a collective of historical discourses concerning traditional slavery, as they maximise and rationalise profit.¹¹⁶ The second implication is that historical experience with the trade in human beings impacts the manifestation of contemporary human trafficking.¹¹⁷ Picarelli cites the historical experiences of Sweden, Italy and the United States of America with the trade in human beings to show this impact.

¹⁰⁹ Lee, M (2011), *op. cit.*

¹¹⁰ Picarelli, J., T (2007), *op. cit.*

¹¹¹ Emser, M (2013), *op. cit.*

¹¹² Emser, M (2013), *op. cit.*

¹¹³ Munro, V. E. (2008). Exploring exploitation: Trafficking in sex, work and sex work. In V. Munro & M. Della Giusta (Eds.), *Demanding sex: Critical reflections on the regulation of prostitution*. Abingdon: Ashgate, p. 248.

¹¹⁴ Picarelli, J., T (2007), *op. cit.*, p. 2.

¹¹⁵ Picarelli, J., T (2007), *op. cit.*

¹¹⁶ Picarelli, J., T (2007), *op. cit.*

¹¹⁷ Picarelli, J., T (2007), *op. cit.*

The last implication is scholars and academics of international relations should not continue to focus on norms and governance as “inherently benevolent”.¹¹⁸ Thus, in his study, Picarelli highlights normative discourses and forms of governance that are malevolent in intent and destructive in operation.¹¹⁹ Therefore, there is need for scholars and academics of international relations to consider how illicit spaces are ordered and governed. In sum, Picarelli brings to the fore, the importance of history in understanding human trafficking. Scholars that follow the historical trajectory hold that human trafficking is the latest form of traditional slave trade, thus, “slavery did not end in the 19th century, as commonly believed, but ‘unfree labour’ continued to evolve into novel forms that an international trade in human beings provided, and a growing international economy required”.¹²⁰

2.2.2 Human trafficking as sexual exploitation / prostitution

... very little concrete research has been carried out that would have a clear focus on these other (non-sexual) types of trafficking or that would offer a comparative analysis of trafficking in a “non-sex trade” context with trafficking for the purpose of sexual exploitation. Invariably, it is commercial sexual exploitation that ends up being the main subject of theoretical and empirical works. This begs the question, why?¹²¹

Definitions of human trafficking have been approached around contested perceptions on issues of prostitution.¹²² This approach is mainly attributed to the market and demand for the commercial sexual exploitation of women and children which is stimulated by issues of morality.¹²³ Immorality, the disintegration of familial structures, greed, a lack of respect for the value of life combined with poverty are reoccurring factors that are cited as root causes of human trafficking in this context.¹²⁴ The notion that trafficking in persons is synonymous with the sexual exploitation of women and girls can be traced back to the trade of white women and young girls in Europe for the purpose of prostitution from the mid-nineteenth century.¹²⁵ As Emser notes, the late nineteenth century was an era of social upheaval and

¹¹⁸ Picarelli, J., T (2007), *op. cit.*

¹¹⁹ Picarelli, J., T (2007), *op. cit.*

¹²⁰ Emser, M. (2013), *op. cit.*, p. 17.

¹²¹ Piper, N. (2005), *op. cit.*

¹²² Lee, M. (2011), *op. cit.*, p. 25.

¹²³ Emser, M. (2013), *op. cit.*

¹²⁴ Emser, M. (2013), *op. cit.*

¹²⁵ Lee, M (2011), *op. cit.*

experienced irregular mass migration of mostly poor and working class people.¹²⁶ This period was also marked by unaccompanied women seeking to “carve out a path of their own – usually by servicing and reproducing the migrant workforce”.¹²⁷

In a strictly patriarchal era, dominated by ‘Victorian moral’ and social anxieties, the free movement and mobility of women was perceived to be a threat to the state and society and thus, needed to be suppressed and controlled.¹²⁸ As a result, the term ‘white slavery’ emerged and was used as a sort of euphemism for the procurement, by force, deceit, or drugs, of white European woman or girls against their will for prostitution. At that time, where women were found to be engaging in prostitution, the only possible explanation or rationalisation was that they had been coerced, deceived, lured, trapped, kidnapped, and forced into prostitution.¹²⁹ Henceforth, ‘white slavery’ and the ‘white slave trade’ became terms that signified the forced prostitution of white European women and girls, reflecting modern definitions of trafficking for sexual exploitation.

In the early part of the twentieth century, a number of international instruments and agreements were developed to address the white slave trafficking of women and girls, such as, the 1904 *International Agreement for the Suppression of White Slave Traffic*, the *International Convention for the Suppression of the White Slave Traffic* (1910), the *International Convention for the Suppression of the Traffic of Women and Children* (1921), the *International Convention for the Suppression of the Traffic of Women of Full Age* (1933), and the *United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (1949).¹³⁰ The 1949 Convention is one of the initiatives that was distinguished as the first UN Convention to address human trafficking. Nevertheless, the Convention is criticised for focusing exclusively on trafficking for cross-border movement of persons into prostitution and overlooking other forms of labour trafficking.¹³¹ This resulted in the exclusion of vast numbers of women, men and children from required assistance and protection.¹³² Additionally, Sasaki notes that before the adoption

¹²⁶ Emser, M (2013), *op. cit.*, p. 54.

¹²⁷ Emser, M (2013), *op. cit.*

¹²⁸ Emser, M (2013), *op. cit.*

¹²⁹ Kempadoo, K (2005), ‘From Moral Panic to Global Justice’, in Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik (Eds.), *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, Boulder: Paradigm Publishers, 2005: x.

¹³⁰ Farrior, S. (1997), “The International Law on Trafficking in Women and Children for Prostitution: Making it Live Up to its Potential”, *Harvard Human Rights Journal* 10, 213-255.

¹³¹ Farrior, S. (1997), *op. cit.*

¹³² Farrior, S. (1997), *op. cit.*

of the Trafficking Protocol in 2000, the main international convention concerned with human trafficking exclusively dealt with trafficking for the purposes of prostitution or sexual exploitation.¹³³

Although current international instruments recognise the various trafficking sectors and forms other than prostitution, commercial sex trafficking of women and children continues to be the dominant paradigm in the areas of research, prevention and provision of services.¹³⁴ This predominant position of trafficking for sexual purposes largely influences the human trafficking discourse and also limits our understanding of the phenomenon. Emser notes that “the entrenchment of sex trafficking as the dominant narrative within the human trafficking discourse has led to a sense of hysteria amongst state and non-state actors alike”.¹³⁵ In addition, this approach has been manipulated and stretched by various actors to suit their particular ideological or political agendas.¹³⁶ Indeed, this conceptualisation of the trafficking discourse has impacted on the way that counter-trafficking efforts and policies have been formulated.¹³⁷ To emphasise, Lee notes that as a result of such moral indignations of sexual trafficking and the perceptions about the abuse of ‘innocent’ women in the white slave trade, this trajectory has become a significant precursor to the contemporary trafficking discourse.¹³⁸

Furthermore, trafficking narratives and counter-trafficking initiatives have therefore relied strongly on the “paradigmatic images of female powerlessness, sexual purity, and the spectacle of transgressive bodies”.¹³⁹ Moreover, various narratives exist within the human trafficking discourse, however, much research has exclusively focussed on the sexual exploitation of women and children, as a result neglecting to address the multidimensionality of the phenomenon. Of note, the sex trafficking agenda remains fragmented along ideological lines on different views of prostitution as work versus sexual slavery. Emser argues that this approach often conflates human trafficking with sex trafficking and prostitution or voluntary sex work as sites of exploitation and abuse, little distinction is made of these two different acts.¹⁴⁰ Thus, Jahic and Finckenauer note that trafficking is often presented almost

¹³³Sasaki, A (2012), *op. cit.*

¹³⁴ Lee, M (2011), *op. cit.*

¹³⁵ Emser, M (2013), *op. cit.*, p. 27.

¹³⁶ Emser, M (2013), *op. cit.*

¹³⁷ Emser, M (2013), *op. cit.*

¹³⁸ Lee, M (2011), *op. cit.*

¹³⁹ Lee, M (2011), *op. cit.*, p. 26.

¹⁴⁰ Emser, M (2013), *op. cit.*

exclusively in the framework of prostitution.¹⁴¹ Therefore, human trafficking is defined and perceived as just another type of prostitution that requires a set of measures directed at prostitutes, pimps and clients. In addition, this parallel between trafficking and prostitution has been used to disregard the element of “coercion” in trafficking definitions, and for replacing it with the element of “exploitation”.¹⁴² Such a conceptualisation of human trafficking, grounded on the idea of the exploitation of women's labour, regardless of consent, greatly extends the scope of trafficking victims to include all migrant sex workers. Moreover, this perception is extensively supported in the international literature and media reports. By disregarding the process of trafficking and focusing on the purpose, the abuse and violence inherent in trafficking is mistaken for the actual site of work and form of labour.¹⁴³

Furthermore, Emser rightly notes that in the context of sexual exploitation as human trafficking, this approach has been dominated by feminist abolitionist scholars who focus primarily on sex trafficking.¹⁴⁴ Additionally, Piper notes that research on human trafficking has been dominated by feminist approaches, which explains the focus on sexual exploitation of women and children in the dominant trafficking discourse.¹⁴⁵ Piper further notes that this position has been influenced by the enormous gains achieved by the political activism of the feminist movement that managed to place ‘violence against women’ firmly onto the agenda of international and national policy makers.¹⁴⁶ These abolitionist perspectives of human trafficking postulate that prostitution is the worst form of patriarchal exploitation and oppressions and the most intense form of victimisation of women, as a result, it is impossible for a woman to consent to offer sexual services, and that all migrant women in prostitution are victims of sexual violence and slavery.¹⁴⁷

The narrative accounts in the dominant discourse depict victims of trafficking as young, helpless and in some way innocent. Moreover, these narrative accounts are often dominated by stories of how these victims were unsuspecting and deceived that they would find employment at their destination, only to be sold into prostitution.¹⁴⁸ To add on, Uy notes

¹⁴¹ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

¹⁴² Raymond, J., G. (1999), “Testimony Submitted to the Hearings on Trafficking, Sub-Committee on International Operations and Human Rights,” Accessed September 22 2015, Available from: <http://action.web.ca/home/catw/readingroom.shtml?sh itm=cabe989c4188195c4ale2d40e7d24813>.

¹⁴³ Lee, M (2011), *op. cit.*

¹⁴⁴ Emser, M (2013), *op. cit.*

¹⁴⁵ Piper, N (2005), *op. cit.*

¹⁴⁶ Piper, N (2005), *op. cit.*

¹⁴⁷ Lee, M (2011), *op. cit.*

¹⁴⁸ Emser, M (2013), *op. cit.*

“when people think of human trafficking, they often envision a “third world”, if not primarily Asian, woman or a child in deplorable conditions, being brought across borders, and being forced into commercial sex acts”.¹⁴⁹ Such narratives of vulnerable and helpless women have successfully created an image of the ‘perfect victim’ of human trafficking and elicits social anxieties and moral indignations. Moreover, these narratives have been used over and over again and have thus created a discourse based on the trafficking of women and girls into forced prostitution or sex trafficking. Significant to note, commercial sexual exploitation is human trafficking, however, the perception of trafficking as exclusively encompassing sex trafficking does a disservice to the overall movement as it relegates other forms of trafficking to the side lines in international and local discourses, hence, instilling the entire discourse with a moralistic fervour.¹⁵⁰

In addition, the prostitution or sex work debate itself is viewed as an issue of immorality, a vehicle of social decay, fractured families, venereal disease and perversion, that needs to be eradicated.¹⁵¹ This becomes problematic to individuals who find themselves in a trafficking situation held against their will and are subjected to abuse and exploitation, and those who relatively voluntarily sell sex and in some extent, have the agency and freedom to make their own choices.¹⁵² Furthermore, Jahic and Finckenauer note that following such an argument leaves no grounds when looking at the trafficking problem, for separating voluntary and involuntary prostitution.¹⁵³ Thus, such an argument qualifies every sex worker as a trafficking victim who is in need of protection and assistance and that all actors such as pimps, traffickers, clients are all part of an exploitative network, therefore their actions need to be strictly criminalized.¹⁵⁴ This moralisation of sex and human trafficking does a disservice to trafficking victims who do not fit the stereotype of the abused and desperate prostitute as no real consideration is given to them. Accordingly, Emser rightfully notes that such an approach is a powerful political tool in the human trafficking discourse which has greatly influenced how human trafficking is conceived and combated.¹⁵⁵

¹⁴⁹ Uy, R (2013), *Blinded by Red Lights: Why Trafficking Discourse Should Shift Away from Sex and the Perfect Victim Paradigm*, Volume 26, *Berkeley Journal of Gender Law & Justice*.

¹⁵⁰ Emser, M (2013), *op. cit.*

¹⁵¹ Emser, M (2013), *op. cit.*

¹⁵² Emser, M. (2013). *Op. cit.*

¹⁵³ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

¹⁵⁴ Raymond, J. and Hughes, D., M. (2001) “Sex Trafficking of Women in the United States: International and Domestic Trends,” North Amherst, MA: Coalition Against Trafficking in Women.

¹⁵⁵ Emser, M (2013), *op. cit.*

This approach fails to acknowledge and recognise the different categories of sex workers. Not all sex workers have pimps or brothel owners, many are ‘self-employed’ or work with other sex workers.¹⁵⁶ Moreover, the predominant focus of most counter-trafficking initiatives and resources currently focuses on extricating victims of trafficking from forced prostitution and sexual exploitation through the raiding of brothels. This is seen in most international responses as well as domestic responses in Burma. The argument held is that these are the more visible faces of a hidden population.¹⁵⁷

In the sex exploitation and prostitution debate, many advocate the abolition of prostitution and the simultaneous criminalisation of the purchasers of sex.¹⁵⁸ Moreover, Jahic, and Finckenauer hold that the argument that human trafficking and prostitution should be addressed through common policies, and that fighting trafficking should boil down to fighting prostitution has been made to various governments.¹⁵⁹ However, such efforts can push the industry underground, make voluntary sex workers more vulnerable to abuse and even being trafficked and take more risks. In this line of thought, a gendered approach is adopted and men and boys trafficked into the sex industry, or elsewhere, also tend to be overlooked. In addition, the link between prostitution and trafficking has often been stressed so single mindedly that the possibilities that trafficking may not always or necessarily involve sexual exploitation, and that not all sex workers are trafficking victims, have become lost.¹⁶⁰ Furthermore, Jahic, and Finckenauer note that beyond advocating this position, any who have a different position have been condemned and criticized.¹⁶¹ Moreover, some governments and organisations have accepted such an approach, for instance, this is evident in the United States Agency for International Development’s (USAID) policy denying anti-trafficking funding to organizations that advocate prostitution as an employment choice or that advocate or support the legalization of prostitution.¹⁶²

In sum, this approach appears simplistic and reductionist to conclude and to act as if the needs of trafficking victims and those of sex workers are indistinguishable and can best be addressed with a single approach. Of note, it is not necessarily in the best interests of trafficking victims to be placed in the same basket with sex workers, not for moral or ethical

¹⁵⁶ Emser, M (2013), *op. cit.*

¹⁵⁷ Emser, M (2013), *op. cit.*

¹⁵⁸ Emser, M (2013), *op. cit.*

¹⁵⁹ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

¹⁶⁰ Lee, M. (2005), *op. cit.*

¹⁶¹ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

¹⁶² Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

reasons, but because of the very different needs that they have, and because arguing that these two issues must be addressed together shows a degree of disregard for the true needs of those who have been trafficked and have been through some of the most horrifying experiences.¹⁶³

2.2.3 Human trafficking as globalisation

*Numerous root causes have been identified for the existence of human trafficking. They include lack of employment opportunities, poverty, economic imbalances among regions of the world, corruption, decline of border controls, gender and ethnic discrimination, and political instability and conflict. ... Yet most of these conditions have existed for a very long time. They alone do not explain the phenomenal growth of human trafficking since the mid-1980s. Trafficking has increased dramatically with globalization, the rise of illicit trade, and the end of the Cold War.*¹⁶⁴

Human trafficking has also been seen as an exemplar of the globalization of crime.¹⁶⁵ Numerous scholars have written about the criminogenic effects of globalization that have created conducive environments for human trafficking. The social, cultural and technological conditions of globalisation in particular, increases in the extent of global networks, the intensity of worldwide interconnectedness, the velocity of global flows of people and ideas, have arguably created new and favourable contexts for crime.¹⁶⁶ Laipson and Pandaya note that current trends in economic development have resulted in an increase in worldwide demand for goods and services.¹⁶⁷ These trends include the expansion of markets, free trade and greater economic competition, decline in state intervention in the economy, the proliferation of Internet-based business, and tourism development.¹⁶⁸ These trends have also empowered criminals and further opened already porous borders to the increased movement of goods, services and people.

The transformation of the global economic system has led to an increase in the trade in goods and services at an unprecedented level. This evolution has, for example, resulted in the

¹⁶³ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

¹⁶⁴ Shelley L (2010) Human trafficking. A global perspective. Cambridge University Press, New York, p. 37.

¹⁶⁵ Lee, M (2011), *op. cit.*

¹⁶⁶ Lee, M (2011), *op. cit.*

¹⁶⁷ Laipson, E and Pandya, A (2010) Migration Challenges in the Indian Ocean Littoral. The Henry L. Stimson Center, Washington DC.

¹⁶⁸ Shelley L (2010), *op. cit.*

development of ‘centers for low-cost, labour-intensive, manufacturing operations’ that have enabled the creation and expansion of informal ‘work ghettos’.¹⁶⁹ Furthermore, Laipson and Pandya note that such centers cut costs “through the utilization of trafficked individuals to maintain a competitive edge [which] is a part of the overall “race to the bottom,” in terms of wages”.¹⁷⁰ The authors also cite India’s economic boom as being partially dependent on trafficked forced labour, especially children trafficked into domestic service, construction, manufacturing, and commercial agriculture.¹⁷¹ In such a context, human traffickers and exploiters see their victims in terms of cost versus benefit transactions, and as cheap and docile labourers.

Laipson and Pandya identified six new global trends that increase and accentuate vulnerability to human trafficking and have caused the surge in the growth of trafficking.¹⁷² The first trend is an increase in demand for trafficked people which is noted to have become the most immediate cause for the expansion of the human trafficking industry.¹⁷³ Demand fuels the growth of human trafficking. As Shelley notes, the contemporary trade in human beings yields significant profits for many legitimate employers.¹⁷⁴ For instance, agricultural producers, manufacturers, and construction companies often pay trafficked workers subminimum or no wages. Second, the development of new technologies has made the movement and recruiting of people much easier and accessible.¹⁷⁵ New technologies such as faster transportation have made moving people from one location to another much easier, thus, making human trafficking much more efficient. To add on, Shelley accounts that globalization has facilitated speedy, low-cost, and anonymous communications that are a boon to the activities of traffickers.¹⁷⁶ In some instances, the internet has also been used for the purposes of recruitment as well as to advertise sex tourism overseas and internationally market child pornography and ‘brides’.¹⁷⁷

The third trend is the replacement of petty criminals by organized criminals in the trade in humans, turning it into a large-scale multi-billion dollar industry.¹⁷⁸ Lee notes that

¹⁶⁹ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷⁰ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷¹ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷² Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷³ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷⁴ Shelley L (2010), *op. cit.*

¹⁷⁵ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷⁶ Shelley L (2010), *op. cit.*

¹⁷⁷ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁷⁸ Laipson, E and Pandya, A (2010), *op. cit.*

globalisation has increased opportunities for crime and operational capabilities of organised crime groups especially through developing ‘a nearly indecipherable web of nodes and illicit relations’ in criminal activities.¹⁷⁹ Moreover, national criminal actors and groups have arguably adapted to the pressures and opportunities of globalisation to generate new illicit flows of people, money and goods and now operating outside their traditional jurisdictions. Additionally, Shelley notes that large and small scale crime contribute significantly to the rise of human trafficking, however, although the role of small scale crime is most apparent and is the lifeline of the traffickers, it is less pernicious than the new and globalized large-scale crime.¹⁸⁰

Fourth, natural disasters and man-made or development-induced disasters have resulted in forced migration, driving more people from their homes and stripping them of their livelihoods and assets.¹⁸¹ According to Shelley, increasing and more severe natural disasters, possibly as a result of global warming, have also left millions displaced, homeless, and impoverished, such as the tsunami in Southeast Asia, drought in Sudan and the earthquake in Haiti.¹⁸² Assistance programs to aid disaster victims have often been insufficient, and needed aid too often has been diverted by corrupt officials. Deprived of their land and without increased opportunities in nonagricultural sectors, these desperate people are often exploited by human traffickers.¹⁸³

Fifth, displacement and migration in the absence of protection mechanisms, such as in conflict situations or absence of refugee laws, have increased vulnerability to trafficking.¹⁸⁴ For example, according to Women’s Commission for Refugee Women and Children, Thailand has never ratified the 1951 Convention, the international treaty that defines refugees as persons who have a well-founded fear of persecution on the basis of race, religion, nationality, political opinion or membership in a particular social group. Instead, Thailand adopted its own definition of a refugee as a ‘person fleeing fighting’ and even this limited definition has been applied narrowly only to those fleeing active fighting.¹⁸⁵ The situation upon arrival in destination countries creates conditions of vulnerability to trafficking as most

¹⁷⁹ Lee, M (2011), *op. cit.*

¹⁸⁰ Shelley L (2010), *op. cit.*

¹⁸¹ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁸² Shelley L (2010), *op. cit.*

¹⁸³ Shelley L (2010), *op. cit.*

¹⁸⁴ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁸⁵ Women's Refugee Commission for Refugee Women and Children, (2006a), *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking*, New York: Women's Refugee Commission for Refugee Women and Children.

refugees find that safety and protection eludes them. The final trend identified is the global economic crisis since 2008 that has resulted in increased unemployment and undermined social safety nets, contributing to increased vulnerability by exacerbating the effects of existing sources of marginalisation.¹⁸⁶ These marginalisations include inequalities based on gender, ethnicity, caste, poverty, language, and the consequent lack of access to health, education, land, and livelihoods. In addition, the global financial system has resulted in monetary crises of greater severity and frequency. For instance, Shelley notes that the global crisis that began in 2008 had a visible and direct impact on human trafficking.¹⁸⁷ Such global financial crises affect the poor the most, who often face disaster as the cost of basic necessities, leading to starvation or untenable debt, conditions ripe for exploitation by human traffickers.¹⁸⁸

In addition, Lee encapsulates a strand of the globalisation thesis that is affirmed by Passas which he termed ‘global anomie’.¹⁸⁹ To Passas, globalisation and its associated de-regulation of capital, trade and business under neo-liberalism have produced systemic strains and asymmetries. For Passas, “[a]s needs and normative models are ‘harmonized’, people become conscious of economic and power asymmetries, and directly experience their impact”.¹⁹⁰ Accordingly, globalization and neoliberalism heightened this awareness and further widened the asymmetries resulting in most people realising that the attainment of their goals and lifestyles is beyond reach, if they are to use legitimate means.¹⁹¹ Nevertheless, the success in spreading neoliberalism has brought about a series of failures, including, more poverty, bigger economic asymmetries, environmental deterioration, slower and unsustainable growth patterns.¹⁹² Thus, Passas concludes that global neoliberalism systematically causes relative deprivation as well as absolute immiseration of masses of people.¹⁹³

In sum, Lee notes that the instances of globalised crime’s operation and collusive activities are numerous and varied.¹⁹⁴ Globalised criminal organisations have become able to link up with each other, setting up their operations transnationally, taking advantage of economic

¹⁸⁶ Laipson, E and Pandya, A (2010), *op. cit.*

¹⁸⁷ Shelley, L. (2010), *op. cit.*

¹⁸⁸ Shelley, L. (2010), *op. cit.*

¹⁸⁹ Lee, M (2011), *op. cit.*

¹⁹⁰ Passas, N (2000), “Global Anomie, Dysnomie, and Economic Crime: Hidden Consequences of Neoliberalism and Globalization in Russia and Around the World.” *Social Justice* 27(2):16.

¹⁹¹ Passas, N (2000), *op. cit.*

¹⁹² Passas, N (2000), *op. cit.*

¹⁹³ Passas, N (2000), *op. cit.*

¹⁹⁴ Lee, M (2011), *op. cit.*

globalisation and new communication and transportation technologies.¹⁹⁵ The global criminal economy of trafficking has arguably expanded its realm to an extraordinary diversity of operations, making it an increasingly diversified and interconnected, global industry. Furthermore, such perceptions have been influential among policy-makers.

2.2.4 Human trafficking as a Transnational Organized Crime (TOC)

*... the profit of the crime is the force which urges man to delinquency: the pain of the punishment is the force employed to restrain him from it. If the first of these forces be the greater, the crime will be committed; if the second, the crime will not be committed.*¹⁹⁶

Human trafficking has been conceptualised within a framework of transnational organised crime.¹⁹⁷ The role of sophisticated, transnational organised criminal groups as the main beneficiaries and driving force behind the highly profitable trade of human trafficking has been widely noted in a number of research studies and official reports.¹⁹⁸ As Lee accentuates, one essential aspect of the institutionalisation of human trafficking as organised crime has taken place *vis-à-vis* the 2000 *United Nations Convention Against Transnational Organised Crime (TOC)* (Palermo Convention) and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (Palermo Protocol), provide the legal framework for transnational organized and are now the very heart of the mainstream, contemporary trafficking legislation and international anti-trafficking discourse.¹⁹⁹ The Palermo Convention defines an organised crime as entailing a structured group of three or more people acting in concert, with the aim of committing one or more serious crimes, in order to obtain financial or other material benefit.²⁰⁰ According to the Palermo Convention, a criminal offense is transnational if it satisfies one or more of the following criteria:

¹⁹⁵ Lee, M (2011), *op. cit.*

¹⁹⁶ Eide, E. (1999), *Economics of Criminal Behavior*, 8100 In Bouckaert, B. and De Geert, G. Elgar and University of Ghent, Eds. *Encyclopedia of Law and Economics*. 345-389. Encyclofind.com.

¹⁹⁷ Lee, M (2011), *op. cit.*

¹⁹⁸ Lee, M (2011), *op. cit.*

¹⁹⁹ Lee, M (2011), *op. cit.*

²⁰⁰ Lee, M (2011), *op. cit.*

- a. It is committed in more than one State
- b. It is committed in one State but a substantial part of its planning, direction or control takes place in another State
- c. It is committed in one State but involves an organized criminal group engaged in criminal activities in more than one State
- d. It is committed in one State but has substantial effects in another State.²⁰¹

Against this backdrop, human trafficking is categorised and internationally defined as a transnational organised crime by the Palermo Protocol to encompass:

*... the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, of abduction, fraud, of deception, of the abuse of power or of a position of vulnerability or giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of prostitution of others or forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs;*²⁰²

According to this definition, human trafficking has three principal elements that need to be present in order for a person to be identified as a victim of trafficking: (i) the person must be recruited, moved, transferred, harboured or received; (ii) there must have been some form of coercion, deception or abuse of power or vulnerability involved; (iii) the actions are for the purposes of exploitation (see table 2.1). Although this definition now exists as the legal definition of human trafficking, much controversy surrounds the formulation of this legislation as well as criticism for being overly broad.²⁰³ This has been attributed to the conceptual issues surrounding the definition of human trafficking, and how it has been conceptualised in the Trafficking Protocol.²⁰⁴

²⁰¹ United Nations Convention Against Transnational Organized Crime of 2000 (225 UNTS 209).

²⁰² United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000, supplementing the United Nations Convention Against Transnational Organized Crime (General Assembly resolution 55/25)

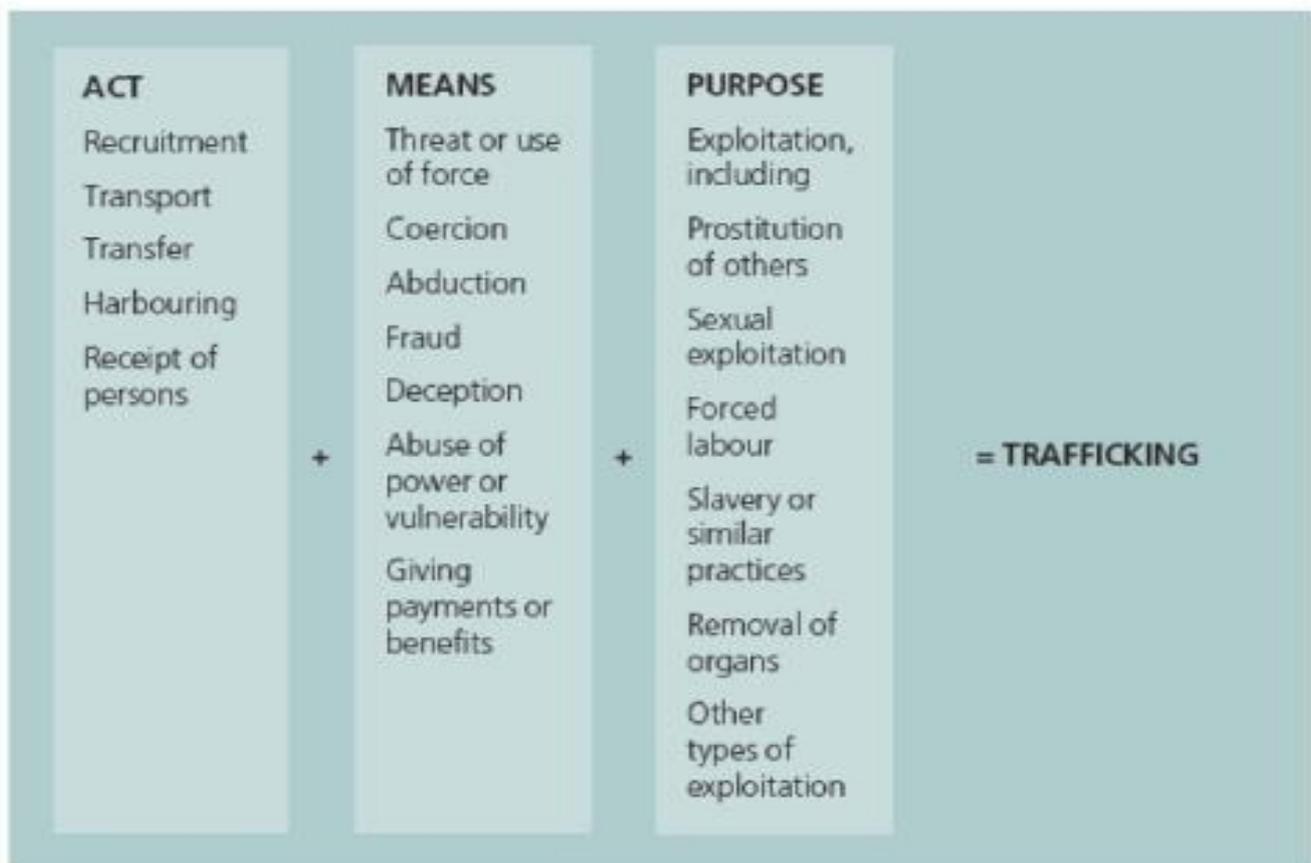
²⁰³ Emser, M (2013), *op. cit.*

²⁰⁴ Emser, M (2013), *op. cit.*

On the other hand, the trafficking as transnational organised crime approach is not without criticism. For instance, Taylor and Jamieson questioned the ‘alarmist interpretation’ of transnational threats posed by organised crime groups while others have questioned the very existence of transnational organised crime and the dominance of transnational organised crime groups in the trade in humans.²⁰⁵

Table 2.1

ELEMENTS OF HUMAN TRAFFICKING



Source: UNODC²⁰⁶

Rather, such scholars underlined the role of legitimate and semi-legitimate groups such as private businesses, job recruitment agencies, overseas marriage consultant agencies and employees of international organisations like members of national armed forces or

²⁰⁵ Lee, M (2011), *op. cit.*

²⁰⁶ UNODC (2008) Tool Kit to Combat Trafficking in Persons: Global Programme Against Trafficking in Human Beings, UNODC.

international peacekeeping missions in the human trafficking chain.²⁰⁷ Furthermore, Article 4 of Trafficking Protocol demonstrates that it is only applicable to ‘offences that are transnational in nature’, and must also involve ‘an organised criminal group’.²⁰⁸ This neglects and leaves room for different interpretations and applications of the notion of ‘transnational’ and ‘an organised criminal group’ to individual states’ domestic situations in the formulation of domestic legislation, hence, creating gaps in the application and enforcement of trafficked individuals.²⁰⁹ Moreover, such assumptions become problematic when defining a trafficker, whether it should always necessarily be an organised criminal group. This then begs the question of what may be defined as an organised criminal group, a notion that is also contested. Such overgeneralisations have a risk of creating faulty assumptions of labelling one particular group as traffickers. Moreover, like human trafficking, defining organised crime has proven difficult as it is a highly contested notion.

In addition, Emser notes that associating the Trafficking Protocol to that of the Convention on TOC creates an underlying assumption, that human trafficking is but one of the many crimes ascribed to organised crime, and limited to organised criminal groups and this shapes perceptions as well as initiatives or policies.²¹⁰ Furthermore, although the diverse profiles of traffickers, organised crime groups and networks are acknowledged, in practice the link to transnational organised crime, inherited from the Trafficking Protocol, international agreements and discussions around globalisation, has affected the scope of investigations by law enforcement who typically look for the international link, as well as a structure to the criminal enterprise.²¹¹ This suggests that different forms of trafficking groups or networks, and traffickers, may be disregarded at present where they do not fit the standardised international profile.

Moreover, Emser notes that such assumptions are constraining especially to law enforcement to only deal with human trafficking cases that are of an identifiable criminal structure, and have transnational links.²¹² This international discourse has become widely accepted and well-established, however, this has resulted in many instances, in domestic discourses accepting the assumptions of the dominant international discourse with little research as to

²⁰⁷ Lee, M (2011), *op. cit.*

²⁰⁸ Emser, M (2013), *op. cit.*

²⁰⁹ Emser, M (2013), *op. cit.*

²¹⁰ Emser, M (2013), *op. cit.*

²¹¹ Lee, M (2011), *op. cit.*

²¹² Lee, M (2011), *op. cit.*

the situation on the ground or fully appreciating regional and historical peculiarities that might affect the nature of the trafficking processes.

Significantly, the problem of transnational organised crime is perceived as a threat to state and domestic security, endangering state sovereignty and the ability of the state to protect its citizen from harm, is a dominant and undisputed theme in the international discourse.²¹³ The argument is that Transnational organised crime, facilitated by globalisation and illicit migration, is seen to drive the process of human trafficking, corrupting officials and threatening the sanctity of the state.²¹⁴ Therefore, from this perspective, the abuse of migrants becomes fully the fault of traffickers who must be stopped, not the by-product of exploitative employment practices, restrictive immigration policies, and vast economic disparities between rich and poor nations.²¹⁵ The logic of this most commonly adhered and accepted to understanding of human trafficking and approach to it is that once organised crime groups and networks are disrupted and destroyed, or the costs for traffickers becomes too high, there will no longer be a market for human trafficking, and the exploitative practices that accompany it.²¹⁶

Importantly, the human trafficking discourse overlaps and to some degree parallels that of organised crime. Human trafficking has often been associated with the notion of transnational organised crime, “and is defined as a criminal act which violates the rule of law”. TOC is portrayed as one of the most important mechanisms for unlawful redistribution of ‘national wealth, unduly influencing markets, political power and societal relations’. Therefore, the principal threat posed by trafficking in persons is why the trafficking issue is increasingly recognized as one of global security. Hence, it becomes apparent that the issue of human trafficking and organised crime have been galvanised together to bolster the role of state in a complex and uncertain world.

2.2.5 Human Trafficking as a Migration Problem

*... trafficking is to be tackled first and foremost as an ‘immigration crime’
problem: As human trafficking often involves crossing international*

²¹³ Emser, M (2013), *op. cit.*

²¹⁴ Emser, M (2013), *op. cit.*

²¹⁵ Chapkis, W. (2005) ‘Trafficking, Migration, and the Law. Protecting Innocents, Punishing Migrants’, *Gender & Society*, 17, No. 6 (2003): 926. See also, Danish Red Cross, *Good practices in response to trafficking in human beings: Cooperation between civil society and law enforcement in Europe*, 32 – 33.

²¹⁶ Emser, M (2013), *op. cit.*

borders, it is essential that measures to address it are mainstreamed into ... immigration system[s].

Human trafficking has also been understood as a migration problem.²¹⁷ From this approach, human trafficking is perceived “... as a subset of illegal migration; the primary concern of states is the breaching of immigration controls; trafficked persons are treated as first and foremost violators of immigration laws and regulations as they often cross borders illegally and may work without authorisation”.²¹⁸ Therefore, from this perspective, illegality and irregularity of the movement of immigrants across national borders, and their exploitation by intermediaries and employers, becomes the primary focus rather than the type of work they do.²¹⁹ In particular, Jahic and Finckenauer note that in the trafficking and migration approach, “trafficking is discussed as a form of assisted illegal migration that has gone bad-resulting in abuse, exploitation, and slavery”.²²⁰

One of the more critical approach to the trafficking– migration approach focuses on the conditions that require or facilitate the motivations for men and women’s migration, and the exploitation within different forms of legal and illegal migration.²²¹ Scholars from different disciplines such as Sociology, Criminology and Political Science have highlighted the growth in regular, irregular and forced migratory movements in various countries and regions, which have been driven by economic crises, lack of sustainable livelihoods, political conflict, civil war, ethnic persecution, social and gender inequalities, and hierarchies around notions of racial, religious and national difference.²²² In addition, in the context of forced migration caused by political turmoil or social unrest and kept out of legal channels of migration, border crossing through irregular channels has increasingly become their only means of escape. From this perspective, trafficking becomes an unintended consequence of restrictive migration policies and of state efforts to curb illegal entry and illegal employment of migrants.

Although internal trafficking is acknowledged, it has done little to challenge the dominant understanding of trafficking as a problem of cross-border migration. The perception of trafficking as an illegal immigration problem and, by extension, the conflation of immigration

²¹⁷ Lee, M (2011), *op. cit.*

²¹⁸ Lee, M (2011), *op. cit.*, p. 29.

²¹⁹ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

²²⁰ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

²²¹ Lee, M (2011), *op. cit.*

²²² Lee, M (2011), *op. cit.*

and trafficking control measures, is most apparent in the stepping up of border controls, interception measures, greater document verification, carrier sanctions, readmission and repatriation agreements, migrant detention, and other exclusionary measures. To add on, Emser notes that the migration-trafficking approach is complex, as issues of human smuggling and human trafficking overlap – and are often confused, and played upon by states to suit their own particular agendas.²²³ Of note, the distinctions between trafficking and migration, and trafficking and sex work, are indistinct resulting in the formulation of legal strategies that do not address migration or sex work.²²⁴

This is attributed to the language, overly broad and vague definitions and lack of coherency of the UN Convention and the two protocols on smuggling and trafficking supplementing it.²²⁵ Both protocols overlook to a great extent this overlap, and have thus resulted in the creation of the concept of ‘smuggled criminals’ and ‘trafficked victims’.²²⁶ In this sense, those who are classified as illicit or irregular migrants are categorised as criminals in so far as they consent to be being smuggled, therefore, any exploitation that may occur during or after their journey is seen to be part and parcel of this criminal partnership to illegally enter another state.²²⁷ On the other hand, according to this definition, a person is coerced into being trafficked, and the victim is automatically rendered innocent and powerless.²²⁸ Moreover, Emser emphasises that both protocols are overly broad and are ultimately incapable of describing and differentiating trafficking and smuggling more precisely.²²⁹

According to Buckland both trafficked and smuggled people most often choose to leave their homes, whether as refugees, economic migrants or asylum seekers, yet, the image of the trafficked person, kidnapped and powerless is a powerful and influential one, however, it only captures a small minority of trafficking cases.²³⁰ Rather, migrants also expose themselves to different forms of victimisation and exploitation when they use illicit

²²³ Emser, M (2013), *op. cit.*

²²⁴ Lee, M (2011), *op. cit.*

²²⁵ Emser, M (2013), *op. cit.*

²²⁶ Emser, M (2013), *op. cit.*

²²⁷ Emser, M (2013), *op. cit.*

²²⁸ Victoria E. Kalu, ‘Issues in Human Trafficking and Migrant Smuggling in the Context of Migration’, *International Legal Studies Program Law Journal*, Volume 1, Issue 1, (2008): 26 – 33.

²²⁹ Buckland, B., S (2009) ‘Human Trafficking & Smuggling: Crossover and Overlap’, in Cornelius Friesendorf (Ed.), *Strategies Against Human Trafficking: The Role of the Security Sector*, Study Group Information, National Defence Academy and Austrian Ministry of Defence and Sports.

²³⁰ Buckland, B., S (2009), *op. cit.*

channels.²³¹ This has resulted in ‘lower-level exploitation on the margins of legality’ to be overlooked, yet, much of this “low-level exploitation involves people often regarded as smuggled, or those at the trafficking/smuggling boundary”.²³² Furthermore, Lee asserts that there exist number of economic, cultural, social and legal factors that contribute to the exploitation and abuse of migrant workers, especially irregular migrants in unprotected, informal and/or illegal labour markets.²³³ This in turn highlights the difficulties, in some cases, to distinguish between a person who has been trafficked and an irregular migrant working under varying degrees of exploitative conditions and/or debt bondage.²³⁴ In sum, Sanghera concludes that equating human trafficking with migration has resulted in simplistic and unrealistic solutions within the mainstream anti-trafficking paradigm.²³⁵

For Emser, human trafficking often occurs within the context of migration and globalisation.²³⁶ Globalisation creates and exacerbates inequalities which create push and pull factors that largely lead people to migrate. International and internal migration are factors which contribute to the proliferation of human trafficking, people smuggling, and the vulnerability of victims before, during and after transit.²³⁷ Compared to migration during times of relative peace, conflict-induced migration streams are large, sudden, and migrants are arguably less prepared for life at their destinations. The precarious situation migrants often find themselves in during the migratory process often renders them vulnerable to traffickers and other forms of abuse and exploitation. Abuse, discrimination and exploitation prior to deciding to migrate are key factors that influence individual vulnerability. Women and increasingly unaccompanied children seek to escape lives of poverty, deprivation, abuse, familial, cultural or political violence, discrimination and a lack of opportunities in their home communities or countries. ‘This understanding has led to two connected, though different strategies: on the one hand, a human rights approach that would see “trafficked

²³¹ Skeldon, R (2000) ‘Trafficking: A Perspective from Asia’, *International Migration*, Volume 38, Issue 3, Special Issue.

²³² Emser, M (2013), *op. cit.*

²³³ Lee, M (2007) (Ed.), *Human Trafficking*, Devon: Willan Publishing.

²³⁴ Emser, M (2013), *op. cit.*

²³⁵ Sanghera, J (2005) ‘Unpacking the Trafficking Discourse’, in Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik (Eds.), *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, Boulder: Paradigm Publishers.

²³⁶ Emser, M (2013), *op. cit.*

²³⁷ Emser, M (2013), *op. cit.*

women” as an exception to the “normal” illegal migrants; on the other hand, an approach that shows trafficking to be a direct result of migration policies’.²³⁸

2.2.6 Human Trafficking as Human Rights

*The links between human rights and the fight against trafficking are well established. From its earliest days to the present, human rights law has unequivocally proclaimed the fundamental immorality and unlawfulness of one person appropriating the legal personality, labour or humanity of another. Human rights law has ... decried and outlawed arbitrary detention, forced labour, debt bondage, forced marriage, and the sexual exploitation of children and women; and it has championed freedom of movement and the right to leave and return to one’s own country.*²³⁹

Human trafficking has been conceptualised within a human rights framework.²⁴⁰ This conceptualisation stems from the perception of human trafficking as a violation of human rights. The consolidation of human rights gathered momentum in the latter half of the twentieth century through the growth of the international human rights movement, the proliferation of international human rights instruments, agreements and institutions, and the rise in human rights discourses.²⁴¹ During this period, a number of political and ethical theorists emerged, highlighting the idea of human rights as the dominant way of articulating the imperatives of justice in the modern world and advocating for the need to protect marginalised groups such as women and children, ethnic minorities, migrants and refugees.²⁴² As a result, human rights were entrenched as an issue of international relations, thus, situating human trafficking as human rights problems. This approach is advocated by a wide range of anti-trafficking actors and scholars with the aim to protect the rights of victims of trafficking and prevent re-trafficking or further victimisation by the state.²⁴³ Moreover, human rights

²³⁸ Danish Red Cross, (2005) *Good practices in response to trafficking in human beings: Cooperation between civil society and law enforcement in Europe*, 33.

²³⁹ Office of the United Nations High Commissioner for Human Rights, (2014) *Human Rights and Human Trafficking*, New York and Geneva: United Nations.

²⁴⁰ Lee, M (2011), *op. cit.*

²⁴¹ Ignatieff, M (2001), *Human Rights as Politics and Idolatry*. Edited by Amy Gutmann. Princeton, NJ: Princeton University Press cited in Lee, M (2011), *op. cit.*

²⁴² Ignatieff, M (2001), *op. cit.*

²⁴³ Emser, M. (2013), *op. cit.*

violations have been conceptualised and perceived as both a cause and a consequence of human trafficking.²⁴⁴

In the context of human trafficking, the fundamental human rights violated are espoused under the *UN Universal Declaration of Human Rights* of 1948 and the *European Convention on Human Rights and Fundamental Freedoms* of 1950, “including the right to life and security of person; right to be free from slavery or servitude; right to freedom of movement; right to be free of torture or cruel, inhuman and degrading treatment; right to health; and right to free choice of employment”.²⁴⁵ Moreover, a number of international declarations and human rights instruments and conventions have addressed the right of an individual not to be trafficked, including the *UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* 1979, the *UN Convention on the Rights of the Child* 1989, the *International Covenant on Civil and Political Rights* 1966 and the *ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour* 1999.²⁴⁶

According to the council of Europe, human trafficking constitutes first and foremost a violation of human rights and an offence to the dignity and the integrity of the human being.²⁴⁷ The human rights discourse which affirms the trafficked victim as a holder of universal and inalienable rights, is most ostensible in the work of various United Nations agencies such as the United Nations High Commissioner for Human Rights (OHCHR). Adopting a human rights approach in the trafficking debate offers “a conceptual and normative framework for reorienting the trafficking debate towards the exploitation of persons, regardless of their immigration status, and as a framework for action”.²⁴⁸ Such an approach may also serve as a tool for developing effective policies and for holding states accountable for their efforts.²⁴⁹

While this approach to human trafficking has been significant critics caution of a tendency to reduce the concept of human rights violation to ‘an amorphous category’ that can be stretched unreflectively and of the imperialist bent to the deployment of rights discourse.²⁵⁰ Other

²⁴⁴ Lee, M (2011), *op. cit.*

²⁴⁵ Ignatieff, M (2001), *op. cit.*

²⁴⁶ Lee, M (2011), *op. cit.*

²⁴⁷ Lee, M (2011), *op. cit.*

²⁴⁸ Lee, M (2011), *op. cit.*, p. 33.

²⁴⁹ Ignatieff, M (2001), *op. cit.*

²⁵⁰ Ignatieff, M (2001), *op. cit.*

critics have pointed to the uneven and weak implementation of human rights standards in counter-trafficking work.²⁵¹ Bearing in mind the development of international instruments in the field of migration, critics have highlighted the propensity of states to place immigration controls and national security concerns before human rights protection of trafficking victims.²⁵² Moreover, some critics have proposed that although the Trafficking Protocol has established some 'new' rights of trafficking victims, the rights and protections offered to victims in many countries are best described as meagre and inadequate.²⁵³

In addition, Emser notes that in addressing human trafficking as a human rights problem, states tend to employ a law enforcement or organised crime approach.²⁵⁴ However, following such an approach has resulted in the securitisation of human trafficking, migrant smuggling, and transnational criminal actors.²⁵⁵ As a result, a number of scholars have argued that although anti-trafficking legislation and policies are embedded in the language of human rights and victim protection, they do not uphold or preserve human rights, rather, they are tools of social control and regulation of autonomy.²⁵⁶ This results in contesting interests between the crucial concerns of human rights protection for victims of trafficking and the agendas of states in immigration controls and border integrity.²⁵⁷ In addition, the positioning of the Trafficking Protocol under the auspices of the Transnational Organised Crime Convention is noted to have spurred states into action to address threats posed by transnational organised crime, however, the rights and protection of trafficking victims remains largely ambitious and not obligatory.²⁵⁸

2.2.7 Human Trafficking as Exploited Labour

From [a non-abolitionist] feminist perspective, the global sex trade was defined as one, but not the only, site in which trafficking occurred. Sectors that required unskilled or semi-skilled non-sexual labour, such as domestic service and manufacturing, as well as the racialization and feminization of

²⁵¹ Lee, M (2011), *op. cit.*

²⁵² Lee, M (2011), *op. cit.*

²⁵³ Sullivan, B. 2003. 'Trafficking in Women: Feminism and New International Law', *International Feminist Journal of Politics* 5 (1): 67-91.

²⁵⁴ Emser, M. (2013), *op. cit.*

²⁵⁵ Emser, M. (2013), *op. cit.*

²⁵⁶ Emser, M. (2013), *op. cit.*

²⁵⁷ Lee, M. (2007), *op. cit.*

²⁵⁸ Emser, M. (2013), *op. cit.*

*the global workforce and migration processes produced through the globalization of capitalism, became relevant to the analysis.*²⁵⁹

Finally, human trafficking has been contextualised in terms of labour exploitation.²⁶⁰ From a non-abolitionist feminist perspective, the global sex trade was defined as one, but not the only, site in which trafficking occurred. Sectors that required unskilled or semi-skilled non-sexual labour, such as domestic service and manufacturing, as well as the racialization and feminization of the global workforce and migration processes produced through the globalization of capitalism, became relevant to the analysis of human trafficking.²⁶¹ The conceptualisation of human trafficking as a labour problem is often related to migration and the demand for cheap and exploitable labour, often in the form of migrant workers.²⁶² Scholars and anti-trafficking practitioners who have adopted this approach hold that human trafficking as a labour problem intersects both the formal and informal economy, and is a result of globalisation which has created unprecedented mobilization of unskilled and low-skilled labour to fill labour-deficit markets.

In addition, other scholars who have adopted this approach criticise abolitionist approaches that emphasise on prostitution of women and children as being exhaustive of or represent the most significant form of human trafficking.²⁶³ Thus, for scholars such as Kempadoo who problematize trafficking in terms of labour coercion and exploitation, human trafficking is a subset of a larger problem that entails abusive treatment of migrants and low-wage labourers, including but not limited to sex workers.²⁶⁴ This approach therefore holds that trafficking for labour exploitation does not only occur in the sex industries and not all trafficked persons are sex workers, instead, coercion and exploitation rather than prostitution are perceived as the primary problem. Moreover, Bravo asserts that the formulation of human trafficking as a labour exploitation problem, is not only produced by and productive of the oppression of women, but largely by global economic inequalities and systems of domination.²⁶⁵

²⁵⁹ Kempadoo, K (2005), "From Moral Panic to Social Justice: Changing Perspectives on Trafficking." In *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work and Human Rights*, edited by Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik. Boulder: Paradigm Publishers.

²⁶⁰ Lobasz, J., (2012), *op. cit.*

²⁶¹ Lobasz, J., K (2012), *op. cit.*

²⁶² Alexis A. Aronowitz, 'Contrasting Perspectives on Human Trafficking', *Human Trafficking, Human Misery: The Global Trade in Human Beings*, Westport, Connecticut: Praeger Publishers, (2009): 26.

²⁶³ Lobasz, J., (2012), *op. cit.*

²⁶⁴ Lobasz, J., (2012), *op. cit.*

²⁶⁵ Bravo, Karen E. "Exploring the Analogy between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade." *Boston University International Law Journal* 25 (2007): 207-95.

Trafficking in human beings for the purpose of forced labour has received relatively little attention compared to trafficking for sexual exploitation as the latter has been the dominant discourse of most studies related to human trafficking.²⁶⁶ This is observed in the bulk of anti-trafficking strategies which focus on restraining the supply and demand for commercial sex, and thus trafficking victims.²⁶⁷ Significantly, in comparison to the trafficking of women and children for sexual exploitation, the trafficking of women and men for non-sex labour has received little attention. The perception that sex trafficking victims are seen as distinct from labour trafficking victims and other immigrants becomes apparent, even upon reviews of academic literature and governmental and activist websites.²⁶⁸ Numerous organizations and researchers mostly target trafficking in women, which is often understood to occur for the purposes of sexual exploitation. Thus, Lobasz notes, “[b]ooks and articles written putatively about human trafficking restrict their focus to sex trafficking only; news reports and documentaries overwhelmingly focus on titillating reports of “sex slavery” instead of enslaved domestic staff or abused farm workers”.²⁶⁹

Furthermore, in recognition that sex work is often abusive and exploitative, human rights activists have tended to emphasize that these problems are neither inherent nor unique to the sex industries, especially in comparison to other low-status and low-wage jobs.²⁷⁰ On the other hand, while sex workers’ human rights advocates press for a more expansive understanding of human trafficking, organizations such as the ILO have engaged in parallel efforts to address and publicize labour trafficking.²⁷¹ However, Kask and Markina have highlighted the difficulty in identifying human trafficking and exploitation for the purposes of forced labour in comparison to sexual exploitation.²⁷²

The movement of labour has continued to increase, at the same time resulting in an increase in various forms of labour exploitation, particularly of migrant workers.²⁷³ Cases of involuntary labour have become the topic of discussions and research, where the victims are forced, by deceit, abuse of violence or by taking advantage of their vulnerable position, to

²⁶⁶ Kask, M & Markina, A (2011), Trafficking for Forced Labour and Labour Exploitation in Estonia. In Jokinen, Anniina, Ollus, Natalia & Aromaa, Kauko (eds.) Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. HEUNI Report Series No. 68. Helsinki: HEUNI, 246–311.

²⁶⁷ Emser, M. (2013), *op. cit.*

²⁶⁸ Lobasz, J., (2012), *op. cit.*

²⁶⁹ Lobasz, J., (2012), *op. cit.*

²⁷⁰ Lobasz, J., (2012), *op. cit.*

²⁷¹ Lobasz, J., (2012), *op. cit.*

²⁷² Kask, M & Markina, A (2011), *op. cit.*

²⁷³ Kask, M & Markina, A (2011), *op. cit.*

work under conditions materially different from those agreed upon (regarding the remuneration, working hours or nature of work) as well incidents where the identification documents of the victims have been withheld rendering termination of the employment relationship and leaving the country difficult.²⁷⁴ For Jahic and Finckenauer, when looking at human trafficking as a problem of sexual exploitation or irregular immigration, it should be approached from a labour perspective, “as being an example of a particularly bad case of workplace abuse, worker exploitation, and failed labour markets”.²⁷⁵ Therefore, according to this approach, labour patterns and issues in both host and source countries need to be considered when studying and researching human trafficking as well as in developing solutions.²⁷⁶ Moreover, the issue of consent, which is one of the key concepts in the definition of human trafficking, is usually discussed in the context of sexual exploitation, however, it also has its place in the discussion of trafficking as a form of labour exploitation.²⁷⁷

2.3 Shifting Perceptions of Human Trafficking

*Trafficking is a phenomenon that one cannot reduce to “root causes” that culminated in the past few decades to give rise to a return to slavery... [nor] is it reducible to either economic or ideological forces.*²⁷⁸

Human trafficking is an amorphous and multi-dimensional phenomenon which cannot be simply referred to as ‘modern-day slavery’ nor can it be singularly associated with prostitution and limited to sexual exploitation.²⁷⁹ For Emser, “[h]uman trafficking occurs along a broad continuum of exploitation and exploitative experiences that overlaps and intersects with issues of gender, sexuality, economic survival, legacies of servitude, and notions of vulnerability, and ultimately cycles of abuse”. Therefore, narrow and linear portrayals of the phenomenon are disingenuous to the other forms of trafficking that diverge from more traditionally recognised forms.

Indeed, Emser avows that there is a growing body of literature which is critical of much of the previous research conducted on human trafficking, stemming particularly from the field

²⁷⁴ Kask, M & Markina, A (2011), *op. cit.*

²⁷⁵ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

²⁷⁶ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

²⁷⁷ Lobasz, J., (2012), *op. cit.*

²⁷⁸ Picarelli, J., T (2007), ‘Historical approaches to the trade in human beings’, in Maggy Lee (Ed.), *Human Trafficking*, Devon: Willan Publishing, p. 45.

²⁷⁹ Emser, M (2013), *op. cit.*

of migration studies.²⁸⁰ A number of researchers are gradually starting to shift from the oversimplified perception of the discourse. These emerging scholars have been successful in showing the complexity and multidimensionality of the phenomenon itself which is embedded in an array of social relations and imaginings. More recent research has begun to delve into the historical, social, cultural and political dimensions of human trafficking, and have attempted to use different models and analyses to explain aspects of this phenomenon – ranging from migration theory to gendered analyses. It is within this sector of the human trafficking paradigm, that new perceptions and voices are gaining sway and credence in the discourse as a whole, contributing to a more nuanced understanding of the phenomenon. As noted, studies conducted from a migration perspective tend to be the most dominant, deepening our understanding of how issues like globalisation, the feminisation of poverty, migration and the political restrictions hindering migration, labour exploitation, conflict, violence and discrimination – the factors effecting vulnerability of individuals – intersect with human trafficking and affect the discourse.

2.4 Scope of the trafficking problem: Statistics and the role of the media

*The enormous interest and concern for trafficking and human smuggling in governmental, inter-governmental and non-governmental organizations, in media and popular opinion, is running ahead of theoretical understanding and factual evidence. This has implications for policy measures designed to combat trafficking and human smuggling, which may not work and also have unintended side effects.*²⁸¹

Numbers are powerful tools.²⁸² They help in quantifying and presenting abstract phenomena in an easy to comprehend manner. Numbers and statistics are efficient ways of conveying information, minimizing misunderstanding and error. That is, assuming that we know and agree on what we are counting, and how we are counting it.²⁸³ When it comes to phenomenon such as trafficking, the numbers are scarce. Determining the scope of the problem has been a major concern, and much has been written about it. Different methods have been used to

²⁸⁰ Emser, M (2013), *op. cit.*

²⁸¹ Salt, J cited in Lobasz, J., (2012), *op. cit.*

²⁸² Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

²⁸³ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

develop estimates based upon the "true" facts and statistics, in the end, the results regularly indicate that there is more unknown than known about this phenomenon.²⁸⁴

Quantification of human trafficking has proven to be notorious and unreliable. Time and time again – in each new publication, report, newspaper article that one might read – we are informed and reminded of the millions of people who are trafficked. Current quantitative measures have been criticised for containing slippery and questionable statistics that are ridden with methodological problems and data that are “fragmentary, heterogeneous, difficult to acquire, uncorrelated and often outdated”.²⁸⁵ For emphasis, Lobasz cites figures that have been stated at different points in time over the past two decades by the South East Asian Women’s Conference, the Protection Project, United Nations Children’s Fund (UNICEF), the International Organisation for Migration (IOM), Terre des Hommes, and the US government that approximately two million people are trafficked each year.²⁸⁶ However, this figure was characterised differently as composing trafficked people²⁸⁷, trafficked women²⁸⁸, trafficked children²⁸⁹, and trafficked women and children²⁹⁰.

Such conflicting categorisations of trafficked persons illustrated above attest to continued conceptual confusion.²⁹¹ As Tyldum and Brunovskis affirm that “in order to count the number of victims, or generally develop our understanding of trafficking in persons, we need to, first of all, define what constitutes trafficking and what does not.”²⁹² Certainly, the plethora of competing and conflicting conceptualizations of the human trafficking discourse incites anxiety among those charged with measuring and addressing the phenomenon.²⁹³ Nevertheless, Tyldum and Brunovskis voice that “the most challenging aspect of human trafficking research is that it requires measuring a hidden population, “i.e., a group of individuals for whom the size and boundaries are unknown, and for whom no sampling frame exists”.²⁹⁴ In addition, Laczko and Gramegna suggest that existing data are frequently

²⁸⁴ Jahic, G and Finckenauer, J. O., (2005), *op. cit.*

²⁸⁵ Savona, E., U., and Stefanizzi. S (2007), “Introduction.” Chap. 1 In *Measuring Human Trafficking: Complexities and Pitfalls*, edited by Ernesto U. Savona and Sonia Stefanizzi. 1-3. New York: Springer.

²⁸⁶ Lobasz, J., (2012), *op. cit.*

²⁸⁷ IOM 2002; U.S. government 1998, 2001, 2002, cited in Lobasz, J., (2012), *op. cit.*

²⁸⁸ SE Asian Women’s Conference 1991; U.S. government 1998), cited in Lobasz, J., (2012), *op. cit.*

²⁸⁹ Protection Project 2001; Terres des Hommes 2001, 2002, cited in Lobasz, J., (2012), *op. cit.*

²⁹⁰ UNICEF 2001, cited in Lobasz, J., (2012), *op. cit.*

²⁹¹ Lobasz, J., (2012), *op. cit.*

²⁹² Tyldum, G and Brunovskis, A (2005), “Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking.” *International Migration* 43, no. 1/2.

²⁹³ Lobasz, J., (2012), *op. cit.*

²⁹⁴ Lobasz, J., (2012), *op. cit.*

program-specific, different agencies and organisations gather data according to its own needs. Hence, most trafficking research relies on relatively small samples of survivors, usually identified by agencies or persons assisted by NGOs or international organizations.²⁹⁵

Concerns regarding the politicization of trafficking research have also been shared, counting the close relationship between scholarship and policy as a disadvantage. It has been argued that trafficking research is unhealthy driven by the immediate policy needs and political commitments of researchers that it may be formulated to fit other agendas.²⁹⁶ This has been seen as the consequence of relying primarily on statistics gathered and developed by NGOs and agencies for the purposes of advocacy, rather than the result of serious research.²⁹⁷ In addition to the needs of advocacy organizations to garner public attention and support for their cause, Lobasz notes that “the ideological bent of various organizations conducting and promoting trafficking research is also recognized as a factor contributing to “politicized” data”.²⁹⁸ For instance, Tyldum and Brunovskis conclude that a significant number of publications on trafficking for sexual exploitation are influenced by political debates surrounding these topics.²⁹⁹

Such misrepresentations also apply to the media. Wallinger asserts that “[c]ompeting representations of human trafficking in the media and within the movement have contributed to a general confusion of public perceptions of human trafficking as a social phenomenon.”³⁰⁰ Due to contestations surrounding the trafficking discourse, trafficking has been conceptualized and problematized in varying perspectives such as sex trafficking or labour trafficking. Of note, these categorisations have become an integral part of the collective understanding of human trafficking and they have played a key role in influencing the development of national and international anti-trafficking legislation.³⁰¹

Moreover, although human trafficking has become a more publicized issue in the past several years, no cohesive message on it has emerged. Instead, issues of migration, trafficking and sex work are associated with constructs of sexuality, gender and vulnerability, threaded

²⁹⁵ Lobasz, J., (2012), *op. cit.*

²⁹⁶ Lobasz, J., (2012), *op. cit.*

²⁹⁷ Lobasz, J., (2012), *op. cit.*

²⁹⁸ Lobasz, J., (2012), *op. cit.*

²⁹⁹ Tyldum, G and Brunovskis, A (2005), *op. cit.*

³⁰⁰ Wallinger, C., S., (2010), ‘Media Representation and Human Trafficking: How Anti-Trafficking Discourse Affects Trafficked Persons’, Paper Presented at the Second Annual Interdisciplinary Conference on Human Trafficking, University of Nebraska at Lincoln.

³⁰¹ Wallinger, C., S., (2010), *op. cit.*

through with categories of victim and agent, consent and coercion.³⁰² Such perceptions manifest through news stories that fail to communicate the nature and severity of the trafficking issue.³⁰³ Mainstream and informal media outlets often focus on stories of prostitution and human smuggling.³⁰⁴ Roth cites a study of coverage of human trafficking in the U.S. media which found that, news outlets provided very little coverage of human trafficking issues and that when they did, the “coverage was scattered, piecemeal and lacked a focus on solutions”.³⁰⁵ Moreover, the study indicated that the media have a tendency to write about the human trafficking issue with frames that do not fully communicate the scope and severity of the problem or its relevance to the America people.³⁰⁶

According to Altheide, “frames essentially shape media content”.³⁰⁷ For Emser, framing refers to the selection of specific aspects of an issue by the media to make them more noticeable and salient and thus drawn attention to a particular cause of some phenomenon.³⁰⁸ The media plays a role in influencing and shaping public awareness and opinion, as well as the political agenda, and this role is often underestimated in the case of human trafficking.³⁰⁹

2.5 Domestic human trafficking discourses

Human trafficking as a phenomenon has been problematised as a diverse range of issues from a broad variety of perspectives which manifests itself in a series of competing discourses. Human trafficking is widely studied in South-East Asia and the Pacific, attracting 35% of academic interest across disciplines.³¹⁰ However, there has not been much grounded research in Burma on human trafficking particularly in relation to the conflict. The human trafficking discourse in the context of Burma parallels that of the dominant international discourse. The politics and discourse of human trafficking in Burma highly intersects and overlaps with the international discourse as both discourses are propelled by competing political agendas based on morality, human rights, labour and migration.³¹¹ However, this has affected the domestic

³⁰² Wallinger, C., S., (2010), *op. cit.*

³⁰³ Lobasz, J., (2012), *op. cit.*

³⁰⁴ Lobasz, J., (2012), *op. cit.*

³⁰⁵ Lobasz, J., (2012), *op. cit.*

³⁰⁶ Lobasz, J., (2012), *op. cit.*

³⁰⁷ Altheide, D., L (1997), ‘The News Media, The Problem Frame, and the Production of Fear’, *The Sociological Quarterly*, Volume 38, Number 4.

³⁰⁸ Emser, M (2013), *op. cit.*

³⁰⁹ Emser, M (2013), *op. cit.*

³¹⁰ Piper, N (2005), *op. cit.*

³¹¹ Emser, M (2013), *op. cit.*

discourse as there are other forms and trends that have appeared due to the conflict, trends that are not existent during times of peace. In addition, this has tended to overlook the influence of conflict on aggravating and enhancing existing vulnerabilities. Moreover, different actors are involved in anti- trafficking work in Burma, all of whom ‘identify trafficking as a problem for very different reasons and often have very different political agendas with regard to the issue’.³¹² Anti-trafficking actors range from states, to NGOs, international and non-governmental organisations that focus on issue areas like migration, sexual exploitation and children’s rights, human rights.

Existing studies on human trafficking in Burma can be divided into two broad categories distinguishing those following a sexual exploitation perspective and those following irregular migration as their starting point.³¹³ However, most of the existing literature on trafficking in Burma is related to the increased demand and supply of mainly women in the sex industries in the GMS. Klein asserts that “women and girls trafficked from Burma are the predominant source of fuel for the thriving “sex tourism” industry in Thailand”.³¹⁴ Piper asserts that from the 1990s, feminist researchers have intensely discussed feminized migration in Asia in relation to the increasing incidences of trafficking in women and “mail-order brides” on the one hand, and growing sex tourism on the other.³¹⁵ It is from such debates that much research on trafficking in Burma has established a link between migration and sex tourism as a gendered phenomenon. With the advent of the age of global tourism since the 1970s, the sex industry has expanded rapidly as an integral part of the tourist industry. Consequently, with abundant labour supplied by local and migrant women, sex tourism boomed in Thailand, Indonesia and the Philippines’ metropolises and resorts, drawing massive numbers of male tourists from Japan, Australia, Europe, and North America.³¹⁶ There has, thus, emerged vast literature on various aspects of the rapidly expanding entertainment and sex industry.³¹⁷

In addition to prostitution, the “trade in brides”, domestic work and trafficking of children for begging, for adoption and in other forms of labour have also been included in the trafficking

³¹² Piper, N (2005), *op. cit.*

³¹³ Piper, N (2005), *op. cit.*

³¹⁴ Klein, C. (2012), *Slaves of sex: Human trafficking in Myanmar and the Greater Mekong Region. Righting Wrongs: A Journal of Human Rights*, 2(1), p. 4.

³¹⁵ Piper, N (2005), *op. cit.*

³¹⁶ Piper, N (2005), *op. cit.*

³¹⁷ Piper, N (2005), *op. cit.*

debate in Burma.³¹⁸ Studies on the trafficking of women from Burma's Kachin State into China as forced brides are an area that is growing.³¹⁹ Many Burmese women from the Shan and Kachin States in Burma are trafficked to China and forced to marry Chinese men in areas such as Yunnan province, and even as far as Eastern China.³²⁰ In addition, Gaung notes that "[a]ccording to the Burma Police Force's anti-trafficking units, two-thirds of trafficking cases in 2009 consisted of women trafficked to China for forced marriage; of the 155 cases that the Burma Police Force uncovered in 2009, 103 were women destined to become the brides or sex slaves of Chinese bachelors".³²¹ This increase in the trafficking of Burmese women and girls into for forced marriage has been attributed to China's to population control through their one-child policy, "which has led to female infanticide and gender- selective abortions and adoptions, has led to a disproportionate ratio of males to females in China".³²² It is argued that in the early twenty-first century, figures showed a gender ratio in China of 114 men to every 100 women, significantly more than the natural ratio of 106 men to 100 women, however, recent estimates show 120 men in China to every 100 women.³²³

Parallel to the literature on human trafficking for the purposes of sexual exploitation, the trafficking discourse in Burma has also focused on migration, with irregular flows and the documentation of abusive and exploitative practices involved.³²⁴ However, these two strands of literature have hardly been tackled together, which to some extent explains the little recognition of male victims of trafficking as focus has been on trafficking of women and girls for commercial sexual exploitation.³²⁵ In this context, what often occurs is that reports or research papers start off by acknowledging the fact that victims of trafficking can be male and female, in a sex and non-sex work context, but then focus on trafficking in the context of sexual exploitation and thus, on women and children.³²⁶ The argumentation that has been adopted to explain this perception is that it is difficult and challenging to separate trafficking from other forms of labour migration and men being arguably identified as less open to

³¹⁸ Marshall, P (2001), "Globalization, migration and trafficking: some thoughts from the SouthEast Asian region", Occasional Paper No. 1, Globalization Workshop in Kuala Lumpur, UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-Region, 8-10 May.

³¹⁹ Kamler, E (Forthcoming), *op. cit.*

³²⁰ United Nations Inter-Agency Project on Human Trafficking (UNIAP) (2009), *SIREN Human Trafficking Data Sheet: Myanmar*.

³²¹ Gaung, J.S. (2011), *op. cit.*

³²² Klein, C. (2012), *op. cit.*, p. 2).

³²³ Gaung, J.S. (2011) Forced Marriages Driving Human Trafficking, UN Says. Myanmar Times Online. Retrieved from <http://www.mmtimes.com/2010/news/512/n51206.html>, Accessed 18 February 2015.

³²⁴ Piper, N (2005), *op. cit.*

³²⁵ Piper, N (2005), *op. cit.*

³²⁶ Piper, N (2005), *op. cit.*

exploitation than women.³²⁷ Often, when men are included in the discussion or debate, the distinction between trafficking and smuggling is brought to the fore and becomes even more blurred than when focus is exclusively on women, especially for sexual exploitation.³²⁸

In addition, to a lesser extent, studies on human rights violations have been produced with increasing attention being paid to the abuse of women and children as well as the forced conscription of child soldiers. The widespread recruitment and use of children by state armed forces and armed groups in Burma has been documented by the UN and other human rights organisations for over a decade.³²⁹ The armed conflict between the Burmese government and numerous armed ethnic groups has provided an environment against which child recruitment and other grave violations of human rights have occurred.³³⁰ The prevalent use of children in armed combat is perceived as a form of human trafficking. Numerous research conducted mostly by NGOs and International Organisations (IOG) have defined the recruitment of a child for the purpose of sexual exploitation or participation in armed conflict as falling under the ambit of human trafficking.

Significant to this study, research on human trafficking in Burma has tended to neglect the ‘push factors’ which in this case are intertwined. The dire social and economic conditions that fuel migration are a consequence of the political situation in the country. It is the ‘push factors’ associated with forced displacement that lead to exploitative forms of labour. The ongoing ethnic armed conflict in Burma has threatened the security of millions of citizens, therefore, failing to identify the ‘push factors’ has resulted in the flourishing and maintenance of the trafficking crisis. The role that the conflict plays in influencing the trafficking of Burmese people is vital in understanding the trafficking issue, yet, it has been given little and insignificant attention. Previous studies on the link between the ethnic conflict in Burma and human trafficking are crucial but few.

Existing literature on the nexus between conflict and human trafficking have tended to focus on trafficking for sexual purposes, thus, trafficking of women and girls. For instance, recent studies by local organizations such as the Kachin Women’s Association of Thailand (KWAT) *Pushed to the Brink* (2013) documented specific instances of trafficking from Kachin State

³²⁷ Skeldon, R (2000), *op. cit.*

³²⁸ Piper, N (2005), *op. cit.*

³²⁹ Tiefenbrun, S., W (2007), Child Soldiers, Slavery and the Trafficking of Children, *Fordham International Law Journal*, Vol 31, Issue 2.

³³⁰ Tiefenbrun, S., W (2007), *op. cit.*

into China for forced marriage, claiming that “the neglect of social services in favor of extending military forces, have plunged the country into poverty and unemployment.³³¹ This has in turn increased the numbers of youths forced to move away from home in the search for work, which provides traffickers with easy targets”. In addition, earlier studies by (KWAT) *Driven Away* (2005) and *Eastward Bound* (2008) documented the growing incidence of vulnerability to trafficking of IDPs along the China-Burma border.³³²

Moreover, as mentioned above, a significant number of researches have been conducted on human rights violations in relation to the conflict and human trafficking. These studies have paid increasing attention to the widespread recruitment and use of children by state armed forces and armed groups in Burma. For instance, Human Rights Watch has produced a number of volumes such as *Sold to be Soldiers: The Recruitment and Use of Child Soldiers in Burma* (2007) which documented the buying and selling of boys by military recruiters.³³³ In addition, the United Nations Children’s Fund (UNICEF) documented a report *Adult Wars, Child Soldiers: Voices of Children Involved in Armed Conflict in the East Asia and Pacific Region* (2009), based on in-depth interviews with 69 current and former child soldiers in six countries in East Asia and the Pacific including 20 from Burma, in which they expressed their ideas, thoughts, feelings and fears.³³⁴

In addition, some studies have focused on human rights violations as factors that create vulnerability of trafficking. For instance, Woman and Child Rights Project (WCRP) published a report *Nowhere else to go: An examination of sexual trafficking and related human rights abuses in Southern Burma* (2009) which documented sexual trafficking and human rights abuses committed against Burmese women and children from 19 Townships in Mon State, Karen State, Tenasserim Division, Pegu Division, Rangoon Division and Mandalay Division.³³⁵ Additionally, Women’s Commission for Refugee Women and Children produced a report *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) which focused on the plight of refugees from Burma, many of

³³¹ Kachin Women’s Association of Thailand. (2013). Pushed to the brink: Conflict and trafficking on the Kachin-China border. Retrieved from http://kachinwomen.com/images/stories/publication/pushed_to_the_brink.pdf.

³³² Kamler, E (Forthcoming), *op. cit.*

³³³ Human Rights Watch (HRW), (2007), *Sold to be Soldiers: The recruitment and use of child soldiers in Burma*, HRW, Accessed 20 February 2015, Available from: <http://www.hrw.org/reports/2007/burma1007/burma1007webwcover.pdf>.

³³⁴ UNICEF (2003), *Adult Wars, Child Soldiers*, Geneva: UNICEF.

³³⁵ Woman and Child Rights Project (WCRP) (2009) ‘Nowhere else to go: An examination of sexual trafficking and related human rights abuses in Southern Burma’, WCRP: Thailand.

whom are women and children, being forced by the armed conflict and rampant human rights violations, to flee into Thailand and often finding that safety eludes them during and after crossing the Thai border.³³⁶

Notwithstanding, gaps exist in the human trafficking discourse. Misconceptions and misrepresentations, often influenced by politics or moral ideology, continue to eschew research into, and understanding of, this multidimensional phenomenon. This has resulted in a fractured discourse, which is often at odds with itself depending on which side of the ‘ideological’ divide one situates oneself, and is driven and informed primarily by methodologically flawed and often unscientific reports by advocacy organisations. In this study, I suggest that it is the very root causes of trafficking that need to be placed at the center of analysis and policy making. To move beyond this type of existing research on trafficking, new conceptual tools and approaches are needed to capture the complexities of the trafficking phenomenon which would lead to new ways of thinking about trafficking. The trafficking issue needs to be moved forward in a way that will yield effective policy recommendations if significant attention is invested in researching and understanding the root causes of trafficking. Therefore, the conflict and its influence on political, social and economic development need to be brought to the fore. This is the context in which the issue of the nexus between trafficking and conflict is being proposed as an analytic focal point in the study.

2.6 Chapter Summary

In the present chapter, I reviewed the literature on human trafficking and considered the methodologically contested nature of the human trafficking. I addressed the conceptualisation of human trafficking in the international and domestic discourses. Human trafficking has been conceptualised in the international discourses as: (i) a modern form of slavery, (ii) a sexual exploitation/prostitution problem (iii) a problem of transnational organised crime, (iv) a migration problem, (v) a problem of globalisation, (vi) a problem of labour exploitation, or (vii) a human rights problem. While various conceptualisations of the phenomenon exist, trafficking for purposes of sexual exploitation dominate the international trafficking

³³⁶ Women’s Commission for Refugee Women and Children (2006) ‘Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking’, New York: Women’s Commission for Refugee Women and Children.

discourse. In Burma, the domestic discourses illuminate the international discourses. This has also resulted in the creation of a dominant discourse, that of sex trafficking.

In the next chapter, I locate my study within the theoretical framework of complexity theory. This theory is not only relevant for this study, but also useful and valuable in understanding the structural and root causes of conflict and how human trafficking illuminates these causes. This theory will provide a nuanced and holistic understanding of human trafficking in the context of Burma.

CHAPTER 3

THEORETICAL FRAMEWORK

*Man has been impelled to scientific inquiry by wonder and by need. Of these, wonder has been incomparably more fertile. There are good reasons for this. Where we wonder, we have already a question to ask...Intimate acquaintance with the facts is certainly important; but systematic observation can start only after problems have arisen. Until we have definite questions to ask we cannot employ our intellect; and questions presuppose that we have formed some hypothesis or theory about the events.*³³⁷

3.0 Introduction

Theory provides descriptions of patterns that are commonly regarded as a tool which will enable prediction of the particular manifestations of events that will appear in specific circumstances.³³⁸ It is often accepted that in certain general conditions, a pattern of a certain or definite kind will appear. For instance, in the physical sciences, there is a propensity to assume that it will be in principle always possible to specify predictions to any degree desired.³³⁹ However, Scriven holds the view that there is a distinction of greater importance and significance when one turns from the relatively simple phenomena with which the natural sciences deal, to the more complex phenomena of life, of mind and of society, where such specifications may not always be possible.³⁴⁰

General explanation has often been applied in most traditional scientific thought in many disciplines. This has often involved a process of reducing complex phenomena to simpler or regular ones.³⁴¹ For emphasis, Walby notes that, "... the application of general theory has involved either a reduction downwards to smaller units of analysis such as in the movement from organisms to cells to genes in modern biology ... or it may involve a reduction

³³⁷ Hayek, F., A, 'The Theory of Complex Phenomena', in Martin, M and McIntyre, L., C (Ed.), (1994) *Readings in the Philosophy of Social Science*, London: MIT Press.

³³⁸ Hayek, F., A, (1994), *op. cit.*

³³⁹ Scriven, M (1956) A Possible Distinction between Traditional Scientific Disciplines and the Study of Human Behaviour, *Minnesota Studies in the Philosophy of Science*, 1, p. 332.

³⁴⁰ Scriven, M (1956), *op. cit.*

³⁴¹ Walby, S (2003) Complexity Theory, Globalisation and Diversity, *University of Leeds*.

upwards..., as in much structuralist thought in the social sciences".³⁴² In most cases, complex phenomena have been reduced to regularity and simplicity. However, other schools of social sciences reject these approaches for general explanation by means of reduction, in favour of complexity theory which offers a way of surpassing this polarisation.³⁴³ Thus, complexity theory has emerged as a challenge to more traditional forms of theorising in social sciences and offers new ways of thinking. Complexity theory adequately addresses issues of diversity and complexity and provides a new framing for empirical enquiries into diversity and social phenomena.³⁴⁴ Additionally, general theory or reductionist methods are employed to offer explanations of social phenomena, based on a perception on the notion of causal relationships. However, from a complexity perspective, such orderly, reductionist, predictable and deterministic methods prove to be inadequate when applied to phenomena which are not amenable or reducible to such linear methods.³⁴⁵

Against this backdrop, the themes which this study unpacks follow the above mentioned theoretical framework. The first theme of this study probes into the development and politics of the human trafficking discourse within the context of Burma. The theme unpacks the discourse by exploring its conceptualisation internationally and within Burma. By deconstructing the human trafficking discourse, the second theme emerges, which unpacks the nexus between human trafficking and conflict. Understanding and unpacking the nexus between human trafficking and conflict is crucial to this study as it will illuminate the factors that support the conflict, which in turn perpetuates and maintains the trafficking problem. Furthermore, the second theme leads to the third theme, that of both international and domestic legal and policy responses to the trafficking issue in Burma and the particular agendas and influences that state and non-state actors have on the responses. Indeed, complexity theory allows for the study of phenomena such as human trafficking, which emerge from a collection of interacting elements.

This chapter reviews the theoretical framework of the study. The first section defines and discusses the particular theory chosen for this study, namely, complexity theory. The chapter will demonstrate how complexity theory was utilised in the study as well as elucidate the appropriateness of complexity theory to underpin an interrogation into the nexus between

³⁴² Walby, S (2003), *op. cit.*

³⁴³ Walby, S (2003), *op. cit.*

³⁴⁴ Walby, S (2003), *op. cit.*

³⁴⁵ Emser, M (2013) *The Politics of Human Trafficking in South Africa: A case study of the Kwazulu-Natal Intersectoral Task Team and South African Counter-Trafficking Governance*, University of Kwazulu-Natal.

human trafficking and conflict. The chapter will also discuss the inherent limitations of using this theory in this study.

3.1 Defining Complexity and Complex systems

*Complexity theory seems to provide some metaphors, concepts and theories essential for examining the intractable disorderliness of the contemporary world.*³⁴⁶

Complexity theory, like numerous theories, is not a unified theoretical construct. As Emser notes, there exist several variants and interpretations of the theory itself.³⁴⁷ In general, complexity theory is an integrative form of scientific enquiry which has emerged over the past two decades from an array of developments in the sciences, mathematics and economics, and the revival of neo-vitalism in social thought.³⁴⁸ Complexity theory involves the study of complex adaptive matter and represents a “...systemic and non-linear paradigm whose constitutive parts embody the middle ground needed to understand uncertain events and phenomena”.³⁴⁹ To emphasise, Durand notes that complexity focuses on multiple futures, bifurcation and choice, historical dependence, intrinsic and inherent uncertainty.³⁵⁰ Thus, complexity theory offers a theoretical framework which is compatible to the ambiguities and uncertainty of the 21st century.

Complex systems have a number of defining characteristics. One of the characteristics of complex systems is their ability to self-organise.³⁵¹ Indeed, Walby notes, “...that systems are self-reproducing is definitional of a system”.³⁵² Early work in complexity theory on the conceptualisation of systems as self-organising was influenced by the work of Maturana and Varela (1980) who saw the process of self-reproduction within a system as self-organising and self-defining.³⁵³ Therefore, within a complex system, agents interact without any external governing or influencing agency and in that process produce new order or patterns.³⁵⁴ Hendrick highlights that the self-organisation in such complex systems is not a wholly

³⁴⁶ Urry, John (2004), *The Complexities of the Global*. Published by the Department of Sociology, Lancaster University, Lancaster, p. 8, [Downloaded 16 March 2015], Available at: <http://www.comp.lancs.ac.uk/sociology/papers/urry-complexitiesglobal.pdf>.

³⁴⁷ Emser, M (2013), *op. cit.*

³⁴⁸ Emser, M (2013), *op. cit.*

³⁴⁹ Emser, M (2013), *op. cit.* p. 98.

³⁵⁰ Durand, 2008, p. 17

³⁵¹ Walby, S (2003), *op. cit.*

³⁵² Walby, S (2003), *op. cit.* p. 6.

³⁵³ Walby, S (2003), *op. cit.*

³⁵⁴ Walby, S (2003), *op. cit.*

internal and autonomous process, it is the result of interactions with the environment.³⁵⁵ For instance, Maturana and Varela examined internal processes in which individual components were involved in the production or transformation of other components and hence the system as a whole, which reproduces itself.³⁵⁶ The outcomes of such self-organising processes or systems are unintended, uncertain, unpredictable and irreversible.³⁵⁷

The second defining characteristic of a complex system is emergence and ontological depth.³⁵⁸ Complexity theory "... offers a re-framing of the debate about the significance of ontological depth and the importance of a non-reductive analytic strategy."³⁵⁹ Much traditional science, both natural and social, has had a preference for a single level of analysis, a tendency to search for connections that reach back to one fundamental level.³⁶⁰ By contrast, complexity theory assumes the importance of ontological depth, of levels that are linked, within a system, and that the relationships in one level are not reducible in any simple manner to those in another.³⁶¹ The relationship between the levels within a system is captured by the concept of emergence. This recognises the simultaneous existence of different levels within a system. It does not privilege one level over the other, rather they are recognised as co-existing and linked.³⁶² Each level has different patterns, properties or structures and can be subject to different kinds of theorisation. According to Checkland, in complex systems, emergent properties are a result of the "...whole of the system, deriving from its component activities and their structure but, crucially, unable to be reduced to these".³⁶³ Emergent properties, qualities, patterns, or structures, develop from the interaction of individual elements. Thus, emergence is the process that creates new order together with self-organisation.³⁶⁴

Complex systems are open systems, exchanging energy and information with their environment in a process described as co-evolution. This is the third defining characteristic of

³⁵⁵Hendrick, D (2009) Complexity Theory and Conflict Transformation: An Exploration of Potential and Implications, *Centre for Conflict Resolution*.

³⁵⁶Walby, S (2003), *op. cit.* p. 6.

³⁵⁷Hendrick, D (2009) Complexity Theory and Conflict Transformation: An Exploration of Potential and Implications, *Centre for Conflict Resolution*.

³⁵⁸Walby, S (2003), *op. cit.* p. 6.

³⁵⁹Walby, S (2003), *op. cit.* p. 10.

³⁶⁰Rose, Steven (1997) *Lifelines: Biology, Freedom, Determinism*. (London: Allen Lane).

³⁶¹Walby, S (2003), *op. cit.* p. 6.

³⁶²Walby, S (2003), *op. cit.* p. 6.

³⁶³Checkland, P (1981), *Systems Thinking, Systems Practice*. s.l.: Wiley, p. 314.

³⁶⁴Mitleton-Kelly, Eve (2001) *Ten Principles of Complexity and Enabling Infrastructures*, Available at: <http://is.lse.ac.uk/complexity/PDFfiles/publication/Ch2_Mitleton_Kelly.pdf>.

complex systems.³⁶⁵ The agents or properties in these systems interact in such a way that they adapt to the behaviour of other agents, who in turn adapt.³⁶⁶ Such complex adaptive systems are dynamic and interact also with their environment causing it to change or transform. Complex adaptive systems have the ability of being independent agents that, through acting autonomously, can impact on the others. This influence can either lead to the engagement in patterned behaviour as the agents sustain fixed routines or break the routines when new challenges require new responses and new patterns.³⁶⁷ To emphasise, Jervis notes that a system is defined and constructed by the interrelationships of the agents, whose capacity to cope or adapt collectively with new challenges defines them as adaptive systems.³⁶⁸

In complex adaptive systems, change is often sudden and precipitous. These sudden changes may lead to diverse paths of development, that is, rather than there being one proportioned route of development, there may be several path forms. This moment may be understood as a critical turning point, or bifurcation in the path of development.³⁶⁹ Complexity theory accounts of these changes reject conceptualisation of change as gradual and proportionate, rather, small changes may have large effects on unstable systems.

3.2 Application of Complexity theory to the nexus between human trafficking and conflict

The complexity of global interdependence demands a science of complexity to fathom it. The essence of life is interdependence-every element dependent on every other... The deep realities of life are difficult to discern and assess. As John Muir cautioned, 'Touch one thing and you find it is linked to everything in the universe.' The butterfly effect, underscores the interconnectedness of all things.³⁷⁰

Complexity theory is an emerging scientific enquiry that is already making its mark in the social sciences and academic community by challenging traditional Newtonian worldviews, and proving its potential application to a wide range of phenomena facing us in the 21st

³⁶⁵ Hendrick, D (2009), *op. cit.*

³⁶⁶ Hendrick, D (2009), *op. cit.*

³⁶⁷ Hendrick, D (2009), *op. cit.*

³⁶⁸ Hendrick, D (2009), *op. cit.*

³⁶⁹ Urry, J., R., Kesselring, S, Junge, M, and Schwengel, H (2004), Global Complexity: Some Remarks to the "Author meets critic session" at the DGS congress in 2004, *SSOAR*.

³⁷⁰ Walter, C., C (2013) *Complexity Science and World Affairs*, Albany: State University of New York, p. 16.

century. Human trafficking is a phenomenon that is both ambiguous and amorphous, and which represents the uncertainty and unpredictability of the modern world.³⁷¹ Efforts at theorising human trafficking, or even finding appropriate conceptual tools and frameworks with which to study it, have proved challenging. Due to its elusiveness, much conjecture and dissent surrounds human trafficking, as to what its real nature is or how it should be studied.³⁷² As Emser correctly notes, what is evident from previous studies into human trafficking is that “... traditional, reductionist methodologies and theories have limited the ability of researchers and policy-makers to ‘address randomness and has convinced a number of its representatives of the utility of ignoring the complexity of interactions’”.³⁷³

According to Prigogine, complexity theory investigates emergent, dynamic and self-organizing systems that interact in ways that heavily influence the probabilities of later events.³⁷⁴ It takes into account dynamics and mutual influences of a social phenomenon.³⁷⁵ Human trafficking is a phenomenon that represents the convergence of a number of issues fuelled by the uncertainty caused by the end of the Cold War which heralded an epoch of mass migration, spurred on by globalisation, the global economy and diminished territorial integrity of states.³⁷⁶ Human trafficking is a multidimensional phenomenon fraught with distinct and overlapping issues that are not always orderly or easily categorised.³⁷⁷ For emphasis, Emser notes that issues like globalisation, the feminisation of poverty, migration and the political restrictions hindering migration, labour exploitation, conflict, violence and discrimination are the factors effecting vulnerability of individuals that intersect with human trafficking and influence the discourse.³⁷⁸ Thus, human trafficking does not occur in a vacuum, there are variables where human lives, frailties, abuse, exploitation and opportunism intersect that all are specific components of the complex phenomenon of human trafficking.³⁷⁹

³⁷¹ Emser, M (2013), *op. cit.*

³⁷² Emser, M (2013), *op. cit.*

³⁷³ Emser, M (2013), *op. cit.*

³⁷⁴ Prigogine, I. (1997) *The End of Certainty*. New York: Free Press, 35.

³⁷⁵ Rosenau, 1997, p. 32

³⁷⁶ Emser, M (2013), *op. cit.*

³⁷⁷ Maggy Lee, ‘Introduction: Understanding human trafficking’, in Maggy Lee (Ed.), *Human Trafficking*, Devon: Willan Publishing, (2007): 3.

³⁷⁸ Emser, M (2013), *op. cit.*

³⁷⁹ Emser, M (2013), *op. cit.*

As Emser so aptly notes, human trafficking is the ultimate manifestation of many of the systemic social, structural, economic, cultural and political problems which continue to entrench discrimination, inequality, exclusion and exploitation across the globe.³⁸⁰ According to Mitleton and Kelly, complexity theory investigates systems that adapt and co-evolve as they self-organize through time.³⁸¹ Human trafficking while not a new phenomenon, or even a new global concern, has received renewed interest because of its perceived gendered nature and the politicisation of the feminisation of migration.³⁸² It occurs along a continuum of exploitation and is both a process and a phenomenon.

In addition, complexity theory offers a holistic theoretical framework which surpasses the underlying amorphous nature of the phenomenon that is human trafficking. It threads together divergent views and approaches encompassed in the literature, as well as those of the various actors within the discourse, and legislation, policy and the bodies created to deal with the scourge of human trafficking.³⁸³ Furthermore, complexity theory enables reconciling the different competing political and moral or ideological agendas which pervade the human trafficking discourse. This, therefore, facilitates a harmonisation of interests, at the same time enabling respect of divergent views.

A conflict is a unique kind of system whose complexity stems from many different and sometimes unrelated elements or agents.³⁸⁴ On the one side, there are the parties involved in the conflict, most often the parties are many, with intricate relations between them. More importantly, there are often multiple and diverse objectives, some may even be hidden, not defined and may evolve over time.³⁸⁵ This is often the case in conflicts arising between different groups within a country or in international conflicts. However, most traditional studies disregard the complexity of conflicts. Feedbacks are most often ignored and disregarded, and the complex dynamics which make a conflict to change over time, following often unpredictable paths, are rarely taken into account.³⁸⁶ Therefore, a shift of mind set founded in an understanding of complexity is necessary and crucial.

³⁸⁰ Emser, M (2013), *op. cit.*

³⁸¹ Mitleton-Kelly, E. (2003) *Complex Systems and Evolutionary Perspectives of Organisations*. London: Elsevier.

³⁸² Emser, M (2013), *op. cit.*

³⁸³ Emser, M (2013), *op. cit.*

³⁸⁴ Gallo, G (2012) Conflict Theory, Complexity and Systems Approach, *Computer Science and Interdisciplinary Center 'Sciences for Peace', University of Pisa, Italy: Wiley Online Library*

³⁸⁵ Gallo, G (2012), *op. cit.*

³⁸⁶ Gallo, G (2012), *op. cit.*

According to Gallo, conflict does not arise in a vacuum, but in a context, local, regional, or international, a context that may change over time and often has unforeseen effects on the conflict's structure and parties.³⁸⁷ In conflict, different levels exist that are mutually influencing from intra-personal through inter-personal to inter-group and international. Where conflicts are intractable, then there will be different conflict episodes reflecting different aspects of the conflict and engaging some of the same issues and parties but also drawing in new elements.³⁸⁸ The broader political, economic and social context plays into these and the key factors shaping the conflict change over time as leaders, policies, attitudes among the masses become more or less determining of the conflict dynamics.³⁸⁹ The conflict in Burma, presents specific and even more complex characteristics because of the interactions between the many systems involved in the conflict that are influenced by non-visible factors such as identity and culture.³⁹⁰ The intertwining of ethnic processes and power relations entrench the conflict further into society, resulting in unintended consequences such as human trafficking.

In the context of Burma, human trafficking and conflict are complex phenomena that are mutually reinforcing. Several factors driven by the conflict influence the processes by which Burmese people are trafficked, therefore, this illuminates the structural ways in which the conflict supports trafficking of Burmese men, women and children. Moreover, human trafficking discourses create and institutionalise regimes of knowledge that set boundaries for how scholars, activists, legislators, and citizens conceive of human trafficking.³⁹¹ However, the trafficking discourses in Burma are inseparable from the political context through which they are produced. The political turmoil becomes the primary push factor driving and perpetuating the trafficking issue. Moreover, military personnel and insurgent militia have over the years engaged in the forced conscription of child soldiers and continue to be the leading perpetrators of other forms of forced labour inside the country, particularly in ethnic minority areas.³⁹² In Burma, ethnicity is a fuelling factor for political upheavals, which in turn influence the trafficking problem. It is the push factors associated with conflict-induced

³⁸⁷ Gallo, G (2012), *op. cit.*

³⁸⁸ Sandole, D (1999), *Capturing the Complexity of Conflict: Dealing with Violent Ethnic Conflicts in the Post-Cold War Era*. New York: Routledge.

³⁸⁹ Sandole, D (1999), *op. cit.*

³⁹⁰ Durand, L (2013), *Conflicts in Myanmar: A Systemic Approach to Conflict Analysis and Transformation*, Lund University, Department of Political Science.

³⁹¹ Lobasz, J., K (2012) *Victims, Villains, and the Virtuous: Constructing the Problems of "Human Trafficking"*, University of Minnesota.

³⁹² TIP Report (2014), *op. cit.*

and irregular migration, factors such as warfare, poverty and political upheaval, that lead to gross forms of exploitation.³⁹³

Of note, the conditions that contribute to human trafficking illuminate a fuller picture of the conflict. Ethnicity illuminates the ways in which the conflict and the public and private power norms that accompany it, produce conceptualizations of ethnic divisions, and depend on these conceptualizations for the maintenance of the conflict. These factors illuminate the structure and workings of the conflict. By drawing on the conflict, we see how trafficking is being supported by the political turmoil, which in turn is perpetuated and maintained by ethnical social processes that remain un-addressed.³⁹⁴ The conflict in Burma is part of a complex process of the maintenance and production of ethnic divisions within Burmese society. These ethnic divergences give rise to the conditions that fuel trafficking, and are perpetuated and maintained as a result of the conflict.

3.3 Limitations of Complexity theory

The application of complexity theory to this study is not without challenges. According to Levy, “(t)he application of complexity theory to social sciences has been constrained by the fact of its development in relation to physical and natural systems, without taking into account the fundamental differences between these and social systems.”³⁹⁵ The application of complexity theory concepts to physical or physiological systems is relatively straightforward, however, when applied to social and human systems it becomes complicated. For instance, in the physical sciences, unpredictability arises as a result of frequent iterations in nonlinear systems, yet in the social sciences, it is challenging to define, let alone measure, the conceptual constructs adopted to be the variables at work in a system.³⁹⁶ Moreover, Levy notes that physical systems are shaped by unchanging natural laws, while social systems are subject to intervention by cognizant agents, whose behaviour is essentially unpredictable.³⁹⁷

Moreover, other scholars have criticised the application of complexity theory to social sciences based on the argument that studies based on complexity theory are confined to

³⁹³ Smith, M (1994), *op. cit.*

³⁹⁴ Kamler, E., M (2015), *op. cit.*

³⁹⁵ Levy, D., L (2000) ‘Applications and Limitations of Complexity Theory in Organization Theory and Strategy’. In Rabin, J, Miller, G., J, and Hildreth, W., B (eds), *Handbook of Strategic Management*, 2nd edn. New York: Marcel Dekker, pp. 67–87.

³⁹⁶ Levy, D., L (2000), *op. cit.*

³⁹⁷ Levy, D., L (2000), *op. cit.*

computer simulations of simplified networks, and not those firmly grounded in empirical observation.³⁹⁸ However, Emser argues that this is a flawed understanding of the variety of applications of complexity theory as it is not just limited to computational simulations even though it does take the dominant form taken by studies which are grounded in complexity science.³⁹⁹

Nevertheless, complexity theory is relevant to the study. It offers a flexibility that many other theories do not, as well as incorporating elements of the certain and uncertain, predictable and unpredictable. Although the theory was originally developed in the context of physical and biological sciences, some scientists have argued that social, ecological and economic systems also tend to be characterised by nonlinear relationships and complex interactions that evolve dynamically over time.⁴⁰⁰ Complexity theory offers a number of new insights, analytical methods, and conceptual frameworks that are needed to better understand social phenomena such as human trafficking. It is for these reasons, therefore, that despite the criticisms outlined above, the theory is still relevant to the present study. It illuminates our understanding and locates this study in the broader context as is expected of theories in general.

3.4 Chapter Summary

The purpose of this chapter was to discuss the theoretical framework of the study, namely, complexity theory. The fundamental point of complexity theory is the ordering of patterns, structures, events or processes.⁴⁰¹ Such emergent or neo-vitalist patterns emerge from co-evolution and mutual adaptation of elements. A complex system is the result of interaction of simple elements that respond to information each is presented with. In sum, the tipping points of complex systems involve three notions: that events and phenomena are contagious; that little causes or bifurcations can have big effects; and that changes can happen dramatically. This theory is not only relevant for this study, but is also useful in understanding the structural and root causes of conflict and how human trafficking illuminates these causes. The

³⁹⁸ Houchin, K. and D. MacLean, 'Complexity Theory and Strategic Change: An Empirically Informed Critique', *British Journal of Management*, Vol. 16, Issue 2, (June 2005): 149 – 166.

³⁹⁹ Emser, M (2013), *op. cit.*

⁴⁰⁰ Levy, D., L (2000), *op. cit.*

⁴⁰¹ Urry, J., R., Kesselring, S, Junge, M, and Schwengel, H (2004), *op. cit.*

chapter has introduced the theory, explicated its tenets, enumerated some of its criticism, and then argued why the theory is still deemed relevant to the present study despite these criticisms.

Having discussed the theoretical framework on which this study is grounded, the next chapter will focus on setting the scene by presenting the case study. The background and the dynamics of the conflict will be presented. The chapter will also discuss the trafficking issue in Burma, focusing on the trafficking trends that exist in the country. Moreover, the chapter will unpack the current national and regional responses to trafficking.

CHAPTER 4

SETTING THE SCENE

4.0 Introduction

*Ethnic groups are historically given collectivities or psychological communities whose members share a persisting sense of common interest and identity that is based on some combination of shared historical experience and valued cultural traits - beliefs, culture and religion, language, ways of life, a common homeland. Such groups exist over time, even as they emerge and may well change and disappear.*⁴⁰²

Within nations, diverse ethnic groups exist that are influenced by culture, tradition and ideology. According to Shahadat, ethnicity and national identity are derived from human nature and are also unchangeable as they are fixed or given.⁴⁰³ Moreover, group consciousness or ethnic identities develop from language, culture, traditions and history. Group consciousness reinforces over time through socialization as a result of shared culture and historical memories, with the creation of myths and symbols.⁴⁰⁴ Ethnic divisions and tensions often occur and exist within nations and in some instances these ethnic differences lead to conflict when the different groups are deprived of their ethnic identities or marginalised. Ethnic conflicts are often caused by discriminatory government policies or social intolerance that may trigger conflict.⁴⁰⁵

The Union of Burma is one of the most ethnically diverse countries in Asia, which has continued to suffer conflicts for more than sixty years. Burma's diversity reflects its strategic position between the borders of China in the northeast, India in the northwest, Bangladesh on

⁴⁰² Shahadat, H. (2013) The Ethnicity and Protracted Conflict in Myanmar: Theoretical and Practical Discussion, *University of Dhaka*.

⁴⁰³ Shahadat, H. (2013), *op. cit.*

⁴⁰⁴ Neal, J., G. and William, K, P. (2011) Ethnic conflict: A systematic approach to causes of conflict, CQ press, Washington, DC, 2011.

⁴⁰⁵ Keyes, C. (1997) Ethnic Groups, Ethnicity, in Barfield, T., J.(ed), The Blackwell, Dictionary of Anthropology, Oxford: Basil Blackwell.

the West and Laos and Thailand on the east.⁴⁰⁶ Throughout history, settlers from different ethnic backgrounds have migrated across the great horseshoe of mountains which surround the central River Irrawaddy.⁴⁰⁷ Today, ethnic minority groups are estimated to make up at least one third of Burma's population of 50 million and to inhabit half the land area.⁴⁰⁸ However, Burma's failure to manage its immense diversity resulted in ethnic conflicts that started even before independence.⁴⁰⁹ Moreover, the Union of Burma is a country that languished behind closed doors until in the summer of 1988 when the doors burst open as angry protestors including university students, housewives and monks were violently put down by the military forces, making headline news around the world.⁴¹⁰ In-depth pieces of the political unrest and civil repression, particularly of minority groups, that had been going on for years suddenly became a matter of international concern. These anti-government protests resulted in the killing of thousands of demonstrators, the arrest of human rights activists, the declaration of martial law and the imprisonment of influential politicians.⁴¹¹

Nearly half a century of armed conflict has left Burma with deep-rooted problems which have weakened its ability to cope with an array of emerging ones including, economic and social collapse, hundreds of thousands of refugees and internally displaced persons, as well as human trafficking.⁴¹² In this chapter, I present the background and the dynamics of the conflict in Burma with the aim of highlighting the political situation in the country. This chapter will also discuss the trafficking problem in Burma, focusing on the trafficking trends that exist in the country. In addition, the current responses to human trafficking in Burma will be presented. This will be done by reviewing the regional and national responses.

4.1 Setting the scene: Dynamics of sixty years of conflict

4.1.1 Background of the conflict

The greatest threats to global security today come not from the economic deficiencies of the poorest nations but from religious, racial (or tribal) and

⁴⁰⁶ Chaturvedi, M (2012), "Myanmar's Ethnic Divide: The Parallel Struggle." IPCS Special Report 131 (June) (New Delhi, India: Institute of Peace and Conflict Studies, South East Asia Research Programme.

⁴⁰⁷ Chaturvedi, M (2012), *op. cit.*

⁴⁰⁸ Smith, M (1994), *op. cit.*

⁴⁰⁹ Chaturvedi, M (2012), *op. cit.*

⁴¹⁰ Smith, M (1994), *op. cit.*

⁴¹¹ Kivimäki, T. & Pasch, P. (2009) *The Dynamics of Conflict in the Multiethnic Union of Myanmar*, Friedrich Ebert Foundation.

⁴¹² Smith, M (1994), *op. cit.*

*political dissensions raging in those regions where principles and practices which could reconcile the diverse instincts and aspirations of mankind have been ignored, repressed or distorted. ... Diversity and dissent need not inhibit the emergence of strong, stable societies, but inflexibility, narrowness and unadulterated materialism can prevent healthy growth.*⁴¹³

When looking at Burma's pre-colonial history, divergent views exist, however, there is general agreement that several conflicts were fought for control between different ethnic groups. Nevertheless, Smith notes that despite these inter-ethnic wars, there was cultural and ethnic interchange and harmony throughout the centuries.⁴¹⁴ The inter-ethnic harmony was however undermined by the intrusion of British rule in the 19th century which inflamed ethnic tensions between the different ethnic groups by the 'divide-and-rule' separations of colonial government.⁴¹⁵ The colonial government built a two-tier system of administration, the 'Ministerial Burma', dominated by the Burman majority, and the 'Frontier Areas', where most of the ethnic minorities lived.⁴¹⁶ This system of administration set the divisions between the different ethnic groups towards political and economic development, as a result, in 1948, the new Union of Burma which eventually gained independence was different from any of the pre-colonial nations or states in history.⁴¹⁷

At independence, as a post-colonial modern state, the pre-colonial independent peoples namely, the Chin, Kachin, Shan, and other peoples from what was termed Burma Proper, in principle had the rights to regain their national independence from Great Britain separately and found their own respective nation-states.⁴¹⁸ However, all the different groups opted to form a Union together by signing the Panglong Agreement on 12 February 1947, "based on the principles of voluntary association, political equality, and the right of self-government in their respective homelands through the right to internal self-determination".⁴¹⁹ So as to safeguard the principles enshrined in the Panglong Agreement, the 'right of secession' from

⁴¹³ Daw Aung San Suu Kyi, cited in Smith, M (1994), *Ethnic Groups in Burma*, London: Anti-Slavery International.

⁴¹⁴ Smith, M (1994), *op. cit.*

⁴¹⁵ Maung Maung (1959), *Burma's Constitution*, The Hague.

⁴¹⁶ Smith, M (1994), *op. cit.*

⁴¹⁷ Smith, M (1994), *op. cit.*

⁴¹⁸ Sakhong, L., H (2012), "The Dynamics of Sixty Years of Armed Conflict in Burma," *Burma Centre for Ethnic Studies*.

⁴¹⁹ Sakhong, L., H (2012), *op. cit.*, p. 1.

the Union after ten years of independence was guaranteed to every State.⁴²⁰ However, Burma did not become a federal union as it was envisaged at the Panglong Conference, instead, it became a unitary state where a single ethnic group, the majority Burman people, controlled all state powers and governing systems of a multi-ethnic plural society.⁴²¹ This constitutional problem created the root cause of ethnic inequality and political grievances. Accordingly, multi ethnic communal cleavages in which the different groups have been fighting to get their separate identity led to independent struggle. With the aim and need to gain autonomy, the Union of Burma still experiences conflict between the government and the different ethnic groups.

4.2 Dynamics of the Conflict

4.2.1 Exclusion from the State Formation Process

Independence for the Union of Burma was not the end of the search for sovereignty and autonomy but the beginning of a twin process of “nation-building” and “state-building”.⁴²² As a homogenous nation-state where the boundaries of the nation-state coincided with the extension of one ethnic population and where the total population of the nation-state share a single ethnic culture, nation-building and state-building were blended and even seen as a single process.⁴²³ In this situation, the modern Burma nation-state assumed the existence of national identity with the notion of “one ethnicity, one language, and one religion”.⁴²⁴ Of note, in a modern nation-state, whose legitimacy depends on the people, a state requires some degree of identification from its citizens.⁴²⁵ Thus, so as to provide a nations citizens with a feeling of community of statehood, especially in a homogenous nation-state such as Burma, it was essential to build a national identity, which should have been created by the state out of

⁴²⁰ This referred to all ethnic nationalities who formed member states of the Union, as enshrined in Chapter X, Articles 201-206 of the 1947 Constitution of the Union of Burma, and adopted as one of the founding principles of the Union. Sakhong, L., H (2012), *op. cit.*

⁴²¹ Sakhong, L., H (2012), *op. cit.*

⁴²² Sakhong, L., H (2012), *op. cit.*

⁴²³ Maung Aung Myoe (2009), *Building the Tatmadaw: Myanmar Armed Forces*, Singapore: Singapore Institute of Asian Studies.

⁴²⁴ Sakhong, L., H. (2005) “Federalism, Constitution Making and State Building in Burma: Finding Equilibrium between Nation-building for Self-rule and State-building for Share-rule in Federalism” in David Williams and Lian H. Sakhong (ed.al), *Designing Federalism in Burma*, Chiang Mai: UNLD Press, p 11.

⁴²⁵ Sakhong, Lian H. (2010), *In Defence of Identity: Ethnic Nationalities’ Struggle for Democracy, Human Rights and Federalism in Burma*, Bangkok: Orchid Press.

the national characteristics, such as history, culture and language.⁴²⁶ In a multi-ethnic, multi-religious and multi-cultural plural society, a modern nation-state most importantly requires building a state-identity.

In addition, Fukuyama notes that while nation-building is a process of building a community of shared values through rites and rituals, culture and language, collective memories and historical experiences; state-building on the other hand is a process of constructing political institutions, establishing common economic and legal systems, promoting economic development, and protecting the security and well-being of all its citizens.⁴²⁷ In Burma, this was not the case. During the signing of the Panglong Agreement, which was considered as a state formation process, three major ethnic nationalities, namely, the Arakan, Karen, and Mon were not invited to the Conference as they were not recognized as nationalities from pre-colonial independent nations, thus, were represented by General Aung San.⁴²⁸ As a result, the needs and future of these nationalities, particularly the Karen who had already demanded to be a separate state, were not properly represented and discussed at the Conference.⁴²⁹ The exclusion and misrepresentation of the other ethnic nationalities eventually triggered the first shot of ethnic armed conflicts in 1949.⁴³⁰

4.2.2 Ethnic Forced Assimilation

According to Sakhong, another dimension that arose out of independence and triggered internal conflict was the implementation of the 'nation-building' process as a process of ethnic 'forced-assimilation' by the successive governments.⁴³¹ The nation-building process reflected the notion of 'one ethnicity, one language, one religion', however, the successive governments of the Union of Burma were dominated and controlled by ethnic Burman, who instead wanted to build "an ethnically homogenous unitary state ... , in which one language will be the only official language and Buddhism will be the state religion ...".⁴³² However, post-independent Burma is a diverse country that is multi-ethnic, multi-religious, and multi-cultural with different ethnic groups who practice different cultures, adhere to different

⁴²⁶ Arendt, Hannah, "The Nation", cited by Ronald Beiner, "Arendt and Nationalism", in Dana Villa (ed.), *The Cambridge Companion to Hannah Arendt*, Cambridge University Press: 2000, pp. 44–56.

⁴²⁷ Fukuyama, Francis (2006), *State-Building* (London: Profile Books)

⁴²⁸ Sakhong, L., H (2012), *op. cit.*

⁴²⁹ Smith, M (1994), *op. cit.*

⁴³⁰ Lintner, Bertil (1999), *Burma in Revolt*, Chiang Mai: Silkworm Books.

⁴³¹ Sakhong, L., H (2012), *op. cit.*

⁴³² Sakhong, L., H (2012), *op. cit.*, p. 2.

religious teaching, and speak different languages.⁴³³ Thus, Sakhong notes that consequentially, the Arakan, Chin, Kachin, Karen, Karenni, Mon, Shan, and other ethnic nationalities, whose combined homelands cover sixty per cent of the territory of the Union of Burma and composed more than forty per cent of the country's population, were left to an either-or choice.⁴³⁴ The minority nationalities were left with a choice of either accepting forced-assimilation or resisting by any means, including armed resistance and they all opted for the second option, resulting in over sixty years of civil war.⁴³⁵

4.2.3 *The Policy of State Religion, Constitutional Crisis and Ethnic Inequality*

At the Panglong Conference in 1947, the Chin, Kachin, Shan and other nationalities that were not officially invited, were promised, the “right to exercise political authority of administrative, judiciary, and legislative powers in their own autonomous national states and to preserve and protect their language, culture, and religion in exchange for voluntarily joining the Burman in forming a political union and giving their loyalty to a new state”.⁴³⁶ Unfortunately, Aung San, who had represented and persuaded the Chin, Kachin, Shan and other non-Burman nationalities to join Independent Burma as equal partners, was assassinated in July in 1947 and was succeeded by U Nu as leader of the Anti-Fascist People's Freedom League (AFPFL).⁴³⁷ This change in leadership shifted Burman politics backward toward the Old Kingdom of Burman whose policies did not accommodate non-Burman nationalities who had agreed to join Independent Burma only for the sake of “speeding up freedom”.⁴³⁸

As leader of the AFPFL, the first move that U Nu made was to re-draft Aung San's version of the Union Constitution, which had opted for a “secular state” with a strong emphasis on “pluralism” and the “policy of unity in diversity” in which all different religious and ethnic groups in the Union could live together in harmony.⁴³⁹ The new version of the Union Constitution was promulgated in September 1947, thus, dramatically changing the fate of the

⁴³³ Yawngwe, Chao Tzang, (1989), “The Burman Military”, in Josef Silverstein (ed.), *Independent Burma at Forty Years: Six Assessments*, Cornell University, pp. 81-101.

⁴³⁴ Sakhong, L., H. (2012), *op. cit.*

⁴³⁵ Sakhong, L., H. (2012), *op. cit.*

⁴³⁶ Silverstein, Josef (1981) "Minority Problems in Burma Since 1962", in Lehman (ed.), *Military Rule in Burma Since 1962* (Singapore, 1981), p. 51.

⁴³⁷ Sakhong, L., H. (2012), *op. cit.*

⁴³⁸ Tinker, H. (1957), *Union of Burma*, London, Government Printing.

⁴³⁹ Sakhong, L., H. (2012), *op. cit.*, p. 5.

country and the people, especially the fate of the non-Burman nationalities between July and September 1947.⁴⁴⁰ As a result, the Union of Burma did not become a genuine federal union, only in theory. Furthermore, on the policy of religion, U Nu also reversed Aung San's policy and opted for a more confessional and exclusive policy on religion by applying cultural and religious assimilation as the core of the 'nation-building' process.⁴⁴¹ The revision of the Union Constitution eventually led to the promulgation of Buddhism as the state religion of the Union of Burma in 1961.⁴⁴²

For non-Burman nationalities, the declaration of Buddhism as the "state religion of the Union of Burma" in 1961 was the greatest violation of the Panglong Agreement in which Aung San and the leaders of the non-Burman nationalities agreed to form a Union based on the principle of equality.⁴⁴³ They therefore viewed the passage of the state religion bill not only as a religious issue, but also as a constitutional problem, in that this had been allowed to happen. In other words, they began to view the Union Constitution as an instrument for imposing "a tyranny of majority", not as their protector.⁴⁴⁴ There were two different kinds of reaction to the state religion reforms from different non-Burman nationalities. The first reaction came from more radical groups who opted for an armed rebellion against the central government in order to gain their political autonomy and self-determination.⁴⁴⁵ The most serious armed rebellion as a direct result of the adoption of Buddhism as the state religion was that of the Kachin Independence Army (KIA), which emerged soon after the state religion of Buddhism bill was promulgated in 1961.⁴⁴⁶ The Christian Kachin, as Graver observes, "saw the proposal for Buddhism to be the state religion as further evidence of the Burmanization of the country," which felt they had to prevent by any means, including an armed rebellion.⁴⁴⁷

The second reaction came from more moderate groups, who opted for constitutional means of solving their problems, rather than an armed rebellion.⁴⁴⁸ In response to their demands U Nu had no choice but to invite all the political leaders and legal experts from both Burman and

⁴⁴⁰ Sakhong, L., H. (2012), *op. cit.*

⁴⁴¹ Smith, M. (2007), and *State of Strife: The Dynamics of Ethnic Conflict in Burma*, Washington: East-West Center.

⁴⁴² Sakhong, L., H (2012), *op. cit.*

⁴⁴³ Sakhong, L., H (2012), *op. cit.*, p. 6.

⁴⁴⁴ Smith, M (1994), *op. cit.*

⁴⁴⁵ Sakhong, L., H (2010), *op. cit.*

⁴⁴⁶ Sakhong, L., H (2010), *op. cit.*

⁴⁴⁷ Graver, Mikael (1993), *Nationalism as Political Paranoia in Burma* (Copenhagen: NIAS), p. 56.

⁴⁴⁸ Sakhong, L., H (2012), *op. cit.*

non-Burman nationalities to what became known as the Federal Seminar at which “the issues of federalism and the problems of minorities would be discussed with a view to finding a peaceful solution”.⁴⁴⁹ The meeting opened on 24 February 1962 in Rangoon while parliament was meeting in regular session, however, before the seminar was concluded and just before U Nu was scheduled to speak, the military led by General Ne Win seized state power in the name of the Revolutionary Council.⁴⁵⁰

4.2.4 National Language Policy, Scorched Earth Campaign and Militarization of the State

Since the independence movement, ‘nationalism’ had been an enduring element of the Burmese concept of political legitimacy. In a move to legitimize his government U Nu had opted to mix nationalism with Buddhism, while General Ne Win, mixed nationalism with socialism, and he also used military leadership as a means to introduce socialism into the country.⁴⁵¹ Nationalism, for both U Nu and Ne Win was based on the notion of ‘one ethnicity, one language, and one religion’.⁴⁵² Although their approaches to ethnic and religious forced-assimilation were different, U Nu and Ne Win both had the same goal of creating a homogeneous people in the country. For instance, U Nu who opted for cultural and religious assimilation into Buddhism as a means of forced-assimilation, while Ne Win removed the rights of the country’s religious and cultural minorities, especially minority’s language right, as a means of creating a homogeneous unitary state.⁴⁵³

The process of eliminating ethnic rights began with the establishment of the 1962 Printers and Publishers Registration Law and the 1965 Censor Law.⁴⁵⁴ These laws were implemented also with the aim to prevent information from reaching ethnic areas, through prohibiting the publication of any information in ethnic languages. Thus, there was no independent newspaper, no independent radio station and no printing house for any ethnic groups nor in any ethnic language.⁴⁵⁵ This strategy was implemented hand in hand with the government policy of national language, through which ethnic languages were systematically

⁴⁴⁹ Silverstein, Josef (1981) "Minority Problems in Burma Since 1962", in Lehman (ed.), *Military Rule in Burma Since 1962* (Singapore, 1981), p. 51.

⁴⁵⁰ Sakhong, L., H (2012), *op. cit.*

⁴⁵¹ Smith, M. (1999), *Burma: Insurgency and Politics of Ethnic Identity*, London: Zeb Books.

⁴⁵² Sakhong, L., H (2012), *op. cit.*

⁴⁵³ Sakhong, L., H (2012), *op. cit.*

⁴⁵⁴ Yawnghwe, Chao Tzang, (1989), “The Burman Military”, in Josef Silverstein (ed.), *Independent Burma at Forty Years: Six Assessments*, Cornell University, pp. 81-101.

⁴⁵⁵ Sakhong, L., H (2012), *op. cit.*

discriminated and eliminated. These two laws were perceived by the other non-Burman ethnic groups to be stumbling blocks for the publications of ethnic languages, including curriculums and teaching materials for both secular schools as well as Sunday Schools.⁴⁵⁶ As a result, the Chin and other ethnic nationalities in Burma were unable to promote their language under the military dictatorship. Since the basic rights to promote the non-Burman languages, cultures and belief systems were severely derailed, the incentive for preserving, protecting and promoting through teaching, learning, writing, of their own languages, cultures and religions became an important matter which pushed the non-Burman ethnic groups to take up arms.⁴⁵⁷

In 1962 General Ne Win declared Burmese as the medium of instruction at all levels of schools and colleges and universities.⁴⁵⁸ His policy of one national language finally reached its peak when the 1974 Constitution was formulated, which adopted Burmese as the official language of the Union of Burma.⁴⁵⁹ General Ne Win was able to fulfill his vision of building the state army, and create divisions between the state and the army. While ethnic languages were systematically eliminated and even destroyed, the national language of Burmese, the dominant language, was protected and promoted by using state mechanisms. The regime as also forced the non- Burman ethnic nationalities to speak Burmese at all the government's official functions and forced them to learn Burmese, as it was the only official language in the country.⁴⁶⁰ Nevertheless, ethnic languages were allowed to be used for the communication purpose between the central government and ethnic states, however, no mechanisms or institutions were provided to preserve, protect and promote ethnic languages.⁴⁶¹ Of note, the existence of Burmese as the only 'official language' meant that the rest of the ethnic languages, including the Chin and its various dialects, were legally unofficial and therefore could be discriminated against "legitimately" in various means by using all kind of state mechanisms and existing laws.⁴⁶²

⁴⁵⁶ Yawngghwe, Chao Tzang, (1989), *op. cit.*

⁴⁵⁷ Sakhong, L., H (2012), *op. cit*

⁴⁵⁸ Sakhong, L., H (2012), *op. cit*

⁴⁵⁹ Sakhong, L., H (2012), *op. cit*

⁴⁶⁰ Silverstein, J. (1981), *op. cit.*

⁴⁶¹ Sakhong, L., H (2012), *op. cit*

⁴⁶² Yawngghwe, Chao Tzang, (1989), *op. cit.*

In a move to implement his national language policy, General Ne Win deployed the Tatmadaw⁴⁶³ as part of the military campaign against ethnic minority groups in the country.⁴⁶⁴ In addition to the nation-building process, Gen Ne Win developed a programme known as the ‘Burmese Way to Socialism’ (BWS).⁴⁶⁵ In addition, to implement the BWS programme, General Ne Win established the Burma Socialist Program Party (BSPP), and used the Tatmadaw armed forces as the nucleus of nation-building.⁴⁶⁶ Thus, the Tatmadaw was deployed not only as a national institution and state mechanism, but also became “the guardian of the people and protectors of the Union”.⁴⁶⁷ Furthermore, in 1965 General Ne Win adopted the “people’s war doctrine” as the military doctrine of the Tatmadaw with an idea of creating an army state under the disguise of the need for a strong army that would prevent the Union from its collapse.⁴⁶⁸ General Ne Win also formed hundreds of militia organizations all over the country, known as Kar-Kwe-Ye (KKY) in Burmese, and applied a four-cut strategy against ethnic armed groups.⁴⁶⁹

The four-cut strategy which was adopted by the Tatmadaw’s military was aimed at cutting food supply to the insurgents; cut protection money from villagers to the insurgents; cut contacts between people and the insurgents; and to cut off access to personnel or recruits.⁴⁷⁰ For emphasis, Sakhong notes that the national language policy was implemented hand in hand with the military campaign of the four-cut strategy, which was also known as a scorched earth military campaign, in ethnic areas.⁴⁷¹ Moreover, while the scorched earth campaign was designed as a short-term strategy against ethnic nationalities in the country, the national language policy was adopted as a long-term strategy to build a homogenous country under the disguise of nation-building.

⁴⁶³ The Tatmadaw are the national armed forces (literally, the main army). Initially formed by Aung San from a combination of different ethnic units trained by the British or Japanese in the Second World War. The Tatmadaw has controlled the government of Burma since 1958 during Ne Win's military administration. Smith, M. (1994), *op. cit.*

⁴⁶⁴ Smith, M. (1999), *op. cit.*

⁴⁶⁵ Yawngwe, Chao Tzang, (1989), *op. cit.*

⁴⁶⁶ Yawngwe, Chao Tzang, (1989), *op. cit.*

⁴⁶⁷ Yawngwe, Chao Tzang, (1989), *op. cit.*, p. 51.

⁴⁶⁸ Sakhong, L., H (2012), *op. cit.*

⁴⁶⁹ Sakhong, L., H (2012), *op. cit.*

⁴⁷⁰ Maung Aung Myoe (2009), *Building the Tatmadaw: Myanmar Armed Forces* (Singapore: Singapore Institute of Asian Studies).

⁴⁷¹ Sakhong, L., H (2012), *op. cit.*

4.2.5 The Ethnic Nationalities' response to Constitutional dictatorship and the 1988 popular uprising for democracy

By the time the new constitution was promulgated in 1974, all the ethnic nationalities in Burma had insurgent groups.⁴⁷² The most effective reaction from the various ethnic nationalities to the promulgation of a new constitution in 1974 was the formation of the Federal National Democratic Front in 1975, which was eventually transformed into the National Democratic Front (NDF) in May 1976.⁴⁷³ The significance of the NDF was that it was formed exclusively by the non-Burman ethnic nationalities, with the aims and objectives of establishing a genuine federal union, based on the principles of national self-determination, political equality and progress of all nationalities.⁴⁷⁴ NDF was formed with the intention “to abolish national chauvinism, military bureaucratic dictatorship and the unitary system, and expressly rule out a one-party state”.⁴⁷⁵

4.2.6 The New Regime's Policy of Forced- Assimilation, Burmarization and Militarization

In 1989, the new military regime, known as the State Law and Order Restoration Council (SLORC), under the leadership of General Saw Maung, changed the country's name from Burma to Myanmar.⁴⁷⁶ This change was viewed by the non-Burman ethnic groups as the highest level of enforcing ethnic forced-assimilation disguised as the nation-building process with the unitary version of one religion, one language, and one ethnicity.⁴⁷⁷ It is argued that the term Myanmar, refers exclusively to one particular ethnic group in the country, while the term Burma refers to a post-colonial multi-ethnic, multi-religious, and multi-culture plural nation-state of the Union of Burma.⁴⁷⁸ The term Myanmar is noted to come from a Pagan dynasty founded by King Annawrattha in 1044 to denote the ethnicity of Myanmar, which is in turn inseparably intertwined with Buddhism.⁴⁷⁹ For the non- Burman ethnic groups, the

⁴⁷² Sakhong, L., H (2012), *op. cit.*

⁴⁷³ Smith, M (1994), *op. cit.*

⁴⁷⁴ Sakhong, L., H (2012), *op. cit.*

⁴⁷⁵ Aung, S. *Burma's Challenge* (Rangoon, 1947), reprinted in Josef Silverstein, (1993), *The Political Legacy of Aung San*, New York: Cornell University Press, p. 12.

⁴⁷⁶ Sakhong, L., H (2012), *op. cit.*

⁴⁷⁷ Smith, M (1994), *op. cit.*

⁴⁷⁸ Smith, M (1994), *op. cit.*

⁴⁷⁹ Smith, M (1994), *op. cit.*

term Myanmar, therefore, excluded the Chin, Kachin, Shan, and other nationalities who became the members of the Union only after signing the Panglong Agreement.⁴⁸⁰

From the time Burma gained independence in 1948, the regime's political objectives have been to implement ethnic forced assimilation through the nation-building process and to establish a homogeneous country with the notion of one ethnicity, one language and a state religion of Buddhism.⁴⁸¹

4.3 Post-1990: On-going conflict and instability

Since Burma's independence in 1948, more than 30 ethnic armed groups have been involved in insurgencies against the central Government. However, from 1988 and the early 1990's violently suppressed uprisings against the government resulted in the imprisonment of hundreds of influential political actors and in the death of thousands, attracting the international community's attention and prompting elections in 1990.⁴⁸² The opposition party, National League for Democracy (NLD) won the election by a landslide, however, the military refused to recognize the results of election and placed the NLD's leader Aung San Suu Kyi under house arrest.⁴⁸³ After the elections, the SLORC, subsequently renamed the State Peace and Development Council (SPDC), negotiated 17 ceasefire agreements with several of the ethnic armed groups, offering them 'peace benefits' through economic concessions.⁴⁸⁴ These ceasefires resulted in the reduction of the scale of the violence after decades of high intensity conflicts.⁴⁸⁵ Moreover, the ceasefire agreements also led to the establishment of semi-autonomous regions within Burma.⁴⁸⁶ Kivimäki and Pasch also note that the insurgent groups that entered into ceasefire agreements with the central Government were granted de facto administrative authority over areas under their control.⁴⁸⁷

Nevertheless, several groups were omitted from these ceasefires, consisting of, the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and the Shan State

⁴⁸⁰ Sakhong, L., H (2012), *op. cit.*

⁴⁸¹ Sakhong, L., H (2012), *op. cit.*

⁴⁸² Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), A Risk Assessment Report: Republic of the Union of Myanmar (Burma), *The Norman Paterson School of International Affairs*.

⁴⁸³ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁸⁴ Kivimäki, T. & Pasch, P. (2009), *op. cit.*

⁴⁸⁵ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁸⁶ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁸⁷ Kivimäki, T. & Pasch, P. (2009), *op. cit.*

Army (SSA), thus, political grievances persist.⁴⁸⁸ Moreover, in June 2011 the Kachin Independence Army (KIA) and part of the Democratic Karen Buddhist Army (DKBA) broke the ceasefires leading to intensified violence.⁴⁸⁹ These groups formed a united umbrella and refused to abide by the ceasefire agreements unless there are negotiations that include all groups.⁴⁹⁰ These actions were motivated by their fear that the government was implementing a ‘divide and rule’ strategy by making separate deals with each group and dealing militarily with groups that fail to cooperate.⁴⁹¹ Moreover, in 2007 fuel price hikes sparked popular unrest as Buddhist monks led protests against the government.⁴⁹² Although these protests were suppressed, the government responded with a National Convention which was concluded on the 3rd of September 2007 after 14 years of deliberation and several sessions as well as constant suspensions.⁴⁹³ Opened in 1993, the convention was supposed to be the first step on the road to democracy, laying down basic guidelines to draft a new constitution.⁴⁹⁴ Moreover, as a response to the protests, the SPDC stated that a National Referendum to adopt the constitution would be held in May 2008.⁴⁹⁵

Since 2009, the central Government has made efforts to incorporate various armed ethnic groups into Border Guard Forces by disarming them, providing them with government weapons and making their troops subordinate to regional Tatmadaw commanders, however, these attempts have had only limited success.⁴⁹⁶ In November 2010, the first parliamentary elections in 20 years were held.⁴⁹⁷ Both the referendum and elections were heavily controlled and led to the election of the military backed Union Solidarity and Development Party (USDP).⁴⁹⁸ Moreover, the elections were boycotted by the then banned opposition NLD led by Aung San Suu Kyi, and widely criticised as unfree and unfair.⁴⁹⁹ For emphasis, Frazer-

⁴⁸⁸ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁸⁹ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁹⁰ Sakhong, L., H (2012), *op. cit.*

⁴⁹¹ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁹² Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁹³ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁹⁴ Sakhong, L., H (2012), *op. cit.*

⁴⁹⁵ Sakhong, L., H (2012), *op. cit.*

⁴⁹⁶ Child Soldiers International. (2015), Under the radar: Ongoing recruitment and use of children by the Myanmar army, Child Soldiers International.

⁴⁹⁷ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁹⁸ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁴⁹⁹ The military-backed USDP won the majority of parliamentary seats up for contention amidst international concern regarding restrictive electoral laws, voter intimidation and lack of impartial observers, drawing strong criticism from the UN and various member states, UN General Assembly (GA), Resolution adopted by the GA [on the report of the Third Committee (A/66/462/Add.3)], Situation of Human Rights in Myanmar, UN Doc. A/RES/66/230, 3 April 2012.

Kealey et al., note that the validity of the election results was widely disputed by pro-democracy opposition groups.⁵⁰⁰ Following the elections, Thein Sein took office as President in March 2011 and the new government restarted ceasefire talks with 14 armed groups, resulting in a significant decrease in military clashes in a number of regions.⁵⁰¹ In addition, a joint government – non-state armed group ceasefire drafting committee was created in March 2014, however, a nation-wide ceasefire has remained elusive.⁵⁰²

Although the military capacity and influence of ethnic nationalists has declined significantly over the past decade, military operations against armed opposition groups have continued and intensified in the other parts of the country such as Kachin and northern Shan states.⁵⁰³ In the Kachin state, fierce fighting between the KIA and the Tatmadaw has continued over the past three years⁵⁰⁴ with clashes escalating in 2014.⁵⁰⁵ In addition, there have been routine clashes between the government military and armed groups in the Shan state, particularly with the Shan State Army from the South and the Shan State Army from the North.⁵⁰⁶

That there has been dramatic change in Burma is undeniable. From 2011 when General Thein Sein, leader of the military-dominated USDP, was sworn in as president, there have been significant changes. Within months, General Thein Sein, released thousands of political prisoners and started a dialogue with Aung San Suu Kyi, the leader of the opposition NLD.⁵⁰⁷ The NLD was allowed to register as a political party and to join the country's developing political process, leading to Aung San Suu Kyi and other NLD members subsequently winning parliamentary seats in by-elections in April 2012.⁵⁰⁸ This provided the opposition

⁵⁰⁰ Frazer-Kealey, O., Watt E., Naqi M. & Veilleux-Lepage, Y. (2011), *op. cit.*

⁵⁰¹ Child Soldiers International. (2015), *op. cit.*

⁵⁰² Burma News International (BNI), Deciphering Myanmar 's Peace Process, March 2014, Available from <http://www.themimu.info/sites/themimu.info/files/documents/Report_Deciphering_Myanmar_Peace_Process_Mar2014.pdf>, Accessed 18 September 2015.

⁵⁰³ Child Soldiers International. (2015), *op. cit.*

⁵⁰⁴ A 17-year ceasefire with the KIA and the government military forces came to an end after fighting broke out between the two sides in June 2011. In the past year, fighting in Kachin state has progressively intensified, accompanied by a steady increase in human rights abuses. The UN estimates that some 75,000 civilians have been displaced within Kachin and Burma 's northern Shan states since fighting broke out in 2011, with more people continuing to flee insecure areas every day, (Child Soldiers International. (2015), *op. cit.*).

⁵⁰⁵ *The Irrawaddy*, —Burma Army Launches Deadly Incursion into Kachin Rebel Territory, 13 February 2014, Available from: <<http://www.irrawaddy.org/burma/burma-army-launches-deadly-incursion-kachin-rebel-territory.html>>, Accessed 28 April 2015.

⁵⁰⁶ Child Soldiers International. (2015), *op. cit.*

⁵⁰⁷ International Crisis Group (2015) Myanmar's Peace Process: A Nationwide Ceasefire Remains Elusive Briefing N°146, Yangon/Brussels, Crisis Group Asia.

⁵⁰⁸ Union Government Announcement no. 1/2011, 18 August 2011; in "Union Government offers olive branch to national race armed groups", *New Light of Myanmar* 19 August 2011, p. 1.

NLD with representation in the National Assembly for the first time in decades. Significantly, on 8 November 2015, elections were held in Burma, which have been perceived as a major waypoint in Burma's transition from authoritarian rule.

4.4 Setting the scene: Human Trafficking in Burma

4.4.1 Historical Overview

Burma's modern history is laced with disaster, both political and natural. A British colony until 1948, Burma has been a steady stream of coups and military regimes. Trafficking in Burma is not a current phenomenon. Although systemic data and research on the emergence of the problem of human trafficking in Burma is scarce, it is argued that during the 19th and 20th century, prostitution and white slave trade affected all continents including Asia where women and girls were sent overseas as "prostitutes" in the 1800s and early 1900s.⁵⁰⁹ The prostitution of Asian women, systematized as "yellow slavery" described transnational sex trafficking from Asia during that period. In addition, some research has shown that during World War II, millions of women, including Burmese women and girls, were enslaved in Japanese camps to service soldiers.⁵¹⁰ Also, prior to the abolition of slavery in Thailand by King Rama V in 1905, prostitutes were recruited from the slave markets and sold either as "slave wives" or "slave women."⁵¹¹ Slavery's abolition brought about an immediate increase in prostitution, as former women slaves were drawn into the sex trade. From 1905 until 1960, prostitution was legal in Thailand and was a profitable business dominated by illegal or migrant women, mostly Thai, although some were Chinese and Burmese.⁵¹²

While trafficking previously existed in Burma, it did not explode until between 1962 and 1988 when the State Peace and Development Council (SPDC) regime took power. Human rights violations, war and ethnic discrimination displaced hundreds of thousands of Burmese between 1962, when Ne Win took power in a coup, and September 1988, when mass street protests against the government in Rangoon and elsewhere led to a crackdown by the

⁵⁰⁹ Klein, C (2012), Slaves of Sex: Human Trafficking in Myanmar and the Greater Mekong Region, *Journal of human rights*, Volume 2, Issue 1.

⁵¹⁰ Sasaki, A (2012) Human Trafficking and Slavery: Current Anti-Trafficking Efforts in Japan. [Available from: <<http://dx.doi.org/10.5772/48559>>, Downloaded 05 June 2016].

⁵¹¹ Human Rights Watch (1993), A Modern Form of Slavery, Trafficking of Burmese Women and Girls into Brothels in Thailand, *Human Rights Watch*.

⁵¹² Klein, C (2012), *op. cit.*

Burmese military.⁵¹³ An estimated 3,000 people were killed, while thousands fled to neighbouring countries.⁵¹⁴ The regime curbed Burma's economy so that standards of living plummeted. Many Burmese fled to neighboring countries; large groups of stateless, illegal immigrants in the region became easy targets for trafficking. In addition, the unleashing of the previously closed off region to global markets post-Cold War, including the demand for sex services, led to a sudden explosion of trafficking along the Mekong riverbed.⁵¹⁵

Mounting domestic and international pressure led the government to hold elections in May 1990, however, the SLORIC refused to hand over power and tightened its control, arresting thousands and forcing thousands more to flee into Thailand or join forces with several armed ethnic insurgencies operating along the Thai and Chinese borders.⁵¹⁶ Moreover, by the end of 1993, fighting was at its lowest level in years, and concerted efforts were made to negotiate cease-fires with different minority groups. However, throughout 1992 and 1993, the Burmese army continued to employ the "four cuts" strategy, which meant forced removals of entire villages along the Burmese side of the Thai border and the transformation of populated areas into no-man's lands, leading in turn to a mass exodus of villagers into Thailand.⁵¹⁷ Deteriorating political and economic situation in Burma spurred a significant outflow of Burmese into neighbouring countries: students fleeing imprisonment, ethnic minorities fleeing counterinsurgency operations and human rights violations, as well as economic migrants, most of whom found themselves vulnerable to trafficking for the purposes of forced labour and commercial sexual exploitation.

4.4.2 Trafficking Trends in Burma

Burma is a source country for men, women, and children subjected to forced labour, and for women and children subjected to sex trafficking in other countries (See Figure 4.1).⁵¹⁸

⁵¹³ Human Rights Watch. (1993). *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand*. New York: Human Rights Watch.

⁵¹⁴ Human Rights Watch. (1993), *op. cit.*

⁵¹⁵ Klein, C (2012), *op. cit.*

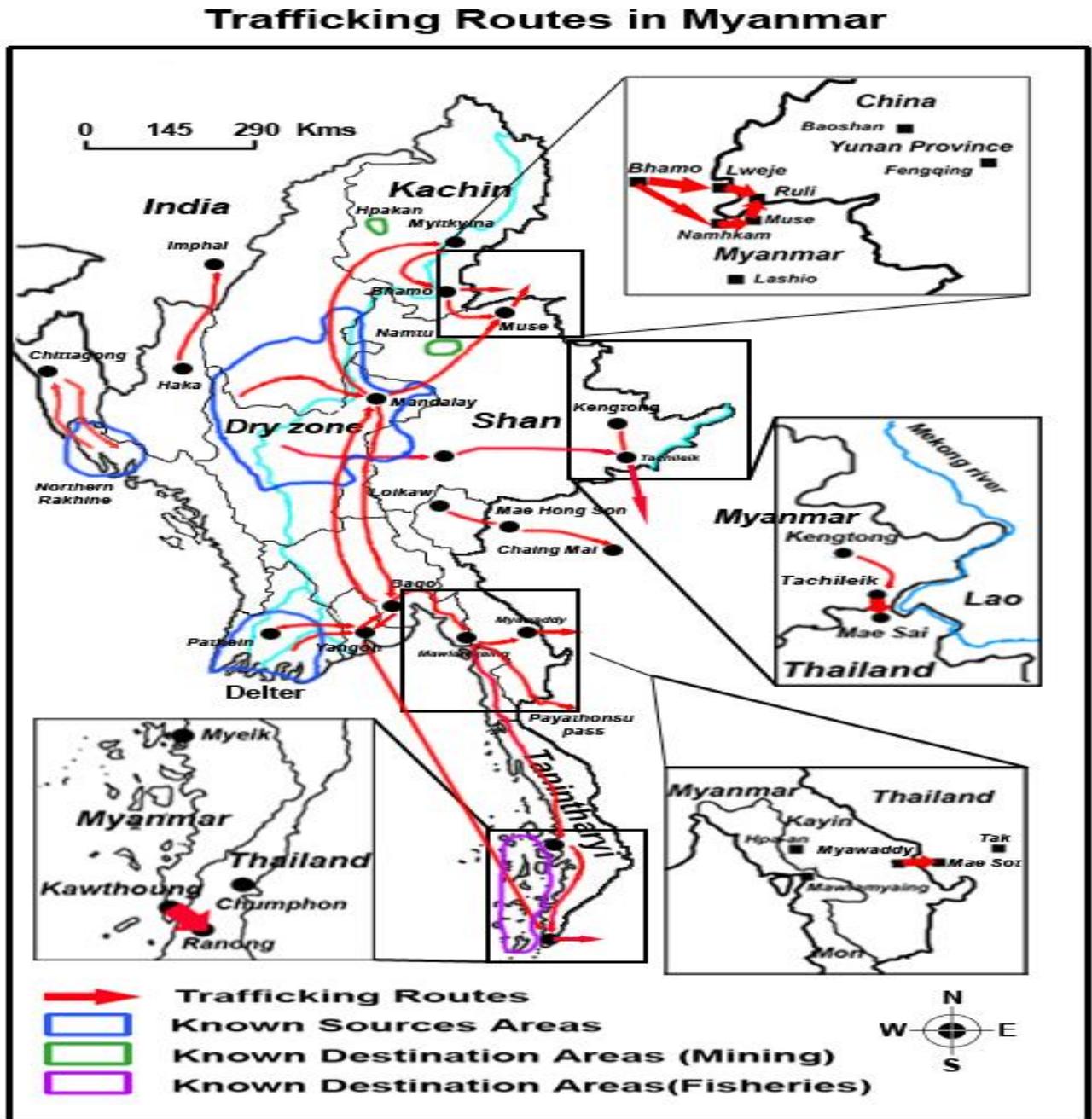
⁵¹⁶ Human Rights Watch. (1993), *op. cit.*

⁵¹⁷ Human Rights Watch. (1993), *op. cit.*

⁵¹⁸ TIP Report (2014) Country Narratives, *trafficking in Persons Report 2011*, [Accessed 16 April 2015], Available at: <http://www.state.gov/j/tip/rls/tiprpt/2014/164233.htm>.

FIGURE 4.1

TRAFFICKING ROUTES IN BURMA



Source: SIREN⁵¹⁹

Burmese men, women, and children who migrate for work abroad, particularly to Thailand and China, are subjected to conditions of forced labour or sex trafficking in these countries.⁵²⁰

⁵¹⁹ Strategic Information Response Network (SIREN), (2009), *op. cit.*

⁵²⁰ TIP Report (2014), *op. cit.*

Unstable political conditions and the poor economic conditions within Burma continue to drive large numbers of Burmese men, women, and children to migrate through both legal and illegal channels for work primarily in East Asia, as well as destinations including the Middle East, South Asia, and the United States.⁵²¹ Men are most often subjected to forced labour, often in the fishing, manufacturing, and construction industries abroad.⁵²² Women and girls are primarily subjected to sex trafficking or domestic servitude. The large numbers of migrants seeking work in Thailand's fishing and domestic work sectors do so outside formal channels.

Some Burmese men in the Thai fishing industry are subjected to debt bondage, passport confiscation, or false employment offers; some are also subjected to physical abuse and are forced to remain aboard vessels in international waters for years.⁵²³ Burmese women are transported to China and subjected to sex trafficking and domestic servitude through forced marriages to Chinese men; there were isolated reports of Burmese government officials complicit in this type of trafficking.⁵²⁴ Networks on both sides of the Burma-Thailand border facilitated migration of undocumented workers, which often leads to their being trafficked upon arrival in Thailand.

In addition, there have been increasing reports of Rohingya asylum seekers transiting in Thailand *en route* to Malaysia being sold into forced labour on Thai fishing boats, reportedly with the assistance of Thai civilian and military officials.⁵²⁵ Unidentified trafficking victims are among the large numbers of migrants deported from Thailand each year. Within Burma, both government officials and private citizens are involved in trafficking. Military personnel and insurgent militia engage in the forced conscription of child soldiers and continue to be the leading perpetrators of other forms of forced labour inside the country, particularly in conflict-prone ethnic areas.⁵²⁶ Men and boys are forced through intimidation, coercion, threats, and violence to serve in the Burmese army and the armed wings of ethnic minority groups. There is limited data on the total number of children in Burma's army, however, children of the urban poor are at particular risk of conscription.⁵²⁷ Reports from the UN and

⁵²¹ Strategic Information Response Network (SIREN) (2009), United Nations Inter-Agency Project on Human Trafficking (UNIAP): Phase III.

⁵²² Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵²³ Strategic Information Response Network (SIREN), (2009), *op. cit.*

⁵²⁴ TIP Report (2014), *op. cit.*

⁵²⁵ TIP Report (2014), *op. cit.*

⁵²⁶ UNIAP. (2014), *op. cit.*

⁵²⁷ TIP Report (2014), *op. cit.*

former child soldiers indicate that army recruiters target orphans and children alone on the streets and in railway stations.⁵²⁸ Sometimes children are tricked into joining the army and other times they are threatened with jail or physically abused if they do not agree to join.

The Burmese military, and to a lesser extent, civilian officials, used various forms of coercion, including threats of financial and physical harm, to compel victims to provide forced labour. Those living in areas with the highest military presence, including remote border areas and regions of active conflict, are most at risk for forced labour.⁵²⁹ Military and, to a lesser extent, civilian officials systematically subject civilian men, women, and children to forced labour as porters, manual labour for infrastructure projects, or in state-run agricultural and commercial ventures.⁵³⁰ International organizations report this practice remains common in conflict regions, particularly in Rakhine State. Other forms of trafficking also occur within Burma. There have previously been anecdotal reports that some Burmese victims were forced to labour on palm oil and rubber plantations.⁵³¹ Children are subjected to forced labour in tea shops, home industries, agricultural plantations, and in begging. Exploiters subject children and adults to domestic servitude, and girls and boys to sex trafficking, particularly in urban areas.

The Government of Burma does not fully comply with the minimum standards for the elimination of trafficking, however, it is making significant efforts to do so.⁵³² Despite these efforts, the government failed to demonstrate overall increasing efforts to combat trafficking of child soldiers from the previous year. Forced labour of civilians and the forced recruitment of child soldiers by military officials remained serious problems that occur, often with impunity.⁵³³ Moreover, the military refused to grant unfettered UN access to military bases to inspect for the presence of children. The government undertook few efforts to address trafficking that occurred wholly within Burma, and victim protection efforts remained inadequate.⁵³⁴ Therefore, Burma is placed on Tier 2 Watch List for a third consecutive year.

⁵²⁸ TIP Report (2014), *op. cit.*

⁵²⁹ TIP Report (2014), *op. cit.*

⁵³⁰ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵³¹ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵³² Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵³³ TIP Report (2014), *op. cit.*

⁵³⁴ TIP Report (2014), *op. cit.*

4.5 Trafficking Responses at the Regional Level

4.5.1 Coordinated Mekong Ministerial Initiative against Human Trafficking Process (COMMIT)

The Coordinated Mekong Ministerial Initiative against Human Trafficking Process (COMMIT) is a formal alliance of the six countries in the Greater Mekong Sub-region (GMS) established to sustain cross-border cooperation and collaboration in addressing human trafficking.⁵³⁵ The main actors in the COMMIT Process are the six GMS governments consisting of Cambodia, China Laos, Burma, Thailand and Vietnam. At the country level, the Process is governed by multidisciplinary COMMIT Task Forces, which bring together all relevant governmental agencies dealing with human trafficking.⁵³⁶ The Heads of the national COMMIT Task Forces or other senior representatives meet regularly at the sub-regional level to coordinate their responses and define priorities for action.⁵³⁷

The COMMIT Process was formalized with the signing of a Memorandum of Understanding (MoU) in Yangon, Burma, in October 2004.⁵³⁸ Significantly, the agreement represented an acknowledgement of the need for a human rights-based, multi-sectorial approach to tackle human trafficking collectively in the GMS.⁵³⁹ It was regarded as the first critical step towards a sub-regional mechanism for cooperation, addressing human trafficking comprehensively as defined by the UN Human Trafficking Protocol. The MoU was signed at the ministerial level at the First Inter-Ministerial Meeting (IMM1), including representatives of ministries such as social welfare, home affairs, and public security. The governments confirmed their commitment to the aspirations through Joint Declarations at the further Inter-Ministerial Meetings. Moreover, the COMMIT Process is based on the understanding that an inter-governmental and inter-ministerial approach is necessary to tackle the broad and complex issue of human trafficking that goes beyond the mandate of any one ministry or government. Significantly, the COMMIT MoU is composed of five areas: policy and cooperation; legal frameworks, law enforcement and justice; protection, recovery and reintegration; preventive

⁵³⁵ UNIAP. (2014), *op. cit.*

⁵³⁶ UNIAP. (2014), *op. cit.*

⁵³⁷ Strategic Information Response Network (SIREN) (2009), *op. cit.*

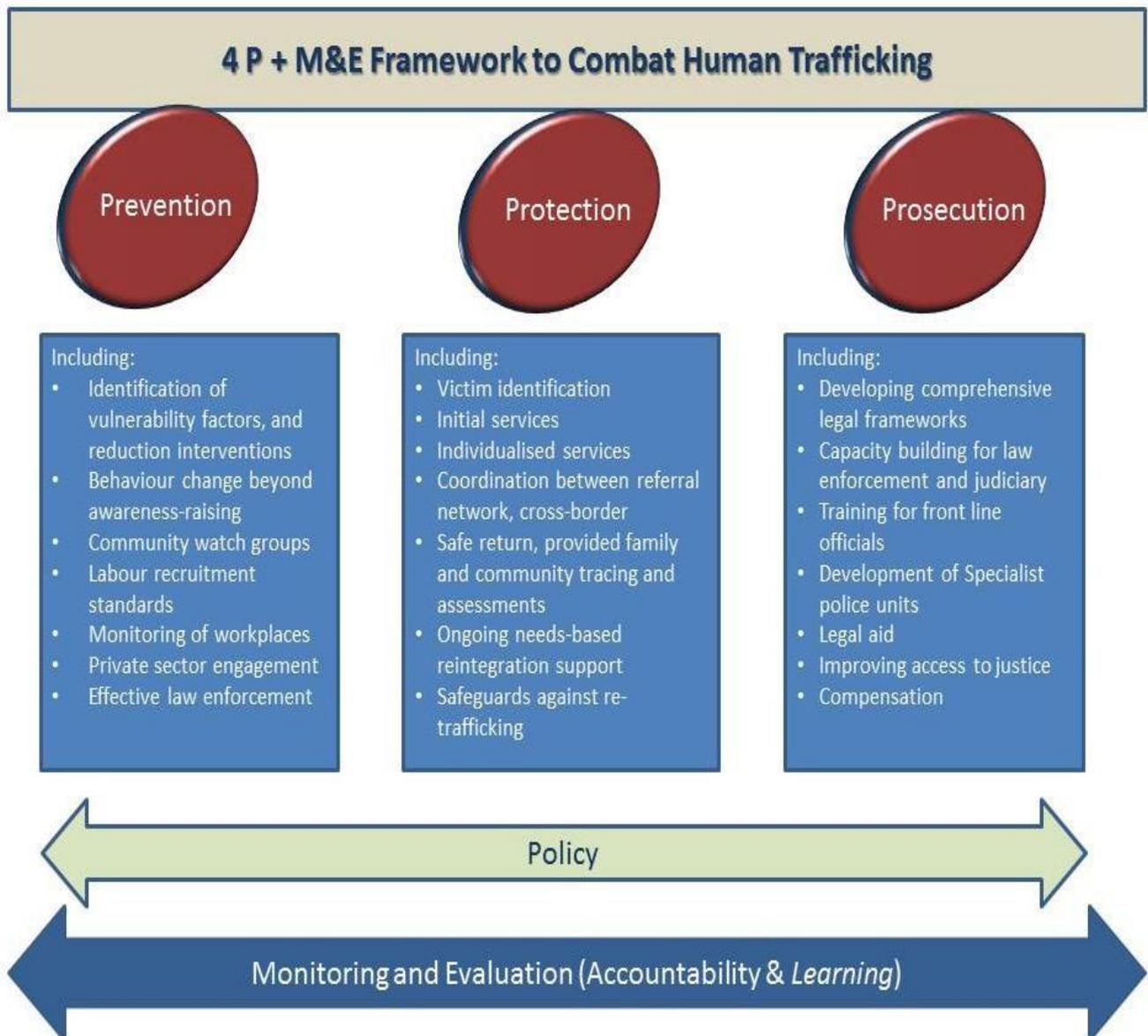
⁵³⁸ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵³⁹ UNIAP. (2014), *op. cit.*

measures; and development of mechanisms going forward to implement and monitor activities under the signed MoU (See Figure 4.2).⁵⁴⁰

FIGURE 4.2

COMMIT FOCUS AREAS



Source: UNIAP⁵⁴¹

⁵⁴⁰ UNIAP. (2014), *op. cit.*

⁵⁴¹ UNIAP. (2014), *op. cit.*

The objectives of the COMMIT Process are to:

1. Promote and strengthen systems and arrangements of inter-country and regional cooperation against human trafficking;
2. Establish a holistic regional response, covering all aspects of the human trafficking problem and ensuring that concern for the victim is at the center of all interventions;
3. Identify and adapt successful models in one country to be shared with others as appropriate; and
4. Enhance national capacities to address human trafficking in order to facilitate each country's engagement at the sub-regional level, building on existing strengths in each country.⁵⁴²

Thus, to operationalize the MoU along identified regional priorities, the COMMIT governments developed Sub-Regional Plans of Action (SPAs). Three such SPAs have been developed and implemented since the establishment of COMMIT in 2004, i.e. SPAI (2005-2007), SPAII (2008-2010), SPAIII (2011-2013, extended to cover 2014) and SPAIV (2015-2018).⁵⁴³ These SPAs are translated into action at the national level through annual COMMIT work plans, which in most countries align to broader, multi-year National Plans of Action (NPAs) to combat trafficking.

4.5.2 Regional progress in the framework of COMMIT

According to the 2013 independent COMMIT evaluation, anti-trafficking work in the six COMMIT countries had made significant progress with significant inputs and support provided by the project.⁵⁴⁴ This is particularly noticeable in the area of policy. By 2013, Cambodia, Burma, Thailand, and Viet Nam had comprehensive anti-trafficking laws with provisions to protect victims.⁵⁴⁵ Specific progress also includes the development of NPAs in all six countries, the establishment of comprehensive regional and national training programs, and the development of bilateral MoUs and standard operating procedures. In addition, at least four of the six GMS countries have now allocated funding to combat human trafficking.

⁵⁴² UNIAP. (2014), *op. cit.*

⁵⁴³ UNIAP. (2014), *op. cit.*

⁵⁴⁴ UNIAP. (2014), *op. cit.*

⁵⁴⁵ Strategic Information Response Network (SIREN) (2009), *op. cit.*

The amount that each of these governments has allocated has increased over the years; for example, in Burma the government budget more than doubled between 2008 and 2011.⁵⁴⁶

There has also been a significant increase in bilateral cross-border activities, perhaps most notably through the signing of bilateral MoUs that have served to further operationalize the regional COMMIT MoU.⁵⁴⁷ The focus of these bilateral MoUs has been to set up processes and mechanisms for the sharing of information, and to improve the planning of repatriation and reintegration policies and initiatives. The agreements and mechanisms are not ends in themselves and do not necessarily result in immediate achievement of a high standard of victim protection and cooperation in combating human trafficking. However, they do provide the basis for this cooperation to be grounded in standards and measurable steps to improving both the victim protection and law enforcement cooperation.⁵⁴⁸ The COMMIT Process has also proven to be an effective platform for launching regional training programs that can be replicated at the national level.

4.6 Trafficking Responses at the National Level

Informal migration and trafficking from Burma was an issue identified by the government through the 1990s and early 2000s. In 2004, the central Anti-Trafficking Unit (ATU) was created and an Anti-Trafficking in Persons Law was enacted in 2005.⁵⁴⁹ Enshrined in Burma's Anti-Trafficking in Persons Law under Section 3(a) human trafficking is defined as,

... the recruitment, transportation, transfer, harbouring or receipt of persons after committing any of the following acts for the purpose of exploitation of a person with or without her consent: threat, use of force or other form of coercion; abduction; fraud; deception; abuse of power or position taking advantage of the vulnerability of a person; giving or receiving of money or benefit to obtain the consent of the person having control over another person. Section 3(a)(1) of the Anti-Trafficking Law defines exploitation as including: receipt or agreement for receipt of money or benefit for the prostitution of one person by another; other forms of sexual exploitation; forced labour; forced

⁵⁴⁶ UNIAP. (2014), *op. cit.*

⁵⁴⁷ UNIAP. (2014), *op. cit.*

⁵⁴⁸ UNIAP. (2014), *op. cit.*

⁵⁴⁹ Strategic Information Response Network (SIREN) (2009), *op. cit.*

*service; slavery; servitude; debt-bondage; or the removal and sale of organs from the body,*⁵⁵⁰

Through developments over the years, various forms of trafficking have become recognized in Burma beyond sexual exploitation, including forced marriage, and labour outcomes such as trafficking into domestic work, fishing boats, factories, plantations, and begging, including to internal destinations.⁵⁵¹ Safe migration is now accepted as a key prevention strategy and preventing migration is therefore no longer considered as an indicator of successful anti-trafficking work. A regulation penalizing those who returned after irregular migration has been revoked and support provided to both regular and irregular migrant workers has increased, with issuance of passports and nationality verification.⁵⁵² Migration management and migrant protection policies have been put into place, with dialogues convened to further determine ways to make migration safer and formal channels cheaper and more accessible.⁵⁵³

4.6.1 The 4P's: Policy, Prevention, Protection and Prosecution

4.6.1.1 Policy

By the start of 2007, there was significant recognition and attention given to the trafficking problem, but the focus remained on sex trafficking, with very little attention paid to labour or internal trafficking, or the trafficking of men.⁵⁵⁴ At the time, a key means to preventing cross-border trafficking was seen to be preventing irregular migration, with fines imposed on those found to have migrated in this way.⁵⁵⁵ In 2007, Burma's first 5-year NPA to Combat Human Trafficking was brought into effect under the Central Body for Suppression of Trafficking in Persons (CBTIP).⁵⁵⁶ This saw the development of the ATU's network of Anti-Trafficking Task Forces (ATTFs) across the country to respond to trafficking and significant progress in anti-trafficking efforts, with monitoring of trafficking cases and reporting on trends.⁵⁵⁷ Burma implemented the activities under the NPA and then also developed the Second NPA (2012-

⁵⁵⁰ UNIAP, (2010), Human Trafficking: Country Data Sheets, United Nations Inter-Agency Project on Human Trafficking.

⁵⁵¹ UNIAP. (2014), *op. cit.*

⁵⁵² Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁵³ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁵⁴ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁵⁵ UNIAP. (2014), *op. cit.*

⁵⁵⁶ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁵⁷ Strategic Information Response Network (SIREN) (2009), *op. cit.*

16).⁵⁵⁸ In 2013, a re-structuring of efforts saw the creation of Anti-Trafficking in Persons Division (ATIP, under CBTIP) with an expanded mandate beyond the ATU and increased resources.⁵⁵⁹

Moreover, bilateral agreements with other countries both within and outside the region have been signed to strengthen cooperation. Cross-border enforcement cooperation with China which is enhanced through BLOs was established and supported by the Asia Regional Trafficking in Persons Project (ARTIP), the United Nations Inter-Agency Project on Human Trafficking (UNIAP), the United Nations Children’s Fund (UNICEF), and the United Nations Office on Drugs and Crime (UNODC).⁵⁶⁰ In 2009, Burma established two BLOs at Muse and Loiye, on the Burma-China border in Northern Shan State and Southern Kachin State, respectively.⁵⁶¹ Burma has also signed Memorandum of Understanding’s with neighbouring countries including: a Memorandum of Understanding on Cooperation in the Employment of Workers with Thailand (2003); Memorandum of Understanding between the Union of Burma and Thailand on Cooperation to Combat Trafficking in Persons (2008); Memorandum of Understanding between The Union of Burma and China on Cooperation to Combat Trafficking in persons (2009).⁵⁶² In addition, Border Cooperation on Anti-Trafficking in Persons (BCATIP) mechanism with Thailand has been established to support coordination in cross-border cases, with support from United Nations Inter-Agency Programme.⁵⁶³

4.6.1.2 Prevention

The Government of Burma has continued with its efforts to prevent human trafficking. The Central Body for Suppression of Trafficking In Persons (CBTIP), comprising representatives from 26 agencies and some civil society members, continued to coordinate the government’s anti-trafficking programs and policies, in line with the five-year national action plan to combat human trafficking.⁵⁶⁴ The government implemented aspects of its UN-backed action plan on the identification, release, and rehabilitation of children in the Burmese army, and in

⁵⁵⁸ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁵⁹ TIP Report (2014), *op. cit.*

⁵⁶⁰ UNIAP. (2014), *op. cit.*

⁵⁶¹ TIP Report (2014), *op. cit.*

⁵⁶² UNIAP, (2010), *op. cit.*

⁵⁶³ UNIAP. (2014), *op. cit.*

⁵⁶⁴ TIP Report (2014), *op. cit.*

March 2014, it officially extended the plan, which had expired in December 2013.⁵⁶⁵ Moreover, key awareness raising efforts are conducted both within Burma and abroad by the Central Body for Suppression of Trafficking in Persons, the Ministry of Education, the Ministry of Hotels and Tourism, Ministry of Labour, Department of Social Welfare, Department of Immigration and National Registration, township anti-trafficking in persons committees, Myanmar Women's Affairs Federation, Myanmar Maternal and Child Welfare Associations, and international and local NGOs.⁵⁶⁶ The government and the UN jointly continue to develop and implement public awareness campaigns utilizing billboards, radio, television, and print media aimed at preventing the recruitment of children into the military.⁵⁶⁷

Moreover, various trainings have been conducted by CBTIP to create awareness on human trafficking. For instance, in September and October 2013, the CBTIP conducted training sessions for 700 members of the country's community-based anti-trafficking watch groups in targeted areas where trafficking is known to be prevalent, and more than 3,000 public officials were trained on human trafficking during the year.⁵⁶⁸ In addition, the CBTIP held public awareness events and campaigns in 76 towns throughout the country, and state and regional anti-trafficking committees held more than 3,500 additional awareness events.⁵⁶⁹ The Ministry of Labour has also continued efforts to prevent forced labour of Burmese citizens at home and abroad, as a result, together with Thai officials, it operated five temporary passport-issuing centers in Thailand, staffed by Burmese labour ministry personnel.⁵⁷⁰

A few measures, especially indirect ones regarding the fight against trafficking, have been developed by the government sector, and to a lesser extent in cooperation with international NGOs. Education and vocational training initiatives have been developed for young women and girls – in border areas by the Ministry for Progress of Border Areas and National Races and Development Affairs and for vulnerable, destitute and handicapped women by Department of Social Welfare.⁵⁷¹ The Ministry of Information is involved in the dissemination of news and information, and thus plays a more active role in awareness-

⁵⁶⁵ TIP Report (2014), *op. cit.*

⁵⁶⁶ Derks, A. (2000), *op. cit.*

⁵⁶⁷ Derks, A. (2000), *op. cit.*

⁵⁶⁸ TIP Report (2014), *op. cit.*

⁵⁶⁹ TIP Report (2014), *op. cit.*

⁵⁷⁰ TIP Report (2014), *op. cit.*

⁵⁷¹ Derks, A. (2000), *op. cit.*

raising.⁵⁷² The Ministry of Health is undertaking HIV interventions with special focus on border areas, using and training Community Development Volunteers to disseminate information on HIV/AIDS and the National AIDS Programme has established care and counseling services.⁵⁷³

Local organisations have also been significantly involved in preventative activities, such as formal education, vocational training, and credit provision.⁵⁷⁴ Though these efforts may indirectly aim to help prevent trafficking, little is known about their scope and effectiveness. In addition, there are some UN agencies operating in Burma, although several international organizations, agencies and NGOs have refrained from opening offices in Burma, also out of fear of giving legitimacy to the Burmese military government.⁵⁷⁵ UNDP is the most influential UN agency, with programmes on poverty alleviation, natural resource development as well as HIV education and prevention projects.⁵⁷⁶ Furthermore, a small number of international NGOs are working directly or indirectly on the issue of trafficking in Burma. Among these NGOs are the Save the Children Fund UK which has developed awareness-raising activities, HIV/AIDS and other child-focused projects, and World Vision International with various projects on HIV/AIDS, children in especially difficult circumstances, education, micro-enterprise and community development.⁵⁷⁷

4.6.1.3 Protection and Reintegration

The Burmese government has continued modest efforts to provide temporary shelter and facilitate safe passage to Burmese victims repatriated from abroad. Nevertheless, few initiatives have been taken for the protection and reintegration of victims of trafficking, thus, some organizations and researchers have expressed their concern regarding the treatment of returned women.⁵⁷⁸ The government has, however, established some mechanisms, which serve the reintegration of trafficked victims, particularly women and children.⁵⁷⁹ The Department of Social Welfare has established vocational training schools for girls and

⁵⁷² Derks, A. (2000), *op. cit.*

⁵⁷³ TIP Report (2014), *op. cit.*

⁵⁷⁴ Derks, A. (2000), *op. cit.*

⁵⁷⁵ Derks, A. (2000), *op. cit.*

⁵⁷⁶ Derks, A. (2000), *op. cit.*

⁵⁷⁷ Derks, A. (2000), *op. cit.*

⁵⁷⁸ Asia Watch/Women's Rights Project, (1993) *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand*, Human Rights Watch, New York.

⁵⁷⁹ Derks, A. (2000), *op. cit.*

women, and Women's Homes with the goal of giving social, intellectual and physical support to, amongst others, former prostitutes for eventual reintegration into society.⁵⁸⁰ Moreover, local and international organizations have played a big role and are engaged in more direct prevention and rehabilitation programmes for young women and children at risk. Several NGOs in Thailand have also made efforts to address the issue of trafficking and assist Burmese women and children, including advocacy, temporary shelter, health care and counseling.⁵⁸¹ In addition, policies and procedures for victim identification have been established, for instance the Female staff of the Anti-Trafficking Taskforce (ATTF) which is the main body responsible for victim identification in Burma.⁵⁸² Criteria for victim identification are established by the CBSTP and outlined in a victim ID handbook.⁵⁸³

Furthermore, temporary shelters were developed for victims of trafficking in the areas between the Thai and Burma border, in Myawaddy, Kawthoung and Muse between the China and Burma border.⁵⁸⁴ After victims are identified, they are placed there for three days then moved to secure shelters.⁵⁸⁵ The victims remain in these shelters for 14 days to receive health care and counselling services before being repatriated to their families.⁵⁸⁶ In addition, post-harm assistance is provided to victims who are returned to Burma. Such victims are provided with assistance from the Burma Police Force, the Ministry of Home Affairs (MoHA), and the Department of Social Welfare (DSW) in collaboration with UN agencies and projects, INGOs and local NGOs.⁵⁸⁷ The DSW provides a 14-day rehabilitation programme for most returned victims and facilitates return to their families. Temporary shelter for repatriated trafficking victims is provided at eight vocational training centers.⁵⁸⁸

For victims returning from China, repatriation is organised by the Ministry of Public Security (MPS) and the Ministry of Home Affairs (MoHA) through Border Liaison Offices (BLOs).⁵⁸⁹ This occurs within a month of the victim's identification. For victims returning from Thailand, after an initial interview, a case report is sent to Burma's Department of Social Welfare and the Department of Immigration and National Registration conducts the

⁵⁸⁰ Derks, A. (2000), *op. cit.*

⁵⁸¹ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁸² Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁸³ Derks, A. (2000), *op. cit.*

⁵⁸⁴ Derks, A. (2000), *op. cit.*

⁵⁸⁵ Derks, A. (2000), *op. cit.*

⁵⁸⁶ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁸⁷ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁸⁸ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁸⁹ Derks, A. (2000), *op. cit.*

nationality confirmation process.⁵⁹⁰ Upon confirmation of nationality, the repatriation process is coordinated between Thailand's Department of Social Development and Welfare (DSDW) and Burma's DSW.⁵⁹¹ For victims returning from countries other than China and Thailand, foreign missions facilitate the nationality confirmation and repatriation process with relevant departments and organisations.⁵⁹²

4.6.1.4 Prosecution

Relevant laws have been established by the government to address human trafficking in Burma. The Government of Burma continued law enforcement efforts to address cross-border sex trafficking, but it did not make progress in holding significant numbers of traffickers, including public officials, criminally accountable for trafficking within the country.⁵⁹³ Burma prohibits sex and labour trafficking through its 2005 Anti-Trafficking in Persons Law, which prescribes criminal penalties that are sufficiently stringent and proportionate with those prescribed for rape.⁵⁹⁴ Forced labour, including the recruitment of children into the army, is a criminal offense under both the new Wards and Village Tracts Administration Act passed in March 2012, and Penal Code Section 374.⁵⁹⁵

The specialist units for prosecution in Burma include the Anti-Trafficking Unit at the central level and the Anti-Trafficking Taskforce at the provincial level.⁵⁹⁶ The human resources for prosecution include members of the Burma Police Force, prosecutors and judges.⁵⁹⁷ In 2010, the government established special courts dedicated to hearing trafficking cases.⁵⁹⁸ Moreover, the Government of Burma reported investigating 100 cases of trafficking, and prosecuting and convicting 183 offenders in 2013, compared with 120 investigations and 215 prosecutions and convictions in 2012.⁵⁹⁹ As in previous years, the government's law enforcement efforts continue to focus primarily on sex trafficking or forced service of Burmese women through forced marriages to Chinese men, with the majority of cases pursued by the ATTF.

⁵⁹⁰ Derks, A. (2000), *op. cit.*

⁵⁹¹ Derks, A. (2000), *op. cit.*

⁵⁹² Derks, A. (2000), *op. cit.*

⁵⁹³ TIP Report (2014), *op. cit.*

⁵⁹⁴ TIP Report (2014), *op. cit.*

⁵⁹⁵ TIP Report (2014), *op. cit.*

⁵⁹⁶ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁹⁷ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁹⁸ Strategic Information Response Network (SIREN) (2009), *op. cit.*

⁵⁹⁹ TIP Report (2014), *op. cit.*

4.6.2 Challenges and Gaps

Despite the progress made, there remain significant challenges in Burma. The poor socio-economic and political environment continues to drive large scale migration, much of which is through informal channels, putting migrants at risk. Conflicts in some parts of the country have also created vulnerability to trafficking and limit further any potential for successful reintegration efforts for returned trafficked persons.⁶⁰⁰ In addition, research on patterns and causes of trafficking in Burma also need to be improved while authorities also require further training regarding what constitutes trafficking and how to cooperate to investigate and combat these crimes.⁶⁰¹ The influence of corruption in trafficking cases is a great cause for concern, and an issue that significantly hinders progressive initiatives in the country.⁶⁰²

Political reforms and the democratization process in Burma have re-engaged development partners and UN agencies, however substantial improvements are still required to raise the standard of anti-trafficking work in the country. Furthermore, the TIP report noted that “the power and influence of the Burmese military continued to limit the ability of civilian police and courts to address cases of forced labour and the forced recruitment of child soldiers by the armed forces”.⁶⁰³ Evidence of prosecution of soldiers accused of trafficking crimes is rarely provided and without assent from high ranking military officers, law enforcement officials generally are unable able to investigate or prosecute such cases.⁶⁰⁴ Moreover, there are no reports of investigations or prosecutions of military officials for extracting forced labour from civilians, although this practice continued to occur.⁶⁰⁵

In addition, at both the national and regional levels, the symbolic threats posed by migration to the state and its subjects often supersede the protection and enforcement of migrant workers’ rights, unless they have been trafficked for the purposes of sexual exploitation.⁶⁰⁶ Also, resources and efforts are often dedicated to keeping ‘undesirables’ out, or intercepting trafficked persons in transit and repatriating them as quickly as possible – making them the sending or transit state’s problem.⁶⁰⁷ Of note, trafficking victims who have been identified are

⁶⁰⁰ UNIAP. (2014), *op. cit.*

⁶⁰¹ TIP Report (2014), *op. cit.*

⁶⁰² UNIAP. (2014), *op. cit.*

⁶⁰³ TIP Report (2014), *op. cit.*, p. 116.

⁶⁰⁴ TIP Report (2014), *op. cit.*

⁶⁰⁵ TIP Report (2014), *op. cit.*

⁶⁰⁶ Emser, M (2013), *op. cit.*

⁶⁰⁷ Emser, M (2013), *op. cit.*

often repatriated to their country of origin. The prevailing rationale is often that victims want to be returned and reunited with their families and communities, however, it does not take into account that conditions in the home country or family or community might be the reason why the person chose to migrate in the first place, or that their families or communities were complicit in their trafficking experience.⁶⁰⁸

Significantly, the regional and national responses to the trafficking problem do not reflect nor take into consideration the influence of conflict on human trafficking. Little research has been conducted on the nexus between conflict and human trafficking, hence, is seldom addressed in anti-trafficking work and by counter-trafficking stakeholders, as well as trafficking policies. Additionally, often, the reception or management of people fleeing conflicts, whether by international organisations, States or Civil Society Organisations, essentially boils down to providing humanitarian aid to meet the basic needs of these populations such as food, medical care and shelter.⁶⁰⁹ Assistance and aid programmes do too little to address the exploitation or presence of vulnerable groups, such as children without a family or guardian, unaccompanied women or persecuted minorities. Responses to human trafficking in Burma overlook the influence of conflict in creating a set of unique vulnerability factors.

4.7 Chapter Summary

In the present chapter, the case study of the research was unpacked. The background and dynamics of the conflict was presented. Burma is a multi-ethnic country which has continued to suffer political instability through every political era since independence in 1948. In the process, countless lives have been lost, millions of citizens displaced and the country declined to become one of Asia's poorest. Meanwhile many borderlands have remained under the control of different ethnic nationality forces that have contested the authority of central governments, mostly military. Perceptions of discrimination and marginalization have consistently fueled conflict. The chapter also discussed the ways in which Burmese men, women and children are trafficked. Burma is a source country for men, women, and children exposed to forced labour, and for women and children exposed to sex trafficking in other countries. Finally, the chapter presented the current responses to human trafficking in Burma by reviewing the national and regional responses.

⁶⁰⁸ Emser, M (2013), *op. cit.*

⁶⁰⁹ Peyroux, O. (2015), Trafficking in Human Beings in Conflict and Post-Conflict Situations, *Caritas*, Progress Report.

In the next chapter, the key findings of the study will be presented and also provide the analysis of the same in order to give them meaning in line with the research questions and objectives of the study outlined in Chapter one. The nexus between conflict and human trafficking will be unpacked. This will illuminate the ways in which conflict creates unique sets of vulnerabilities which need to be taken into consideration in any discussion on human trafficking in conflict settings.

CHAPTER 5

RESEARCH RESULTS/ FINDINGS

5.0 Introduction

Conditions of vulnerability are rarely brought about by individual agency or choice. They are, instead, the results of policies as well as social and cultural practices that place individuals in circumstances where they feel that they have no choice but to submit to a harmful alternative. Moreover, these conditions contribute to an individual's vulnerability to many forms of exploitation, abuse and hardship, including human trafficking, although it is not possible to cite any single condition as being the sole determinant of vulnerability to any one form of abuse.⁶¹⁰ Conditions of vulnerability are systemic, entrenched within the social, economic and educational policies of nations. They are further fueled by racism and discrimination based on gender, ethnic and cultural considerations.

In this chapter, I will present the key findings of the study and also provide the analysis of the same in order to give them meaning in line with the research questions and objectives of the study outlined in Chapter one. This will illuminate the ways in which conflict creates unique sets of vulnerabilities which need to be taken into consideration in any discussion on human trafficking in conflict settings. This will in turn show how the human trafficking discourse in Burma closely reflects that of the international discourse. This has resulted in the creation of a dominant discourse, namely, trafficking for the purposes of sexual exploitation, at the detriment of other forms of trafficking. The influence of conflict on human trafficking is overlooked. Human trafficking needs to be conceptualised as a complex and multidimensional problem which cannot be reduced to a singular perspective or a partial view that fits a particular political or moral agenda or that, in practice, is based on exclusion.

⁶¹⁰ UNGIFT (2008), "An Introduction to Human Trafficking: Vulnerability, Impact and Action" Viena: UNODC.

5.1 The Nexus between Conflict and Human Trafficking

5.1.1 Vulnerability to Human Trafficking

The term “vulnerability” is used in various areas of economic development, social science, human security, crime prevention, environmental research, disaster relief, famine, contagious diseases and mental health. In each of these areas, frameworks are carefully developed that serve as road maps for early warning systems as well as carefully crafted countermeasures.⁶¹¹ The increased focus on vulnerability leads to measures that can be implemented before the occurrence of a potential danger, trauma or abuse, thereby lessening its human, economic and social consequences. Thus, an understanding of vulnerability can implicitly lead towards prevention. In relation to human trafficking, there is no broadly accepted definition of the term vulnerability. Some describe vulnerability as exposure to the possibility of being attacked or harmed, either physically or emotionally.⁶¹² In relation to human trafficking, in much of the literature on trafficking, the terms “vulnerable” and “poor” are often used synonymously, and poverty is frequently cited as a leading cause of trafficking.⁶¹³ However, Chambers argues that vulnerability is not the same as income-poverty or lack, but rather, it refers to exposure and defenselessness.⁶¹⁴ In general, vulnerability refers to the condition of a person in a specific context.⁶¹⁵ The term is also precisely understood where the term “vulnerable victim” is used to refer to “a victim who is unusually vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to criminal conduct”.⁶¹⁶ The concept of vulnerability is also used to enhance penalties in cases of trafficking.

In the Trafficking Protocol, the term vulnerability occurs three times. The first is in the preamble, which includes the paragraph: “Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected”.⁶¹⁷

⁶¹¹ UNGIFT (2008), “An Introduction to Human Trafficking: Vulnerability, Impact and Action” Viena: UNODC.

⁶¹² Pearsall, J and Hanks, P (eds.) (2001), New Oxford Dictionary of English, Oxford University Press.

⁶¹³ UNGIFT (2008), *op. cit.*

⁶¹⁴ Chambers, R (1995), “Poverty and livelihoods: whose reality counts?”, Environment and Urbanization, vol.7, No. 1.

⁶¹⁵ UNGIFT (2008), *op. cit.*

⁶¹⁶ Mattar, M., Y (2005) “Incorporating the five basic elements of a model anti-trafficking in person’s legislation in domestic laws: from the United Nations Protocol to the European Convention”, Tulane Journal of International and Comparative Law, vol. 14, No. 2 (2005).

⁶¹⁷ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000, supplementing the United Nations Convention Against Transnational Organized Crime.

The second mention of the term occurs in the definition of “trafficking” (art. 3, subpara. (a)): “‘Trafficking in persons’ shall mean the recruitment, transportation, 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 for another person, for the purpose of exploitation.”⁶¹⁸ The last reference (art. 9, para. 4) mentions that: “States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking.”⁶¹⁹ Based on the above, it is indicated that the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the victims have no real and acceptable alternative but to submit to the abuse involved. Thus, vulnerability refers to “a condition resulting from how individuals negatively experience the complex interaction of social, cultural, economic, political and environmental factors that create the context for their communities”.⁶²⁰ As such, vulnerability is not a static, absolute state, but one that changes according to context as well as to the capacity for individual response.

In addition, there is lack of agreement on the conditions that lead to vulnerability to human trafficking. Further research is necessary in this regard in order to expand on these definitions and to highlight factors that are specific to different geographical regions, ethnic groups and political situations.⁶²¹ Conflict, for example, creates a unique set of vulnerability factors that must be addressed in any discussion on the prevention of human trafficking. Moreover, when looking at conditions of vulnerability, the foregoing discussion becomes relevant in the identification of broad conditions of vulnerability in order to establish pointers that take into account multiple social, cultural, political and economic contexts.

In conflict situations, women and girls are particularly vulnerable to the consequences of political instability and armed conflict.⁶²² The disruption of traditional community life, along with its protective framework, and the resulting displacement make them extremely vulnerable to exploitation, including abuse of power by relief workers, limited access to

⁶¹⁸ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000, supplementing the United Nations Convention Against Transnational Organized Crime.

⁶¹⁹ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000, supplementing the United Nations Convention Against Transnational Organized Crime.

⁶²⁰ UNGIFT (2008), “An Introduction to Human Trafficking: Vulnerability, Impact and Action” Viena: UNODC.

⁶²¹ UNGIFT (2008), *op. cit.*

⁶²² UNGIFT (2008), *op. cit.*

resources and sexual assault.⁶²³ Moreover, forced migration induced by conflict exacerbates existing vulnerabilities and creates new conditions under which individuals are made vulnerable to exploitation and trafficking.⁶²⁴ Refugees, internally displaced persons and asylum seekers, who find themselves in highly volatile situations and without traditional protection mechanisms, are extremely vulnerable. Of note, conflict often aggravates the existing marginalization and discrimination of minority groups. These minority groups find themselves in desperate situations and represent a pool of potential victims of human trafficking. Therefore, understanding the vulnerability aspect of human trafficking in conflict situations is an area that should be at the forefront of research and anti-trafficking work.

5.1.2 Conditions that fuel Vulnerability to Human Trafficking

5.1.2.1 Children

In the context of human trafficking, adults and children are often provided with equal treatment and services.⁶²⁵ However, children are uniquely vulnerable in ways that differ from the vulnerability of adults. They are vulnerable to the demands and expectations of those in authority, including their parents, extended family and teachers.⁶²⁶ Physically, they are not able to protect themselves. They are usually unaware of any laws that may exist to protect them and they are unable to negotiate fair treatment for themselves. Moreover, when rescued from a trafficking situation, children are not always able to articulate the nature of their experiences in a way that corresponds to protocols used to identify adult victims of trafficking.⁶²⁷ They are also physically vulnerable in harsh conditions such as conflict and natural disasters.

5.1.2.2 Gender

Women are vulnerable to trafficking as they are often excluded from mainstream economic and social systems, such as employment, higher education, and legal as well as political

⁶²³ United Nations Interim Administration Mission in Kosovo regulation 2001/4 on the prohibition of trafficking in persons in Kosovo of 12 January 2001, section 4, entitled “Using or procuring sexual services of person, in a situation of sexual exploitation” (see <http://www.unmikonline.org/regulations/2001/reg04-01.html>).

⁶²⁴ United Nations Interim Administration Mission in Kosovo regulation 2001/4, *op. cit.*

⁶²⁵ United Nations Interim Administration Mission in Kosovo regulation 2001/4, *op. cit.*

⁶²⁶ UNGIFT (2008), *op. cit.*

⁶²⁷ UNGIFT (2008), *op. cit.*

parity.⁶²⁸ Women and girls are often the ‘hidden’ victims of war and conflict, and this vulnerability extends to their status as displaced persons or refugees. It is also arguably exacerbated by their “relatively unequal” and secondary status in the family and society more generally.⁶²⁹ Women are vulnerable to rape, domestic violence, harmful traditional practices, trafficking and lack of or limited access to resources. Many of these gender-based conditions of vulnerability are linked to political, economic, social and cultural conditions.⁶³⁰

5.1.2.3 Poverty

“Poverty” is a complex term that refers to numerous negative conditions, including a lack of food and productive resources; hunger and malnutrition; ill health; limited or no access to education and other basic services; increasing mortality and morbidity from illness; homelessness and inadequate housing; unsafe environments; social discrimination and exclusion; and lack of participation in the decision-making process.⁶³¹ Poverty is created by policies and preserved through structures that reinforce these same policies.⁶³² In relation to trafficking, poverty is one of the factors that cause people to migrate to look for better opportunities.

In addition, the effects of globalization have also introduced new variables into traditional discussions of poverty. The result of structural adjustments and political decisions that have destabilized the economies of these emerging States often plunge entire sectors of the population into situations that in fact constitute a new form of poverty.⁶³³ This form of crisis-driven poverty has contributed to a feeling of hopelessness and despair among many of the population who find themselves suddenly without any traditional social protection mechanisms to assist their families.⁶³⁴ This becomes the motivation behind many young women seeking employment outside their countries of origin, leading to extreme forms of exploitation, abuse and trafficking.

⁶²⁸ UNGIFT (2008), *op. cit.*

⁶²⁹ UNGIFT (2008), *op. cit.*

⁶³⁰ Women’s Commission for Refugee Women and Children, (2009), *Displaced Women and Girls at Risk: Risk Factors, Protection Solutions and Resource Tools*, *Women’s Commission for Refugee Women and Children*.

⁶³¹ UNGIFT (2008), *op. cit.*

⁶³² Yunus, M. and Jolis, A. (2003), *Banker to the Poor: Micro-Lending and the Battle against World Poverty*, New York, Public Affairs.

⁶³³ Dudwick, N and others, (2003) (eds.), *When Things Fall Apart: Qualitative Studies of Poverty in the Former Soviet Union*, Washington, D.C., World Bank.

⁶³⁴ UNGIFT (2008), *op. cit.*

5.1.2.4 Social Exclusion

In every country, certain groups benefit from privileges and access to resources and political power that often inure them to the potential hazards of economic downturns, political instability or natural disasters.⁶³⁵ Those who fall under the marginalised category suffer discrimination in education, employment, access to social services, including health care, access to resources, especially in times of crisis, and lack of a political voice.⁶³⁶ Socially excluded groups are cultural subgroups who are marginalized according to complex factors, including ethnic, linguistic and religious differences, low social status and involuntary minority status.⁶³⁷ Social exclusion prevents groups from receiving benefits and protections that are intended for all citizens. Their economic mobility is usually affected and they are excluded from mainstream activities such as education and employment.⁶³⁸ Social exclusion can be the result of state policies as well as ingrained cultural traditions and practices.

Social exclusion is particularly important when discussing revictimisation and re-trafficking. Trafficked persons face considerable obstacles upon their return home, including attitudes and biases of their own communities. Young women trafficked for purposes of sexual exploitation may encounter discrimination based on their involvement in prostitution.⁶³⁹

5.1.2.5 Movement

Movement under duress exacerbates existing vulnerabilities and creates new conditions under which individuals are made vulnerable to exploitation and trafficking. Refugees, internally displaced persons and asylum seekers, who find themselves in highly volatile situations and without traditional protection mechanisms, are extremely vulnerable. In the unnatural and often violent conditions pertaining in camps and asylum centers for refugees and internally displaced persons, the need for individuals to obtain or provide food and other necessities for dependents is constant and is often exploited.⁶⁴⁰ Consequently, women and children, in

⁶³⁵ UNGIFT (2008), *op. cit.*

⁶³⁶ UNGIFT (2008), *op. cit.*

⁶³⁷ UNGIFT (2008), *op. cit.*

⁶³⁸ Maureen A. Lewis and Marlaine E. Lockheed, "Social exclusion: the emerging challenge in girls' education", *Exclusion, Gender and Education: Case Studies from the Developing World*, Maureen A. Lewis and Marlaine E. Lockheed, eds. (Washington, D.C., Center for Global Development, 2007)

⁶³⁹ UNGIFT (2008), *op. cit.*

⁶⁴⁰ UNGIFT (2008), *op. cit.*

particular, find themselves in situations where they must exchange sexual services for food or other survival-related necessities.⁶⁴¹

5.1.2.6 Demand

The conditions listed above are found primarily in countries or regions of origin. A discussion of vulnerability is not complete, however, without a recognition that trafficking is driven in large part by the profits made by various actors along the trafficking chain resulting from the exploitation of men, women and children. Such profits are realised because of the unabated demand for cheap labour and services, usually in construction, seasonal agriculture work, the garment and hospitality sectors, domestic service and the commercial sex trade.⁶⁴² Demand provides the incentive to recruiters, who capitalize on misery, despair and desperation. Once an individual is transported to the site of exploitation, that person becomes vulnerable in ways different from those in their countries of origin. Lack of familiarity with the local language and culture, isolation, fear of reprisal and mistrust of local authorities all contribute to sustaining an ongoing exploitative relationship with traffickers.⁶⁴³

5.1.2.7 Political Instability and War

Women and girls are particularly vulnerable to the consequences of political instability and armed conflict. The disruption of traditional community life, along with its protective framework, and the resulting displacement make them extremely vulnerable to exploitation, including abuse of power by relief workers, limited access to resources and sexual assault.⁶⁴⁴ During conflict, all these above mentioned vulnerabilities are aggravated.

5.2 Vulnerability Factors in Conflict Situations

5.2.1 Gender Issues in conflict situations

Sexual violence against women is used as a common tactic of warfare in armed conflict. Ward and Marsh note that systematic and pervasive acts of rape and sexual violence

⁶⁴¹ UNGIFT (2008), *op. cit.*

⁶⁴² International Labour Office, (2005) A Global Alliance against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Geneva, International Labour Office.

⁶⁴³ UNGIFT (2008), *op. cit.*

⁶⁴⁴ Women's Commission for Refugee Women and Children, (2009), *op. cit.*

committed against women during conflicts are reported in most countries experiencing conflict, explaining that such atrocities are generally committed by the thousands, if not the hundreds of thousands, and are facilitated by the circumstances surrounding internal displacement.⁶⁴⁵ These authors argue that, “the nature of warfare is changing, in ways that increasingly endanger women and girls”.⁶⁴⁶ Additionally, as Vlachova and BIASON note, the World Health Organisation estimates that globally one woman in five will be the victim of rape or attempted rape in her lifetime.⁶⁴⁷

According to Soziale, wars rely on and reinforce hierarchical notions of masculinity and femininity.⁶⁴⁸ Militarism and warfare produce exaggerated notions of masculinity, in particular the image of the strong, fearless, powerful soldier with the mission to conquer foreign territories.⁶⁴⁹ Femininity on the other hand is associated with weakness and fear. These ideologies are often internalized by soldiers and they offer an identity for male soldiers.⁶⁵⁰ Sexual dominance over or even exploitation of women structurally belongs to the creation of such a masculine soldierly identity.⁶⁵¹ Moreover, women and men are targeted differently as victims during conflict.⁶⁵² Majority of today’s wars are intrastate, involving governmental and non-governmental military forces and militias. Civilians are increasingly purposefully targeted by all forces. While men are either killed or forcibly recruited to become soldiers, women generally become victims of various forms of sexual violence, which is often deliberately employed as a war strategy.

In addition, armed conflicts exacerbate gender hierarchies.⁶⁵³ Today’s wars are increasingly protracted if not initiated by actors who thrive on and create war economies, relying on extralegal and violent activities, such as trafficking and slavery. This creates high levels of

⁶⁴⁵ Ward, J. & Marsh. M. (2006). Sexual violence against women and girls in war and its aftermath: Realities, responses, and required resources. United Nations Population Fund (UNFPA). Available from: <<https://www.unfpa.org/emergencies/symposium06/docs/finalbrusselsbriefingpaper.pdf>>, Accessed 15 October 2015.

⁶⁴⁶ Ward, J. & Marsh. M. (2006), *op. cit.*, p. 3.

⁶⁴⁷ Vlachova, M. & BIASON, L. (Eds.). (2005). Women in an insecure world: Violence against women: Facts, figures and analysis. Geneva Center for the Democratic Control of Armed Forces. Retrieved from: <http://www.unicef.org/emerg/files/women_insecure_world.pdf>, Accessed 15 October, 2015.

⁶⁴⁸ Eifler, C. and Seifert, R. (eds.) (1999): *Soziale K, – Militär und Geschlechterverhältnis*, Münster: Westfälisches Dampfboot.

⁶⁴⁹ Wölte S (2004), *op. cit.*

⁶⁵⁰ Wölte S (2004), *op. cit.*

⁶⁵¹ Enloe, C. (2000): *Maneuvers. The International Politics of Militarizing Women’s Lives*, Berkley, Los Angeles, London: University of California Press.

⁶⁵² UNIFEM (2002): Women, War and Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building, UNIFEM.

⁶⁵³ Wölte S (2004), *op. cit.*

poverty, destruction and displacement, from which in particular women and children suffer. Trafficking of women during conflict is based on similar factors and conditions that characterise trafficking in general. However, armed conflicts cause an amplification of these factors and conditions and they also lead to specific forms of conflict-related trafficking.⁶⁵⁴

Trafficking in women is based on gender-based discrimination and violence which are exacerbated during and after conflict, often as part of deliberate military policies.⁶⁵⁵ Conflict and post-conflict situations may develop particular war related demand structures for women's sexual, economic and military exploitation. Thus, trafficking in women and girls may become an important element for war economies and for the economic profit of war actors. Sexual and labour exploitation and abuse is also often part of military politics. To emphasise, Wolte notes that apart from being sexual slaves, abducted women and girls in camps are often forced to do domestic work, collect firewood or cultivate crops.⁶⁵⁶ They are also used to perform war-related work such as demining contaminated areas. Besides the domestic work, they are forced to help raiding rebels carry heavy ammunition, loot, supplies and messages between work gangs or among fighters.⁶⁵⁷

According to Kamler, impunity of gender related war crimes during and after wars due to the war chaos and to the low prioritization of women's human rights protection are trafficking enabling conditions.⁶⁵⁸ At the same time, economic, social and political destruction, the loss of livelihood sources and the personal experience of war traumata lead to a high vulnerability of women to being exploited and trafficked during conflict. Trafficking and sexual slavery are inextricably linked to conflict.⁶⁵⁹ The concrete forms of trafficking in women during conflict may vary according to the conflict region, the specific economic and political context and the military and civil actors involved. However, what is common is the extreme vulnerability of women and girls living in war territories to being trafficked, in particular when the general level of violence against women is high.⁶⁶⁰

⁶⁵⁴ Wölte S (2004), *Armed Conflict and Trafficking in Women Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) Germany: GmbH Postfach.*

⁶⁵⁵ Wölte S (2004), *op. cit.*

⁶⁵⁶ Wölte S (2004), *op. cit.*

⁶⁵⁷ Human Rights Watch (2002): *The War within the War, Sexual Violence Against Women and Girls in Eastern Congo*, New York/Washington/London/Brussels: Human Rights Watch, pp. 61-62.

⁶⁵⁸ Kamler, E (Forthcoming), *op. cit.*

⁶⁵⁹ UNIFEM Women Peace & Security portal: www.womenwarpeace.org with gendered analysis of countries, wars and se.

⁶⁶⁰ Wölte S (2004), *op. cit.*

Forcibly displaced women and children are particularly in danger to being trafficked. During armed conflict, cross border trafficking of women is prevalent, yet data on this phenomenon is very limited.⁶⁶¹ War-torn countries may in particular be areas of origin and transit for trafficking. Impunity, lawlessness, dysfunctional state institutions and border controls as well as the generally high level of violence during wars are highly conducive factors to the trafficking of women and girls through and from war zones.⁶⁶² In addition, the destruction of communities and economic means of subsistence during war often forces women to find alternative income in order to secure family survival.⁶⁶³ In need of economic perspectives women may decide to migrate abroad. In this situation, women are highly vulnerable to being trafficked. When not directly abducted, women may be deceived or forced into prostitution and other forms of enslavement.⁶⁶⁴

In order to analyze the connection between trafficking and conflict, the study draws on gender relations in Burma. Systematic and pervasive acts of rape and sexual violence have been committed against women throughout the conflict in Burma.⁶⁶⁵ In line with this, research conducted by the Kachin Women's Association of Thailand (2013), policy reports commissioned by the Netherlands Government (2005), and the UN Secretary General's recent call for Investigation into Sexual Violence in Burma (2014) have suggested that gender plays a crucial role in the ongoing fighting between the Burmese army and the insurgencies.⁶⁶⁶ Far from being removed from this conflict, women are caught in the crossfire of the conflict.

The Women's League of Burma's 2014 report discussing sexual abuses committed against ethnic minority women by the Burmese Army notes that most cases are linked to the military offensives in Kachin and Northern Shan States since 2011.⁶⁶⁷ In 2013, the Kachin Women's Association Thailand documented 59 women have been victims of acts of sexual violence committed by Burmese soldiers.⁶⁶⁸ The Shan Women's Action Network (SWAN) reported 30

⁶⁶¹ Wölte S (2004), *op. cit.*

⁶⁶² Wölte S (2004), *op. cit.*

⁶⁶³ Ward, J & Marsh, M (2006), *op. cit.*

⁶⁶⁴ Wölte S (2004), *op. cit.*

⁶⁶⁵ Ward, J & Marsh, M (2006), Sexual violence against women and girls in war and its aftermath:

Realities, responses, and required resources. United Nations Population Fund (UNFPA).

Retrieved from <https://www.unfpa.org/emergencies/symposium06/docs/finalbrusselsbriefingpaper.pdf>.

⁶⁶⁶ Kamler, E (Forthcoming), *op. cit.*

⁶⁶⁷ Kamler, E (Forthcoming), *op. cit.*

⁶⁶⁸ Kachin Women's Association of Thailand. (2013). Pushed to the brink: Conflict and trafficking on the Kachin-China border. Retrieved from:

<http://kachinwomen.com/images/stories/publication/pushed_to_the_brink.pdf>.

cases of sexual violence involving 35 women and girls in the Shan state in the past three years.⁶⁶⁹ The report argued that these circumstances represent a structural pattern in which rape is used by the Burmese military as a tactic of warfare against ethnic minorities.

The findings from different studies conducted in Burma suggest that several factors driven by the conflict influence the processes by which women are trafficked into China as forced brides.⁶⁷⁰ Crippling conditions on the ground and the prevalence of gender discrimination within the society fuels the problem of trafficking. These factors, which are obfuscated in much writing on the conflict in Burma in fact illuminate the workings of the conflict in important ways. By drawing on women's experiences, we see how the armed conflict is being supported by gendered social processes that remain un-addressed. Trafficking, then, is one of a number of gendered social problems that serves to maintain the workings of the conflict.⁶⁷¹

In this context, trafficking in Burma becomes part of a complex process of the maintenance and production of gender norms within society. These gender norms give rise to the conditions that fuel trafficking, and are perpetuated and maintained as a result of conflict.⁶⁷² Furthermore, Kamler notes that these gender norms reinforce the roles of men and women within the operations of the conflict.⁶⁷³ A circular logic is at play, in which gender becomes a site for both constructing identity under the conflict, and serving as a by-product of that construction. The problem of trafficking occurs as a result of the exploitation of women's irregular labour migration, which is deemed a necessary aspect of women's roles under the conditions of armed conflict.⁶⁷⁴ By overlooking the results of this migration and exploitation, however, renders the problem of trafficking "invisible" within the context of conflict. In the absence of specific responses to combat it, the trafficking circumstance in the context of conflict, in effect, serves to perpetuate the status quo under the war effort; it reinforces women's roles as breadwinners, taking on the responsibility of supporting families and communities through their migration and labour, while the men are on the front lines.⁶⁷⁵

Significantly, in Burma, women's experiences of trafficking are being overlooked because of seemingly more important issues such as the war effort, cease-fire talks and the peace process, issues which continue to dominate discussions about the conflict in the media and in

⁶⁶⁹ Kamler, E (Forthcoming), *op. cit.*

⁶⁷⁰ Kamler, E (Forthcoming), *op. cit.*

⁶⁷¹ Kamler, E (Forthcoming), *op. cit.*

⁶⁷² Kachin Women's Association of Thailand. (2013), *op. cit.*

⁶⁷³ Kamler, E (Forthcoming), *op. cit.*

⁶⁷⁴ Kachin Women's Association of Thailand. (2013), *op. cit.*

⁶⁷⁵ Kamler, E (Forthcoming), *op. cit.*

the political arena.⁶⁷⁶ The lack of attention paid to women's experiences of trafficking reinforces their invisibility. Yet it is precisely through these women's experiences that we may actually understand the way the conflict is playing out on the ground. By participating in the migration process, women support the war effort, putting their lives at risk of trafficking. As such, women's experiences become "invisible," hence, maintain the trafficking problem.

5.2.2 Child soldiers⁶⁷⁷

While child participation in armed conflict is not new, child soldiering today is a widespread phenomenon, prevalent particularly in developing countries where political, economic, and social instability are more common place and where approximately half the population are children.⁶⁷⁸ According to Tiefenbrun, there are currently, over 300,000 children serving as child soldiers in fifty countries⁶⁷⁹ in every region of the world.⁶⁸⁰ To emphasise, Save the Children also reported that hundreds of thousands of under-age soldiers are currently being forced to fight around the world, despite guidelines set forth eighteen years ago in the Cape Town Principles of 1997⁶⁸¹ that established eighteen as the minimum age for recruitment.⁶⁸² These children are subjected daily to dehumanizing atrocities. Moreover, Udombana notes that "the recruitment of children into armed conflict has claimed the lives of more than two million children, left more than six million children maimed or permanently disabled, caused

⁶⁷⁶ Kamler, E (Forthcoming), *op. cit.*

⁶⁷⁷ Palermo Protocol, *supra* note 6, at Article 3(c). In the Palermo Protocol a "child" is any person under eighteen years of age. The definition of a "child" is controversial because the age that determines when a child becomes an adult differs in several international treaties.

⁶⁷⁸ MacMullin, C. and Loughry, M (2004), *op. cit.*

⁶⁷⁹ Human Rights watch also cited more than thirty countries where children have served in government forces, paramilitaries or in opposition forces, including Columbia, Mexico, Peru, Turkey, Yugoslavia, Algeria, Angola, Burundi, Chad, Democratic Republic of Congo, Eritrea, Ethiopia, Rwanda, Sierra Leone, Somalia, Sudan, Uganda, Afghanistan, Iran, Iraq, Israel and the Occupied Territories, Lebanon, India, Indonesia, Burma, Nepal, Pakistan, Philippines, Solomon Islands, Papua New Guinea, Sri Lanka, East Timor, Tajikistan, and Uzbekistan (Human Rights Watch: Children's Rights, Where Child Soldiers Are Being Used, Available from: <<http://www.hrw.org/campaigns/crp/where.htm>>, [Accessed 15 October 2015].)

⁶⁸⁰ Tiefenbrun, S., W (2007), *op. cit.*

⁶⁸¹ Cape Town Annotated Principles and Best Practice on the Prevention of Recruitment into the Armed Forces and Demobilization and Social Reintegration of Child Soldiers in Africa (1997), Available from: <www.rb.se/chilwar/tva_97/draft.htm>, [Accessed 15 October 2015].

⁶⁸² Tattersall, N. (2007), *Child Soldiers still recruited 10 years after pact*, YAHOO! NEWS, February 5, 2007, Available from: <http://news.yahoo.com/s/nm/20070205/w/nm/childsoldiers_dc>, [Accessed 15 October 2015].

one million children to be orphaned, afflicted ten million children with serious psychological trauma, and made twelve million children refugees”.⁶⁸³

Children are recruited into armed forces in various ways. They can be forcefully recruited when they are separated from their families and have little choice but to join the armed groups.⁶⁸⁴ Other children join voluntarily as they are pushed by various circumstances⁶⁸⁵, among other reasons, poverty is a strong contributory factor for children to take the initiative to enroll as child soldiers.⁶⁸⁶ For some children, ideological reasons such as ethnicity and religion, cultural values and tradition, as well as domestic abuse and sexual violence and wanting revenge for murdered loved ones or other family members pushes them to join voluntarily.⁶⁸⁷ Other factors include appeal of weapons and uniforms, curiosity, financial promises, social status and power, among others.⁶⁸⁸ However, in relation to voluntary recruitment, the question remains: can a minor with limited cognitive abilities and rational understanding make a decision to join an armed group and can it be considered as ‘voluntary’ or as the better option of a series of worse options. The issue of voluntary recruitment is often coupled with hidden forms of coercion.

Child soldiers are subjected daily to dehumanizing atrocities. They are often abducted from their homes, tortured, indoctrinated with brutality, forced to become intoxicated with mind-altering drugs, threatened with death and or dismemberment if they don’t fight, forced to witness or participate in the death or disfigurement of their own family members.⁶⁸⁹ Child soldiers are brainwashed thoroughly and brutally until their ethics and moral values become so distorted such that killing becomes normal to them.⁶⁹⁰ Brainwashing is accomplished by desensitizing children to the sight and commission of atrocities and rebels keep the children obedient through frequent beatings, threats of death, and threats of retaliation against the

⁶⁸³ Udombana, N., J. (2006), *War is Not Child’s Play! International Law and the Prohibition of Children’s Involvement in Armed Conflicts*, 20 TEMP. INTL & COMP. L.J.

⁶⁸⁴ Young, A. (2007), Preventing, Demobilizing, Rehabilitating, and Reintegrating Child Soldiers in African Conflicts, *Journal of International Policy Solutions*, Vol. 7.

⁶⁸⁵ Brett, R. & Specht, I. (2004) *Young Soldiers: Why They Choose to Fight?* Boulder, Colorado; London: Lynne Rienner Publishers.

⁶⁸⁶ Dumas, L and De Cock, M. (2003) *Wounded Childhood: The Use of Child Soldiers in Armed Conflict in Central Africa*, Geneva: ILO.

⁶⁸⁷ Young, A. (2007), *op. cit.*

⁶⁸⁸ Dumas, L and De Cock, M. (2003), *op. cit.*

⁶⁸⁹ Tiefenbrun, S., W (2007), *op. cit.*

⁶⁹⁰ Tiefenbrun, S., W (2007), *op. cit.*

children's family members.⁶⁹¹ Of note, children who are on the move because they are forcibly displaced and impoverished by war or civil unrest are particularly vulnerable for abduction and forced child soldiering. MacMullin notes that in 2000, it was estimated that thirteen million children were displaced as a result of armed conflicts.⁶⁹²

As Tiefenbrun notes, the prevalent use of children in armed combat is a form of human trafficking that is a serious human rights violation.⁶⁹³ The recruitment of a child for the purpose of sexual exploitation or participation in armed conflict falls under the ambit of human trafficking.⁶⁹⁴ The international definition of the trafficking of child soldiers involves three necessary elements: consent, exploitation, and movement within a country or across a border.⁶⁹⁵ To emphasise, Vachachira stresses that "[a] child soldier is trafficked when there is forced recruitment or no genuine voluntary recruitment; when the recruitment is done without the informed consent of the person's parent or legal guardians; and when such persons were not fully informed of the duties involved in the military service".⁶⁹⁶ Tiefenbrun notes that children who are forcibly recruited cannot exercise a choice or give their consent to serve in armed conflict.⁶⁹⁷ Nevertheless, consent is the key element required to determine whether the recruitment of children for armed conflict actually constitutes trafficking and not just the smuggling of migrants, in accordance with the definition of trafficking set forth in the Palermo Protocol.⁶⁹⁸ Therefore, according to this definition, if a child is voluntarily recruited and takes up arms 'consensually', he or she may not be protected under the trafficking statutes.⁶⁹⁹ However, various factors in a child's environment may cause him or her to join an armed group voluntarily. Of note, children often lack the capacity to determine their best

⁶⁹¹ U.N. Office for the Coordination of Humanitarian Affairs (2007), *AFRICA: Fighting for children*, IRIN NEWS.ORG, Available from: <<http://www.irinnews.org/report.asp?ReportID=57552>>, [Accessed 15 October, 2015].

⁶⁹² MacMullin, C. and Loughry, M (2004), *Investigating Psychosocial Adjustment of Former Child Soldiers in Sierra Leone and Uganda*, London, Save the Children, UK.

⁶⁹³ Tiefenbrun, S., W (2007), *op. cit.*

⁶⁹⁴ Tiefenbrun, S., W (2007), *op. cit.*

⁶⁹⁵ Sandrine V, (2003), Trafficking of Child Soldiers: Expanding the United Nations Convention on the Rights of the Child and Its Optional Protocol on the Involvement of Children in Armed Conflict, *NEW ENG.J. INT'L & Comp L.* 109, 109.

⁶⁹⁶ Vachachira, J, A. (2002), UN Report, *Report 2002: Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, 18 N.Y. L. SCH. J. HUM. RTS 543.

⁶⁹⁷ Tiefenbrun, S., W (2007), *op. cit.*

⁶⁹⁸ Palermo Protocol, *supra* note 6, at Article 3a (2000), United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children of 2000, supplementing the United Nations Convention Against Transnational Organized Crime (General Assembly resolution 55/25).

⁶⁹⁹ Tiefenbrun, S., W (2007), *op. cit.*

interests, to form opinions, and to analyze competing ideologies.⁷⁰⁰ For this reason, the element of “consent” required to determine whether or not a child is “trafficked” is complex and should not be determinative.

Child soldiering is identified as a form of child trafficking because the acts required of a child soldier are dangerous enough to interfere with a child's fundamental human right to education, health, and development. The abduction and employment of children as soldiers is a form of exploitative labour that is identical to slavery.⁷⁰¹ Child soldiering is listed as “one of the worst forms of child labour” in the *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*.⁷⁰² The exploitation of child soldiers is typically accompanied by brutality and sexual violence. Child soldiers serve within militaries and armed groups in which complete cooperation and obedience is demanded, in contexts where moral and legal protection against their abuse may have broken down. In this context sexual violence becomes sexual exploitation.⁷⁰³ Very often children are abducted from one place to another, from their homes to a camp where they are trained and then to a field of combat. As Hackenberg notes, children do not have to actually cross a border to be trafficked.⁷⁰⁴ Being moved within their own country and forced to engage in exploitative labour like armed combat constitutes child trafficking.⁷⁰⁵ Thus, using children against their will to engage in armed combat encompasses human trafficking and unfair labour practices that rise to the level of child slavery.

Burma has been identified as a country with the most child soldiers globally.⁷⁰⁶ The overwhelming majority of Burma’s child soldiers are found in Burma’s national army, the Tatmadaw Kyi, which forcibly recruits children as young as eleven.⁷⁰⁷ Children are also present in Burma’s myriad opposition groups, although in far smaller numbers.⁷⁰⁸ Some children join opposition groups to avenge past abuses by Burmese forces against members of their families or community, while others are forcibly conscripted. Although there is no way

⁷⁰⁰ Udombana, N., J. (2006), *op. cit.*

⁷⁰¹ Tiefenbrun, S., W (2007), *op. cit.*

⁷⁰² Convention Concerning the Prohibition and Immediate Actions for the Elimination of the Worst Forms of Child Labour, (June 17, 1999), [Accessed 15 October 2015, Available from: <http://www.ilo.org/public/english/standards/ipec/ratification/convention/testpr.htm>].

⁷⁰³ Tiefenbrun, S., W (2007), *op. cit.*

⁷⁰⁴ Hackenberg, M, L. (2000), *Can the Optional Protocol for the Convention on the Rights of the Child Protect the Ugandan Child Soldier?* *IND. INT'L & COMP. L. Rev.*

⁷⁰⁵ Sandrine V, (2003), *op. cit.*

⁷⁰⁶ Heppner, K and Becker, J (2002 “My gun was as tall as me”: child soldiers in Burma, *Human Rights Watch*.

⁷⁰⁷ Heppner, K and Becker, J (2002), *op. cit.*

⁷⁰⁸ Heppner, K and Becker, J (2002), *op. cit.*

to establish precise figures, data taken from the observations of former child soldiers who have served in diverse parts of Burma suggests that 70,000 or more of the Burma army's estimated 350,000 soldiers may be children.⁷⁰⁹

Tiefenbrun notes that, "as part of efforts to gain new recruits, small groups of noncommissioned officers and soldiers stalk the railway, bus and ferry stations, the streets, marketplaces and festivals. They generally approach boys aged twelve to seventeen, possibly because these are the easiest to intimidate".⁷¹⁰ In most cases, the boys are asked for an identity card, but most young boys do not have them yet and when they cannot produce one they are threatened with the choice of a long prison term or joining the army.⁷¹¹ Even when they refuse to enlist, they are forced to a local army base or recruit holding camp, where they are often beaten, sometimes over a period of several days, until they agree.⁷¹² Another source of recruits in Burma is the Ye Nyunt system. Ye Nyunt, meaning "Brave Sprouts," is a system whereby Burma army battalions take in young boys, keep them at the battalion base and send them to school.⁷¹³ Moreover, Heppner and Becker note that there are probably between fifty and one hundred Ye Nyunt camps currently at battalion bases throughout Burma, each with fifty to 200 boys.⁷¹⁴

The Ye Nyunt camps are organized like a military site, where all the child soldiers are forced to wear military uniforms and those aged seven and up had to participate in military training with weapons.⁷¹⁵ The boys are allowed no contact with their families or the population outside the army base and if a child soldier tried to escape, the entire group would be forced to beat them.⁷¹⁶ Thus, Heppner and Becker note that, "there is no way out of the Ye Nyunt except into the army".⁷¹⁷ Moreover, as soon as the Ye Nyunt boys are considered physically strong enough, usually between the ages of twelve and sixteen, they are taken directly to the army's recruit holding camps.⁷¹⁸

⁷⁰⁹ Brett, R and McCallin, M (1998), *Children: The Invisible Soldiers*. Save the Children Sweden.

⁷¹⁰ Heppner, K and Becker, J (2002), *op. cit*, p. 3.

⁷¹¹ Heppner, K and Becker, J (2002), *op. cit*.

⁷¹² Heppner, K and Becker, J (2002), *op. cit*.

⁷¹³ Brett, R and McCallin, M (1998), *op. cit*.

⁷¹⁴ Heppner, K and Becker, J (2002), *op. cit*.

⁷¹⁵ Brett, R and McCallin, M (1998), *op. cit*.

⁷¹⁶ Brett, R and McCallin, M (1998), *op. cit*.

⁷¹⁷ Heppner, K and Becker, J (2002), *op. cit*, p. 4.

⁷¹⁸ Heppner, K and Becker, J (2002), *op. cit*.

Furthermore, soldiers who bring in new recruits are usually paid 1,000 to 10,000 kyat (equivalent of US\$166- US\$1 666) in cash and fifteen to fifty kilograms of rice per recruit, while in some battalions, soldiers who have already been in the army for over five years can get a discharge if they bring in five new recruits.⁷¹⁹ As a result, more soldiers and even some police and civilians are going into the business of recruiting children. Police and soldiers manning road checkpoints stop public passenger vehicles, pull off the boys and young men and force them to enlist.⁷²⁰ After using civilians for forced labour, some army units keep the boys and sell them to the recruit holding camps. Burma's growing population of street children who become the targets of frequent roundups, and many of those caught are taken directly to recruit holding camps.⁷²¹

Of note, social disruptions and governmental failures to protect children have been attributed to the trafficking of children into soldiering. As Dallaire notes, “[m]an has created the ultimate cheap, expendable, yet sophisticated human weapon, at the expense of humanity's own future: its children”.⁷²² The involvement of children in armed conflict defies recognized and generally accepted norms and values with regard to the ultimate categories of childhood and adulthood.⁷²³ Childhood is often related with innocence, purity, weakness and dependence, soldiers on the other hand are associated with strength, aggression, hostility, violence and the responsible maturity of adulthood.⁷²⁴ Therefore, the unsettling combination of child soldier is paradoxical, in war, children find themselves in an unsanctioned position between childhood and adulthood.⁷²⁵ The possession of guns and committing atrocious crimes removes them from childhood, but child soldiers are still physically and psychologically immature and they are not full adults who are responsible for themselves. Child soldiers are still children, but have lost their innocence, as they perform adult tasks yet they are not yet adults, therefore, the role-related borders between childhood and adulthood that exist during periods of peace are broken down by conflict.⁷²⁶ In sum, the forced conscription of children into soldiers is a violence of human rights and its exploitative nature falls under the ambit of human trafficking. In Burma, the use of child soldiers is

⁷¹⁹ Heppner, K and Becker, J (2002), *op. cit*

⁷²⁰ Heppner, K and Becker, J (2002), *op. cit*

⁷²¹ Karen Human Rights Group (1996), *The Situation in Northwestern Burma*, Thailand: KHRG.

⁷²² Dallaire, R. (2010) *They Fight Like Soldiers, They Die Like Children*. Britain: Hutchinson.

⁷²³ Honwana, A. (2011) *Child Soldiers in Africa*. Philadelphia: University of Pennsylvania Press.

⁷²⁴ Honwana, A. (2011), *op. cit*.

⁷²⁵ Honwana, A. & Pannizo, E. (1995) Evaluation of the Children and War Project in Mozambique. Research Report for Save the Children US and USAID.

⁷²⁶ Honwana, A. (2011), *op. cit*.

prevalent and is a phenomenon that needs to be at the fore of policy and counter-trafficking initiatives.

5.2.3 Conflict-Induced Migration: Refugees and IDPs

Contemporarily, the world is experiencing unprecedented migration flows largely spurred by civil conflicts in Syria, Afghanistan, Somalia, Sudan, South Sudan, the Democratic Republic of Congo (DRC), Burma, Nigeria, Mali, Libya and the Central African Republic. Conflicts in these countries have led to massive forced migration with a heightened occurrence in the recent years. According to the 2014 Global Trend Report of the UN High Commissioner for Refugees (UNHCR), about 59.5 million people around the world are forcefully uprooted from their communities, as refugees or internally displaced persons (IDPs).⁷²⁷ The major cause for this involuntary displacement is identified as armed conflicts.⁷²⁸ Out of the 59.5 million forced migrants, refugees account for 19.5 million, IDPs account for 38.2 million and asylum seekers account for 1.8 million.⁷²⁹

Conflict-induced migration is one of the features of forced migration. Forced migration is movement that is triggered by societal constrictions which propel an individual or group to relocate in the pursuit of better living conditions. Some of these could be humanitarian, economic or political;⁷³⁰ and are often identified in opposition to voluntary migration which is often for professional reasons or leisure. Thus, whereas, voluntary migration refers to migration for the purposes of improving ones opportunities or wants such as better employment, business expansion or educational advancements, forced migration refers to migrations caused by socio-economic; political and security challenges such as armed conflicts, human rights violations and natural disasters.⁷³¹ In these cases, forced migrants, flee their homes for their human security to shield themselves from imminent or sudden threat to their well-being.

⁷²⁷ UNHCR 2015. UNHCR Global Trends Report – Forced Displacement in 2014. United Nations High Commission for Refugees. 18 June. Available from: <http://unhcr.org/556725e69.html> (Assessed 8 November 2015).

⁷²⁸ Forced Migration Online (FMO). (2015), Forced Migration Online, a world of information on human displacement. Available from <http://www.forcedmigration.org/research-resources/expert-guides/gender-and-forced-migration/introduction> (Assessed 8 November 2015).

⁷²⁹ UNHCR. (2015), *op. cit.*

⁷³⁰ Rwamatwara (2005) Forced migration in Africa: A Challenge to Development, *Stichproben. Wiener Zeitschrift für kritische Afrikastudien*, (8).

⁷³¹ Rwamatwara (2005), *op. cit.*

Compared to migration during times of relative peace, conflict-induced migration streams are large, sudden, and migrants are arguably less prepared for life at their destinations.⁷³² The Internal Displacement Monitoring Centre (IDMC) estimates that there are up to 642,600 internally displaced people in Burma, forced to flee their homes by armed conflict and inter-communal violence.⁷³³ The figure includes up to 400,000 people living in protracted displacement as a result of conflict in the south-east of the country – in southern Shan, Kayah, Kayin and Mon states and Bago and Tanintharyi regions - and 98,000 displaced by conflict in Kachin and northern Shan states since 2011.⁷³⁴ It also includes around 140,000 people displaced by inter-communal violence in Rakhine state since 2012, and more than 5,000 who fled their homes in Mandalay region in 2013.⁷³⁵

Among the factors that increase trafficking risks for refugees are their physical insecurity; social, economic and political marginalization; victimization by smugglers facilitating refugee movement; experience with sexual violence; social isolation or other negative consequences resulting from sexual violence; severe disruptions to family structure; and lack of legal protection.⁷³⁶ Refugees are often treated as commodities in the political negotiations between nation-states, unwelcome wherever they land after desperate flight.⁷³⁷ They are robbed of individuality in discourse and practice. As a subset within the broader flow of human migration, refugees are subject to dehumanizing practices in border enforcement, refugee camp management, labour, and domestic enforcement practices intended to discourage migration and curtail migrant rights.⁷³⁸ The distinctive protection challenges and risks that people face as refugees are vulnerability factors for human trafficking.

As Wilson notes, patterns of forced migration have shifted in ways that contribute to refugees' increased levels of risk.⁷³⁹ Increasingly, refugees form one stream of what are known as 'mixed migrant flows', fleeing within complex international systems of human migration.⁷⁴⁰ Refugees now follow the same migratory routes as labour migrants, turn to the

⁷³² Williams, N and Pradhan, M., S (2009) Political Conflict and Migration: How has Violence and Political Instability Affected Migration Patterns in Nepal? *Population Studies Center, Department of Sociology University of Michigan*

⁷³³ IDCM (2014), *op. cit.*

⁷³⁴ IDCM (2014), *op. cit.*

⁷³⁵ IDCM (2014), *op. cit.*

⁷³⁶ Wilson, A., P. (2011), *Trafficking Risks for Refugees*, Lutheran Immigration and Refugee Service, Baltimore, Maryland.

⁷³⁷ Wilson, A., P. (2011), *op. cit.*

⁷³⁸ IDCM (2014), *op. cit.*

⁷³⁹ Wilson, A., P. (2011), *op. cit.*

⁷⁴⁰ Wilson, A., P. (2011), *op. cit.*

same international smuggling operations to secure transport and cross borders, face the same enforcement measures, and live mixed together in the same communities in their countries of destination.⁷⁴¹ In this sense, refugees share in the considerable risks faced by all unauthorized migrants. However, refugees tend to have many more vulnerabilities compared to migrants. The forced and involuntary nature of their migration creates additional and heightened dangers for them. The risk equation considered by all migrants and their families contemplating the act of migration is radically skewed by refugees' desperation, fear and ignorance they have no alternative, and must often submit to dangers that other migrants would choose to avoid.⁷⁴²

In addition, having involuntarily left their homes and livelihoods, refugees and IDPs struggle for their economic survival. Refugee and IDP camps are sustained by donors, thus, food, shelter, sanitation, medical care, and other basic necessities of life are provided where situations are stable.⁷⁴³ However, a thin donor response or donor fatigue can result in support that is barely consistent with human survival, much less a life with dignity.⁷⁴⁴ Koser and Pinkerton note that in some places, it is possible for refugees and IDPs living in camps to supplement their food rations with a bit of land cultivation but often opposition to local integration by resident populations already living in precarious economic circumstances creates barriers to additional economic activity.⁷⁴⁵

Of note, Wilson notes that throughout the world, women face the terrible consequences of gender discrimination.⁷⁴⁶ For refugee and internally displaced women and girls, gender discrimination exacerbates all other protection and survival challenges. Physical security is a greater problem, securing a livelihood is more difficult, and participation as actors in the political and social solutions to their dilemma is hindered. Furthermore, when societies and communities are severely disrupted, as they are for refugees and IDPs, there is often a hardening in the soft enforcement of gender codes.⁷⁴⁷ Cultural practices and expectations may be extended or reinforced, in many cases further limiting women's capacity to participate meaningfully in broader community life or to support themselves and their families.

⁷⁴¹ Wilson, A., P. (2011), *op. cit.*

⁷⁴² Koser, K. and Pinkerton, C. (2002), "The Social Networks of Asylum Seekers and the Dissemination of Information about Countries of Asylum," Migration Research Unit, University College London.

⁷⁴³ Wilson, A., P. (2011), *op. cit.*

⁷⁴⁴ Wilson, A., P. (2011), *op. cit.*

⁷⁴⁵ Koser, K. and Pinkerton, C. (2002), *op. cit.*

⁷⁴⁶ Wilson, A., P. (2011), *op. cit.*

⁷⁴⁷ Wilson, A., P. (2011), *op. cit.*

Refugees and IDPs, men as well as women, face extremely elevated levels of sexual violence and coercion at all stages of their experiences.⁷⁴⁸ For many, sexual violence is an element of the persecution they fear or have lived through. Rape is highly prevalent in all conflict situations because of general lawlessness and impunity, but it has also been used as one of the central weapons of war in a number of recent and current circumstances.⁷⁴⁹ The destruction of social systems and social ties increases levels of sexual violence, and criminal elements prey on defenseless refugees and IDPs. Women and children are sometimes forced to exchange sexual services for survival – for food, protection, passage across borders, or other critical needs.⁷⁵⁰ Survival sex is also a feature of refugee life in some countries of asylum, particularly before assistance and protection mechanisms are established.⁷⁵¹ Furthermore, prostitution is sometimes one of the only ways refugee women and their families can make money.⁷⁵² Nevertheless, the voluntary nature of such labour is questionable when there is no alternative source of sustenance.

Furthermore, although greater attention has been paid recently to the extraordinarily high incidence of rape for refugee and internally displaced women undertaking daily tasks such as gathering wood, they still face considerable risks just going about the business of life.⁷⁵³ Thus, sexual violence is a common and horrific feature of life for many refugee and internally displaced women. For some, the pain is compounded by cultural practices that condemn victims of sexual violence. In some cultures, women who have been raped, engaged in survival sex, prostituted themselves to support their families, or experienced sexual violence are socially isolated, shunned, or even subject to further acts of violence from family or community members intent on protecting a traditional sense of honor.⁷⁵⁴ Such women, excluded from their social worlds and the protection of their communities, may be even more vulnerable to further acts of sexual violence or coercion as a result.⁷⁵⁵ They are also individuals at serious risk of falling into the hands of sex traffickers.

⁷⁴⁸ Wilson, A., P. (2011), *op. cit.*

⁷⁴⁹ Koser, K. and Pinkerton, C. (2002), *op. cit.*

⁷⁵⁰ Wilson, A., P. (2011), *op. cit.*

⁷⁵¹ Koser, K. and Pinkerton, C. (2002), *op. cit.*

⁷⁵² Koser, K. and Pinkerton, C. (2002), *op. cit.*

⁷⁵³ Koser, K. and Pinkerton, C. (2002), *op. cit.*

⁷⁵⁴ Uherek, Z., Skrivankova, K. and Weinerova, R. (2001), “Women Asylum Seekers and Trafficking,” Research report for the United Nations High Commissioner for Refugees, Branch Office Prague, Czech Republic.

⁷⁵⁵ Wilson, A., P. (2011), *op. cit.*

When refugees and internally displaced persons flee their homes to seek out the protection of another community or country, most do so in the hope of eventual return. Host communities and governments receive them as temporary guests, and expect them to return to their communities and country of origin when conditions permit.⁷⁵⁶ However, this is not always the case as an increasing number of refugees and internally displaced persons' situations around the world have become protracted. The Office of the United Nations High Commissioner for Refugees (UNHCR) defines protracted refugee situations as those "in which refugees find themselves in a long-lasting and intractable state of limbo."⁷⁵⁷ Their lives may not be at risk, but their basic rights and essential economic, social, and psychological needs remain unfulfilled after years in exile.⁷⁵⁸

In these situations, the displaced population has moved beyond the emergency phase, yet, due to political stalemates, they are prevented both from returning home and from integrating into host communities.⁷⁵⁹ These populations cannot go home because the same violence and insecurity that caused them to flee in the first place continue to exist. Host countries generally perceive long-staying refugee populations as security concerns and therefore restrict their movement by confining them to isolated and insecure refugee camps and denying them employment and local integration opportunities.⁷⁶⁰ Constraining refugees in camps causes them to become dependent on international assistance for basic survival needs, prevents them from achieving economic self-reliance, and exposes them to human rights abuses.⁷⁶¹ Therefore, in search of opportunities to improve their social, economic, and political situations in more developed cities or countries, yet lacking comprehensive information or access to legitimate migration programs, many of these persons fall victim to human traffickers.⁷⁶²

The lack of law and order or police protection and the presence of large numbers of helpless people, particularly women and separated children, create a pool of readily available supply for those who want to exploit them. Displaced individuals make desperate decisions in an

⁷⁵⁶ Wilson, A., P. (2011), *op. cit.*

⁷⁵⁷ SeltzerHuman, A (2013), Human trafficking: the case of Burmese refugees in Thailand, *International Journal of Comparative and Applied Criminal Justice*.

⁷⁵⁸ SeltzerHuman, A (2013), *op. cit.*

⁷⁵⁹ SeltzerHuman, A (2013), *op. cit.*

⁷⁶⁰ SeltzerHuman, A (2013), *op. cit.*

⁷⁶¹ SeltzerHuman, A (2013), *op. cit.*

⁷⁶² United States Agency for International Development (USAID) (2004), Literature review and analysis related to human trafficking in post-conflict situations. Accessed, 3 September 2015, Retrieved from http://www.usaid.gov/our_work/crosscutting_programs/wid/pubs/trafficking_dai_lit_review.pdf.

attempt to better their situation, frequently turning to smugglers or agents who all too often turn out to be traffickers.⁷⁶³ A number of studies have been documented on the vulnerability of refugees and internally displaced persons. Other studies have shown that conflict-prone countries with a high number of IDPs and source countries for refugees may also turn out to be the source country for trafficked victims.⁷⁶⁴ Thousands of refugees and internally displaced persons from Burma cross the border into Thailand and other surrounding countries to escape the civil unrest and human rights violations that have plagued their homeland for decades.⁷⁶⁵ Some refugees have reported to the Women's Commission for Refugee Women and Children that they were first internally displaced inside Burma before they crossed the border into Thailand.⁷⁶⁶ They report that they cannot survive alone in Thailand, and therefore organize with other internally displaced persons and move across the border as a group.⁷⁶⁷ Furthermore, according to NGOs that work with the Burmese refugee community, the number of children who arrive alone in Thailand has increased.⁷⁶⁸ There have also been reports of families who are often separated once in Thailand.⁷⁶⁹ Children who are alone are more vulnerable to abuses such as trafficking. In addition, most children also do not have access to Thai schools, which exacerbates this vulnerability.⁷⁷⁰

In addition, registered refugees who live in camps in Thailand are generally not allowed to leave the camp premises. Those who do must apply for permission from the elected camp committees in order to obtain a one-day pass, which the Thai authorities must then review and approve.⁷⁷¹ However, the rules dictating the issuance of passes to leave the camps are inconsistently implemented; as one NGO observed, "There's the law, and then there's what is accepted that day."⁷⁷² Camps are gated and fenced, and Thai police, who are charged with camp security, guard the camp entrances.⁷⁷³ Employment opportunities in the camps are thus

⁷⁶³ SeltzerHuman, A (2013)

⁷⁶⁴ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁶⁵ U.S. Committee for Refugees and Immigrants, Southeast Asia Regional Summary, World Refugee Survey (2004) (reporting that over 2,500 Burmese refugees flee to Thailand each month).

⁷⁶⁶ Women's Commission for Refugee Women and Children (2006) 'Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking', New York: Women's Commission for Refugee Women and Children.

⁷⁶⁷ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁶⁸ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁶⁹ Human Rights Watch (2004), *Out of Sight, Out of Mind: Thai Policy Toward Burmese Refugees*, Vol. 16, (2).

⁷⁷⁰ Human Rights Watch (2004), *op. cit.*

⁷⁷¹ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁷² Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁷³ Women's Commission for Refugee Women and Children (2006), *op. cit.*

limited. More educated refugees, including women, can teach or work for an international NGO.⁷⁷⁴ Uneducated women, on the other hand, may only be able to sell things such as baked goods that they make themselves, otherwise, they must seek a means to support themselves and their families outside the camps.⁷⁷⁵ Furthermore, many unregistered refugees are living in the camps, often with registered members of their families, further straining available resources and provisions.⁷⁷⁶ Moreover, Women's Commission for Refugee Women and Children has documented that camp residents do in fact regularly leave the camp without permission in order to find work.⁷⁷⁷ As refugees languish for years in camps, younger people in camps look to life outside the camps. Once they leave the camp, the fact that they are registered with the Thai authorities as recognized refugees does little to protect them; if the Thai police apprehend them outside the confines of the camp, they are at risk of arrest or deportation.⁷⁷⁸

In addition, because of the clandestine nature of the movement in and out of the camps, it is therefore difficult to ascertain exact figures tracking such movement. Of note, evaluating the extent to which camp-based refugees are at risk of trafficking is further complicated by the fact that coercive or exploitative situations can occur at different junctures in the process of migrating from camps to urban or semi-urban areas.⁷⁷⁹ However, it is widely acknowledged that trafficking has occurred in and around refugee and IDP camps. According to a report by a local NGO cited by the Women's Commission for Refugee Women and Children, there have been incidences in which traffickers actually entered the camps and took women and children away by trucks.⁷⁸⁰

In sum, conflict-induced migration creates vulnerabilities for refugees and internally displaced persons. In the case of Burma, where on-going conflict threatens hundreds of thousands, refugees and internally displaced persons find themselves in particular risk for human trafficking, a consequence of their vulnerable status, the devastating losses they have experienced, and their precarious life situations.

⁷⁷⁴ Human Rights Watch (2004), *op. cit.*

⁷⁷⁵ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁷⁶ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁷⁷ Human Rights Watch (2004), *op. cit.*

⁷⁷⁸ Human Rights Watch (2004), *op. cit.*

⁷⁷⁹ Women's Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁸⁰ Women's Commission for Refugee Women and Children (2006), *op. cit.*

5.2 Chapter Summary

In the present chapter, I explored the notion of vulnerability to trafficking and unpacked vulnerability factors in conflict situations focusing on the Union of Burma. This illuminated the ways in which conflict creates unique sets of vulnerabilities which need to be taken into consideration in any discussion on human trafficking in conflict settings. Conflict creates trafficking victims. Zones of conflict are often characterized by a lack of basic human security, where lawlessness rules. People are physically unprotected from the violence of combatants and noncombatants alike, and have no legal protections or remedies because of the absence of law enforcement and the dysfunction of legal systems. Livelihoods are disrupted, desperate poverty is endemic, social systems break down. In many cases, the economies of war and crime intersect and reinforce each other. Combatants may run criminal enterprises to fund their activities while criminals also take advantage of the absolute powerlessness of civilian populations to extend and expand their exploitative actions. Many of the conflicts in the world today are being fought by irregular armies in which patterns of enslavement are prevalent. Therefore, these combatants use forced labour, conscripted child soldiers, and sexual slaves. Thus, the patterns and economies of trafficking are established and nourished in zones of conflict.

The link between conflicts and human trafficking is an issue that is visible in Burma, however, has received little attention. The main argument of this chapter is that conflicts encourage the forced displacement of individuals from networks of family and community, and their access to economic and social safety nets. These same individuals are particularly vulnerable to being trafficked, by the hopes of better economic prospects elsewhere. After unpacking the findings of the research, the last chapter of the study will be presented. The summary of the study will be presented emphasizing on the results obtained and how these results can contribute for future reference. Recommendations and suggestions for further research will also be presented.

CHAPTER SIX

SUMMARY AND RECOMMENDATIONS

6.0 Introduction

While trafficking can be examined from a number of different perspectives, it is virtually impossible to separate any one of these from the other. Just as trafficking must be viewed as a process rather than as a single offense, it must also be understood and examined in relation to issues of globalization, supply and demand, migration, law enforcement, [conflict] and human rights.⁷⁸¹

Human trafficking represents the convergence of a number of issues fuelled by the uncertainty caused by the end of the Cold War which heralded another epoch of mass migration, spurred on by globalisation, the global economy, diminished territorial integrity of states, and the need by state actors to regain control.⁷⁸² It is the ultimate manifestation of many of the systemic social, structural, economic, cultural and political problems which continue to entrench discrimination, inequality, exclusion and exploitation across the globe.⁷⁸³ The last chapter of the study will present a summary of the research emphasizing on the results obtained and how these results can contribute for future reference. It will pull the dissertation together by drawing some conclusions. Recommendations and suggestions for further research will also be provided in this chapter.

6.1 Summary and Conclusions of the Research Findings

Human trafficking is a global phenomenon affecting almost all societies in different parts of the world. The magnitude and trends of human trafficking differ from one region to the other and among different countries. The Union of Burma, which is no exception to this phenomenon, has been used in this study to demonstrate the impact of human trafficking and

⁷⁸¹ Alexis A. Aronowitz, 'Contrasting Perspectives on Human Trafficking', Human Trafficking, Human Misery: The Global Trade in Human Beings, Westport, Connecticut: Praeger Publishers, (2009): 29.

⁷⁸² Emser, M (2013), *op. cit.*

⁷⁸³ Emser, M (2013), *op. cit.*

its ramifications. The prevalence and proliferation of conflicts around the world from different countries and regions largely affect the lives of civilians and result in unprecedented numbers of involuntary displacement. As a result, conflict exacerbates already existing vulnerabilities and creates new vulnerability factors that create conditions conducive for human trafficking. In countries such as the Union of Burma, where conflict has been ongoing for six decades, human trafficking flourishes.

As discussed in Chapter 2, human trafficking is an amorphous and ambiguous phenomenon that is surrounded by divergent and competing understandings and definitions. As a result, the focus of attention provokes varying perspectives depending on whether one is concerned with the commercial sex trafficking, irregular migration, or with the involvement of organized crime or human rights. Thus, due to the numerous understandings of the phenomenon, it has come down to a question of what forms and trends human trafficking may take and which acts constitute human trafficking. Key conceptual approaches commonly used to conceptualise and define human trafficking have been identified by scholars and researchers. These have dominated the international discourse on trafficking as well as influenced the domestic discourse of some countries. The key conceptual approaches have problematised human trafficking as: (i) a modern form of slavery, (ii) a sexual exploitation or prostitution problem (iii) a problem of transnational organised crime, (iv) a migration problem, (v) a problem of globalisation, (vi) a problem of labour exploitation, or (vii) a human rights problem. These conceptual approaches to human trafficking represent competing and diverging perceptions and understandings of the nature and causes of the trafficking problem, illuminating its complex and multi-dimensional nature.

When unpacking literature on existing studies on human trafficking in Burma, two dominant categories can be identified, distinguishing those following a sexual exploitation perspective and those following irregular migration. Nevertheless, the domestic human trafficking discourse parallels that of the dominant international discourse. Most of the existing literature on trafficking in Burma is related to the increased demand and supply of mainly women in the sex industries in the GMS. This exclusive approach to human trafficking has undermined and overlooked other forms and trends that are existent in conflict settings, trends that are not existent during times of peace. In addition, such an approach tends to overlook how conflict aggravates existing vulnerabilities to human trafficking.

As a result of this gap in literature and research, new conceptual tools and frameworks are needed to unpack this multidimensional and complex phenomenon. As maintained in Chapter 3, human trafficking is a phenomenon which represents the uncertainty and unpredictability of the modern world. Human trafficking is a multidimensional phenomenon fraught with distinct and overlapping issues that are not always orderly or easily categorised. Thus, human trafficking does not occur in a vacuum, there are variables where human lives, frailties, abuse, exploitation and opportunism intersect that all are specific components of the complex phenomenon of human trafficking. In the context of Burma, human trafficking and conflict are complex phenomena that are mutually reinforcing. Several factors driven by the conflict influence the processes by which Burmese people are trafficked, therefore, this illuminates the structural ways in which the conflict supports trafficking of Burmese men, women and children.

As a multi-ethnic country which has continued to suffer political instability since independence in 1948, the Union of Burma has become one of the major source countries of refugees and has large numbers of internally displaced persons. As evidenced in Chapter 4, the conflict in Burma has resulted in the loss of countless lives, displacement of millions of citizens and led to the countries poor economic and social conditions. Burma is a source country for men, women, and children exposed to forced labour, and for women and children exposed to sex trafficking in other countries. While various policies and counter-trafficking initiatives have mushroomed at the regional and national level, more efforts are needed.

As demonstrated in Chapter 5, conflict creates unique sets of vulnerabilities which need to be taken into consideration in any discussion on human trafficking in conflict settings. Zones of conflict are often characterized by a lack of basic human security, where lawlessness exists. During conflict, people are physically unprotected from violence and abuse and have no legal protections because of the absence of law enforcement and the dysfunction of legal systems. Livelihoods are disrupted, desperate poverty is endemic, social systems break down. Of note, many of the conflicts in the world today are being fought by irregular armies in which patterns of enslavement are prevalent. Therefore, these combatants use forced labour, conscripted child soldiers, and sexual slaves. Thus, the patterns and economies of trafficking are established and nourished in zones of conflict.

Against this backdrop, there is need for new approaches to research on human trafficking in the context of Burma. Important policy recommendations are needed and can be achieved if

significant attention is invested in researching and unpacking the root causes of trafficking, an area which has largely been neglected. To address the root causes of trafficking in Burma means that the structural, economic, cultural and political problems that continue to entrench discrimination, inequality, exclusion and exploitation which perpetuate the conflict in Burma need to be addressed.

6.2 Recommendations

The politics and discourses surrounding human trafficking in Burma intersects and overlaps with the international discourse as both are propelled by competing political agendas based on morality, criminality, public order, human rights, labour and migration. Each in turn is supplemented, to varying degrees, with or linked to discursive narratives about poverty, inequality, gender, development, health, economics and exclusion. These approaches or problems form the conceptual basis for deconstructing the domestic trafficking discourse in Burma. As discussed in the paper, many of the same concepts, issues and debates which dominated the previous conceptualisation of human trafficking, namely the ‘white slave trade’, were resurrected and form the foundation of the dominant international human trafficking discourse. As a result, an excessive amount of focus has been placed on sex trafficking of women and children to the detriment of other forms of trafficking and men as victims. This is reinforced due to the lack of research on the diverse forms of labour trafficking, not to mention trafficking for forced marriage, and its victims. In Burma, these problems abound. In addition, relatively little research has been conducted on human trafficking in Burma. What little research has been conducted has been primarily by local organisations that uncritically present their studies and often cite previous, methodologically unsound studies and take on their arguments and assumptions as fact. There are only a small number of studies which are critical of the way in which human trafficking is studied in Burma.

What the review of existing literature on human trafficking in Burma has shown is that the gaps between an all-inclusive conceptualization of trafficking and the narrow definition of legalistic approaches cannot easily be wedded. To overcome this situation and move forward, it is the very root causes of trafficking that need to be placed at the centre of analysis and policy making. To do so, it is not only empirical gaps that are left to be filled, but conceptual and methodological innovations are also needed. To move beyond the existing research as

well as beyond an ideologically dividing and narrow discourse on trafficking, new conceptual tools and methodologies are needed to capture the complexities of the trafficking phenomenon which would lead to a set of principles offering a new way of thinking about trafficking and moving toward a new normative agenda.

To address the root causes means to address issues with development including economic, social and political development. This would require engagement with the development literature and gendered perspectives thereof. To take this matter to a higher level of abstraction, the fairly recent concept of “human security” is suggested here as a normative framework that could shape future research on trafficking, conceptually and empirically. The concept of “human security” was first introduced by UNDP in its 1994 Human Development Report and has since been elaborated on by the Commission on Human Security (CHS, 2003) as well as by the ILO (2004), although with a focus on economic security.⁷⁸⁴ The objective of the CHS was to generate a dialogue between the human development and human security communities to develop a practical policy agenda to examine how building human security is an essential contribution to the development process.

As a consequence, in recent years, the debate has shifted as both security and development actors have been strongly encouraged, and some have actually begun, to incorporate a human dimension into their policies to expand the debate from a near-exclusive focus on economic growth and development to incorporate issues such as social and human aspects of development and politico-economic governance. In the specific context of human trafficking, the concept of human security should best focus on the aspect of insecurity. A future research agenda should be built around the broad objective of investigating human insecurity as the root cause leading to forced migration. One such dimension to this is discrimination on the basis of gender. Gender-specific economic, social, and cultural insecurities explain to a great extent different motivations to, and modes of, migration.⁷⁸⁵

Moreover, the global discourse on trafficking, including that in Burma, too often ignores the underlying reasons, whether economic or political, that motivate people to migrate even at the risk of abusive and exploitative working conditions. Policymakers tend to emphasize law enforcement and migration control measures to combat trafficking without giving adequate

⁷⁸⁴ Women’s Commission for Refugee Women and Children (2006), *op. cit.*

⁷⁸⁵ Piper, N (2005), *op. cit.*

consideration to the rights and needs of victims. Therefore, there is an urgent necessity for a holistic, rights-based approach that addresses the root causes of migration in Burma.⁷⁸⁶

Of note, it is challenging but necessary and achievable to tackle trafficking in persons in the context of conflict conditions. The combination of top-down policies and new instruments of measurement has created a kind of “one-size-fits-all” counter-trafficking strategy that pays limited attention to local factors. Regional and local anti-trafficking policies to date have appeared to follow a “one-size-fits-all pattern”. Emulating international good practice is not enough, if the problem is not fully understood or appreciated in the domestic context, or the specificity of needs of trafficking survivors, anti-trafficking practitioners and government agencies is not taken into consideration and accordingly supported, or where the domestic environment itself cannot support such interventions and programmes. Most importantly, despite a growing body of research on trafficking in Burma, many agencies and researchers with a role in combating trafficking do not systematically collect and analyse data that would allow them to judge whether their programmes are having the intended effect of preventing and reducing trafficking, protecting victims, and punishing offenders. The scarcity of empirical research into human trafficking means that individual states craft policies and develop strategies based on assumptions and generalisations that may not be applicable to their domestic context or only present a partial picture of the scope and dimensions of the problem. Furthermore, by focusing on one aspect of what human trafficking is, other forms of trafficking are overlooked.

Therefore, further research with regard to the linkages of conflict conditions and trafficking in persons is required to enable evidence-based anti-trafficking efforts that will most adequately respond to the actual problems on the ground. Moreover, there is need to correspondingly tailor anti-trafficking activities to the very specific conflict settings that may exacerbate common root causes for trafficking. Finally, customised, sensitive and timely, awareness-raising material regarding the risk of trafficking among especially vulnerable groups such as children, women, refugees, IDPs should be created.

⁷⁸⁶ Women’s Commission for Refugee Women and Children (2006), *op. cit.*

6.3 Chapter summary

Trafficking in human beings is a global phenomenon which has been subject to increasing international attention in recent years. Anti-trafficking initiatives have mushroomed, globally and regionally, and trafficking projects have become an important item on international development agencies' agendas. Human trafficking as a phenomenon and discourse has been problematised and conceptualized as a diverse range of issues from a broad variety of perspectives which manifests itself in a series of competing discourses. This has also resulted in a number of different actors involved in combating and preventing human trafficking, all of whom identify trafficking as a problem for very different reasons and often have different political agendas with regard to the issue.⁷⁸⁷ Anti-trafficking actors range from states, to NGOs, to varied international and non-governmental organisations that focus on issue areas including migration, labour rights, children's rights, sex workers' rights, and human rights.

Trend analyses indicate that conflict settings are particularly vulnerable to trafficking in persons. As a result, countries in conflict face weak institutional state structures such as inefficient criminal justice systems in environments of social conflict, violence, human rights abuses, lack of economic opportunities and large-scale population displacement. Such a volatile environment increases the vulnerability of potential victims of trafficking in persons. In addition, the lack of a functioning central state authority and legal framework creates conditions for establishment of organised criminal groups, which seek to exploit all sorts of illegal markets. In conflict settings, social vulnerabilities that may have existed prior to the conflict are exacerbated and new vulnerabilities are created from the conflict atmosphere. Women and children are particularly affected, as they are often the most vulnerable members of society. At their core, conflict societies struggle with poverty, a difficult socio-economic environment, and lack of employment opportunities or in times of conflict, lack of employment opportunities outside of the armed conflict. Economic insecurity and poverty that may have existed prior to the conflict are further aggravated by the political instability that often comes with conflict. With a lack of economic opportunities, individuals become more vulnerable to trafficking situations. Consequently, in this context, conflict becomes the primary and crucial "push" factor driving and perpetuating human trafficking. Thus, policies and solutions best suited to the conditions of human trafficking in conflict situations should be put forward and developed.

⁷⁸⁷ Bridget Anderson and Julia O'Connell Davidson, *Trafficking – a demand led problem? A multi-country study*, Save the Children, (2002): 5.

This study sought to explore and unpack the human trafficking problem in Burma focusing on the conflict and the vulnerabilities that are created and exacerbated as a result. The study also aimed to deconstruct the dominant human trafficking discourses which have abounded in Burma, which have oversimplified the perception of the dimensions and causes of human trafficking, as well as influenced research and responses to the trafficking issue. Against these objectives, the study also sought to contribute to the literature on the nexus between conflict and human trafficking, an area that lacks attention, yet is significant in understanding the root causes of the trafficking issue in the Union of Burma.

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