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THE MODERN SLAVE TRADE

**TRAFFICKING IN WOMEN AND CHILDREN
IN THE MEKONG SUB-REGION**

ABSTRACT

There are many different ways to study trafficking and I have chosen to do it from three different angles. First, I ask myself *which role does globalization play when it comes to trafficking?* The globalization has affected the countries in the Mekong Sub-region in different ways. Thailand is the one country where the globalization has come the furthest, with the globalization of both the economy and politics. This can be because they have a different political structure than the other countries in the region. The second group consists of China and Vietnam, which just very recently have started to open up their economies, and changed their tourism policies - both aspects that affect trafficking a great deal. The last group is Myanmar, Laos PDR and Cambodia; these are countries that have started to change both their political and economical structures.

The second angle that I use is to look at how the situation is in the different countries and *what is trafficking?* The trafficking takes different forms in the different countries, and here I divide the countries into three different categories; sending, transiting and receiving countries. Once again Thailand stands out alone, but this time closely followed by Cambodia. These countries are mainly receiving and transiting countries, where Thailand often is the final destination or the transit out to the rest of the world. All the other countries also receive girls, but not as many as are being trafficked out from them, therefore they are being categorized as sending countries.

The final problem that I analyze is *how does the legislations work in the region, when it comes to protecting the women and girls?* The two countries that have come the furthest when it comes to protecting the women and children are Thailand and Cambodia. Even if there is still much to do, these two countries have implemented very strict legislations to get a hold of the problem with trafficking and prostitution of women and girls. The two other countries whose legislations I have been able to find are Vietnam and China. They have just very recently started to acknowledge the problem with trafficking and that is why they have not come very far when it comes to changing the legislations.

This research should be seen as a way to try to see what different factors there are that have an effect on trafficking in women and children. But it could also be seen as a form of guide lines for the other countries in the Mekong Sub-region (because of how the situation has been in Thailand) so that they can act faster and harder against the problem, and know what effects their actions will have.

Key words: Trafficking, Prostitution, Southeast Asia, Human Rights, UN, International Labor organization, Organized crime.

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ABBREVIATIONS

ADB	- Asian Development Bank
BIO	- Bangkok's Immigrations Office (Thailand)
CCPCR	- The Cambodian Centre for the Protection of Childrens Rights
CEDAW	- Committee on the Elimination of Discrimination Against Women
CNCC	- The Cambodian National Council for Children
CPCR	- Centre Protection of Childrens Rights
CRC	- Convention on the Rights of the Child
DEPDC	- Development and Educational Programme for Daughters and Communities
ECPAT	- End Child Prostitution in Asian Tourism
EU	- European Union
FACE	- Coalition to Fight Against Child Exploitation (Thailand)
FFW	- Foundation For Women (Thailand)
GAATW	- Global Alliance Against Trafficking in Women
GMS	- Great Mekong Sub-region
GO	- Governmental Organisations
HR	- Human Rights
HRCR	- Human Rights Commission's Report
IDC	- Immigration Detention Centre (Thailand)
ILO	- International Labour Organisation
IPEC	- International Programme on The Elimination of Child Labour
MRLC	- Mekong Regional Law Centre (Thailand)
MSR	- Mekong Sub-Region
NCMC	- National Commission for Mothers and Children (Laos)
NCWA	- National Commission on Womens Affairs
NGO	- Non-Governmental Organisation
NIE	- Newly Industrialised Countries
SSC	- Sexual Service Centre
STD	- Sexual Transmitted Diseases
UN	- United Nations
UNDP	- United Nations Development Programme

DEFINITIONS

Asian values - can be seen as a reaction against the Human Right, which can be seen as a western view on humanity. Some of the countries in Asia feel that there needs to be some changes, like for example a larger focus on the collective instead of the individual.

Child – “is defined by the United Nations Convention on the Rights of the Child 1990 as meaning ‘every human being below the age of eighteen years unless, under the law applicable to the child majority in attained earlier’” (Muntarhorn, 1996, P 32).

Child prostitution – “The sexual exploitation of a child for remuneration in cash or in kind, usually, but not always organised by in intermediary. (Vogel, 1996, P 2).

Green Rice season – This is when the farmers and their families are short of money while the rice grows (www.uri.edu/artsci/wms/hughes/catw/asiapr1.thm, 2001-06-30)

Sale of Children – “Should be seen as a flexible term due to the different notions of ‘sale’ and ‘contracts’ in existing municipal systems, noting a definition derived from the 1956 Supplementary Convention on the Abolition of Slavery, as Follows: ‘the transfer of a child from one party (including biological parents, guardians and institutions) to another, for whatever purpose, in exchanging for financial or other reward or compensation’” (Muntarhorn, 1996, P 32).

Sexual Exploitation of Children – “Use of children (under 18 years) for the sexual satisfaction of adults. The basis of the exploitation is the unequal power and economic relations between the child and the adult. The child is exploited for his/her youth and sexuality frequently, although not always, this exploitation is organized by a third party for profit” (Ireland 1993, P 2).

Trafficking – In this case “A child *or Woman* (authors note) who is recruited and transported from one place to another across a national boarder, legally or illegally, with or without the child’s consent, usually but not always organized by an intermediary: parents, family member, teacher, procurer or local authority. At the destination, the child is coerced or semi-forced (by deceptive information) to engage in activities under exploitative and abusive Conditions” (Archavanitkul, 1998, P 6)

TABLES AND FIGURES

Figure 1: This figure shows the trafficking from the different countries in the Mekong sub region, and into what kind of work the children are trafficked to. One can also see that it is Thailand that is the centre when it comes to the trafficking of children. (Page 31)

Figure 2: This figure show how the trafficking work into Thailand. The child can either come alone to the border or they arrive to the border with an intermediate. This intermediate can take the child directly into the type of work that the child is needed in. Or they can as in the case of when the child arrive alone change hands and turn the child over to another agent who will bring the child in to the labours in Thailand. (Page 33)

Figure 3: This figure shows how the trafficking routes from three different areas in Myanmar to Thailand works. First they are trafficked with the help of agents to the border towns, and then across the border into border towns in Thailand. After the girls arrive in Thailand they are trafficked into three different types of work and sometimes they are trafficked into one type of work and after a while trafficked on into a new type of work. (Page 35)

Figure 4: This figure shows how the largest trafficking route out of the Yunnan province in China and into Myanmar and on to Thailand. After the women and girls have been trafficked into Thailand, they will stay there for a little while, and then they might be trafficked out into the world. (Page 37)

MAPS

CHAPTER 1 – THE OBJECTIVE AND METHODOLOGY

1.1 INTRODUCTION

This paper is a Masters paper in Sociology of Law. I have chosen to write about the trafficking in women and children into the prostitution as a continuance of my bachelor paper about the child prostitution in Thailand. I became interested in the problem with the trafficking during the time that I was writing the bachelor paper about child prostitution. I found that one problem today, when working with trying to solve the problem with child prostitution (and adult prostitution) was the trafficking. Also when I was talking with the different organisations (both governmental and non-governmental) and the government in Thailand, they told me about the seriousness of the problem, and that this also was the case when it came to women over the age of 18.

One reason for why I want to study the trafficking is because of the lawlessness of the problem. When reading different cases about the trafficking in women and children into prostitution I found that there are major problems when it comes to the question: which countries' laws will be implemented¹. This is a question that I find perfect to look at when it comes to writing a paper about trafficking in the subject Sociology of Law.

The problem of trafficking women and children into work in prostitution is one of the largest problems when it comes to finding a solution to the prostitution problem. The problem is not concentrated to any specific part of the world; it is a global problem, which needs co-operation between the world's countries if they want to end it. One of the contributing parts that play an important role behind the problem of trafficking is the globalisation and especially the globalisation of the economy. The increasing numbers of sex tourists that travel all over the world to have sex with different kinds of women leads to a higher demand for women to the different Red Light Districts² all over the world.

The globalisation of crime is also an important factor behind the trafficking problem. The globalisation of the economy³ has led to the opportunity for the organised criminality to spread their operating area all over the world. One example of this is the Japanese Mafia (Yakuza), which is now operating all over Asia and the United States of America.

1.2 PURPOSE AND THE QUESTION OF STUDY

The main purpose with this paper is to get a greater understanding of the problems that are surrounding the trafficking in women and children into prostitution (I am fully aware of that there are other forms of trafficking than into prostitution, but I have chosen prostitution to limit my research and also because I am interested in how the girls end up in prostitution). This because of

¹ One of the biggest problems when it comes to the laws, when dealing with trafficking of women and children into prostitution is that it is a cross-boarder problem, and that many different countries are involved. One country can be both a sending and receiving country, or it can be a holding place for further trafficking. This contributes to major problems when implementing the laws. Which laws should be used, which countries' laws should be used, should there be an international global legislation when it comes to trafficking.

² A Red Light District is an area in a larger city where a high number of brothels are located next to each other. It is a place where everything is about sex. Some examples of Red Light Districts are Reperbahn in Germany, Pat Pong and Soi Cowboy in Bangkok, Thailand.

³ This is something that Manuel Castells looks at in the book "End of Millennium, Volume III", published by Blackwell Publishers inc, Matden, Usa and Oxford, Uk, 1998.

that there are so many different problems. I have chosen to look at three different aspects of the problem with trafficking to see what part they play, and how they interact with each other when it comes to the trafficking in women and children.

The first problem that I will study is the globalisation, *what role does the globalisation play in trafficking?* One of the largest problems here that I will focus on is the globalisation of the economy. How has this affected East and Southeast Asia, and what different ways are there to look at the globalisation? The globalisation has also had other effects, other than on the economy, and that is that globalisation has led to that the world today seems much smaller. It has brought neighbouring countries closer together.

The second problem that I will try to answer is the trafficking itself, *what is trafficking?* I have during my studies found that there are different ways to define what trafficking is. Some authors and researchers think that trafficking into prostitution only includes the illegal side of trafficking. That means that they think that the women and children⁴ that are trafficked, have been lured by the agents or might even been kidnapped. But there are also authors that think that there are girls who voluntarily go with the agents, at least when it comes to girls over the age of 15, and that this also should be included in the problem of trafficking.

The third problem that I am going to examine is the legislation when it comes to trafficking in women and children into prostitution, *is there any way that the legislation can get a grip over the problem with trafficking?* The purpose with this is that there are many problems when it comes to the legislation and how the legislation could be used when it comes to trafficking. Trafficking is a very complex problem and there are great problems with the legislation due to that it is a cross-boarder problem and many different countries are involved in the same case. This is why many women and girls that have been trafficked into prostitution feel that they stand outside the law and they are afraid of being caught by the police. This because of that many countries treat the women and girls like if they were illegal immigrants. There are also great problems in the legislation when it comes to trying to put those who are organising the trafficking before trial, *how is the law used when it comes to protecting the women and children that have been trafficked?*

1.3 METHOD

For this paper⁵ the type of method⁶ that I will use is the qualitative, and secondary analysis. This means that I will analyse different texts that have been written by organisations, researchers and authors about trafficking. One of the most important factors in secondary analysis is the selection. Much of the material that I have selected to analyse is published in Asia. This because of that much of the material about trafficking comes from Asia. Why it is like that is hard to say, but one reason might be that there are many researchers that are working with the problem of trafficking in Asia. I have also chosen to limit the numbers of authors and researchers. I do not want to take

⁴ I have chosen to focus on the female gender because they run a greater risk of being trafficked into prostitution than boys do.

⁵ For the format of this paper I have chosen to use "Art of speaking and Writing" as a guideline on how to set up the best format.

⁶ According to Conny Svenning one can divide the different types of methods into two different groups, the qualitative and the quantitative. A qualitative method is when the question/study can be answered in figures and tables, it does not give much information when it comes to knowledge or information about the situation. This method is more flexible and the research can go into many different directions. The other method is the quantitative method, it includes interviews, and goes deeper into the questions than the other method. This method can not be answered with statistic (Svenning, 1996, pp 66-71 82-84).

on too much information in this paper. In my selection of the material I chose to limit the number of statistics; this because of that there are so many different numbers about how many girls that have been trafficked into prostitution. I have also found during my study that almost every organisation, both governmental and non-governmental, have their own figures about how many girls and women that are trafficked from each country.

The method that I will be using when analysing the material is comparative analysis. I think this is the method that works the best when examining the similarities and differences there are between the countries, when it comes to globalisation, trafficking and the legislations.

One thing that one has to take into account when doing a research is reliability and validity. Reliability means that the research is done in a correct way, that the figures that you use are correct and that they measure what you want to measure. Validity is that one takes up what one wants to look at. If a research is going to have high validity one have to be sure that the paper is about what one said that it was going to be about (Thurén, 1998, p 22). To get the best result possible I have tried my best to take these matters into account.

1.4 LIMITATION

While doing this paper about trafficking in women and children into prostitution, I didn't face as many problems as I thought I would do. One of the biggest problems I encountered was what part of the world I wanted to focus on, this because of that trafficking in women and children is a global problem. But I decided that I wanted to focus on Asia in this paper, where I feel that the problem with trafficking is the worst, this also because much of the material that I have found about the problem with trafficking deals with the Mekong sub-region.

Another problem that I encountered was that it is very hard to write much about what the different governmental and non-governmental organizations do to stop the trafficking of women and girls into prostitution. This because of that there is not much material written about the organizations' work in the material that I have found, and the same thing goes for when I tried to find organizations on the internet. There were also problems because I could not do any interviews with the organizations that I found the most interesting, this because all of those organizations are located abroad.

The last problem that I had while writing this paper is that it was very hard to find any new material. Most of the material is from 1996-1999 but it is almost impossible to find material that is written after the year 2000. But with the help of the Internet I have tried to complement those reports that I already have with the new material that is printed on the Internet, this because of that it is easier to find new material and material that is more up to date on the web sites. This problem is also closely related to the problem that occurred when I was trying to find the legislations. I never imagined that it would be so hard to find the national legislations of the countries in the Mekong Sub-region. But I had great problem finding them. Finally I found a site on the Internet where many of the worlds countries where represented, but I never managed to find Myanmar and Laos PDR legislations.

1.5 OUTLINE

In chapter one, "The objectives and methodology of the research", I will develop why I want to write this paper, the questions that I will try to answer and a small discussion about why I have

chosen the three questions that I want to try to answer in this paper. I also describe the method that I have used and why I have chosen the method that I use. Finally I bring up the limitations and the problems that I have encountered during this research.

In the second chapter, “Theoretical background”, I will discuss theories that deal with trafficking and human rights. One of the authors that I will use is Woods who discusses globalisation and what globalisation is. Is it something that is positive or something that also can be viewed as negative? I will also look at different authors that deal with the human right questions.

In chapter three, “Trafficking”, I will compare the various definitions of trafficking of women and girls into prostitution and what trafficking is. I will see what the different authors and researchers include when they study trafficking. I will also include how the situation is for the victims, that is to say the women and girls that are being trafficked.

The fourth chapter, “Trafficking legislation”, is the most important chapter in the paper, because it deals with the legislation in some of the countries that I look at in this paper. I will also describe the problems with implementing the laws here and what problems the different countries encounter while trying to get a grip over the problem with trafficking. I will also look at international conventions, like the UN convention on the Rights of the Child and conventions about trafficking of women, the ILO convention and IPECs work.

In chapter five, “Analysis”, I will discuss the authors’ thoughts and what they see can be done about the problem of trafficking in women and children. These are solutions that I have been able to find in the material, and material that have been used in different seminars on trafficking, and what the summary of those seminars has led to.

CHAPTER 2 – THEORETICAL BACKGROUND

2.1 INTRODUCTION

In this chapter I will present different aspects of the globalisation, human rights, Asian values and the economy. The first researcher that I will look at is Ngaire Woods, who talks about the globalisation of the economy. Here I will look at how the globalisation has affected the economy and what it is in the globalisation that is the leading force. I will also look at the different views that there are on the globalisation of the economy, like the ‘sceptics’ and the ‘globalists’. Woods also talks about the financial crisis in Asia, which I will show in the next chapter has had its impact on the trafficking.

The second author is Brown, who looks at different variations of how globalisation has affected the human rights, and the history of the human rights. Brown also discusses how the human rights can be implemented into the national law and what effects it will have. I continue the discussion about human rights with McGrew’s view on how the human rights have been affected by the globalisation. What role will the human rights play in the global society? McGrew also talks about what role the economy plays in the global society and how they affect the human rights.

The fourth researcher that I will use is Beyrer. In the first sub chapter I will look at the Human rights against the Asian values⁷ and the economic globalisation. Here I will take up his view on the difference between the Asian values and the human rights. I will also look at how he sees the economic development in Southeast Asia and his view on multinational corporations. In the second sub chapter, where I use Beyer, I will discuss the HIV problem in Asia and also the problem with trafficking. I will discuss how the HIV virus started to spread in Asia and what there has been done to try to end this problem. I will also look at the factors behind trafficking and what the driving force of this criminal activity is.

The fifth and final author that I will use is Enloe, who is a feminist writer who looks at tourism and prostitution. I have chosen to include this writer because of the different view she has. In many ways she blames men and tourism for the prostitution in Southeast Asia, and she also sees that there has not been much done by the organisations because they have no political power.

2.2 THE GLOBALISATION OF THE ECONOMY

Ngaire Woods looks at what the globalisation of the economy is and how it can be defined. He sees that there are three different aspects of globalisation. The first is internationalisation, which describes the increase in the transactions between different states; this includes flows of trade, investment and capital. According to Woods this is a form of globalisation that has “undergone a quantitative leap in recent decades (Woods, 2001, p290)”.

⁷ The Asian values can be seen as a reaction against the Human Right, which can be seen as a western view on humanity. Some of the countries in Asia feel that there needs to be some changes, like for example a larger focus on the collective instead of the individual.

The second is the technological revolution, referring to the modern communication, Internet, satellite communications etc. This revolution has led to that distance and locations are less important factors, when it comes to investments but also when it comes to social movements. The third and last is the liberalisation in government policies that have led to that the role of the state when it comes to economy has diminished. This has opened the market for a large private sector, and this has made the new global economy possible (Woods, 2001, p 290).

In the International Political Economy there are different arguments about the globalisation. There are those who claim that globalisation is a resent phenomenon and that it has diminished the role of the states. At the same time there is the opposite side that sees that globalisation is nothing new. It existed in a large scale during the imperialist era, when the western world colonised Africa and Asia. To be able to explain this, one has to approach the problem from different angles.

The first angle, according to Woods, is the “globalists”, which is the group that is positive to globalisation. They see that the globalisation has led to an increase in multinational trade, production, investment etc. At the same time as this evolution in the economy, they see that the states are loosing a way to control the economic interactions. One way to give a short presentation of the “globalist” view is the way that Kenichi Ohmae does in “The borderless world”:

“The nation state has become an unnatural, even dysfunctional, unit for organizing human activity and managing economic endeavour in a borderless world. It represents no genuine, shared community of economic interest: it defines no meaningful flows of economic activity. (Kenichi Ohmae, “The Borderless world: Power and strategy in the Interlinked Economy, 1994, p 24, quoted by Ngaire Woods, “international political economy in an age of globalisation”, in Baylis & Smith, “The globalisation of world politics, 2001, p 291).”

To summarise the “globalist” view, they say that in the new world of globalisation the states are losing their power over the economic order, and this leads to that borders, governments and states become less important.

The second group is the “sceptics”. They argue against those who see that the states are becoming less and less important and that the states’ power is diminishing. Instead of loosing power the states have started to put their focus on other parts of the economy; on areas where there is more unemployment, and low wages, and they are trying to change this. And if a country’s economy is going to function there will have to be a government to control the changes and this is an important part of a successful economy (Woods, 2001, p 291).

In the discussion about when globalisation occurred, it is important that one does not forget that because of the fact that billions of dollars can flow in and out of countries unnoticed and in a matter of seconds, this has also created new vulnerabilities in the economic sectors in many countries around the world, especially in newly industrialised countries. One example of this is the 1997 financial crises in Asia. The financial crisis began in March of 1997 in Thailand when there was a huge outflow of capital from Thailand, which led to that the Thai currency weakened. Within weeks this crises had spread from Thailand to Indonesia, Malaysia and the Philippines. And by the end of 1997 Thailand, Korea and Indonesia had been forced to turn to IMF⁸ for help, to be able to set up a reform, consisting of tough conditions set up by the IMF, which they had to undertake to help the situation. There has, after the financial crisis in Asia been a large debate about whether the involvement of IMF and the tough reforms that they set up were necessary or

⁸ International Monetary Fond.

not, and some even mean that this involvement has led to a deeper recession in the region (Woods, 2001, p 292).

The IMF mean that they set up these hard conditions because the crises in Asia led to that the countries became victims of their own success and this led to that foreign investors underestimated the countries economic weakness. Critics say to this that the IMF was wrong to treat the countries in Southeast Asia like they did. If a country is in need of short-term financial help it does not give the IMF the right to substitute its technical judgement on the financial outcome for judgement in the state/countries political structure (Woods, 2001, p 292).

The financial crisis in Asia showed all three aspects of globalisation mentioned above. The Asian countries had adopted a financial policy that much reminded of the west capital markets and this led to a large inflow of short-term capital. The financial crisis in Asia also led to that some leaders called for the states to have better information about their financial situation, monitoring and deeper co-operation in the world economy. Looking at the globalisation of the economy one can see that this will continue to grow within the existing institutions, and new institutions will also emerge. In this way the globalisation is moving more and more toward a liberal economic model, where both weak and strong states can benefit (Woods, 2001, p 294).

2.3 THE GLOBALISATION OF HUMAN RIGHTS

The concept and ideas about the worth and dignity of human beings and the development of human rights is a western, and European development from the beginning, in modern time. But the concept of human rights has later spread all over the world. One can see numbers of different global and regional treaties and declarations that concern human rights, and also the emerging of non-governmental organisations like Save the Children and Amnesty International, which are working to ensure the enforcement of human rights. The ideas of human rights can be seen as divided into three different generations; at least it is three at the moment. The first generation of human rights consist of the foundation rights like freedom of speech and the right to take part in the government of one's country. The second generation of rights have to do with economic, social and cultural rights, and the free development of one's own personality. The third and for the moment last generation of rights is about the collective dimension. People are free to use their wealth and natural resources how they want, and the individual has an obligation to serve his country, without being punished for his services (Brown, 2001, p 600).

When implementing the human rights in different parts of the world one can clearly see that there is both a political and a moral struggle between different values. The human rights values can sometime overrun old traditional values and because of this, there arises a struggle between the new and the old values. Another problem that some authors see is that there is a philosophical problem. Are the first, second and third generation of rights compatible with each other? There is a problem because the rights say that the individual has the right to freedom but also that the individual has a duty to serve the government and state (Brown, 2001, p 601).

When it comes to implementing the human rights laws into the national laws, one can hope to be born in a country where the rulers have been willing to accept the human rights into the national laws. It is in these countries where the domestic courts protect the individuals from being abused by the countries' rulers or other people who want to make a profit by using other human beings (for example prostitution and trafficking). But there are also countries, which have chosen not to implement the different human rights conventions into the national laws, but they might

still have been influenced by the international standards. One example of this is the international consensus within the “free world” against the death penalty, even though some of the states in the US are still being unaffected and refuse to give up the death penalty. There are also special problems when it comes to the implementation of the second generation of the rights (economic, social and cultural rights). One of the problems is that it is not clear or even assumed that these goals always can and will be met, because the term culture can be misused in some languages, due to that it means different things in different countries. A second problem is that some states may seek to use the social and economic rights to be able to directly undermine the political rights. And it can also be the other way around, where dictatorial regimes use the political rights in the name of promoting economic growth or equality. The last problem is that if it is accepted that the states have a duty to promote economic well being, then the consequences can go beyond the requirement of the rich to share with the poor to become a revolutionary thought where the rich are forced to give up their wealth to the poor (Brown, 2001, Pp 607-609).

The idea of human rights is not always positive; it can also be seen as limiting the domestic and national laws to what will be internationally accepted. It will create a situation where states are obligated and forced to become alike and their acts will be judged after the international moral values, or in other words, what the western world says is right or not right. Chris Brown says the following about this view (Brown, 2001, p 610):

“The human rights movement stresses the common humanity of the peoples of the world, but for many, the things that distinguish us from one another are as important as the things that unify us.” (Brown, 2001, P 610).

One can clearly see this when it comes to the implementation of the human rights in Asia, where there is a conflict between the human rights and the traditional thinking of their values. The attempts to implement the human rights by INGOs and NGOs are not only a form of imperialism in South-East Asia, according to Brown, but it is also a way to try to change the social choices for those who live in South-East Asia, and a way to get them to act in a more western way. One reaction to the western human rights is the Asian Values. The attempts of the western world led to that there was a meeting between the newly industrialised countries in Asia where the ‘Asian Values’ started to take form. The ‘Asian Values’ can be seen as being counterpoised to the ‘western values’ which are associated with the human rights, and in this way also as a sign of the forthcoming ‘Clash of Civilisations’ that Huntington forecasted.⁹ During the Bangkok Declaration of 1993 the general view on the western human rights was that they were seen as individualistic, and opposed to the emphasis on the family of the Asian society, which is influenced by (and not hostile to) the religion (Brown, 2001, p 610-611).

2.4 THE FUTURE OF HUMAN RIGHTS IN THE GLOBAL AGE

R. Rorty sees that the idea of the universal Human Rights is a fact of the world, but Anthony G. McGrew sees that it can be argued that the patterns of globalisation can change the world politics

⁹ Samuel P. Huntington is the author of the book “The clash of Civilizations and the remaking of world order”. This is a book that looks at the world after the cold war and where the new conflicts will arise. He sees that the end of the cold war led to that the worlds map was redrawn and that it today instead of the east vs. the west, the conflicts will be between the different civilizations, where the western world (US, Europe and Australia), is one civilization, and South-East Asia is another civilization among many.

and through that, the necessary terms for a needed development toward a stable universal Human Rights principle. The globalisation has provoked the question about the political and institutional demands for Human Rights to advance in the global time. This has led to that Human Rights have reached the status of a global ideology. They have become institutionalised in a global and regional Human Rights regime, and even within other functions in the global governance. A special form of transnational mobility follows this by for example non-governmental organisations, which has led to the globalisation of the Human Rights politics (McGrew, 1998, Pp 188-189).

According to McGrew the globalisation can easily be understood due to the stretching, deepening and speeding up of interconnectedness, the creation of the networks, the flow of transactions etc. This can be seen through the following points:

- Over one trillion dollars flow over the currency market every day.
- In 1960 there were about 70 million international tourists, in 1995 it was over 500 million.
- It is the MNCs (Multi-National Corporations) that stand for 70 percent of the trade and 80 percent of the international investments.
- The global warming, the decreasing ozone layer and deforestation have led to a global environmental catastrophe.
- The development of the modern communication technique, like the Internet and the World Wide Web.

The contemporary globalisation has led to a world where international relations have been decentralised and where the political space has become reduced and reconstructed. It has created new patterns of exclusion of the economies and governments and there is today little difference between foreign and domestic. McGrew feels that the development of the well fare state also gave the Human Rights a big boost forward. The Human Rights are no longer trapped in the cold war and the East – West conflict. But these changes and climate are not necessarily good for the Human Rights, and it is here (according to Jack Donnelly) that the starting point of the future of the Human Right lies (McGrew, 1998, Pp 192 f).

There has also been a change in the surveillance system, which has been increased with regional regimes and mechanisms for the incorporation of Human Rights. Through the spreading of Human Rights there has been attempts by some states to spread democracy, which has led to conflicts. Democracy can be an important tool to be able to facilitate the control, but democracy is not enough to be able to secure the goal of Human rights and security. The new politics within the Human Rights system has created a new form of diplomacy, where the states today are trying to act like an intermediate in a conflict between two other states. This leads to that the Human Rights have become a divided activity (McGrew, 1998, Pp199 f).

There are many different views on how the future of the Human Rights will look. Ulrich Beck sees that it is not demanded by the globalisation to recreate the Human rights, but instead one have to start to rethink the concept of the Human Rights. Also McGrew has some different views about the challenges the globalisation has created for the Human Rights. The first challenge is that it has undermined the states' privilege as a supervisor of the economic rights. If the states become constrained the consequences will be that they cannot fulfil their obligations when it comes to the economy. The globalisation and the pressure make it much harder for the states to guarantee the social, economic and well fare rights. And if the state cannot guarantee them, then

who can? And if the state cannot guarantee that the Human Rights are being followed, then who can (McGrew, 1998, Pp 203 f)?

The second challenge is that the Human Rights process has become associated with the individualisation process (self-determination), which has led to that the collective has become more suppressed under the states power. The failure by international organisations to prevent abuse of the Human Rights has contributed to that there is a larger scepticism against an effective Human rights regime. A third challenge according to McGrew is the emergence of the civil society through the globalisation. The global political rights are structured in a way that they tend to reflect the dominant interests of the western world. The last challenge is that there is a contradiction between the temporary globalisation of the social life and the normative discourse of the rights that exists in a language in the international society. The language itself is the problem and the new “global ethic” in which alternative normative principles are more relevant in the global trust, like the creation of a global community and human value etc (McGrew, 1998, Pp 204 f).

2.5 HUMAN RIGHTS VS. ASIAN VALUES AND ECONOMY

Beyrer sees that a functional civil society can be compared with an old forest that is full of hidden networks and has to be kept in balance. The civil society needs human input and constant care to make it inherently beautiful and to create a space of peace. But a garden will also be exposed to diseases. One thing that the Southeast Asian countries have in common is the recent explosive epidemic of the HIV infection. There have been many attempts to get a hold of the problem. One of the more effective ways is the promotion of condom use, which is a more direct form of intervention to try to solve the problem with HIV. But for this to be successful there has to be a social stability and respect for human rights, this to be able to use the intervention of condom use, better STD care and HIV education for the youth. This is something that the governments in Southeast Asia are trying to do. During an Asia-Pacific meeting in 1997, they also came to the conclusion that if there is a regime or government that is oppressing their people, this will also have to be a part of the intervention, because one has to reform the government to be able to make a successful intervention against HIV. One example is Burma, where the citizens are denied freedom of speech and assembly, the right to vote and create non-governmental organisations. How can the people that are infected with HIV and Aids be addressed without addressing the reality of the human rights under this suppressing regime (Beyrer, 1998, Pp 207 f)?

Much of the debate when it comes to human rights in Asia has been focused on the ‘Traditional Asian Values’ in contrast to the Western values. One difference between the human rights and the Asian values is when it comes to the economy, because of that the Asian people are seen as obedient, it is the family and not the state that are going to provide for the elderly and the infirm. It is instead up to the government to ensure a long-term planned economy. Many of the western companies are very interested in the Asian market, this because they are very appealed by the idea that the trade unions should be controlled by the government, like in Indonesia and China. This is also a system that already has led to large environmental problems in countries like Taiwan and Thailand (Beyrer, 1998, Pp 210 f).

But not all the countries in Asia have accepted the ‘Asian values’. When Burma was given the chance to vote for the ‘Asian values’, they instead choose the only two rights that they had from the Human Rights and that was the respect for the rights of citizen and the non-violent

dissent. One of the cornerstones in the 'Asian Values' is the fight to stop the spreading of HIV, this because they see decadence in the West and the uncivilised African values. The 'Asian values' play an important role, not when it comes to prevention factors, but instead when it comes to preserving the traditions in Asia. It was created to fight the prostitution, the trafficking and sale of women and children and to stop the abuse of these women. All these factors can be seen as different ways of trying to end the spreading of the HIV and Aids virus. But it is very hard to try to implement the 'Asian values' in the countries in Asia, this because so many of the countries are struggling with the problems that are addressed in the 'Asian values'. One example is the slavery and forced labour that are large components in the economic system in Burma and China (Beyrer, 1998, P 212).

There is a very strong bond between the states in Southeast Asia, which is based much upon the economy and trade, even at the most simple level of the society. Beyrer sees that the economy cannot exist without the people and their labour. And the way that their labour and resources generate wealth is the basic component for any economy, which is in a context where the human rights conventions do exist but are repeatedly violated. But there is a strong protection of the governmental corruption in both Burma and China, at the same time, as they want to improve the human rights. But there is no way that the trade and human rights cannot be dealt with at the same time. Those who are rebelling and those who are corrupt can easily be put aside when it comes to the economic considerations, so why could not this be done when it has to do with human rights? This is something that Beyrer supports and thinks to be absurd, that governments are not doing this but instead use the human rights as an excuse. But he also sees that this is not a question for the countries elite; their only concern is about power and the privileges of power. And if outside investors are willing to invest money in the countries and its companies, even if they know about the bonded labour, population transfers, the clear-cutting of forests, then why change any of it for the sake of human rights? The only answer that Beyrer finds to this is as he says to be more honest and say what the real reason is (Beyrer, 1998, Pp 213 f):

“We should say, ‘It is up to you to change things; we are only interested in the money your country brings to our country, and in the jobs at home our trade with you will help to generate and sustain. If you can seize the day, do it, but be prepared to continue our trade, or we will see to it that you don’t get power’. If we really do care that the tennis shoes we buy are cheap because the hands that made them are in chains, we should not buy the shoes”. (Beyrer, 1998, Pp 213)

2.6 FEMINISM, TOURISM AND PROSTITUTION

Tourism is nothing that is special for the 20th century; it existed already in the Roman Empire. But the difference is that back then the travelling was less connected with pleasure. In many countries both then and now the view on what is feminine, is that the women should be kept close to the home. And if a woman still wants to travel alone she is seen as irresponsible, and will risk losing her honour. And if she happens to get in to any kind of problem it will be her own fault because she should not be out there in the first place. This is in contrast to when a man leaves home, when it is seen, as he will start to live his own life. Tourism is as much an ideology as it is a physical movement. It is built on presumptions of masculinity, education and pleasure, the masculinity versus the femininity. Women are often seen as exotic, and for many men women are something that should be explored and used. If the men get close to a woman when visiting another culture

he will feel that he has breached the chains of his civilisation, and by that become free from the moral standards that have been put on him by the respectable women at home (Enloe, 2000, p 21 f).

Today the package trips are very profitable for parts of the international companies. One example is Britain where there are over 700 travel agents, which sell over 12.5 million trips (worth over £ 3.1 billion). Another example is the Japanese government that sees that tourism is one of the fastest growing industries in the country. The travel agencies in Japan sell trips for about \$ 16 billion a year. Most of the package trips go to Korea, Philippines and Thailand where the sex tourism is very high (Enloe, 2000, p 29 f).

According to Enloe, tourism is a very strong engine for the global integration; it is a way for a country to be able to enter the world society. There are not high demands when it comes to tourism, and that's maybe why the technocrats cheer when a country says that they want to concentrate their aim on tourism. But tourism is not only a good thing, it can also led to that a poor country starts to get dependent on the foreign currency, and this creates a new form of dependency. There are even some governments that have put it at the top of their political agenda to see to it that the country makes as much foreign currency as possible (Enloe, 2000, p 31 f).

When it comes to luring the tourist to their companies the airlines use every way possible. One example is Singapore Airline, which in one magazine ad used a beautiful Asian woman (the nationality is impossible to determine). She stands in a light mist, holding only one water lily in her hand. There is nothing in the ad about things like the airline's security; the only thing it says is "Singapore girl... You're a great way to fly" (Enloe, 2000, p 33). This to be able to get the men to fly with their airline, because, according to Enloe, most of those who fly are men and those who are flight attendants are women. This is also a way for the sex establishment to send out a signal without having to put it into writing (Enloe, 2000, p 33).

Pat Pong is a neighbourhood in Bangkok, which has its main focus on foreign men who come to Thailand. This because of that two thirds of all the tourists that come to Thailand are men. In 1960 the government enforced the prostitution prevention act, where they made all forms of prostitution illegal. But there has not been much attention given to this act, and in 1980 there were over 119 massage parlours and teahouses, 97 nightclubs and 298 brothels, all where the tourists could get hold of prostitutes. Some of the women that work as prostitutes come from the remote countryside and others are second or third generation prostitutes. Many of the girls choose prostitution instead of regular work because they can earn about 5000 Bath (about 1200 Skr) as prostitutes and that is five times more then they would get at a regular job. In the countries that have a high number of sex tourism, there is also a network of companies that tries to encourage men to travel to their countries to buy sexual favours from exotic women. Countries like Thailand, Korea and the Philippines have become developed as destinations for sex tourist, and the laws to prevent prostitution have been ignored (Enloe, 2000, p 35 f).

In conclusion Enloe sees four different developments when it comes to the tourism. The first is that the tourist industry has become an industry that can help local economies and has replaced the old traditional industries in the third world countries. The second is that foreign currency has become more and more important for the tourist countries in the global economy. The third is that the prostitution still continues to grow and it is hard to do anything to stop it. The fourth and last is that the sex tourism is a way for the men to gain control over the women and give them security (Enloe, 2000, p 41).

2.7 THE FLESH TRADE – BUDDHA, HIV AND TRAFFICKING IN ASIA

The descending of today's Buddha in Thailand arose in Sukhothai, the first kingdom of Thailand. They had just migrated out from Yunnan into a region, which was since long settled and controlled by the Khmer. The Khmer's Buddha was a solid, broad-chested man, with a smile of knowledge and a wrestler's thick face and neck. But after the Thai people conquered the Khmer their Buddha also changed. Having overcome the contradictions and conflicts he was now an androgyny, with more curvaceous hips, a slight suggestion of breasts under his robe and a face that was both male and female. One who looks at the Thai culture is Chris Beyrer who sees that there is a love of beauty and an acceptance of the physical, and also a celebration of the sensual and spiritual (Beyrer, 1998, p 17).

The word 'Thai' in their polytonal tongue, means free and Thailand or Prathet Thai, means therefore the land of the free. This is because of that there is a strong emphasis in the culture on the individual autonomy. But this autonomy is mostly for men, where the main focus is the right to live one's life as one likes and to choose what pleasure one wants. This is a birth right for the Thai. This view of freedom has also expanded to the sexual life, where in the past polygamy was openly accepted. And even if this view today is not socially accepted there are some of the wealthy men in Thailand who still have a second wife. There are also freedoms that are not accepted by the public and break all moral codes and that is homosexual liaisons, minor wives (as mentioned above), and selling daughters, and if this is done it is a moral disaster for the Thais. This has to do with losing face, and to make a Thai lose face will lead to that one has made a fast and enduring enemy (Beyrer, 1998, p 18).

In the middle of the 1980's there were reputable medical authorities that suggested that the Asian might be resistant to HIV, but the epidemic that broke out just a little later showed that this was very wrong, and Thailand was the first country to kill the myth about Asians invulnerability to AIDS. But there are many reasons to why people choose to study the HIV problem in Thailand due to the rapid spreading, and this has led to that it has become the most studied country in the world when it comes to this problem. According to Beyrer there are many things that one has to understand when it comes to understanding HIV, one has to deal with different kinds of sex, licit and illicit, commercial and force and so on. One has also got to get behind the cultural standards and the ideals of sexual behaviour. One has also got to look at the realities of heroin addiction and other forms of drug use and also the role of the trafficking (Beyrer, 1998, p 18 f).

Nobody knew much about HIV until 1994, when the virus itself became identified. This was at the same time as the first case of HIV appeared in Bangkok in Thailand. It was a Thai gay man who had been having a long-term relationship with a man from the Western world. The only reason it could be identified as HIV was because the medical doctor had worked with AIDS patients in the US. The second case was identified, and this time it was a man that had not been living outside Thailand. He had been employed at a gay bar in Bangkok. The Thai government reacted quite fast to the arrival of AIDS by setting up a surveillance system. This group was going to target those who were most likely to be exposed to HIV. One reason that the HIV spread rapidly in Thailand and especially in Bangkok was because of the heroin addicts. And during a survey done in 1988 they found that close to 40 percent of the addicts were infected with the HIV virus. This was seen as the second wave of the epidemic and no one could really answer the question of what had happened (Beyrer, 1998, p 20 f).

This wave also includes the problems with prisoners. Many of the addicts that were imprisoned were forced to share needles with people from all over the world. And this can be the

reason for why it was the same subtype of virus that was found among the addicts in Bangkok but also in London, New York and Rome. The next wave came when the spreading of HIV hit the sex establishments, where women worked. Before 1989 there were only a few cases reported and it was only about 1 percent of the women that were infected. But during two surveys that were done in 1989 the number of girls that were infected with HIV rose from 1 percent to about 44 percent, and this only in 6 months. This was the group that the government did not want to become infected by the HIV virus, because it does not only include the women, but it includes the clients, and the clients' other sexual partners, which includes a large part of the sexually adult people in Thailand. And according to Bayrer HIV was now seen as connected with Thailand (Bayrer, 1998, Pp 22 f). One of the largest questions when it comes to HIV is the one about natural immunity. This because, according to Beyrer, there is evidence that there are some people, with certain genes, who are resistant to the HIV infection. There has been a study in Africa that shows a group of women who have been working as sex workers, but still have not been infected with the HIV virus. This has changed the research about HIV, because of that the women have been exposed to HIV in different stages and still they have not been infected (Bayrer, 1998, Pp 137 f).

The trafficking in Asia affects all countries, a brothel in Cambodia may offer girls that have been trafficked from Thailand, Vietnam or China, and the Cambodian women can be found in brothels in Hong Kong, Thailand and Malaysia. One of the countries that receive most girls is Japan, where over 50.000 girls from Thailand are working. The trafficking industry is very profitable. The modern sex trade and trafficking of women can be compared with the industry of the legal slave trade during the 17th – 19th century; with the difference that today's slave trade is untaxed. The traffickers supply the brothels with cheap sex workers, for whom there will always be buyers. The number of girls that are being trafficked is constantly increasing, this due to the problems with the economy - the gap between the rich and the poor is getting wider and families are forced to rapid social and economic changes (Bayrer, 1998, Pp, 128 f).

The trade begins very often in a poor and remote village, like a village of ethnic minority Dai in Yunnan (China), or in a poor farmer community in northern Thailand (these girls also come from ethnic minority groups). There are abductions and families do sell their girls, but most of the girls are offered jobs as waitresses or maids, and it is the family that gets the money. There are even girls and families that know what will happen to the girls, but there are not many other opportunities for them. Another reason for why some families have to let go of the girls is drug abuse (Bayrer, 1998, P 129). Perhaps the father needs the money for drugs. When the girls arrive at their destination they will be sold as virgins up to as many as thirty times, no matter what other experiences she has had. This is the so-called break in period, where the women must learn that she now is trapped and that there is nothing that she can do about it, which can be compared to rape. The girls will be kept for as long as they still owe money to the brothel owner. And when and if a girl finally breaks even, and she will have to be paid for her work, the owner often calls the police for a raid, and then he will go to the prison and bail her out. Now once again she is in the power of the brothel owner. And if she refuses to come with him, she can face being deported or even worse, she can end up being sold by the police (Bayrer, 1998, P 130). The trafficking is a special form of slavery, because it is being carried out over borders, which make the girls illegal aliens. This leads to that the girls have no rights at all (Bayrer, 1998, Pp 129 f).

2.8 SUMMARY

Woods tries to define what globalisation of the economy is, and he finds that there are three different aspects of globalisation. The first is the internationalisation, which means transactions between states. The second is the technological revolution; here it is the development of communication and the Internet that is the main focus. And the last is the liberalisation of government policies. According to Woods, there are two different views on globalisation. The first is the globalist view, and they see that the states are losing their power and becoming less important. The second view is the sceptics' view and they mean that the government is needed to be able to control the economic development. Finally, Woods looks at the financial crises in Asia, which came from the adoption of a western economy.

The second author is Brown, who looks at the development of human rights, and sees that there is a struggle between the new rights and old traditions and values. Brown also feels that there is a struggle between the right to freedom and the duty to serve the government. There is also the view among some authors that different countries around the world follow the human rights to different degrees and therefore it can be seen as some people are born in the wrong countries, where the government chooses not to follow the human rights. These are countries that might be abusing the rights and use the economic rights to undermine the political rights.

Mc Grew also looks at the Human rights, but his focus is on the globalisation of the human rights and how they have been changed because of the globalisation. Mc Grew also thinks that the human right concept got a big boost out of the well fare state. To be able to include all the different rights all over the world like the 'Asian Values' and the 'African Charter' we will have to rethink the human right concept.

First Bayrer talk about human rights and how they stand in contrast to the 'Asian Values'. One thing that is common to the countries in Southeast Asia is the problem with HIV, trafficking and prostitution. This is the reason for why the 'Asian Values' were created, and after that they have developed more and more. The 'Asian Values' are very important for the countries in Asia because they help to preserve the old values and traditions that are in the Asian culture. In the second part, Bayrer talks about what the word Thai means and how this freedom functions in the society. In this part Bayrer describes the problem with HIV in Southeast Asia and how it has spread. There are a couple of different explanations that are important, according to Beyrer, when it comes to the issue of how the HIV virus came to Asia. Bayrer thinks that it came from the west and from the prisoners.

The final author is Enloe, who talks about the problem with tourism and how it has been affected by the globalisation. She thinks that tourism is a strong engine for global integration. Tourism has helped the local economies but at the same time it has also changed the old traditions. Another problem is the foreign currencies that become more and more important for countries that have a high number of tourists. This high number of tourists has also led to that the prostitution is growing and the demand for girls that can work as prostitutes is becoming higher and higher.

CHAPTER 3 – TRAFFICKING

3.1 INTRODUCTION

There are many ways that trafficking can be defined, and almost every researcher and author have their own way of doing this. Some of the researchers think that trafficking only involves girls and women that are being trafficked against their will, or that have been deceived by agents. But there are also authors that think that the trafficking can be voluntary and that the girls know that they will be working in prostitution, but still go with the agents. One of the researchers who think this is Beyrer. According to him the agents use various methods, like offering the girls jobs as maids or waitresses. There are even families that know what the girl will do when she arrives at her destination, but they have to choose between survival or letting their girl work as a prostitute (Beyrer, 1998, Pp 129 f).

Therefore there are different ways of defining trafficking and how much the girl is a part of it from the beginning. This chapter also includes the victims (the girls and the women), and how much they know about the situation that they are about to enter. The country that the main focus is on is Thailand, but also Laos, Cambodia, Myanmar, Vietnam and the Yunnan¹⁰ province in China¹¹. In this chapter I will also look at what prostitution is. In many countries law forbids prostitution, and instead the prostitution is hidden in various forms of legal businesses. One example is Thailand, where the brothels are disguised as massage parlours, go-go bars, regular bars or restaurants¹²

Trafficking is the slavery of the modern world, where the women and underage girls come from terrible conditions and are at the bottom of the well fare ladder. These girls' only way out is to grab any offer that they get even if it is prostitution. These girls are an easy target for the agents and intermediates and they can often get the girls to go wherever the agent needs a prostitute. One of the reasons to why it is easy to lure these girls is because of that in Asia the women and girls have an obligation to take care of the family and to support them economically (Swartele, 1996, P 68).

The phenomenon with trafficking has rapidly spread in the newly industrialised economies, and this is especially noticeable in Asia where there is a major focus on the trafficking. Within this region, Japan (the dominating super power) is the main destination when it comes to the trafficking in girls into the entertainment sector. But this is now changing and the girls are now starting to flow to countries like Malaysia, Thailand and Hong Kong. Thailand mainly receives girls from Burma and the Yunnan province in China, and there are over 50.000 brothels and other sexual service centres. In some cities like Chiang Mai over 50 percent of the girls that work as prostitutes come from outside Thailand. The girls are kept in the jungles near by the cities, while the agents try to make the girls attractive.

¹⁰ The Yunnan province is located in the South west of China and borders to three different countries, Myanmar, Laos and Vietnam. Making it a perfect place to traffic girls out from China to other countries in the Mekong Sub region (Caouette, 1998, P 8).

¹¹ These six countries in Southeast Asia are also called the Mekong Sub Region.

¹² All though brothels are illegal by law and it instead are called massage parlours, go-go bars, strip clubs, restaurants or hotels, I will in this paper still refer these places as brothels.

3.2 DEFINITION OF TRAFFICKING

Trafficking in women and children is not a new phenomenon, but it should not exist in the modern society with its human rights. But still in these modern times there are women and children that are being trafficked. One example is in 1991, when women and girls from the Pakistan – Afghanistan border, where being trafficked and sold at the slave market for \$ 60 per kilo. Today the problem with trafficking is a global problem. One reason for why trafficking exists is the cunning wit by those who are running the trafficking, who have adapted to the changes in times and therefore are able to circumvent the countries' laws (Swartele, 1996, P 68).

Another reason can be the uneven development between the countries when it comes to the economy, and woman and children become an import/export question. This view is something that can be seen in Brown's discussion about how some people are born into the wrong country, where the government is abusing the Declaration of the Human Rights (Brown, 2001, Pp 607-609). The historical slave markets used to sell women and children who were captured by conquering armies. Today's trafficking is not relying on abduction but instead more on persuasions and false promises. A third way is to tell the women and girls upfront that they will earn their living as prostitutes (Swartele, 199, P 68).

As I have mentioned in chapter 2, Bayrer looks at the trafficking to prostitution and he sees that there are families that know what will happen to the girls but still they let the girl go to work as a prostitute. One reason for this can be that the families need the money to support a member's drug/alcohol abuse (Bayrer, 1998, Pp 129 f).

According to Therese M. Caouette there is no consensus on the definition of trafficking and what it involves. Another problem is that it is hard to find an accurate number of how many people that are trafficked. Some NGO's say that it might be as many as several hundred thousands of girls and women in the Mekong sub-region. There is also the risk that these numbers will start to grow due to the financial crises that hit Asia at the end of 1990s. One of the reasons for why many girls will choose to go with the traffickers is because they have lost their jobs due to the crises. Another reason might be that many of the countries in the Mekong sub-region have been forced to devalue, and this makes it more lucrative to traffic the girls outside Asia (Caouette, 1998, P 3).

What is cross-boarder trafficking? In Asia it can be viewed as a pattern. Vietnamese women are trafficked over the Vietnam-China boarder. Different illegal organisations also traffic thousands of Vietnamese girls to Cambodia and from there to the bordering countries to work as prostitutes. One example is Thailand where there are many Burmese women working as prostitutes, especially in the north of Thailand. If the girls try to escape and go to the police they risk being punished because the police are often in collusion with the traffickers and thereby they become a part of the trafficking network. This network consists of border security forces, local functionaries and sometimes, political representatives from the involved countries (www.uri.edu/artsci/wms/hughes/catw/asiapr1.thm, 2001-06-30).

Enloe would see trafficking as a way for men to gain power and control over women. It is the men who are dominating the society and women are a commodity used by men to make money. Another reason for the trafficking is the demand that has been created through tourism, and when men go on sex travels. It is because of these men that more and more girls are being trafficked into the sex establishment. This in turn affects the countries (like those in Southeast Asia) because they become more and more dependent on the foreign currency (Enloe, 2000, p 41).

One of the problems with defining the trafficking in women and girls is because that the trafficking networks continuously create new forms of recruitment strategies, coercive dynamics and exploitive conditions. There are common foundations that can be used in the definition, like the deprivation of freedom of movement, deception of working conditions or the nature of work, and abuse of authority. These facts give the organisations a forum to discuss the problem of trafficking and give it a clear definition. In 1994 the UN General Assembly defined trafficking as:

“The illicit and clandestine movements of persons across national borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girls children [sic] into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriage, clandestine employment and false adoption”

(Caouette, 1998, p 9).

The NGO Global Alliance Against Trafficking in Women (GAATW) proposes that both the trafficking and the forced labour must be taken into account, because many women are recruited and find themselves in abusive and coercive circumstances. They divide the definition of trafficking into two parts. The first one is about the trafficking of women and the second one is about the forced labour and slavery:

“All acts involved in the recruitment and/or transportation of a woman within and across national borders for work of services [sic] by means of violence or treat of violence, abuse of authority or dominant position, debt bondage deception or other forms of coercion”

(Caouette, 1998, Pp 9-10)

”The extraction of work or service from any woman or the appropriation of the legal identity and /or physical person or any woman by means of violence or threat of violence, abuse of authority or dominant position, debt bondage, deception or other forms of coercion”

(Caouette, 1998, P 10)

To be able to clarify legal frameworks and guidelines for intervention it is necessary to define the trafficking, and find a definition that includes everything. The definition cannot alienate or discriminate unnecessarily and must focus on the unacceptable conditions and the human rights abuses of those who are trafficked. The definition should also be inclusive of age, type of work and where they have been trafficked. According to ILO-IPEC¹³ the facts that should be taken into account are, if it is a *profitable* act that is undertaken by others, then the children, and if somebody is making money out of trafficking the child or help with the *transportation* across the national border. When it comes to cross-boarder trafficking it is usually an *illegal move without the child's consent*. This means that the children do not know that they will be taken to another country. Another thing that should be included is the *recruitment* of the child, when the agents or intermediates use *false* or *deceptive* information. The last thing that should be included is the type of work that the agents are trafficking the child into. If one put all that information together the ILO-IPEC definition will be:

¹³ International Labour Organisation – International Programme on the Elimination of Child Labour.

“A child [or woman] who is recruited and transported from one place to another across a national border, legally or illegally, with or without the child’s consent, usually but not always organized by an intermediary: parents, family member, teacher, procurer or local authority. At the destination, the child is coerced or semi-forced (by deceptive information) to engage in activities under exploitative and abusive conditions”.

(Archavanitkul, 1998, P 7)

3.3 PROSTITUTION

There are many places in Asia that during the last couple of years have become known and associated with prostitution and sex tourism, and this has led to that the prostitution has become somewhat accepted by these countries. Prostitution has a long history in Thailand, and in the 16th century, farmer families thought that it was better that the men in the family visited prostitutes then brought home another wife. And still up to today’s date it is the husband in the family who decides if he wants to sell his wife or daughters off to agents. This is because of that Asia is traditionally male dominated and it is the men who have the power. It is also up to the husband in the family if he wants to get a second wife and let her live with the family, and this is seen as an act of “generosity” and a good merit in the belief in the Buddhist society (Swartele, 1996, P 63).

Many of the women and girls may live their lives under protest when they work in prostitution, but there are a surprising number of girls who voluntarily opt to stay in the prostitution for the only reason that there is nothing to go back to. In a study done about the prostituted women in India a girl gave the following reason for still working as a prostitute: “Poverty and unemployment, lack of proper reintegration services, lack of options, stigma and adverse social attitudes, family expectations and pressure, resignation and acclimatisation to lifestyle” (www.uri.edu/artsci/wms/hughes/catw/asiapr1.thm, 2001-06-30). This is a reason that has gone through all the countries that are trying to battle the problem with high prostitution rates and girls trafficked to prostitution (www.uri.edu/artsci/wms/hughes/catw/asiapr1.thm, 2001-06-30).

The money the girls make from prostitution is often the main source of income for the families. That is why families co-operate with the system of prostitution and a very important reason for why the girls stay in prostitution. One example is Bangladesh, where the young girls often are unaware of that they are being trafficked. This is because of that their families give them to strangers and tell the girls that these men are their uncles who are going to take a trip abroad with them. This is very common when it comes to cross-boarder trafficking. The agent or intermediate may be the girls’ cousin, sibling or other relative under pretence of helping the family (www.uri.edu/artsci/wms/hughes/catw/asiapr1.thm, 2001-06-30)

Bayrer also see this when he talks about the problem with trafficking. He says that there do exist abductions of the girls have been offered jobs as waitresses or maids. But many of the families sell their children and it is also they who will receive the money. The girl will not start to earn any money until she has paid off her debt. Many other authors say that very often the families never know what will happen to the girls. But Bayrer thinks this is wrong, and believes that the families sell the girls any way because they need the money. One reason for this can be that they need to support a drug or alcohol abuse (Beyrer, 1998, P 129 f).

The gangs and the people that are involved in the trafficking in women and children into prostitution, argue that the prostitution actually benefits the women because of that it gives them work. But there is much that argues against this. In 1991, Thai, Taiwanese and Filipino girls were sold in Japan, often to the Yakuza, and the price varied from \$ 2.000 to \$ 18.000¹⁴ per girl. Then the Yakuza often in their turn sold the girls to other sex businesses at the double price, and sometimes they let the owners rent girls for a price ranging \$ 1.600 to \$ 6.400. The girls get almost none of this money, only a small percentage, but this is only after she has repaid all the expenses that it has cost to take her to Japan. In Thailand the prostitution is known to be accepted in the villages. This is because of that many prostitutes have moved back after being able to leave the brothels. But the young girls who live in the villages do not know the whole truth. For example the degradation and the violence is not known because this is not something that the returning women want to talk about. But the girls in Thailand are luckier than girls in other places in Asia; at least here they are able to return back home to their families. In other places like Bangladesh, girls who have been working as prostitutes and return home fear the risk of being killed by their own families (www.uri.edu.thm, 2001-06-30).

Cyntha Enloe would see this fear as something created from the male dominated society. It is the men that are dominating the society and setting the rules and because of this the girls are afraid of returning home. It is the man in the family that has decided to sell their daughter and if she returns home, he will no longer make any money out of her. And as Enloe says, the prostitution is a way for the men to get control over the women and girls, and they give the men a financial security (Enloe, 2000, P 41).

One should keep in mind that not everyone of the women and girls that are involved in the sex industry are victims of trafficking. When it comes to girls that are being trafficked into prostitution the age is usually between 14 and 16, but there are cases where the girls are younger than 13 years old. But today when the problem with trafficking is increasing rapidly, those who are in the highest risk of ending up in the trafficking network are young girls, this because of that children are easier to deceive. There are many different forms of prostitution in the sex industry; there are prostitution in the establishments that are like brothels and entertainment places (karaoke bars, restaurants, massage parlours and motels). But there are also more exclusive forms of prostitution, like call girls where the women and girls only sell their bodies occasionally. In surveys that were submitted by different NGOs there were clear signs that most of the girls that were trafficked into prostitution at some point worked in a brothel, at least in the beginning (Archavanitkul, 1998, P 50).

The girls that are trafficked from Cambodia, Vietnam and Laos into Thailand are often sold to brothels, motels and teahouses. Depending on various factors like how much time they work and what type of establishment it is, they will make between \$ 1 and up to \$ 15 per customer. And after the fees for accommodation and for bribes to the police and other officials are paid, there is not much left to live off. A women or girl needs to see about three to ten customers a day to be able to make between US \$ 100 to US \$ 200 a month. There are sex establishments where the deal is arranged directly between the girl and the customer, but there are also establishments that look like aquariums, where the women and girls sit behind a glass wall and then the customer points out the girl to a manager who will bring him the girl. But in both cases the profit is shared with the owners. Many of the girls that are working in brothels also have to send money home so that the families are able to pay off their debt to the agents. The wage from working in a karaoke club or

¹⁴ When using dollars in this paper I am referring to US dollars.

at a café is about US \$ 60 a month, but if a girl enters into the prostitution this amount can be increased up to around US \$ 200 a month. There are also girls that are working in massage parlours that have reported to earn US \$ 800 to US \$ 1.200 in a month (Archavanitkul, 1998, P 50).

This problem with the debt-bondage is also something that Beyrer talks about. When the girl arrives at the brothel she will be sold as a virgin over and over again. The owner will then keep the girl as long as she still has her debt to him. There are many different ways for the owner to keep the girl as long as possible, where one is to continuously see to it that her debt increases. But then when the girl is free from her debt the owner can see to it that she will be arrested, and the bail her out. Now the girl once again owes the owner money (Bayere, 1998. Pp 129 f).

3.4 THE VICTIMS

There are a variety of circumstances that practically propel the girl and women into the situation where they experience physical and psychological harm. In almost every trafficking case there is the struggling with poverty that they wish to escape from. When it comes to Asia there is also the traditions that the girls have to live up to. One thing is that they need to help their family to survive and this by every mean possible. The “green Rice season”¹⁵ is the prime season for the agents to go girl hunting in the rural areas and in north of Thailand, where the hill tribes are located. Many organisations feel and fear that the prostitution starts to gain a wide acceptance in Thailand and that one day it will be added to the national accounting. Some agents and intermediates even introduce themselves as they are and recruit the girls or buy them from their parents. And the whole time the girls and parents know that the girls will end up in prostitution (www.uri.edu/~wms/hughes/catw/asiapr1.thm, 2001-06-30).

The types of work that the girls are trafficked to are often as entertainers and barmaids, where the girls are exposed to extreme conditions and situations that exert strong pressures from the owners, customers or the syndicates to do prostitution. Because of this the entertainment can be seen as a form of disguised trafficking for the purpose of prostitution. And even if the girls resist the pressure in the beginning and refuse to become prostitutes, just by being in the environment of serving, pleasuring and displaying sexual attractiveness will often in the end lead to that the girls surrender and start to sell their bodies (www.uri.edu/~wms/hughes/catw/asiapr1.thm, 2001-06-03).

One reason for that the young girls run a higher risk of being trafficked is the fear of HIV and AIDS. This leads to that virginity is seen as a premium and that the market in child prostitution and trafficking of children is so high. The young children are not only less likely to have AIDS, but in some of the Asian countries there is a belief that having sex with an under aged girl will cure STDs¹⁶ and AIDS. In Thailand the owners of the brothels’ fear of the existence of HIV and AIDS has led to that the sex industry is looking to recruit younger and younger girls from the remote villages, girls that not yet have been touched by the HIV virus. These are areas like the Hill tribes in Thailand, Shan state in Burma, Yunnan province in China, Kampuchea and Laos. Many of the women and girls continue to work even if they are in great pain, with active infections, pelvic inflammatory infections, herpes, etc. This because of that there is the pressure from the brothel owners to serve the clients and because they are forced to repay their debt to the

¹⁵ This is when the farmers and their families are short of money while the rice grows.

¹⁶ Sexually transmitted deceases.

traffickers as quickly as they possible can (www.uri.edu/~artsci/wms/hughes/catw/asiapr1.thm, 2001-06-30).

Most of the establishments in the sex industry force the girls to have sex with all the customers that want them; this includes those who refuse to use condoms. This together with the women and girls poor knowledge about the risk of the HIV infections, their lack of assertiveness and their loyalty to their regular customers increases the spreading of the HIV virus. There is also the belief of the customer who thinks that having sex with virgins keep them free from HIV and AIDS¹⁷, and this has led to the infection of both many girls and customers. Many of the young women and girls that are sold from the Yunnan province in China are often forced to take pills to postpone their menstruation so that they will be able to take on more clients, since clients often dislike having sex with girls that menstruate. The girls do not know how they can talk the customers into wearing condoms, so many girls return to their home village infected with HIV. This is the same for the girls that return home to their village in Cambodia and suffers from illnesses, headaches, skin irritations, discharges, sores, syphilis, gonorrhoea and other STDs. There are many owners that send the girls in their brothels to be checked for HIV, but the answer is often hidden from the girl and the news are negative she will be either thrown out on the street, or she will continue working unconcerned about the infection (Archavanitkul, 1998, Pp 54-55).

This belief that having sex with a virgin would keep the customers away from HIV, AIDS and sexual transmitted diseases is related to what Bayrer talks about when he mentions the idea of that there are people who are immune to the HIV and AIDS virus. He says that there are beliefs in some western communities that Asian people cannot be infected with HIV. But then why would so many people be interested in studying the problem of HIV in Thailand, which has led to that Thailand has become the country in the world that is the most studied when it comes to the HIV problem (Bayrer, 1998, P 18 f)?

When it comes to women and girls from Myanmar one finds that many of them voluntarily agree to enter the sex business. The sex establishments like massage parlours make it easy for the agents to deceive the young girls and the women into taking the jobs, because they don't think that it is a sex establishment. But even if it is not directly a brothel, there is still the confinement, physical abuse, brutality and the ruthlessness. When it comes to the trafficking in women and girls, the owners of the establishments, agents and the intermediates keep their businesses separated. Sometimes, the agents send girls to the owners that don't want to work. Then the owner will still keep her in the sex establishment, this because of the pressure around her there finally will break her down and she will then voluntarily prostitute herself. During an interview, that was submitted by an NGO, with Noi, a Laotian girl from Borkaw, she told them that she was forced to enter the sex establishment when she was only 16 years old, and now she is working in another brothel in the north of Thailand. She said during the interview:

“My home is not far from the border. There was a Tai-Lue woman from Payao province who knew someone in the village and came to look for domestic help. My friend and I went with her to a large province in the north. She took us to the brothel. The owner was also from Payao. The woman who sold us also worked there. She got US \$ 50 for each of us. The brothel owner told me to sell my virginity: I was afraid of being beaten so I agreed. They told me that I would get US \$ 20, but I have never seen the money. Nine women, all from Burmese hill tribes, worked there. Only my friend and I are Laotians. They also took a Burmese hill tribe girl Mae Sai, who was only twelve years old. They said her father

¹⁷ This belief could not be more wrong, this because of that young girls has a less efficient barrier to protect them from becoming infected by the HIV virus. This since young girls mucous membranes of the genital tract is not as thick as it is in a grown woman.

had sold her and had taken all the money. This girl was very afraid of accepting customers and she was beaten for that. She fled, but was caught nearby. This time they beat her in front of us. Then I thought I could not bear it any more. I had to escape....”

(Archavanitkul, 1998, Pp 44).

Other cases show that the owner sometimes gives up on the girl and wants to have a new girl. Then the owner contacts the agent so that they can take the girl back. But just because she is no longer in the brothel, does not mean that she is out of the sex industry, due to the fact that she usually is sold on to the next place. There are also cases that show that women and girls have accepted to do one kind of work, but when they have arrived, they find out that they have been tricked and are forced to work as prostitutes. The problem with the trafficking has grown during the last years when the trafficking networks of women and children connect with the already existing groups in Thailand. But when it comes to Myanmar, the trafficking networks do not to use physical force or coercion, this because of that many of the girls voluntarily go with the agents (Archavanitkul, 1998, Pp 44-45).

There are many women and girls that are willing to enter the sex industry (both domestic and international), out of their own will. Many of the girls are aware of what kind of work that is awaiting them in for instance Thailand, but they do not know how to get there. And some times the women and girls make their decision after they have been trafficked and changed from low paid jobs into prostitution where they felt that they would be able to make more money. It has also been shown through studies that were made by different NGOs, that girls that had been able to go home were easier to lure back into prostitution. This is because of the lack in opportunities to find any jobs at home, or because of that their families were in desperate need of money (Archavanitkul, 1998, P45).

The trafficking in women and girls severely affects them, especially those women and girls that end up in prostitution. The girls are trapped in a foreign country where they do not speak the language. They are easily deceived and are forced to work as prostitutes, and become treated like slaves. Due to the isolation that the girls are put through the girls do not know where to turn for comfort and assistance. Because of that they are illegal immigrants they have to experience racism from the police, authorities and the communities where they live. Most of the girls that are trafficked come from families with a different economy and with little or no opportunities for an education. Many of the women and girls have dropped out from school to work to be able to help with their families' survival. When it comes to the opportunity for the girls to go to school there are several obstacles that are in the way (Archavanitkul, 1998 P 56).

The first is that children that belong to poor migrating families often move around from one place to another, and that leads to problems when it come to enrolling in school and to stay in the educational system. Another problem is that those who have an opportunity to go to school, have no interest or motivation due to that the environment is not conducive to development and education (Archavanitkul, 1998, Pp 56-57). This environment also promotes trafficking, because it makes the girls more eager to go somewhere else, and because the police and local authorities see an opportunity to make money, and therefore corruption is common. As mentioned above in chapter two this is also something that Bayrer talks about. He thinks that there is a connection between the traffickers, owners of the brothels, the police and government. This because of that when the girls have become free from the their debts some of the owners turn the girls (that are illegal immigrants) over to the police. Then he either bails her out if she is worth it or he leaves her there and in many cases the girls have been sold to other brothels (Bayrer, 1998. Pp 129 f).

Many of the girls that have returned home have had problems with adapting to the every day life, regardless whether they have been trafficked with consent or against their will. This is because they have adapted to the urbanisation and modernisation, the fast lifestyle and the feeling of having money. Some of the girls feel that their old communities are dirty and that the people who live there are slow, in comparison to the clean streets and nice people where they have been living. It has been shown in studies that were made by NGOs that the girls feel that they have very little in common with the people at home (Archavanitkul, 1998, P 57).

Because of that they are staying illegally in the country and the inhumane treatment that they face every day, many of the women and girls become physically exhausted. Some of the women and girls become fearful of strangers and authorities, others develop phobias of noisy places or are frightened to go outside their room. The girls and women that are constantly raped, forced to prostitute themselves and beaten every day end up with low self-esteem, deep-rooted anger and negative emotions towards men. This often leads to that they develop psychological disturbances, suppress their emotional pain, conceal their past or they might even withdraw from society. Many of the girls develop addiction to drugs, alcohol and gambling (Archavanitkul, 1998, P 57).

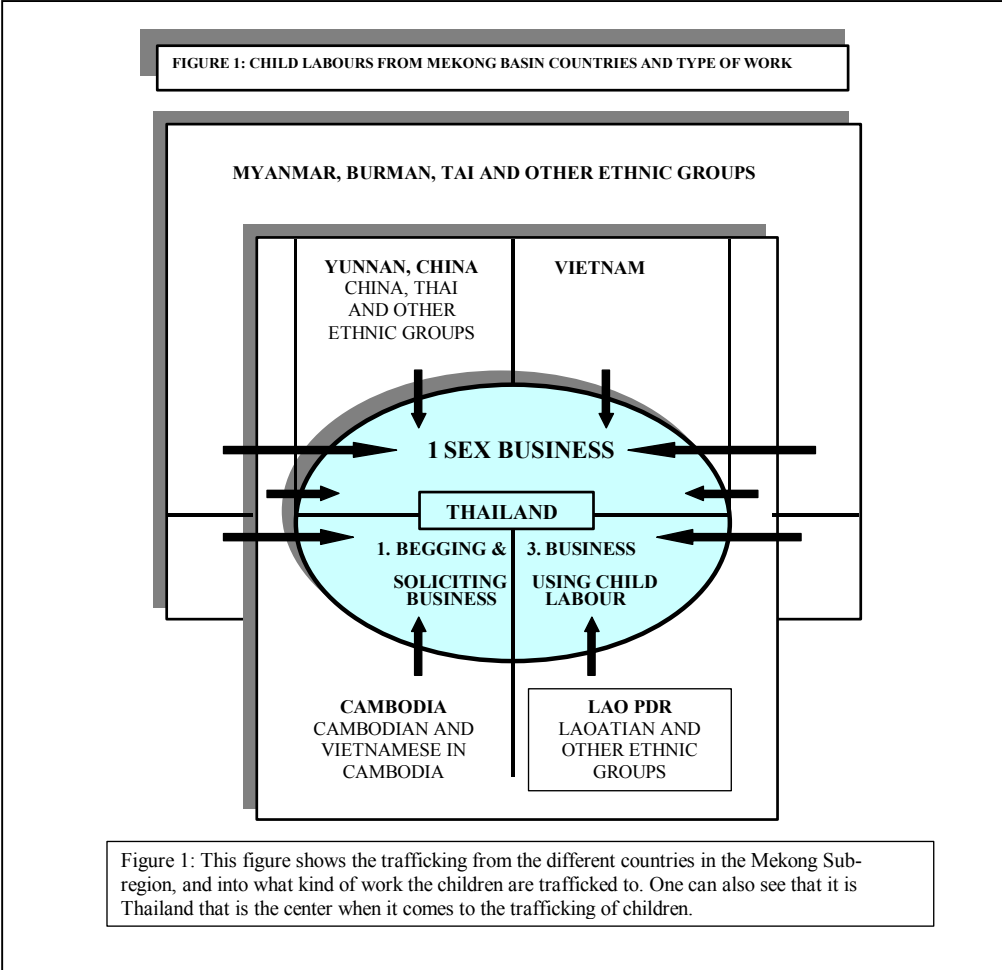
3.5 THE MEKONG SUB-REGION (MSR)

The Mekong sub-region can be described as six countries with an area of 2.423.000 square kilometres with a population of about 240 million. The six countries have the same social, cultural and economic characteristics. They are all primarily agricultural societies where most of the population live out on the countryside. But still the six countries can be divided into three different groups. The first group consists only of Thailand, where the capitalist economy is the most advanced, open and influential, and it stimulates trade and investment with the other five countries. In the second group are the countries with their economy in transition: Vietnam and the Yunnan Province in China. These countries face another situation than Thailand, but also they have seen a rapid economic growth since the beginning of the 1980s. The last of the three groups consists of Cambodia, Myanmar and the Lao PDR, which are countries that are moving from a more centrally planned economy to a more open economy. They too have experienced the economic growth, but have a comparatively less developed infrastructure, human capital and face problems with labour surplus and rural poverty (Archavanitkul, 1998, P 2).

When looking at this it is easier to understand what Woods talks about when he looks at the financial crises in Asian in 1997. The financial crisis started in March of 1997 in Thailand, when there was a huge outflow of capital from Thailand, which lead to that the currency weakened. This then spread from Thailand to the other countries in Southeast Asia and by the end of 1997 Thailand, Korea and Indonesia had been forced to turn to the IMF for help. After the financial crises there has been a wide debate about the involvement of the IMF. The IMF set up hard rules and conditions for Asia because they felt that the crises in Asia lead was because of that they were victims of their own success (Woods, 2001, P 292).

Trafficking in women and girls into the sex industry is a reasonably new phenomenon in some of the countries in the sub-region. And in every country except Thailand is the problem with trafficking increasing more and more. One of the countries that do not acknowledge the problem with trafficking is Myanmar. According to the Burmese government only 243 women and girls per year are trafficked into prostitution from Myanmar to the surrounding countries. The problem with trafficking is widely noticed in Laos PDR, where there in 1997 were about 2.000 Vietnamese

girls working in the sex industry. The Laotian government also acknowledged that the problem with trafficking is rapidly increasing, and especially that young girls under the age of 15 are being lured into prostitution in Thailand (Achavanitkul, 1998, p 12).



The trafficking in humans has become a well-known and increasingly complex problem; a problem which has expanded with the economic and political developments that are taking place throughout the Mekong sub-region. These countries are described by different governmental and non-governmental organisations as source, transiting and /or receiving¹⁸ countries (se figure 1) when it comes to trafficking women and girls into prostitution (Cauette, 1998, P 4).

Today there is an improved political relationship between the countries in the Sub-region. This has led to an opening of the borders between the countries, the trade has become improved and the number of transporting routes has increased. This has also led to an increase in the movement of people and the trafficking of women and girls into prostitution. The opening of the borders within the sub-region has also led to that those countries, which before were little affected by the trafficking, now face a rapidly growing trafficking problem. The financial crises in this region also contributed to problems that affected the political relationship and problems that are the same for all the countries. One of the problems is that many of the people in this region are likely to loose their jobs. Those who will be affected the hardest from this are the migrant workers and those who are at the bottom of the economic ladder. This will in turn lead to that people will become more and more desperate in their hunt for work and survival (Cauette, 1998, P 4)

¹⁸ This terms is used to describe how humans are trafficked from, to and through countries.

But there are other problems that need to be considered when it comes to the collaboration between the countries within the Mekong sub-region. The first one is that the cross-boarder migration has rapidly increased due to different employment and earning opportunities. This rapid increase is obvious, when looking at how women and girls are illegally trafficked across the boarders to work in the sex establishments. The second problem is the hundreds of infrastructure projects that are supported by multilateral corporations in the Mekong basin area. This together with the tourism policies have led to unexpected and devastating consequences for the environment and for the low class disadvantaged people (Archavanitkul, 1998, P 2).

Enloe looks at the problem with tourism, and sees that it is male dominated. And because of that the countries have become dependant on the tourism they also become dependant on the foreign currency which is undermining the countries economies. If they don't meet the tourists' demands and the tourists start to leave they will soon find themselves in a financial crises. Another problem that the tourism brings is the abuse of women and the demand for prostitutes. Because of that the tourism is male dominated and the most accruing thought for men is sex there is a high demand for women and prostitutes, and the countries will have to supply this demand for prostitutes if they want the tourists to stay. This demand in turn leads to the high number of girls that are being cross-boarder trafficked all over the world (Enloe, 2000, P 41)

The third and final problem is that the illegal trade in arms also has led to an increase in the human trafficking because of the opening up of the borders. The illegal trade and the human trafficking networks are not new problems in the Mekong sub-region, but the closer trade agreements between the countries and the opening up of the borders have led to a rapid increase in illegal human trafficking (Archavanitkul, 1998, P 19).

3.5.1 THAILAND

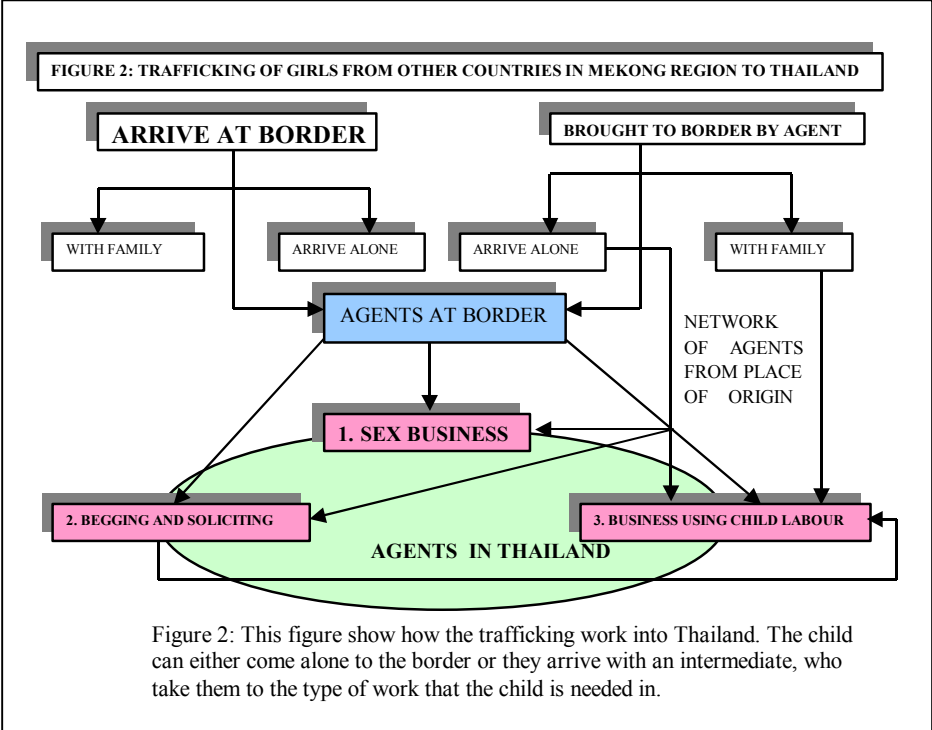
In 1997 there were an estimated number of 18.248 women and girls in the sex industry that were trafficked into Thailand. And about 90 percent of them were trafficked from within the Mekong sub-region. Looking at the numbers 18.000 does not look so much when taking in to account that there are 72 million people living in Thailand. But of those 18.000 thirty percent were under the age of 18. In conclusion one can say that during the 1990s and up to the year 2000 about 100.000 women and girls were trafficked from the countries in the sub-region and into Thailand to work in the sex industry. While the numbers of young girls from the north that have entered prostitution are decreasing, the numbers of young girls that are being trafficked are increasing. And this is linked with the new economic politics that have opened the borders throughout the Mekong sub-region, and the supply of young girls skyrocketed. Most of the girls that are trafficked into Thailand come from Myanmar and the Yunnan province in China (Archavanitkul, 1998, Pp 13-14).

Within the Mekong sub-region it is Thailand who has the most problems with trafficking, both when it comes to sending and receiving women and girls. Most of the girls come as mentioned above from Myanmar and the Yunnan province in China, but it is a known fact that Thailand is receiving girls from all the countries in the sub-region. There is also a large network that traffic Thai girls out from Thailand to the outer countries in Asia, but also to Australia, Europe, Africa and North America. Thailand is also known to be a transit country where girls from the other countries in the sub-region are trafficked to, and then together with Thai girls they are trafficked throughout the world (Cauette, 1998, P 19).

The NGOs in Thailand see Thailand as a sending, receiving and transit country for women and girls that are being trafficked into prostitution. A study made by Foundation For Women (FFW) in 1997, shows that during the late 1970s to the middle of the 1980s, women and girls from Thailand were trafficked to Malaysia, Singapore, Germany, the Netherlands and Switzerland. And during the 1990s Japan became a larger receiver of girls from Thailand (Archavanitkul, 1998, P 21).

In 1996 the Royal Thai Government (RTG) admitted to that there were about 1 million illegal immigrants from Cambodia, Laos and Myanmar in Thailand. Out of those the RTG recognised that about 200.000 were working as sex workers. One problem that the government does not recognize is the trafficking in Thai girls to other countries, which contributes to that it is hard to find any real numbers on how many girls that are being trafficked from Thailand. The National Commission on Women’s Affairs (NCWA) estimated in 1994 that there are only about 50.000 Thai girls that are working illegally in the other countries. Most of these girls were working at sex establishments in Japan, and when NGOs were studying the problem of girls being trafficked out from Thailand they found that many of the girls are trafficked to Japan as a first step to being trafficked throughout the rest of the world (Cauette, 1998, P 19).

There is much attention paid to the trafficking in women and girls to and from Thailand. This because of that Thailand is the major destination (trafficking routs in figure 2) when it comes to cross-boarder trafficking in the sub-region since the 1980s, and Thailand is also the most important country when it comes to transition to a third country. Generally it is the street children that are the most vulnerable to end up being trafficked into prostitution from Thailand to the neighbouring countries. This because of that they are an easy pray for sexual abuse, violence and drug addiction (Archavanitkul, 1998, P 10)



When it comes to the economic development in the sub-region, Thailand is the country that has developed fastest, and they are now trying to suppress this development. There are different reasons for why Thailand has developed fastest in the region, and one reason could be that Thailand was never under any direct colonial power, but instead they have been able to develop in

their own pace. But even if there were no direct imperialist power over Thailand they still had to develop trade and try to keep the other colonial powers happy. But the new economic development has also brought trouble to Thailand. The opening of the borders has led to increased mobility between the countries and to government policies that encourage overseas employment. The corruption of governmental officials, police, military and border guards and the high profit from the sex industry are some of the ways that the trafficking has been growing stronger in Thailand. In 1995 the total revenue from the prostitution in Thailand was estimated to be about 10 to 20 billion dollars annually, which is about half of the governments budget for the same year. What was not included in that number was the revenue from the women and girls that are working in the hidden brothels around Thailand or the money that was earned by the girls that are trafficked in and out from Thailand by agents (Cauette, 1998, Pp 19-20).

This problem is what Woods talks about when he looks at the financial crises in Thailand and Asia. Thailand had developed a strong economy, but they had also developed a western like economy, and when the capital started to flow out from Thailand, their economy was not strong enough to handle it and their currency started to weaken. This in turn led to that the economy started to collapse and soon the other countries in East and Southeast Asia followed (Woods, 2001, P 292).

3.5.2 MYANMAR (BURMA)

There are several push factors to why the trafficking is such a big problem in Myanmar, especially into Thailand. One of the problems is the economic necessity; this is the prime reason to why women and girls are being lured into trafficking and prostitution. And the second problem is the civil war that is raging in Myanmar. When it comes to the economic necessity, grass root organisations in Myanmar has since 1989 seen an increase in starvation, this because of different fees that the families have to pay to the government. They are also forced to sell their crop and rice to the government to a very low price, and the military that passes through the villages can demand that the farmers give them rice without having to pay for it (Archavanitkul, 1998, P 23).

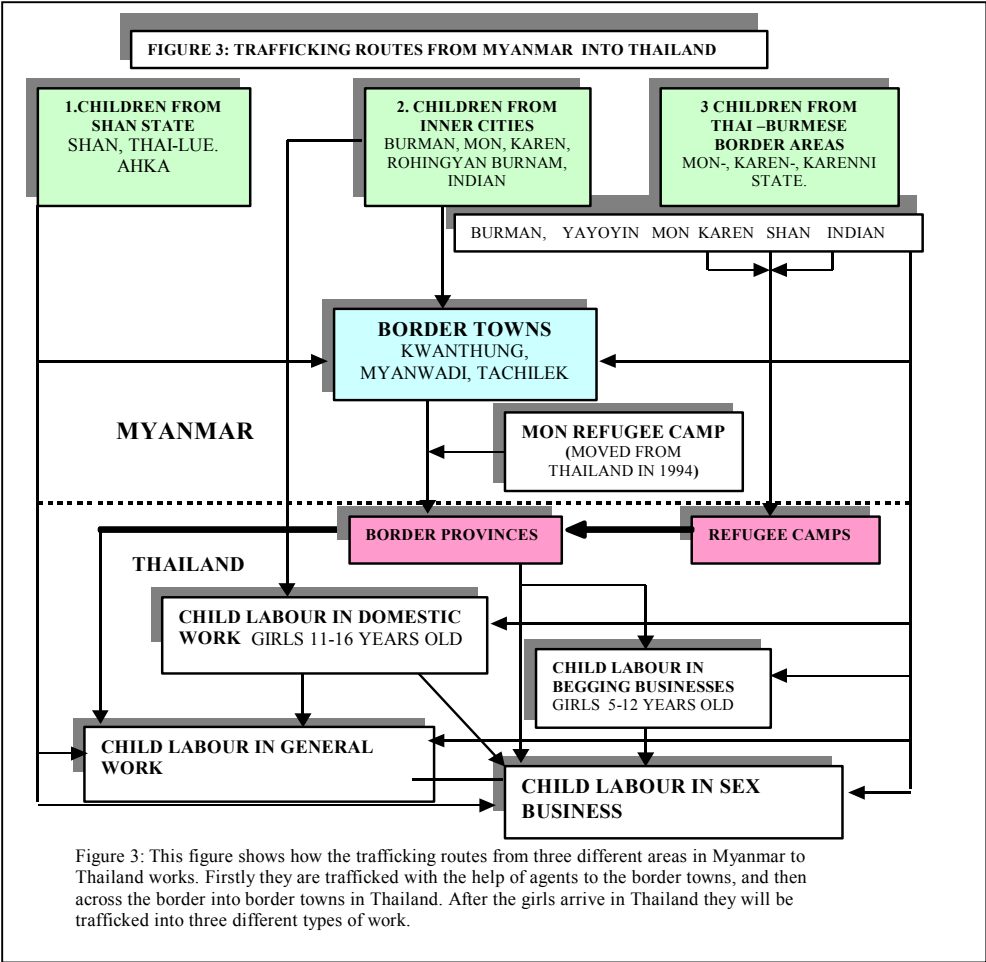
One of the major factors when it comes to the risk of being trafficked out from Myanmar is the unresolved political situation that is taking place in Myanmar. The decades of discrimination and military conflicts with the country's minority groups and the unwillingness to recognise the 1990s election is some of the reasons to the trafficking problem in Myanmar. The problems with on-going human rights abuses have led to that several million of people have been forced from their homes. Some of the women and girls that are trying to escape the on-going civil war are lured to find an income outside their own country and then trafficked into prostitution, often in low class brothels in northeastern Thailand. The opening of Myanmar's border has lead to an increase in the economic trade, but it has also had a direct effect on the trafficking of women and girls. According to the report "Wheeling and Dealing: HIV and Development on the Shan State Borders of Myanmar" the situation in Shan State is one of the most sever when it comes to trafficking in girls, this because of its close location to the Thai border (Cauette, 1998, P 28).

Enloe would see the problems in Myanmar to be a typical example of male power. All those who have the power are men and they use this power to dominate the women and girls. One way to gain this power is by taking away the foundation for survival, namely the food. The situation in Myanmar has also led to that the women are forced to fall under the power of the men and

become items that the men can sell to make money. The women and girls are sold to the agents (which also are men) who will take them to the brothels (Enloe, 2000 P 41).

As Brown talks about how states abuse the Human Right Declarations and that they can use the social- and economic rights to undermine the political rights, and also the other way around. And in the case of Myanmar, the state uses the political rights to undermine the social and economic rights. One of the problems in Myanmar is that they have not accepted the human rights charter into their national law, and that makes it a lot harder for the organisations to do something about the situation (Brown, 2001, Pp 607 f).

Myanmar can be seen as both a sending and transit country, where girls from Myanmar are trafficked to work as prostitutes in Thailand, and where girls from the Yunnan province in China are being moved through on their way to Thailand. Most of the girls that are trafficked from Myanmar belong to the minority provinces in Myanmar, but it does not mean that the girls are exclusively ethnic Burmese or Chinese. In 1994 there was a survey made by Asia Watch on how many girls that are trafficked from Myanmar to Thailand and they found that there were between 25.000 to 30.000 girls that were being trafficked, with about 10.000 new recruits increase every year. And this survey was only focused on the girls that were trafficked into the brothels in Thailand (Caouette, 1998, P 27).



The Shan State which shares a border with the north of Thailand was combined with Myanmar after Myanmar gained independence from the United Kingdom. This is a territory where there live many ethnic minorities like the Tai people, Akha, Lisu and Hau-Chinese. The people that live in the Shan State, and especially the Thai people, share the same cultural values as the rest of the

Mekong sub-region. They see that the virginity symbolises a “good woman”, but today, in the modern society there are minorities that do not share this view. One of the more recent problems with the Shan province in Myanmar are the sex establishments. These establishments are similar to those in Thailand, that they now are opening in the tourist cities; cities like Kengtung. This has also increased the push factors, because the girls don’t have many other alternatives for finding work elsewhere, and many former prostitutes have become agents who are trying to lure new girls into the sex establishments in these areas (Archavanitkul, 1998, P 23).

Those who live in the inner communities in Myanmar are those who have comparatively good access to governmental services like sanitation and education, but even this is not enough, because these services are still of a very low quality. Many of the low-income families face unemployment, homelessness and lack of educational opportunities. But even the educated girls in the city areas in Mandalay or Yangon are being lured into the sex establishments in Kawtaung or Tachilek along the Thai boarder, and after being there for a while they will be trafficked into the brothels in Thailand. Many of the girls will never be able to return home because of that it is the prostitutes that are being blamed for the spreading of HIV and not their customers.

How the HIV started to spread in Asia is something that Bayrer talks about. He sees that the HIV that started to spread in Asia is the same kind as the one spreading in Europe and USA. This is because of that the virus comes from tourists and prisoners. He looks at how the virus started to spread among the drug abusers in the prisons in Thailand, where the local people share cells with foreigners. Then they come out on the streets and start to spread the HIV among other drug addicts (Bayrer, 1998, Pp 20 f).

The two cities Kawan and Tachilek play an important role in the trafficking from Myanmar into Thailand. It is here that most of the trafficking in girls take place. It is also here that the strong trafficking networks are located. The life style in Thailand, which shows money, culture and entertainment influences many people. Over time the sex industry has started to grow in Kawtaung and Tachilek, and the life style of Thailand is slowly being copied over to Myanmar. The sex businesses are operating in the open here, where many of the girls are crossing the borders over to Thailand to work in the sex industry (Archavanitkul, 1998, P 28).

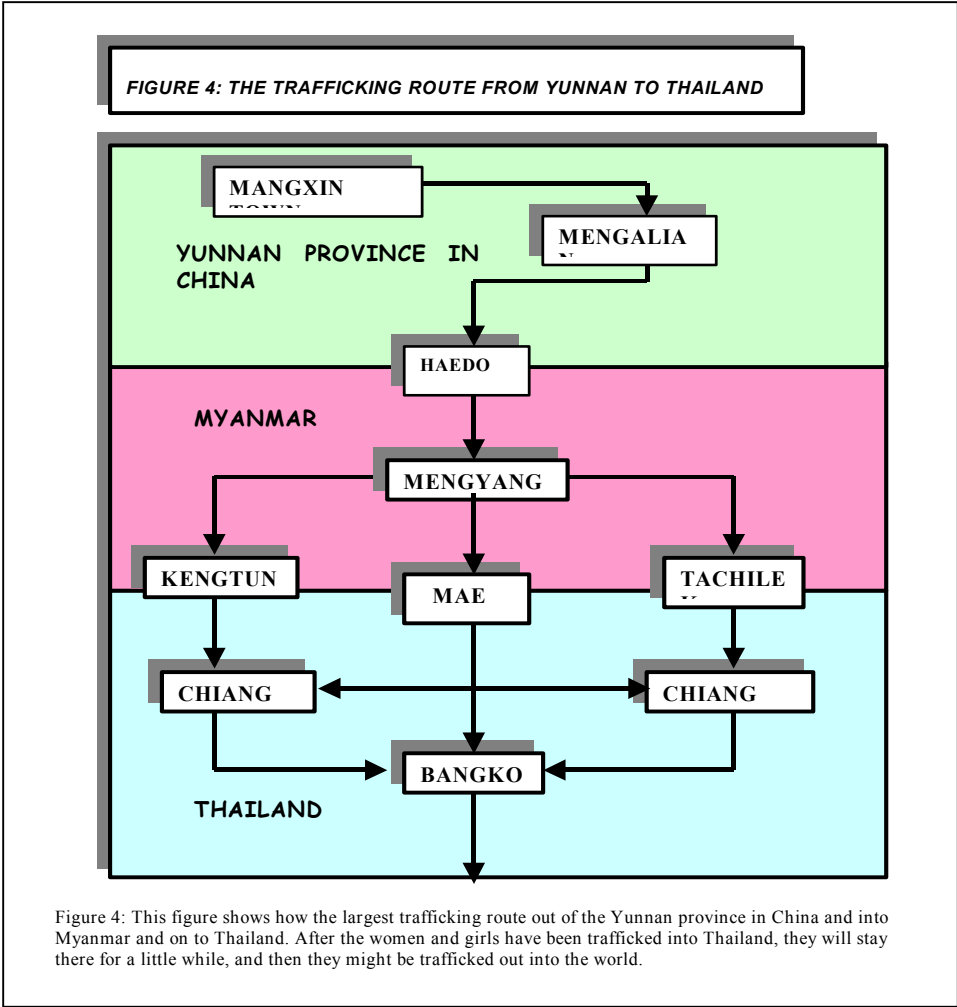
In Rangong and Mae Sot there are two important way points when it comes to the trafficking in girls into prostitution. Still there is no evidence of a trafficking network. Most of the families that live here are very poor, with many family members living in the same house. Most of the people belong to the Indian-Burmese minority and their society does not condemn the selling of girls. The people here believe that the children belong to the parents. It is also highly believed that the children will have a better life in Bangkok than they will have in Mae Sot. Children themselves are also willing to go if they know that there are some friends that will go with them to Thailand (Archavanitkul, 1998, P 30).

3.5.3 YUNNAN PROVINCE IN CHINA

The Yunnan province in China, which borders to Myanmar, Laos and Vietnam, is where the trafficking in women and girls from China to Myanmar and Thailand is taking place. There is also a trafficking in girls from Myanmar to China. These girls are often taken to work at small places in mining towns. Even if the Chinese government today recognises that there is a problem with trafficking in women and girls to and from China, it is still the trafficking routes that are the least understood in the Mekong sub-region. Most of the girls that are trafficked out from China come

from poor situations in the remote southwestern provinces of Buizhou, Yunnan and Guangxi. In the Yunnan province 94 percent consist of mountains and the lack of transport and rapid economic development has caused a sharp reduction in the amount of arable land (Caouette, 1998, P 25)

The problem with trafficking of underage girls into prostitution from Yunnan started to get noticed in the early 1980s. In the beginning most of the girls that were lured into prostitution came from the remote mountain areas, where most of the people live in poverty. And during the late 1980s the trafficking in women and girls increased. A study made in Yunnan about girls that had returned from prostitution (Mahatdhanobol, 1998) showed that the 1.500 girls that had returned had worked in prostitution, but there were over 3.000 women that were reported missing and were feared to be working in prostitution (Archavanitkul, 1998, Pp 12-13).



The Simao prefecture is the largest exporter of trafficked women and children. It has a wide array of different ethnic groups, like Dai, Lahu, Wa, Akha and Yi. 98 percent of the prefecture consists of mountain areas, which are the poorest areas in the Yunnan province. When it comes to the education it is the lowest in the province and the drop out rate when it comes to girls is over 60 percent, and in some areas close to the boarder almost 80 percent of the girls drop out from school. These are the primary causes why the trafficking in this province is as high as it is. Another cause is that it borders to Laos, Vietnam and Myanmar, which makes it a lot easier for

the gangs to traffic the women and girls. There are altogether 16 major roads and 160 trails that lead across the border (Archavanitkul, 1998, Pp34-35)

The Lincang prefecture is located in the southwestern part of the Yunnan province, and is a very important gate to Myanmar. Also here there lives a wide array of ethnic minorities, like Wa, Dai, Lahu and Buland. It is very hard to traffic women and girls out from here because of the huge mountains and the wild river. But still the trafficking network grows and together with that the problem of trafficking. The underground-organised crime is driven by the economic gain, and the agents can with ease get close to the victims. The intermediates that work in the area are very acquainted with the languages, the local geography, and with the political and cultural aspects of the receiving areas. This leads to that the agents can traffic the girls without much difficulty. The primary push and pull factors when it comes to the trafficking of girls out from the Lincang prefecture are the extremely low education level together with the high drop out rates (about 50 percent of the girls drop out of school), and the HIV problem in Thailand, which has frightened many people. This has contributed to that many of the agents and owners of the brothels have started to look for fresh and unaffected mountain girls to stimulate the rapid development of the trafficking (Archavanitkul, 1998, P 35).

3.5.4 VIETNAM

When it comes to the trafficking of girls out from Vietnam there are three different routes that are used, North Vietnam to China, South Vietnam to or through Cambodia into Thailand. How many that are trafficked though these routes are unknown, this because of that Vietnam has been closed to the outside world for so many years. There are only pieces of information available for the NGOs, but even these fail to tell how many that are being trafficked out from Vietnam every year. But according to the information that the NGOs have been able to find, there are about 5.000 girls that are being trafficked from Vietnam per year. It is also know from the data that is being collected in Thailand that women and girls from Vietnam are being sent to Thailand to work in sex establishments or to be trafficked to other countries inside Asia; countries like Hong Kong, Macao or Taiwan (Caouette, 1998, P 23).

When it comes to Vietnam, it is one of the countries where the economic changes can be noticed the most, this because of that the new economy is open to privatisation and trading across the borders. This has led to that the new form of economy has been the main target when it comes to finding something to blame the rapidly increasing trafficking problem on. At the same time there is no possibility for the NGOs to be able to analyse the existing problems with the limited income opportunities, the extreme poverty and the low levels of literacy, especially among the girls (Caouette, 1998 P 23)

There are many different sources that are showing different numbers of how many girls that are trafficked out from Vietnam and into the prostitution in Cambodia. According to Vietnam's General Statistic Office (VGSO) there were in 1989 about 200.000 prostitutes that were working in the sex industry in Vietnam, and about 10,5 percent of those were child prostitutes. And according to Ho Chi Minh City Statistical Office (HCMCSO) the numbers of child prostitutes in Vietnam increased from about 5,2 percent to 20,8 percent in 1995. Most of the girls that were trafficked out from Vietnam were trafficked into Cambodia, and many of them went to "Spray Park" which is one of the red light districts in Phnom Penh (the capital of Cambodia). During a study that was made in this district there were about 1.000 Vietnamese girls between the ages 13-

22 working in the brothels. There is also another problem with the trafficking from Vietnam, and that is that the girls that are getting trafficked are becoming younger and younger. A research submitted in 1997 by the Human Rights Committee, showed that 15,5 percent of the girls that were trafficked into prostitution were between 9 and 15 years old (Archavanitkul, 1998, P 13).

Over 70 percent of women and girls that were trafficked into prostitution were sold across the borders to China, Cambodia, Thailand, Singapore and Hong Kong. According to the Steering Committee for Fighting Against Social Evil (SCFASE) there were between the years 1994 to 1996 364 arrests made by the border police and 126 of the cases involved trafficking of women and children into prostitution. When it comes to the difference in the trafficking between the northern and southern parts of Vietnam, it is the northern routes that are the most common when it comes to trafficking in women and girls. This northern route is located along the border to China. In 1991 the Vietnam Country study revealed that over 6.000 women and girls had been sold over to China through the Lang Son trafficking route (Archavanitkul, 1998, P 32)

The ethnic minority in Vietnam is living in the mountain communities that are located in the north, close to the Chinese border. It is the women and girls of this community that are in the most danger of being trafficked into the sex industry in Cambodia, China and Thailand. The ethnic minorities that live here are relatively poor and uneducated, and that contributes to that they are easier to seduce. Also the cost of the trafficking is relatively low from these mountain communities. When it comes to the trafficking in the south of Vietnam it is the trafficking route through Tay Ninh province that is the most used one. Here live two other ethnic minorities, the Cham and Khmer. Here the trafficking networks send the girls along the Cuu Long River Delta, and most of the girls that are being trafficked over this route are girls from the south and the Ho Chi Minh City. It is mostly girls that are under the age of 18 (with the average age between 13 to 16) that are trafficked over this route and into the sex industry in Cambodia and onto the brothels in Thailand, to the red light districts like Spray Park, Chhouk Path Dancing floor, Toul Kohl Street (located in Cambodia), Pat Pong, Soi Nana and Soi Cowboy (located in Thailand) (Archavanitkul, 1998, P32).

3.5.5 CAMBODIA

Cambodia is one of the few countries in the sub-region that is known for primarily receiving women and children that are being trafficked. These girls and women mainly come from Vietnam, primary because of that Vietnam is the closest country, but many women and girls are also trafficked from Vietnam and through Cambodia. In this case Cambodia functions as a transit country where the girls are kept for a short period of time and then are shipped off to Thailand. It is hard to estimate how many girls that are being trafficked through Cambodia, this because of the civil war that has been raging since 1994, according to United Nations Transitional Authority of Cambodia (UNTAC). In 1997 there was a military coup and since that it has been the same political and economic situation. Today the country faces extreme poverty and lack of basic infrastructure in the rural areas. This has led to mass migration to the border areas in the country (Caouette, 1998, Pp 14 f).

During the last five years NGOs and international organisations have been trying to map the trafficking to and from Cambodia. The main focus in this work has been on children that are trafficked into prostitution, and various aspects on trafficking within their national borders. In January 1996 the Cambodian parliament ratified a new law, which specifically targeted the

suppression of kidnapping, trafficking and exploitation of humans. This led to that Cambodia has one of the most progressive laws when it comes to problems that are surrounding the trafficking of humans. And during the World Conference on Commercial Sexual Exploitation of Children in Stockholm in 1996, Cambodia presented a five-year plan of action combating the trafficking of humans (Caouette, 1998, P 16).

Most of the trafficking in Cambodia is taking place within the country. It is also as mentioned before, one of those countries within the sub-region, which is receiving girls into prostitution. All the trafficking within, to and from Cambodia is taking place in the same trafficking route and that is the Phnom Penh route. Phnom Penh is also the capital in Cambodia. A well know destination within Cambodia is also Koh Kong, which is a province close to the Thai border, where much of the human smuggling into Thailand takes place, though the town Battambang. There are three different ways that the girls are being trafficked from Vietnam into Cambodia. The first is by air, this is very seldom used, and the only girls that are able to travel by air are pretty virgins, who will be able to make a high profit for the agents. The second is by land. This is how most of the girls are being trafficked into Cambodia. Many of them are forced to walk for miles before they reach the destination that the agents have chosen for them. Others are able to travel by motorcycle, car or bus over the country border. The third way that the girls are being trafficked from Vietnam into Cambodia is by the river. The girls are then taken through three different checkpoints, Chery Thom, Kóm Samnor and Bak Dey (Archavanitkul, 1998, P 34).

The main push factor when it comes to trafficking into prostitution in Cambodia is the combination of poverty and the long time war in the country. Many people are forced to sell their children or let their wives be trafficked into prostitution, to be able to pay off their debts. Most of the girls that are being trafficked come from large families with many children, and when it comes to the women most of them are widowed. Most of the girls' families are in deep poverty where the girls live every day in violence and day-to-day surviving. (Archavanitkul, 1998, P 34).

3.5.6 LAOS PDR

When it comes to the trafficking in Laos there is little data to get hold of, but according to UNICEF in a report (Children and their Families in the Lao PDR, Vientiane. 1996) that they did about the trafficking in women and girls in Laos in 1995, they claimed that over 15.000 youths in Savannakhet province have been trafficked to Thailand. And in another report that UNICEF did in 1996 they reported that they had seen an alarming increase in the trafficking in Laotian girls through Thailand and into other countries. The new political structure of the sub-region is having its effects on Laos too. The opening of new transportation routes and the resettlement of the highland people into the lowland have led to that women and girls are at higher risk of being trafficked into prostitution. The low degrades of education and the low income earning opportunities also leave the young girls in a dangerous situation, this because they become more vulnerable to the agents' offer. The last problem is the similarity between the Lao language and the Thai language, and the exposure to the Thai prostitution culture and the capitalistic thinking, which increases the girls' will to also be able to make money at any cost (Couette, 1998, P 18).

In 1998 LAO PDR decided to decentralise the economic control and started to encourage private enterprises. But still beside the decentralisation of the economy about 80 percent of the

population live in sheer poverty. Many of the farmers have no alternative way of supporting themselves during the slack season. When it comes to the education, very few of the Laotians have knowledge of reading or writing, and the rate for children is extremely low, especially when it comes to children that are living in the mountain area (Archavanitkul, 1998, P 31).

Due to the location of Laos (which borders to Thailand, Myanmar, Vietnam, Cambodia and the Yunnan province in China) there are many different trafficking and cross-boarder routes. But still most of the trafficking in women and girls go to the sex industry in Thailand. Both the push and pull industries play a very important part in the trafficking of Laotian women and girls into Thailand. The push factors are the poor economic resources in the family (many of the families consist of between six to twelve members) and the poor education. There is also a limited opportunity to be able to find work in the rural areas and the cities. One of the most important pull factors is that many people are being lured about what they see in Thailand. They see the better earning and they experience the modern wonders of Thailand. During interviews that different NGOs have submitted with children from Laos, the children said that they went with the agents because of that they were interested in seeing the city lights in Bangkok (Archavanitkul, 1998, P 32).

3.6 SUMMARY

In this chapter I have been looking at the definition of trafficking, and as shown in the beginning of the chapter there are many different ways to define what trafficking is and there are many more than those I have chosen to include in this paper. But the one that I find the most describing definition is the ILO-IPEC that has included many of the aspects of trafficking that other definitions have excluded. As mentioned in the beginning of this chapter the problem with trafficking is not a new phenomenon, and today's trafficking can be seen as a modern form of slave trade, where the owners of the brothels can pick and choose the girls that they want to have in their establishments. The traffickers supply the owners with girls that can satisfy the customers' different tastes. There are many places in Asia that have become known for and associated with the prostitution and this has contributed to that some of these countries even have accepted the prostitution. Many of the women and girls have been forced to work in the prostitution, but there are also a high number of women and girls that have voluntarily opt to stay in the prostitution for one reason or another, one of them being that they have nothing to go back to. The money that the girls make as prostitutes is often the only source of income for the families and because of that they see that it is very important that the girls stay in the prostitution for as long as possible.

The people that are trafficking the girls often use the same excuse when they are caught. They say that the trafficking in the women and girls into prostitution benefit the girls because it gives them work. But there is much that argues against this, and the main reason is that the girls will have to pay back for years, the money that they owe the owners, agents and traffickers. A big problem with the trafficking and the prostitution in Thailand is that it has become accepted among the people that live in remote villages. This is because of that many of the girls have chosen to move back after they have left the brothels. The age of the girls that are being trafficked is today very young, the girls are usually between 14 and 16, but there are also cases where the girls have been younger than 13 years old.

One of the reasons for why the girls are being trafficked is because of the fear of HIV and this has led to that there today is a higher demand for young and even underage girls. But this has

also led to an increase in the spreading of the HIV virus so that the traffickers will have to look for more remote villages where the HIV virus hasn't spread yet. The owners force the girls to have sex with all the customers and even those who refuse to wear a condom. Another problem with the spreading of the HIV virus is that the owners send the girls to be checked for HIV but if she has the virus they will not tell her, so that she can continue to work unconcerned about the infection.

The countries in the Mekong-sub region can be divided into three different categories, where the first group consists only of Thailand, this because of that it is here that the capitalist economy is the most advanced. It is also Thailand that has the most problems with trafficking. It can be seen as a sending, transit and receiving country when it comes to the trafficking of women and girls into the Mekong-sub region. There is much attention paid to the trafficking in Thailand because of that it is the spider in the web. The second group consists of Vietnam and the Yunnan province in China, this because of that they are economies in transition. China can be seen mostly as a sending country, although they are receiving girls that come from Myanmar. Before the middle of the 1990's the Chinese government refused to recognise the problem with trafficking of women and girls into the prostitution to the other countries in the Mekong-sub region. But even today when the government has started to act to stop the problem it is the Yunnan trafficking routes that are those that are the least understood. There are two main gateways, the Simao prefecture and the Lincang prefecture. Both these areas have in common that it is poor girls from farming families that are being trafficked. Most of them have dropped out of school because of that they need to help their families to survive.

Vietnam is the country in the Mekong-sub region where the economic changes can be noticed the most, because they today have an economy that is open to privatisation and cross boarder trade. But this cross boarder trade has also led to that the market for human trade has grown. Many of the girls that are sold across the border from Vietnam are taken to Thailand and Cambodia. Those who are in the greatest danger of being trafficked are the same as the girls from Yunnan, it is the poor girls from the mountain communities. The third and last of the three groups consists of Cambodia, Myanmar and the Lao PDR, which are countries that are moving from a more centrally planned economy to a more open economy. One thing that these countries also have in common is that they have all suffered from many years of civil war. When it comes to Myanmar one of the most important reason for why girls are being trafficked is the economic problems in the country, and another factor is the problems with the political situation. Another problem that Myanmar faces is the same as in Vietnam, with the opening up to cross boarder trade also leading to that the human trade has increased.

Cambodia is as Thailand known for receiving girls, and many of the girls that come to Cambodia come from Thailand or Vietnam. But there is also a large domestic trade in Cambodia. It has been hard to combat the problem with trafficking because of that there have not been many non-governmental organisations that have had the possibility to work in Cambodia. When it comes to Lao PDR, one of the largest reasons for why women and girls are being trafficked is the civil war. The gangs need a way to finance their fights so therefore human trade is a large income source for them. Many of the girls that are being trafficked from Lao PDR are taken to the brothels in the north of Thailand. Lao PDR is also seen as a transit country because many of the girls that come from Yunnan are passing through, and very often the girls will stay in Lao PDR for a breaking in period in the prostitution.

The globalisation process has affected the countries in the Mekong Sub-region in different ways. Thailand is the country where the globalisation has had the most effects. This can be

because Thailand has always been very open to the western world, even during the colonial times when they were free from any colonial power but still chose to trade with them. Vietnam and Cambodia on the other hand were under the French influence and England was in control of both Myanmar (which they created), Laos PDR and was fighting in China for land. Another way that Thailand differs from the rest of the countries (and why it may have been more sensitive to the effects of the globalisation) is the political system. Thailand is both a democracy and monarchy, where the king still has a lot of influence. In China and Vietnam on the other hand they have the communist system that has led to that they up until the late 20th century have been closed for the outside world, and therefore less affected by the globalisation. The same also goes for Myanmar, Cambodia and Laos PDR where they have had more of a military governing during the last couple of centuries, which also has led to that they have been closed up well until the late 20th century and it is only now that they have started to open up and started to let in the western world.

When thinking about this and the three steps of globalisation that I talked about in the first chapter I can see that it can be applied to the Mekong Sub-Region. Thailand has gone through all steps of globalisation, the globalisation of the technology, economy and political globalisation. The other countries have started to go through the globalisation of the economy, where one example is that they have opened up for the tourism.

There is a clear difference between the countries in the Mekong Sub-Region when it comes to the globalisation and the different stages they are in, or at least when it comes to technology, economy and political globalisation. But how is the situation when it comes to the legislation? Is there any difference between the countries when it comes to the legislation?

CHAPTER 4 – THE LEGAL FRAMEWORK

4.1 INTRODUCTION

In this chapter I will present the national and international legislations. First I will give a presentation about the national legislations. Here the main focus will be on the Prostitution Prevention Act from Thailand that also has become a part of the Asian Values. This is a legislation that talks about the punishments that will be enforced when it comes to different crimes concerning prostitution. This is the best way to look at the enforced legislations in Thailand. Because of the problems to find the countries national laws I have been forced to search the Internet for the legislations, and also here it is very hard to find the different countries legislations. But I have managed to find some of the countries legislations in the Mekong sub-region, namely Cambodia, Vietnam and China.

One of the largest problems when it comes to the national legislations is that it demands that the law enforcers also follow the laws. And in many countries in the Mekong sub-region the police do not make much money and are open to corruption. That is one reason for why the problem with trafficking and prostitution is so widely spread in this area. The agents and owners pay the police officers and the border police money to look the other way while they transport the girls right by them. There have also been cases where the girls have been picked up after a raid at a brothel, and taken to the police station. Then the police in their turn instead of handing her over to non-governmental organisations or helping her to return home, they have sold her on to another brothel.

When it comes to the international law I will look at and discuss mainly two organisations' conventions. The first one is the UN conventions, the Convention on the rights of the Child and the Convention on the Rights of Women. And I will also look at the ILO conventions when it comes to trafficking and prostitution. There are two large problems with the UN conventions; the first problem is that it is very hard to see if the countries that have ratified them, if they follow the conventions. And the second problem is that it is hard to see that the conventions are universal because of that they do not take into account any other culture than the western.

Trafficking in children is clearly an intolerable form of child labour, as the conditions under which these children end up in are tantamount to forced labour. The ILO stands firm against this; no form of forced labour can and should be tolerated and all efforts must be made to bring an end to this problem. In 1930s the ILO Convention No 29 was created and it defines forced labour as “all work or service, which is exacted from any person under the menace of a penalty and for which the said person has not offered himself voluntary”. And in 1998 all the countries in the Mekong sub-region had ratified it except China and Vietnam (Archavanitkul, 1998, P 1).

4.2 NATIONAL LEGISLATION

All the countries in the Mekong sub-region are involved when it comes to ratifying the international legislations, and especially the Convention on the Rights of the Child, but then how the countries follow the Convention varies. There are also the ILO conventions, the Convention on Forced Labour that was mentioned above, which has been signed by every country in the

Mekong sub-region, except China and Vietnam. This is in contrast with the ILO convention No 138 about minimum age that has not been signed by any country in the Mekong sub-region. There are also many different workshops and conferences that are held about the problem with prostitution and trafficking in the Mekong-sub region, where the representatives for different non-governmental and governmental organisations meet and try to put together new suggestions for law changes. One of these meetings was the conference on ‘Illegal Movement of Labour: A Case of Trafficking in Women and Children’ organised by Mekong Regional Law Centre and the National Commission on Women’s Affairs in Thailand. Here all the countries agreed that they would take further steps to try to combat the trafficking in the Mekong sub-region. The main goal with these meetings is to help raise the awareness and to establish contacts between the countries in the area. Even though there has not come any hard working programme out of these meetings, some of the countries have made bilateral agreements on how to deal with the problem (Archavanitkul, 1998, Pp 58 f).

- “To combat trafficking in women and children, the Department for the Prevention and Control of Social Evils in Ho Chi Minh City and the Central Protection of Children in Cambodia met in March 1997 and discussed the conditions of Vietnamese child prostitution in Cambodia, as well as what formalities were required to repatriate the children, prevent such acts, and how the two states could collaborate.”
- “The police in Thailand and Yunnan developed a repatriation programme for Yunnanese girls who were trafficked into prostitution in Thailand. Thai authorities and NGOs inform the Chinese embassy or consulate when they encounter trafficked victims from China. The Chinese authorities then provide support in the repatriation and reintegration of the victims into their home villages, schools, workplaces, and so on. If the Victims need health services this is also provided by the Chinese authorities.”
- “In 1997, the governments of Lao PDR and Thailand discussed formalizing migration movements of labour. The government [s] has become stricter about allowing the crossing of borders by children”.
- “In 1997, the Lao government also proposed setting up a technical cooperation committee to solve the illegal migration problem. If Thailand needs Lao labourers, this should be done under a formal agreement between the two countries. Children under 18 will be prohibited from working abroad except from light housework”.
- “A new one-year migration card with photograph will be issued for Laotians to cross the border to Thailand. This card will permit border crossings at assigned checkpoints with a limitation of two nights and three days. Children under 12 are not allowed to travel alone and must be accompanied by an adult guardian”.

The five countries in the Mekong Sub-region have all recognised (more or less) that there is a problem with trafficking and because of this they have set up different international and bilateral collaborations. These collaborations have also led to that there have been some successful convictions of traffickers, even though this is very hard to do. To be able to educate the people in the country and to provide the citizens with information the government has gotten large help

from different organisations, both governmental and non-governmental organisations (Archavanitkul, 1998, Pp. 63 f).

This has also led to that the countries in the Mekong Sub-region have become closer and their cooperation with each other has improved, especially when it comes to cross-boarder trafficking. But even though there have been improvements there are still problems when it comes to the child victims of trafficking. Both governmental and non-governmental organisations have responded to this and are especially monitoring the migrant children, but still the problem of trafficking in children has increased. This comparing to the trafficking of drugs and weapons smuggling that is considered a minor problem. Those who play the most important part in this fight against the traffickers and human slave traders are the non-governmental organisations. They play an important role when it comes to ensuring the effective implementation of policies that involve several non-governmental organisations in the Mekong Sub-region (Archavanitkul, 1998, P 64).

4.2.1 THAILAND

Thailand is one of the countries in the Mekong sub-region that has come the furthest when it comes to legislations to try to prevent trafficking. They have also tried to implement different laws when it comes to prostitution, but the managers and owners of the brothels always find different new ways to work around the laws. One of the reasons why Thailand has come so far when it comes to finding legislations against trafficking in women and children and prostitution is because they have acknowledged that this is a problem in Thailand. As most of the countries in the Mekong Sub-region Thailand has put much effort on the trafficking and prostitution of children, which has for example resulted in the “National Policy and Plan of Action for the Prevention and Eradication of Commercial Sexual Exploitation of Children”¹⁹. This also resulted in the establishment of a multi-disciplinary committee that would monitor and follow through the implementation of this legislation (Caouette, 1998, P 20).

Another legislation that has been created to get a hold of the problem with trafficking is “The Measures in Prevention and Suppression of Prostitution Act” (See the next part of this chapter for more information about this legislation), and from November of 1997 “The Measures in Prevention and Suppression of Trafficking in Women and Children Act” (look further down this chapter for a more detailed presentation about this legislation). The non-governmental and governmental organisations have put a lot of hope into these two legislation acts, and hope that they will help to change the situation when it comes to the problem with trafficking and prostitution. They have also helped to widen the concept and the definition of trafficking (Caouette, 1998, P 20).

One of the laws that have been created to try to get a hold of the problem with prostitution is the “Prevention and Suppression of Prostitution Act (1996)”, that was created to change the old prostitution laws (for more specific information of what the “Prevention and Suppression of Prostitution Act” says see further down this chapter). The changes in this law were made to now protect the prostitutes. In the old law the prostitutes ran a greater risk of being punished by the police, than of the owners and the agents that were responsible for the prostitution. The new law

¹⁹ From National Commission on Women’s Affairs. National Policy and Plan of Action For the Prevention and Eradication of the Commercial Sexual Exploitation of Children. Bangkok: National Committee for the Eradication of Commercial sex.

has led to that the prostitution has become decriminalised and it treats the prostitutes as victims of poverty and organised crime. The penalty for the procurers has at the same time increased; this includes pimps, managers, owners, parents, customers etc (Archavanitkul, 1998, P 61). Here is a selection of paragraphs of what the “Prevention and Suppression of Prostitution Act B.E. 2539 (1996)” says which is most important for this research.

Prevention and Suppression of Prostitution Act B.E. 2539 (1996)

Prostitution– “means sexual intercourse, or any other act, or the commission of any other act in order to gratify the sexual desire of another person in promiscuous manner in the return for earning or any other benefit, irrespective of whether the person who accepts the act and the person who commits the act are of the same sex or not”.

Prostitution establishment– “means a place established for prostitution or in which the prostitution is allowed, and shall include a place used for soliciting of procuring another person for prostitution”.

Section 8. “Any person who, in order to gratify the sexual desire of oneself or another person, has sexual intercourse with or with[out] or acts otherwise against a person over fifteen but not over eighteen years of age in a prostitution establishment, with or without his or her consent, shall be liable to imprisonment for a term of one to three years and to a fine of twenty thousand Bath. [...] committed against a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of two to six years and to a fine of forty thousand to one hundred twenty thousand Bath”

Section 9. “Any person who procures, seduces or takes away any person for the prostitution of such person, even with her or his consent and irrespective of whether the various acts which constitute an offence are committed within or outside the kingdom, shall be liable to imprisonment for a term of one to ten years and to [a] fine of twenty thousand to two hundred thousand Bath. [...] committed against a person over fifteen but not over eighteen years of age, the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand Bath. [...] committed against a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Bath. If the offender under paragraph one, two or three is committed by means of fraud, deceit, threat, violence, exercising under influence or coercing against her or his will in any manner whatsoever, the offender shall be liable to heavier penalty than that provided in paragraph one, two or three by one third, as the case may be. Any person who, in order to bring about prostitution, admits a person known to him or her as having been procured, seduced or taken away under paragraph one, two, three or four, or supports the commission of such offence shall be liable to the penalty provided in paragraph one, two, three or four, as the case may be.”

Section 10. “Any person who, being a father, mother or parent of a person not over eighteen years of age, knows of the commission against the person under his or her parental control of the offence under paragraph two, three or four of section 9 and connives at such commission shall be liable to

imprisonment for a term of four years to twenty years and to a fine of eighty thousand to four hundred thousand Bath.”

Section 11. “Any person who is the owner, supervisor or manager of a prostitution business or a prostitution establishment, or the controller of prostitutes in a prostitution establishment shall be liable to imprisonment for a term of three to fifteen years and to a fine of sixty thousand to three hundred thousand Bath. [...] establishment under paragraph one has, for prostitution, a person over fifteen but not over eighteen years of age the offender shall be liable to imprisonment for a term of five to fifteen years and to a fine of one hundred thousand to three hundred thousand Bath. [...] Establishment under paragraph one has, for prostitution, a child not over fifteen years of age, the offender shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand Bath to four hundred thousand Bath.”

Section 12. “Any person who detains or confines another person, or by any other means, deprive such person of the liberty of person or causes bodily harm to or threatens in any manner whatsoever to commit violence against another person in order to compel such other person to engage in prostitution shall be liable to imprisonment for a term of ten to twenty years and to a fine of two hundred thousand to four hundred thousand Bath. If the commission of the offence under paragraph one results in: (1) grievous bodily harm being caused to the victim, the offender shall be liable to imprisonment for life; (2) death being caused to the victim, the offender shall be liable to death penalty or to imprisonment for life.”

(Office of the National Commission on Women’s Affairs, “Thailand’s national Policy, Plan of Action and Legal Measures in Elimination of Sexual Abuse and Exploitation of Children).

Another legislation that has been implemented in the Thai legal system is the “Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997)”. This legislation has been written to help and protect the women and children that are being trafficked to and from Thailand, and sees the trafficking as a crime and subject to punishment. Some changes in this law are that the police and officials have a wider authority to inspect sex establishments and other places where they suspect that trafficked women and children are being held. It has also speeded up the help for the trafficking victims and provides help for them to get home or find a way for the victims to stay in Thailand (Archavanitkul, 1998, P 61). Here are some of the sections in the “Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997) that are the most important for this research

Prevention and Suppression of Trafficking in Women and Children Act B.E 2540 (1997)

Section 5. “In committing an offence concerning the trafficking in women and children, buying, selling, vending, bringing from or sending to, receiving, detaining or confining any woman or child, or arranging for any woman or child to act or receive any act, for sexual gratification of the third person, for an indecent sexual purpose, or for gaining any illegal benefit for him/herself or another person, with or without the consent of the woman or girl, which is an offence under the penal Code, the law on prostitution prevention and suppression, the law on safety and welfare of children and youths, or this Act, the official is authorized to enforce power under this Act”.

Section 6. “Whoever makes preparations for committing any of the offences as specified in **Section 5** shall receive the same punishment as attempting to commit such offence”.

Section 7. “Whoever, from two persons upwards, conspire to commit any of the offences as specified in **Section 5** shall be punished with imprisonment not exceeding five years, or a fine of ten thousand bath or both. If any one of the offenders in the first paragraph has committed the conspired offence, all the offenders in the conspiracy shall be punished, as an additional count, with the punishment as stipulated for the committed offence. In the case that the commission of the offence is in process, but because of the opposition by the conspirator, the offence cannot be carried through, or the offence is carried through but does not achieve its goal, the conspirator, opposing the wrong doing act, is liable to the punishment as stipulated in the first paragraph. If the offender, according to the first paragraph, changes his/her mind and provides information on the conspiracy to the official before the conspired offence is committed, the court may punish such offender less than the punishment specified, or may not punish such offender at all”.

Section 8. “The official shall inspect, examine, and monitor at airports, seaports, railway stations, bus stations, entertainment establishments, factories and public places to prevent the offence specified in **section 5** from being committed. In the execution of his/her function according to paragraph one, the official may request any person for help in accordance with the regulation provided by the Minister”.

Section 9. “In order to prevent and suppress the commission of the offence as specified in **section 5**, the official shall have authority as follows: (1) issue a summons to any person to give statement, deliver documents or evidence: (2) Search the body of a woman or child, with a reason to believe that she/he is the victim of the offence as stipulated in **section 5**, if the victim is a woman or girl the searcher shall be another woman. (3) Search any place or vehicle, but the search shall be done between sunrise and sunset; in case there is a reason to believe that if the action is not immediately taken the woman or child may be assaulted, or the offender may relocate or conceal that the woman or child, the official may search the place at night with the permission of the Director General of the jurisdiction of Bangkok, or the provincial governor or person designated by the provincial governor in the provincial jurisdiction for the search in such province”.

Section 11. “The official shall use his/her judgement in giving appropriate assistance to the woman and child, who is the victim of the offence as specified in **section 5**, in providing food, shelter and repatriation to her/his original country or residence. In providing assistance according to the first paragraph, the official may arrange for the woman or child to be in the care of a “primary shelter” provided by the law on prostitution and suppression, a “primary shelter for children” provided by the law on child and juvenile safety and welfare, or other governmental or non-governmental welfare institutions. In case it is expedient, the Minister may issue a regulation on the assistance according to this section by publication in the Royal Gazette. The repatriation of the victim, whose residence is in a foreign country, shall be done in accordance with the agreements set forth in a treaty with the state party, or a convention of which Thailand is an acceding state”.

(Office of the National Commission on Women’s Affairs, “Thailand’s national Policy, Plan of Action and Legal Measures in Elimination of Sexual Abuse and Exploitation of Children).

There are also other laws that are important when it comes to trafficking and prostitution in Thailand. One of the most important of these laws is “The Penal Code Amendment Act” from November of 1997. This legislation act was first published in the Royal Gazette, Volume 114 the 16th of November in 1997, one day before it was implemented. The draft of this legislation that I have been able to find and use here, is translated by Wanchai Roujanvong, the Deputy Executive Director of the International Affairs Department, who is also a chairperson in the non-governmental organisation FACE (Coalition to Fight Against Child Exploitation)²⁰. The two sections that I will use for this paper is Section 4, that amends section 282 and 283 of the original, and also Section 5 that contains an addition to section 283.

The Penal Code Amendment Act (No. 14) B.E. 2530 (1997)

Section 4 “The provisions in **Section 282** and **Section 283** of the Penal code as amended by the Penal Code Amendment Act (No.8), B.E. 2530 shall be repealed and these new provisions shall be replaced:

“**Section 282** Whoever, for sexual gratification of another person, procures, lures, or traffics a man or woman for an indecent sexual act, even with his or her consent, shall be punished with imprisonment of one to then years, and a fine of two thousand to twenty thousand bath. [...] Committed against a person over fifteen years but not yet over eighteen years of age, the offender shall be punished with imprisonment of three to fifteen years, and a fine of six thousand to thirty thousand bath. [...] Committed against a person not yet over fifteen years of age, the offender shall be punished with imprisonment of five to twenty years, and a fine of ten thousand to forty thousand bath. Whoever, for sexual gratification of another person, receives the person who was procured, lured, or trafficked as provided in the first, second or third paragraph, or aids or abets in the commission of such offence, shall be punished with the punishment accordingly provided in the first, second, or third paragraph as the case may be.”

“**Section 283** Whoever, for sexual gratification of another person, procures, lures, or traffics a man or woman for an indecent sexual act, by using the deceitful means, threats, physical assault, immoral influence, or mental coercion by any means, the offender shall be punished with imprisonment of five to twenty years, and a fine of then thousand to forty thousand bath. [...] Committed against a person over fifteen years but not yet over eighteen years of age, the offender shall be punished with imprisonment of seven to twenty years, and a fine of fourteen thousand to forty thousand bath, or life imprisonment. [...] Committed against a person not yet over fifteen years of age, the offender shall be punished with imprisonment of then to twenty years, and a fine of twenty thousand to forty thousand bath, or life imprisonment, or death penalty. Whoever, for sexual gratification of another person, receives the person who was procured, lured, or trafficked as provided in the first, second, or third paragraph, or aids or abets in the commission of such offence, shall be punished with the punishment accordingly provided in the first, second, or third paragraph as the case may be.”

“ **Section 5** This provision shall be added to the **Section 283 bis**, of the Penal Code:

²⁰ During my visit to Thailand I had the pleasure to meet with the founder and president who told me about the organisation “Coalition to Fight Against Child Exploitation”. It is a non-governmental organisation that has a lot of members that have high positions in the society like judges and former head of police. The organisations main work is to lobby the government to try to change the laws when it comes to the exploitation of children. And they also have a close connection with the organisation “Centre Protection of Children’s Rights”.

“ **Section 283 bis.** Whoever brings a person over fifteen years but not yet over eighteen years of age for an indecent sexual act, even with the Consent of that person, shall be punished with imprisonment not exceeding five years, or a fine not exceeding then thousand bath, or both. [...] committed against a person not yet over fifteen years of age, the offender shall be punished with imprisonment not exceeding seven years, or a fine not exceeding fourteen thousand bath, or both. Who ever conceals the person who was brought away as provided in the first, or second paragraph, shall be punished with the punishment accordingly provided in the first, or second paragraph. The commission of the offence as provided in the first or third paragraph against a person over fifteen years of age is the compoundable offence.”

(Office of the National Commission on Women’s Affairs, “Thailand’s national Policy, Plan of Action and Legal Measures in Elimination of Sexual Abuse and Exploitation of Children).

There are two more laws that are important in Thailand when it comes to getting a hold over the problem with trafficking and prostitution. The first is the **Immigration Act (1996)**, which states that anybody who comes into Thailand without passing through a control point (with a valid passport or legal documents) is considered an illegal immigrant. This can lead to punishments up to two years and or a fine not exceeding US \$40. The women and girls that are victims of trafficking are treated as the rest of the illegal immigrants and have to go to court and there pay a fine for being in the country illegal. After they have paid the fine or served their prison time they are released and arrested again by the IDC (Immigration Detention Centeres), who will help them to get home (Archavanitkul, 1998, P 61).

The other law is the **Royal Decree for the Labour Protection Bill (1998)**. This legislation states that child labour is prohibited for children under the age of fifteen, and also states different rules when it comes to children under the age of eighteen. This law has also changed the minimum age for working to fifteen, with special provisions for domestic work for children between the ages thirteen to fifteen years of age (Archavanitkul, 1998, P 61).

There is also the work of the non-governmental and the governmental organisations; here there are two different projects and legislations that are important for this paper. The first one is the “**Protective and combative policies on prostitution problems**”, which has its aim at preventing child prostitution, and takes different measures against those involved in this exploitation of children. The problem with this is that there have been little efforts by the government in Thailand to implement this policy. This has led to that the campaign has moved up from the grass root level to the provincial policy makers who are now trying to cooperate with the nongovernmental organisations to address the problem with child prostitution (Archavanitkul, 1998, P 64).

The other project is “**Task force on migrant children**” This project was set up in 1996 by eight different non-governmental organisations with their aim to help children. Their work is to help the victims of exploitation and if it is possible to help them to get back home. Because of this is such a complex problem they need to work at all the levels, national, bilateral and multilateral level. Today the original task force has been replaced by a new one - **Thai coordinating Committee on Migrant Children** that has the mandate to draft and implement an action plan to protect and assist the migrant children living in Thailand (Archavanitkul, 1998, P 64).

4.2.2 VIETNAM

It was not until the year 1998 that the Socialist Republic of Vietnam recognised that they had a problem with trafficking. Before this they had instead addressed the problem as a problem of illegal migration or prostitution. Another problem in Vietnam is that they have condemned prostitution, which has led to that prostitutes have been arrested and forced to rehabilitation, and this in turn has led to that the prostitutes have become more isolated. A third problem that has arisen because of Vietnam's hard policy against prostitution, is that girls that have been trafficked no longer only fear the traffickers and the abuse that they have to go through at the brothels every day. They also have to fear being convicted as illegal immigrants or classified as prostitutes when they return to Vietnam, and therefore be punished for it. That is why many of the girls that have been trafficked from Vietnam try to remain in the country that they have been trafficked to and hide among the population (Caouette, 1998, P 23).

It was in November 1997 that the Republic of Vietnam started to recognise that there was a problem with trafficking and they issued a Directive (No. 766), where the Office of the Prime Minister assigned the responsibility to create and form measures to prevent the trafficking of women and children from Vietnam. But this could not be created by the government alone, they needed help also from the other government agencies and also non-governmental organisations from around the country. This finally resulted in that each sector of the country would turn in a proposal to the Prime Ministers office, about how to get a hold of the problem with trafficking. One of the problems for the government when it comes to making legislations, to try to change the problem with trafficking, is that there is very little known about how the trafficking works and how the traffickers and agents act when they are trying to lure women and children. One interesting fact that the Women Union found was that about 70 percent of those who were arrested and involved in the trafficking were women. Many of them had been working as prostitutes before they became agents and traffickers. This is a problem that all the countries in the Mekong Sub-region have in common (Caouette, 1998, Pp 23 f).

It is not very easy to find Vietnamese laws that have been translated to English, but I have found four legislations that are useful for this research. The first law is the **Law on the Protection, Care and Education of Children (1991)**. This is a law that is formed out of the Convention on the Rights of the Child, and it aims to protect the rights of the Vietnamese children. The legislation forbids the sale of children to labour and prostitution, the forcing of children to beg, to unhealthy work and other forms of exploitation. The legislation also demands sever punishments for those who sexually abuse children or for acting as intermediary and luring the children into prostitution (Achavanitkul, 1998, P 63). Another legislation is the **Penal Code (1997)**.²¹ In 1997 there were changes in the Penal Code that addresses the sexual abuse and rape of children, "setting severe punishments of up to 20 years of imprisonment" (Archavanitkul, 1998, P 63). Another section in the Penal code that was changed was the section about harbouring prostitutes, who were below the age of eighteen, which now can lead to imprisonment of up to 20 years (Archavanitkul, 1998, P 63).

The third law is the **Labour Law**, and also here there were some changes. For many occupations the minimum age is still 15, but there are some occupations that are listed by the Ministry of Labour that allows exceptions. And for those who are under the age of eighteen but still are working there is a requirement of explicit registrations and health check-ups

²¹ Unfortunately I have not been able to find this Penal Code translated into English. Even though I have searched the legal websites for hours without any result.

(Archavanitkul, 1998, P 63). The last legislation, where some of its articles are presented below, is the **Constitution of the Socialist Republic of Vietnam**. This is the foundation of the legislations. But also here it is very hard to find any translation into English. These articles that are presented below are the closest that one can come when it comes to find anything about prostitution or trafficking.

Constitution of the Socialist Republic of Vietnam

Article 61

”The citizen is entitled to a regime of health protection. The State shall establish a system of hospital fees, together with one of exemption from and reduction of such fees. The citizen has the duty to observe all regulations on disease prevention and public hygiene. It is strictly forbidden to produce, transport, deal in, store and use unlawfully opium and other narcotics. The State shall enact regulations on compulsory treatment of drug addiction and treatment of dangerous social diseases.” (<http://www.washlaw.edu/forint/asia/vietnam/vietnam.htm>, 2002-05-16)

Article 63

”Male and female citizens have equal rights in and fields - political, economic, cultural, social, and the family. All acts of discrimination against women and all acts damaging women's dignity are strictly banned. Men and women shall receive equal pay for equal work. Women workers shall enjoy a regime related to maternity. Women who are State employees and wage earners shall enjoy paid pre- natal and post-natal leaves during which they shall receive all their wages and allowances as determined by law. The State and society shall create all necessary conditions for women to raise their qualifications in all fields and fully play their roles in society, they shall see to the development of maternity homes, paediatric departments, creches and other social-welfare units so as to lighten house work and allow women to engage more actively in work and study, undergo medical treatment, enjoy periods of rest and fulfil their maternal duties” (<http://www.washlaw.edu/forint/asia/vietnam/vietnam.htm>, 2002-05-16)

Article 66

”The family, the State and society shall create favourable conditions for young people to study, work, relax, develop bodies and minds, and shall educate them in morality, national tradition, civic consciousness and the socialist ideal, for them to be in the van of creative Labour and national defence.” (<http://www.washlaw.edu/forint/asia/vietnam/vietnam.htm>, 2002-05-16)

As with the legislation not much is known about the work of the governmental and non-governmental organisations, but some information can be found. During the latest years the government has incorporated several policies and resolutions into the national plan and program to prevent that children are being trafficked and child prostitution. Another thing is that after “The rights of children and protection against sexual exploitation” conference, that was held in India in December 1997, a plan was set up to eliminate sexual exploitation and the trafficking in children. They also set up a national committee to monitor and coordinate these activities. Another program

that was set up by the Vietnamese Women's Union was a program to reintegrate women and children that had been trafficked back into the Vietnamese society. They also set up a program to prevent and educate children from ending up in prostitution.

4.2.3 CHINA (YUNNAN)

During the last years China has become more and more aware of the problems with trafficking, and one of the reasons for this is because the government has carried out mass round-ups of Vietnamese girls who have been trafficked to Yunnan and send them back to Vietnam. This has contributed to some problems. One of the problems is that many of the girls have been left at the border to the Quangxi province where the women on their own have to find a way back home. Another problem is that there are many women and girls that have been deported with their children back to Vietnam, which is a problem because the children are Chinese citizens and lack Vietnamese citizenship papers. China still faces many problems here and has to find a way to cooperate with the other countries in the Mekong Sub-region. They will also have to start to ensure proper procedures when it comes to identifying those who have been trafficked into China, especially when it is a woman or girl that has a child (Caouette, 1998, P 26).

But China has started to recognise that there is a problem with trafficking and prostitution and that is why they also introduced a new Criminal Law, where they have increased the punishment for the traffickers up to lifetime imprisonment, which makes it a capital punishment. Another change is that there today are massive campaigns all around the country against the trafficking and prostitution of women and children (Caouette, 1998, P 26). Here are some of the more important parts of the **Constitution of the Peoples Republic of China (1997)** and the **PRC Criminal Law** that deal with trafficking and prostitution.

Constitution of the Peoples Republic of China (1997)

Article 11 [Work, Movement, Birth Control, Unemployment]

“(1) The practice of life-time affiliation with a work unit should be completely abolished. The citizens demand freedom of employment, attire and movement; they demand that a solution be provided for the problems of husbands and wives working and living in different locations. Cadres demand the freedom to switch jobs; security workers should have freedom in their love life and marriage; and middle-school graduates should have the freedom not to go to the production brigades in the countryside. (2) We oppose coercive enforcement of birth control programs by the government and the use of government administrative power to enforce any kind of clarion call. (3) The unemployed citizens demand that they have the right to receive state compensation.

Article 17 [Slums, Living, Exhibitions, Censorship, Political Review]

“(1) The citizens demand the abolishment of slums, the practice of three generations living under the same roof and the custom of grown sons and daughters living in the same room. The practice of organizations controlling admission tickets should be abolished. (2) All exhibitions must be open up to free admission. (3) Censorship must be abolished and there must be a guarantee of the

freedom of writing and freedom of the press. (4) Political review in collage entrance examinations must be abolished to insure equality based on examination scores alone.”

Article 18 [Freedom to Travel]

“We are the citizens of the world and as much, we demand the opening of borders, an active trade, cultural exchanges, exports of labourers, the freedom to get aboard on work-study programs, and to work and travel abroad.”

(<http://www.qis.net/chinalaw/lawtran1.htm>, 2002-07-15)

PRC Criminal Law

Section 8. The Crime of Organizing, Forcing, Seducing, Harboring, or Introducing Prostitution

Article 358. “Those organizing others for or forcing others into prostitution are to be sentenced to five to 10 years in prison in addition to having to pay a fine. Those falling in one or more of the following cases are to be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property: (1) Those committing serious crimes of organizing others for prostitution; (2) those forcing young girls under the age of 14 into prostitution; (3) those forcing more than one person into prostitution and those repeatedly forcing others into prostitution; (4) those forcing others who were raped by them into prostitution; (5) those causing severe injuries, death, or other serious consequences to those who are forced into prostitution. Those committing one or more of the above crimes, if the case is especially serious, are to be given a life sentence or sentenced to death, in addition to confiscation of property. Those helping others organize people for prostitution are to be sentenced to five years or fewer in prison in addition to a fine. If the case is serious, they are to be sentenced to five to 10 years in prison in addition to being fined.”

Article 359. “Those harbouring prostitution or seducing or introducing others into prostitution are to be sentenced to five years or fewer in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to five years or more in prison in addition to a fine. Those seducing young girls under 14 years of age into prostitution are to be sentenced to five years or more in prison in addition to a fine.”

Article 360. “Those engaging in prostitution or visiting a whorehouse knowing that they are suffering from syphilis, clap, or other serious venereal diseases are to be sentenced to five years or fewer in prison or put under criminal detention or surveillance, in addition to having to pay a fine. Those who visit young girl prostitutes under 14 years of age are to be sentenced to five years or more in prison in addition to paying a fine.”

Article 361. “Personnel of hotels, restaurants, entertainment industry, taxi companies, and other units who take advantage of their units’ position to organize, force, seduce, harbour, or introduce others to prostitution are to be convicted and punished according to **articles 358** and **359** of this

law. Main persons in charge of the aforementioned units who commit crimes stipulated in the above paragraph are to be severely punished.”

(<http://www.qis.net/chinalaw/prclaw60.htm>, 2002-07-16)

In Yunnan many of the non-governmental organisations main work is to lobby the government to make changes or amendments to the **Constitution of the Peoples Republic of China**. This in turn has led to that there are many of the governmental departments that have started to take part of the combating of child exploitation. In Yunnan they have also set up a programme, **The Office for combating the Trafficking in Women and Children**, that has become represented in all of the province's 17 prefectures. The main goal here is to try to reduce the problem with local and domestic trafficking. And since this is related with the public security, the responsibility of this office moved to the criminal police in Yunnan province in 1998. This program has now also started different researches to try to get a better understanding on how the trafficking in Yunnan is organised (Archavanitkul, 1998, P 67).

4.2.4 CAMBODIA

It is not until the last eight years that the non-governmental organisations, most international, together with the government started to find out the reality of the problem with trafficking in the Mekong Sub-region. Most of these reports have before 1995 mostly been about the exploitation and sexual abuse of children, but then the problem with trafficking started to get more attention. This led to that in 1996 (16th of January) the Cambodian government approved a specific law on the “**Suppression of Kidnapping**”. When they ratified this legislation Cambodia became one of the countries in the Mekong Sub-region that had the more progressive laws when it came to trafficking. Together with this new law they also put into action the five-year plan of action to eliminate child exploitation that was drawn up at the World Conference on Commercial Sexual Exploitation of Children that was held in Stockholm, Sweden (Caouette, 1998, Pp 16-17).

But there are still problems when it comes to the legislations and the enforcement of the laws in Cambodia. One of the problems is that the judicial system is extremely weak, due to corruption and the lack of a decision making power. Another problem is the presence of the large military forces and the police, who in Cambodia are well known for being corrupted. One has to mention that not all of the police force and government officials are corrupted. There are many that together with the non-governmental organisations have been able to document and find out more about the problem with trafficking, which in turn has helped them to draw up strategies on how to solve the problem with trafficking (Couette, 1998, P 17).

There are four important legislations in Cambodia that are dealing with trafficking and prostitution. The first of them is the “**Law on Suppression of the Kidnapping and Trafficking/Sales of Human Persons and Exploitation of Human Persons (1996)**”. In here **Article 3** states that “A person who lures into trafficking/sales for prostitution shall be subjected to imprisonment from 15 to 20 years, if such victim is a minor person of less than 15 years” (Archavanitkul, 1998, P 63). Another legislation is **Article 31** in the “**Constitution of Cambodia**” which shows that Cambodia has shown that they want to get a hold of the problem with exploitation of children. This is a very important legislation and it also shows that they are interested in parts of the United Nations Declaration of the human rights.

Constitution of Cambodia

Article 31 [Human Rights, Equality, Restrictions]

“ (1) The Kingdom of Cambodia recognizes and respects human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s and children’s rights. (2) Every Khmer citizen is equal before the law, enjoying the same rights and freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status. (3) The exercise of personal rights and freedom by any individual may not adversely affect the rights and freedoms of others. The exercise of such rights and freedom must be in accordance with the law.”

Article 46 [Women]

“ (1) The commerce of human beings, exploitation by prostitution and obscenity which affect the reputation of women is prohibited. (2) A woman may not lose her job because of pregnancy. Women have the right to take maternity leave with full pay and with no loss of seniority or other social benefits. (3) The State and society provides opportunities to women, especially to those living in rural areas without adequate social support, so they can get employment, medical care, send their children to school, and have decent living conditions.”

Article 48 [Children]

“ (1) The State protects the rights of the children as stipulated in the Convention on Children, particular, the right to life, education, protection during wartime, and from economic or sexual exploitation. (2) The State protects children from acts that are injurious to their education opportunities, health and welfare.

(<http://www.uni-wuerzburg.de/law/cb-index.html>, 2002-05-17)

Other interesting law is the “**Labour Law (1997)**”, where they have raised the minimum age of employment to 15 years. There are also two other important articles under the **Labour Law**, the first one is **Article 181** that states “Minors, whatever their sex, below the age of 18 can not engage in any type of work contract without the prior approval of their parents or guardians” (Archavanitkul, 1998, P 63). There is also **Article 177** that says “Children aged between 12 and 15 can be engaged in light work provided that the work is not hazardous to their health and psychological development and will not affect their school attendance or their participation in vocational training programmes approved by the competent authorities” (Archavanitkul, 1998, P 63).

There is also three major programs set up by national and international non-governmental organisations and governmental organisations in Cambodia. One of the programs is **The Cambodian National Council for Children (CNCC)** that in 1998 started drafting on a five-year national plan against sexual exploitation of children. This will be done through education, community mobilization, and legislation, and they will also lobby the government for harsher punishment for the offenders and more money for rehabilitation of the children. Another program

is **The Subcommittee on child labour and other forms of commercial exploitation of children**, which as the same as CNCC was established in 1997 and is trying to find an understanding between the ILO and the Government of Cambodia. Their main goal/aim is to see to it that the government of Cambodia is establishing programmes and legislations that help the children (Archavanitkul, 1998, P 67).

The third and last program is the **Prevention Programmes and direct assistance to victims of trafficking**. Together with legislations, prevention is one of the key factors to getting a hold of the problem with trafficking. And during the last couple of years this program has also started to help the child victims with the rehabilitation. This is a program that is supported by many of the large international organisations, like ILO-IPEC and UNICEF.

4. 3 INTERNATIONAL LEGISLATIONS

In this part of the chapter I will look at the international legislations regarding trafficking and prostitution of women and children. The first legislation that I will look at is the UN conventions. The two conventions that I will take a look at are, United Nations Human Rights Declaration, where I first will give a short presentation of when the countries in the Mekong Sub-region became members. And the second convention that I will look at when talking about the UN is the Convention on the Rights of the Child. Here I will also give a presentation about the convention and little about how the monitoring of the convention works.

After this I will give a presentation of the International Labour Organisation's (ILO) conventions. They have created another form of conventions, which are much more specific than the UN conventions. They have instead of talking about the children in one convention (like the Convention on the Rights of the Child) put the children in many different conventions. Those that I will be looking at here are first, "The worst forms of child labour Convention" including the recommendation that has been made to this convention, and second, the "Minimum Age Convention". I will also give a short presentation of what ILO does and the ILO-IPEC program.

In the international community there are many different varieties of legislations, some which work only on a local level and some that work on the international level. One thing that is especially characteristic for the international legislations is that they should not be seen as laws, but instead should be seen as guidelines. In this paper I will focus on two different international conventions. The first is the United Nations Human Rights conventions, and here especially the Convention on the Rights of the Child. And the second form of international legislations is the ILO conventions "Worst Form of Child Labour" and "The Minimum Age" convention.

4.3.1 UNITED NATIONS

All the countries in the Mekong Sub-regions are members of the United Nations; the first country to become a member was China (24 Oct. 1945) who became a member soon after the forming of the United Nations. After that, both Thailand (16 Dec. 1946) and Myanmar (19 Apr. 1948) became members, also they only years after the forming of the UN. In 1955, eleven years after the forming of the UN, both Cambodia (14 Dec. 1955) and Lao People's Democratic Republic (14 Dec. 1955) became members. The last member in the Mekong Sub-region who became a member

was Vietnam (20 Sep. 1977), who did not become a member until two years after the ending of the Vietnam War (www.un.org/overview/unmember.html, 2002-07-18).

The foundation of the United Nations conventions is the “Universal Declaration of Human Rights” which states in the opening that there should be all human rights for all, and was adopted and proclaimed by the General Assembly resolution 217 A (III) of 10 December in 1948. With this declaration, the United Nations recognises that there should be equal and inalienable rights of all members of the human family, and that there should be freedom, justice and peace in the world. In the preamble of the Universal Declaration of Human Rights it states that (<http://www.un.org/overview/rights.html>, 2002-07-21):

“Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom...”
(<http://www.un.org/overview/rights.html>, 2002-07-21)

UNIVERSAL DECLARATION OF HUMAN RIGHTS (10 DECEMBER 1948)

Article 4. “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

Article 7. “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

Article 13. “(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country.”

Article 26. “(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on this basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be give to their children.”

(<http://www.un.org/overview/rights.html>, 2002-07-21)

4.3.2 THE MONITORING OF CONVENTIONS

Many of the world's countries have ratified or signed the conventions that are formed within the United Nations, but then how can they be sure that the countries follow what they have signed? There are many different ways to monitor the conventions, which is why the example here will be on how the monitoring of the Convention of the Rights of the Child works. To be able to monitor the states implementation of the convention a committee has been formed, which is in charge of the monitoring. This committee consists of international experts and was formed in 1991, one year after the drawing up of the convention. Those governments, who have signed the Convention on the Rights of the Child, have to submit regular detailed reports on how the national situation for the children is, and this gives the committee a chance to examine the situation. This can sound fairly easy but there are much more behind it than can be seen (www.unicef.org/crc/monitoring.htm, 2002-07-18).

For one thing the Convention on the Rights of the Child should not be seen as a law, but instead as a guideline and it should provide the tools for the governments on how to develop and plan the promotion of the respect of children. When the committee examines the reports from the governments they look at how well they have succeeded in protecting and promoting the rights of the children according to the convention. The first report that the government has to turn in must come two years after they have ratified the convention. After that they will have to turn in one report every five years. The governments can also be told to complement the reports that they have turned in to the committee (www.unicef.org/crc/monitoring.htm, 2002-07-18).

There are also specific guidelines on what the report should contain when it is turned into the committee, and it should be divided into eight different themes:

- General measures of implementation
- Definition of the Child
- Guiding Principles
- Civil Rights and freedoms
- Family environment and alternative care
- Basic health and welfare
- Education, leisure and cultural activities
- Special protection measures.

Together with the report the governments will also have to turn in a copy of the relevant national legislation, statistical data and relevant benchmarks for the monitoring process. The problem is that if the states fail to present this report the only thing that will happen is that they will be asked over and over again to submit the report to the committee (www.unicef.org/crc/monitoring.htm, 2002-07-18).

After the state has turned in the report to the committee they will be called in for a private meeting with the committee and its working groups. These groups consist of international organisations and non-governmental organisations from the country that will be called in. These groups that also come to the meeting have in their turn also presented different reports that will be used during the meeting with the country in question. The government is then asked to answer the questions and the results of the non-governmental and international organisations with a new report before the next meeting (www.unicef.org/crc/monitoring.htm, 2002-07-18).

THE CONVENTION ON THE RIGHTS OF THE CHILD (2 September 1990)

It was not until 1989 that the United Nations started to form what we today know as the Convention on the Rights of the Child. The most important idea of the CRC is that it should work universally, which also is the key word. When forming the convention they felt that there were too many children that were living in countries where they were forced to deal with armed conflicts, child labour, sexual exploitation and other human rights violations. Some of the people that lived in the poor countries also felt that human rights for children was a thing that only could be found in the wealthy nations, where schools, hospitals and juvenile justice systems are in place, and not abused. But it is in the poor countries that the CRC plays the most important role, because it can give the children some protection from being abused (www.unicef.org/crc/convention.htm, 2002-07-18).

The main reason for forming the CRC was to give the children the same rights as everybody else and to show that there is no hierarchy of human rights or that children's rights are less valuable than other rights. The CRC was formed as the Universal Declaration of Human Rights, which means that it is focused on the children as a whole and not on any specific individuals. When forming the CRC the United Nations showed the world a new way of seeing the children. Now they were no longer seen as a property owned by their parents, and no longer as helpless objects of charity; they are human beings with the same value as any other human beings. The CRC envisions the children as individuals, as members of the family and the community with the rights appropriate to their age. Carol Bellamy sees the CRC in the following way (www.unicef.org/crc/convention.htm, 2002-07-18):

“The Convention is not only a visionary document. We are reminded daily that it is an agreement that works – and its utility can be seen in the everyday use to which I have seen it increasingly being put by country after country, in policy, in practice and in law”. Carol Bellamy, UNICEF, Executive Director, September, 1998 (www.unicef.org/crc/convention.htm, 2002-07-18).

The Convention on the Rights of the Child is outlined in 41 articles, where the human rights are being respected and protected for every child under the age of 18 years. There are four main and guiding principles in the convention, and they are, Non-discrimination (article 2), Best interests of the child (article 3), Survival and development (article 6) and finally Participation (article 12). The convention also covers the obligations of the state parties; article 42-45, which deals with monitoring and implementation. The final part of the Convention covers the process of how the state should ratify the convention, article 46-54 (www.unicef.org/crc/convention.htm, 2002-07-18).

All the countries in the Mekong Sub-region have ratified the Convention on the Rights of the Child, and surprisingly it was China (29 Aug. 1990) and Vietnam (26 Jan. 1990) who were the first two countries to ratify the Convention, even though they have reserved themselves against some of the articles in the Convention. In the year 1991 two other countries in the Mekong Sub-region ratified the convention, this time the turn had come to Lao Peoples' Democratic Republic (8 May) and Myanmar (15 Jul.). And in 1992 the two last countries of the six in the Mekong Sub-region chose to ratify the Convention on the Rights of the Child; first came Thailand (27 Mar.9) and finally seven months after that, Cambodia (15 Oct.) became the last country in the Mekong Sub-Region to ratify it (www.unicef.org/crc/convention.htm, 2002-07-18).

As mentioned above the Convention on the Rights of the Child consists of 54 different articles, and here are some of the articles that are important when it comes to the trafficking in women and children.

Article 1. “For the purpose of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

Article 2. “(1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. (2) States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.”

Article 9. “(1) States Parties shall ensure that a child shall not be separated from his or her parents against their own will, except when competent authorities subject to judicial review determine, in accordance with applicable law procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence. (2) In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known. (3) States Parties shall respect the rights of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interest. (4) Where such separation results from any action initiated by a States Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the state) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such request shall of itself entail no adverse consequences for the person(s) concerned.”

Article 11. “(1) States Parties shall take measures to combat the illicit transfer and non-return of children abroad. (2) To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.”

Article 19. “(1) States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. (2) Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identifications, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and as appropriate, for judicial involvement.”

Article 28. “(1) States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and make appropriate measures such as the introduction of free education and offering financial assistance in the case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates. (2) States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention. (3) States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.”

Article 32. (1) States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. (2) States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.”

Article 34. “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purpose, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practise; (c) The exploitative use of children in pornographic performances and materials.”

Article 35. “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”

Article 39. “ States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel inhuman or degrading treatment of punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”

(<http://www.unicef.org/crc/fulltext.htm>, 2002-07-18)

4.3.3 INTERNATIONAL LABOUR ORGANISATION

The International Labour Organisation (ILO) was formed after the First World War in 1919. The main ideas that the organisation first advocated came from two nineteenth century industrialists, the first one was Robert Owen from Wales and the second one Daniel Legrad from France. It was the ideas of these two men that were incorporated into the Constitution of the International Labour Organization, adopted in April 1919 at the peace conference. This Constitution consists of four different main thoughts/motivations, where the first motivation is aimed at the condition of the workers. Its focus is on the numbers of workers that are being exploited and condemns this. The second motivation was political, when looking at the workers that were exploited without any improvement in their situation due to the industrialization, which in the end could lead to a revolution. To prevent this the Constitution must fight against the injustice (www.ilo.org/public/english/about/history.htm, 202-08-01).

The third thought/motivation was on the financial side. By joining the ILO the member states would gain an advantage against the other countries. To be able to fight against the countries that chose not to change the social reforms that were required by the ILO, the member states would have to work together to be able to compete with the production costs of the non-member countries. The fourth and last reason and maybe the most important motivation to the creation of the International Labour Organisation was as they mention in the very beginning of the Constitution “universal and lasting peace can be established only if it is based upon social justice” (www.ilo.org/public/english/about/history.htm, 202-08-01).

The International Labour Organisation’s governing body is represented by people that come from every part of the working sector. Half of the governing body consists of member countries’ representatives, one fourth are workers representatives and one fourth are employer representatives, and it is these members that choose the director of the organisation. The first director of the organisation was Albert Thomas, who was very focused on the social questions. He also contributed to that in less than two years the ILO wrote 16 different Labour Conventions and 18 Recommendations to these Conventions. He was also in charge of the creation of a supervisory system, a committee of experts, to the Conference, which still exists today (www.ilo.org/public/english/about/history.htm, 202-08-01).

The International Programme on the Elimination of Child labour (IPEC) is a collaboration between the United Nation and International Labour Organisation. Their aim is to work toward a gradual change to in the end eliminate child labour through strengthening national capacities to address child labour problems and by creating a worldwide movement to reach this goal. Their main focus is on the children working in hazardous conditions and children who are particularly vulnerable (children under the age of 12, and working girls). The IPEC has a number of different strategies that they use in their fight to eliminate child labour (www.ilo.org/public/english/standards/ipec/about/implementation/ipec.htm, 2002-07-17):

- Motivating a broad alliance of partners to acknowledge and act against child labour.
- Carrying out a situational analysis to find out about child labour problems in a country.

- Assisting with developing and implementing national policies on child labour problems.
- Strengthening existing organizations and setting up institutional mechanisms.
- Creating awareness on the problem nationwide, in communities and workplaces.
- Promoting the development and application of protective legislation.

All the countries in the Mekong Sub-region are members of the ILO. There are two countries that have signed all the conventions, the first one is Thailand (ratified 16 Feb. 2001) and the second one is Vietnam (19 Dec. 2000). The other countries have made some reservations against some of the conventions. In Cambodia the Government does not wish to ratify C 182 (Worst form of child labour convention 1999) until they are able to implement C 138 (Minimum age convention 1973). ILO assistance has been requested in the definition of light work and hazardous work. In Lao Peoples' Democratic Republic ratification will be considered after the national elections in 2002. China has put the ratification of the conventions on the agenda of the national people's congress. The last country is Myanmar where C182 and R 190 (Worst form of child labour recommendation 1999) have been put on official record
(www.ilo.org/public/english/standards/ipecc/ratification/convention/text.htm, 2002-07-17).

C 128 WORST FORMS OF CHILD LABOUR CONVENTION (1999)

Article 1. "Each member who ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency."

Article 2. "For the purpose of this Convention, the term *child* shall apply to all persons under the age of 18."

Article 3. "For the purpose of this Convention, the term the worst forms of child labour comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for the use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."

Article 6. "1. Each Member shall design and implement programmes of action to eliminate as a priority to the worst forms of child labour. 2 Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate."

Article 7. "1. Each Member shall, taking all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions. 2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective

and time-bound measures to: (a) prevent the engagement of children in the worst forms of child labour; (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration; (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour; (d) identify and reach out to children at special risk; and (e) take account of the special situation of girls. 3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.”

Article 10. “1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office. 2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General. 3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.”

(<http://ilotex.ch:1567/english/convdisp2.htm>, 2002-07-17)

R 190 WORST FORMS OF CHILD LABOUR RECOMMENDATION (1999)

1. “The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as ‘the Convention’), and should be applied in conjunction with them.

I. Programmes of action

2. “The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers’ and workers’ organizations, taking into consideration the view of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Conventions and this Recommendation. Such programmes should aim at, inter alia: (a) identifying and denouncing the worst forms of child labour; (b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs; (c) giving special attention to: (I) younger children; (II) the girl child; (III) the problem of hidden work situations, in which girls are at special risk; (IV) other groups of children with special vulnerabilities or needs; (d) identifying, reaching out to and working with communities where children are at special risk; (e) informing, sensitising and mobilizing public opinion and concerned groups, including children and their families.”

II. Hazardous work

3. “In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to: (a) work which exposes children to physical, psychological or sexual abuse; (b) work underground, under water, at

dangerous heights or in confined spaces; (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transportation of heavy loads; (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.”

III. Implementation

10. “National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.”

11. “Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by: (a) gathering and exchanging information concerning criminal offences, including those involving international networks; (b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances; (c) registering perpetrators such offences.”

12. “Members should provide that the following worst forms of child labour are criminal offences: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs and as defined in the relevant international treaties, or for activities which involves the unlawful carrying of use of firearms or other weapons.”

13. “Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibitions and elimination of any type of work referred to in Article 3(d) of the Convention.”

(<http://ilolex.ilo.ch:1567/cgi-lex/convde.pl?R190>, 2002-07-17)

C138 MINIMUM AGE CONVENTION (1973)

Article 1. “ Each member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment of work to a level consistent with the fullest physical and mental development of young persons.”

Article 2. “1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this

Convention, no one under that age shall be admitted to employment or work in any occupation. 2. Each member that has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified. 3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. 4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years. 5. Each Member which has a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organisation a statement – (a) that its reasons for doing so subsists; or (b) that it renounces its right to avail itself of the provisions in questions as from a stated date.”

Article 3. “The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years. 2. The types of employment or work to which paragraph 1 or this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist. 3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety, and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instructions or vocational training in the relevant branch of activity.”

Article 7. “1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is—(a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. 2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article. 3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken. 4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 and 15 in paragraph 2 of this Article.”

(<http://ilotex.ch:1567/english/convidisp2.htm>, 2002-07-17)

4.4 SUMMARY

In this chapter I have been looking at both the national and the international legislations concerning trafficking in women and children. As mentioned above all the countries in the Mekong Sub-region have realised that trafficking is a problem that needs to be taken care of. This is one of the reasons for why all the countries have ratified the international conventions, and especially the Convention on the Rights of the Child. There are also meetings within the Mekong Sub-region, one of which was the conference on “Illegal movement of labour: a case of trafficking in women and children”. This collaboration between the countries is helping the struggle against trafficking.

Thailand is the country in the Mekong Sub-region that has come the furthest when it comes to legislations that prevent trafficking. They have also tried to implement different laws concerning the prevention of prostitution and put much effort on the trafficking and prostitution of children. This has among other things resulted in the “National Policy and Plan of Action for the Prevention and Eradication of Commercial Sexual Exploitation of Children”. Unfortunately the managers and traffickers tend to find ways around the laws.

It was not until the late 1990s that Vietnam recognised that they had a problem with trafficking and stopped labelling the problem as illegal immigration. The girls had been afraid of the police, because they became arrested and forced into rehabilitation and the traffickers and the owners of the establishments very often used this. With the law change in 1997, the girls became protected from this. It is not easy to find Vietnamese laws that have been translated into English, but some of them are the “law on the protection, care and education of children”, the “penal code” which addresses the sexual abuse and rape of children and the “Labour Law”, which looks at the minimum age for children and the working conditions for women.

During the last couple of years China has become more and more aware of the problems with trafficking. This led to mass-roundups of Vietnamese girls that had been trafficked into the Yunnan province. Many of these girls were deported with their children back to Vietnam, and they then faced new problems because of that their children had no Vietnamese citizenship. Since China started to recognise the problem with trafficking there has also been a change in the laws, and one change is the creation of a new “Criminal Law”.

Also in Cambodia there are problems with the enforcement of the laws. For instance, the judicial system is extremely weak, due to corruption and lack of decision-making powers. But still there are four major legislations in Cambodia that are dealing with trafficking and prostitution. One of these laws is the “Law on the suppression of the kidnapping and trafficking/sales of human persons and exploitation of human persons”. Another law is article 31 in the constitution, which shows that Cambodia wants to get a hold of the problem with trafficking.

When comparing this to chapter 3 (see last paragraphs of the summary) where I compare the effect of the globalisation in the countries, I see that there are some similarities. Also here the countries can be divided into two different groups. The first is Thailand and Cambodia where there are very strict laws and they have come very far when it comes to the legislation. But even if they have effective legislations against trafficking, child labour and child prostitution, there are still problems that surround the legal system, for example corruption within the police and government.

The second group of countries consists of China and Vietnam, this because they just very recently have started to change their legislation. Before this change both countries had criminalized prostitution which led to that most of the girls that were trafficked and forced to work in prostitution chose to hide from the police because they were afraid that they would be caught. This was a form of legislation that was favourable for the trafficking network and organised crime. But now the legislation has changed and the law is protecting the girls. One thing that all four countries have in common is that there now are collaborations between the government and the non-governmental organisations, where they are trying to form new laws to be able to stop the traffickers and bring them to court. This is a great progress that has become possible because of that all the countries now have admitted that there is a problem with trafficking and something needs to be done about it.

When it comes to the international society there are many different varieties of legislations, some which work only on a local level and some that work on the international level. The most known legislation is the UN Declaration of Human Rights which should not be seen as much as legislation but instead as guide lines. Most countries in the world have signed or ratified the conventions that have been formed by the UN, and to be able to see that the countries follow what they have ratified there are many different ways to monitor them, for example with the use of non-governmental organisations that submit reports to the UN about the situation in the countries. The countries will also be called to meetings with the monitoring committee, where they will report about the situation and what they have done to improve human rights.

As mentioned before all the countries in the Mekong Sub-region have signed the international Convention on the Rights of the Child, and the Declaration of Human rights. All the countries have also done much to implement much of the conventions and declarations into the national legislation. Also all the countries have signed the ILO conventions, although they have made some national reservations, but these reservations are just minor changes.

CHAPTER 5 – ANALYSIS

5.1 INTRODUCTION

As mentioned in the first chapter the purpose of this paper is to get a better understanding of the problems that are surrounding the trafficking of women and children in the Mekong Sub-region. The countries in the Mekong Sub-region are Thailand, Vietnam, Cambodia, Laos, Burma and the China, but for this paper when it comes to China I have chosen to only look at the Yunnan province since it is located close to the borders of Laos, Burma, Cambodia and Vietnam. To be able to look at the problem with trafficking I have chosen to divide the research into three different parts and questions.

The first problem that I have looked at is the problem with *globalisation; what role does the globalisation play in the trafficking*. Here the focus is on the globalisation of the economy, but also the changes that the globalisation has caused in the tourism and the illegal business. The second problem that I have been focusing on is the trafficking itself, *what is trafficking?* The third problem concerns the legislations, and this is where the main focus of the research is. The questions I have tried to answer here are: *is there any way that the legislations can get a grip over the problem with trafficking?* and; *how is the law used when it comes to the protection of the women and children that have been trafficked?*

When I in 1999 and 2000 wrote a thesis about child prostitution I found that there are many problems concerning the legislations and how the legislations are used when it comes to trafficking and prostitution. That is why I chose to write my Masters thesis about trafficking in the Mekong Sub-region. One of the hardest problems with this study has been to find the laws translated into English, because some of the countries are still not very open to the outside world. This in turn can have had some effects on the analysis of the legislations because of that there can exist other laws that I have not been able to find because there is no translation of them. But I have chosen laws that I have found that I think are the most useful for this paper.

5.2 WHAT PART DOES GLOBALIZATION PLAY IN TRAFFICKING?

When first starting this research I thought that it could be interesting to see what role globalization play in trafficking. To be able to answer this question in the best possible way I have decided to divide the answer into three different parts. There are different ways to look at globalization, and the answer that you will get is depending on if you are positive to the globalization or not. One of the largest effects of the globalization is the technological revolution, which has lead to that the world have become much smaller, this because we can transport ourselves across the world in no time, the modern communication with internet and satellite communications etc. This in turn has changed the tourism. Some of the poorer countries today have become dependent of the tourists and the money that they bring, and as Enloe sees, the economy becomes more and more important for the countries so that they put their own traditions and old values aside for the sake of the economy. She also sees that the globalization has contributed to that women are being more and more suppressed because they among other reasons are forced into prostitution. I agree to some point that globalization and prostitution has something to do with each other, but not as much as

Enloe does. I think that because of the tourism there are many families that see this as a good way for them to survive, and if that means that they will have to sell their daughters to brothels they will do it because it means that the rest of the family won't have to suffer.

This leads me to another problem with the globalization, the globalization of the economy. The globalization has changed the world economy, countries have become more and more dependent on capital, and as Woods sees it, it is important not to forget that because of the endless amounts of money that flow in and out into the countries unnoticed, there have also arisen problems with new vulnerabilities in the economic sector, especially in the newly industrialized countries (Woods, 2001, pp 290 f). This is one of the biggest problems when it comes to globalization, and I think that it is a very important factor when it comes to trafficking and prostitution. One reason is that when the economy is starting to fall apart in a country, more and more people will start to suffer, which in turn leads to that people will become more and more desperate to survive. The agents and owners in turn will have a better opportunity to make money out of the families and girls, and they can get a better bargaining to put the girls in bondage labor. Another problem is that it is very hard to track the criminal organizations that handle the trafficking, and one of the reasons for this is that they can move their money in matter of seconds from one country to another.

One example of how the globalization of the economy can have great impact is the financial crisis in Asia in 1997. It started in Thailand and then within weeks the crisis had spread from Thailand to Indonesia, Malaysia and the Philippines. And by the end of 1997 Thailand, Korea and Indonesia had been forced to turn to the IMF for help. One of the reasons for this crisis is that the Asian countries had adopted a financial policy that much reminded of the western capital market and this led to a large inflow of short-term capital (Woods, 2001, p 292). This crisis is something that clearly can be seen in Thailand, but they have tried to do many things to turn the economy around, among other things they were able to get a donation from Japan for about 50 million dollars, that they were going to spend on the social security sector.

How has the globalization changed the view on culture and traditions? Well, one of the changes is the creation of the Declaration of the Human Rights. I see this as a good development and something positive that has come from the globalization. But there is one problem and that is, that it is a western view on what is right and what's not. There is a difference between the western individual way and the Asian collective way to look at the human being. This has also led to a political and moral struggle between different values, for example on one side the human rights and on the other side the old traditional Asian Values. Brown also considers this; he means that the concept of the human rights is a western concept from the beginning, but it has spread rapidly throughout the world and today one can see numerous different global and regional treaties and declarations that concern human rights (Brown, 2001, pp 600 f). One of those regional treaties is the Asian values that have started to develop over the late 1990s. This is a reaction against the human rights. As I have said earlier all the countries in the Mekong-Sub region are members of the UN and all of them have ratified the Convention of the Rights of the Child and the Declaration of Human Rights. But there are problems because of that there are many families in these countries that are forced to have their children start working or they won't survive. One of the most important questions that the countries in the Mekong Sub-region discuss when talking about the Asian values is to fight the spreading of HIV.

There have been many problems with the spreading of HIV in Asia and there are many different programs that try to deal with the problem. The problem with HIV was first noticed in 1994, when the first case became known. It was a homosexual man who had been having a long-term relationship with a man from the Western world. This was also the start of the first wave of

the spreading of HIV, which started to spread rapidly among the heroin addicts. This was the beginning of a chain reaction because some of the girls that are working as prostitutes are addicted to heroin and the HIV started to spread among the prostitutes. But the addiction is not the only reason to why the HIV was spread so quickly in Asia. Also many of the men that are visiting the prostitutes refuse to wear protection and this leads to that many of the girls become infected with the virus because the men don't care or think that they are invulnerable. But then how is the HIV problem connected to the problem with trafficking, when the girls have become infected by HIV and the owners know about it or it may be detected during a raid against the brothel, the girls will be sent back home to their own villages and countries, taking the virus with them.

The globalisation process is both positive and negative. The positive is that the world now has become closer and the countries can identify with each other, which can be positive because they can see that they in fact are quite similar to each other. One thing that is both positive and negative is the Declaration of the human rights. I think that there is much that is very positive with Human rights. It is a way to protect people and building up social security, giving people fundamental rights. But the problem as I see it is that the Declaration is too focused on the individual, and therefore there become problems when trying to implement it outside the Western world. And I agree with McGrew when he says that the individual have become more and more suppressed under the states power, and the collective has changed to become an individualist society. Also the Human rights have changed, from being guidelines to have reached the status of a global ideology (McGrew, 2001, Pp 203 f).

But even if it seems here that I am very negative toward globalisation I hope and believe that the globalisation will bring a lot of good with it. I also believe that the human rights are very good, but there need to be some changes, maybe instead of only having the western view on what is right, the other parts of the world should be included. They should try to combine the human rights with the African Charter, the Asian values and other regional treaties. When it comes to the Asian values the largest problem is that the countries are having trouble to agree on it, some of them see it as a complement to the Declaration of Human rights and some of the countries see it as a working group that never will become a reality. And even if my view on the globalisation looks very dark, there are others that are even more sceptical toward the human rights. Brown describes the human rights that NGO's and the INGOs are trying to implement is not only a form of imperialism on the Asian countries, it is also a way to try to change the social choice for those who live in South-East-Asia and get them to act in a more western way (Brown, 2001, Pp 607 f).

5.3 WHAT IS TRAFFICKING, WHAT IS THE EFFECTS?

When I first started to look at trafficking I thought that there would be no problem to find a definition of what trafficking is (if it has not been clear up till this point, the form of trafficking that I have been looking at is trafficking into prostitution, this to limit the research). But then when I started to read the material that I were going to use I found that every organisation has it's own way of defining the meaning of trafficking (some of them quoted in chapter 3). Many of the descriptions and definitions are very good, but at the same time there are some important little bits that still are left out. That is why I think that the definition that has managed to include everything and which does not alienate or discriminate, but instead is focused on the unacceptable conditions and the human rights abuse of those who are trafficked, is the ILO-IPEC definition, which states:

“A child [or woman] who is recruited and transported from one place to another across a national boarder, legally or illegally, with or without the child’s [or woman’s] consent, usually but not always organized by an intermediary: parents, family member, teacher, procurer or local authority. At the destination, the child is coerced or semi-forced (by deceptive information) to engage in activities under exploitative and abusive conditions”

(Archavanitkul, 1998, P 6).

The definition is aimed at the cross-boarder trafficking that I have been using in this paper, this is because many of the victims that are being trafficked are taken to another country where the owners and the agents can keep them trapped because it is much harder to talk and make contact with the outside world. The women and girls do not know the language and the culture, especially if they are being held in brothels that are focusing on western clients. A very important problem that the definition has been able to catch is that trafficking can be both voluntary and forced, this because of that there are many women and girls that know what will happen to them when they arrive at the destination. There is one thing with this definition that I need to criticise and that is that the definition is only focused on children, to be perfect it also needs to focus on women and girls over the age of 18. This because of that it is not only children that are trafficked but also older that ends up being trafficked to another country.

The problem with trafficking is not a modern and new phenomenon, but instead it is a continuance of the old slave trade where people were rounded up and then sold in markets or directly to customers. Trafficking is the modern form of slave trade, the girls are bought or tricked by the agents and then the owners of the sex establishments can pick and choose the girls that he wants to have in the establishment, and the agents are also able to provide the owners with girls that can satisfy the customers every need. There are many women and girls that are being trafficked into prostitution some of them out of their own free will and some are being lured. But after they have been working in prostitution for a couple of years (which they will have to do if they want to pay of their debts that have been forced upon them, and no one have rescued them) many of them opt to stay in prostitution. One of the reasons for this is that they have nothing to go back to.

One of the reasons to why the girls choose to go with the traffickers is because the family is in great need of money, and it is the duty of the girls and children in the family to support their parents. Because of this, many of the girls think that it is better that they suffer. The families are often offered money from the agents and then think that the girls will very soon pay off the loan, but instead this takes a very long time, because the owners then make the girls pay for everything else, so that the money that they make won’t last long. Very often they also see to it that the girls get addicted to drugs. Then they can get even more money and the girls will never get out of debt. If the girls that have been sold are virgins their fate is even worse than for the older girls. This is because of that the owners can make a lot of money off of girls that are virgins. They can be sold as that up to as many as thirty times. But before she is sold she will have to go through a brake-in period where she is being raped over and over again.

This is just one of the effects that the trafficking has on the girls. Many of them are being caught in the prostitution swamp and are never able to leave, they get addicted to drugs or/and alcohol. One of the reason to why trafficking has increased during the last couple of years is because of the spreading of HIV and other sexually transmitted deceases. This has had the effect that the owners of the establishments, and therefore the agents today are looking for younger and even underage girls, so that they know that they are free from any deceases. This is a very big

problem with the trafficking because it puts the girls in high risk to become infected with sexual transmitted diseases and contributes to the spreading of the HIV virus. The girls have to be with the customers even if they don't use a condom, and if they refuse the owner of the establishment will punish them.

Then how does the situation with trafficking look in the Mekong Sub-region? The region can be divided into three different parts. The first group consist of Thailand, which is the country in the area where the problem of trafficking is a very big problem. Thailand is both a sending and receiving country, which means that some of the girls that arrive to Thailand are being sent to other countries in the Mekong Sub-region; some of the girls are being trafficked to Japan where they then are sent off to Europe. But the situation in Thailand is starting to change because the NGO's have become more aware about the situation. That is why the laws have changed and the view on the girls that have been trafficked into Thailand has changed.

The second group of countries are Vietnam and Yunnan in China, which are countries that mostly are sending girls into the other countries. These two countries are very similar because of the view on prostitution and the view of girls that have been trafficked. Many times there are huge problems for the girls that return because they have been working as prostitutes and need to be rehabilitated. Another problem is that when girls that have been trafficked to Yunnan are being forced to go back to Vietnam and they have children, their children become illegal immigrants because they have no Vietnamese citizenship. Their children then face the risk of being deported back to China where they don't have any relatives. Another similarity between Vietnam and Yunnan is that most of the girls that are being trafficked come from small farming villages, where the families are in desperate need of money.

The third group of countries consists of Cambodia, Burma and Lao RPD, where Cambodia is the country that is like Thailand both sending and receiving women and girls to prostitution. Most of the girls that are trafficked to Cambodia come from Vietnam and Thailand. The largest problem when it comes to combating trafficking in Cambodia is that there have been very few opportunities for the NGO's to work because of the civil war and because of that the government refused to recognise the problem. This is something that has changed in the last couple of years, something that I will show in the next sub chapter.

But everything is not negative when it comes to the Mekong Sub-region. Today the situation is starting to change; one reason being that the countries have admitted that there is a problem with trafficking in women and girls. This has led to that the governments now have started to collaborate with each other. This in turn means that the girls that want to go home now will be able to return much faster because of the changes in the deportation process. This especially when it comes to China where there have been large problems with paper shuffling back and forward between the countries. But even if the situation is starting to get better there are still many things that need to change when it comes to the treatment of the girls that have been forced and also for those who willingly have entered the prostitution and have been trafficked. One way to prevent trafficking would be to inform the women and girls about what will happen to them if they go with the agents, and how the life as a prostitute is. This because of that many of the families only see that the other families that have sent their daughter to prostitution have nice houses and money, and they feel that they want that to. And in other cases as mentioned before the families need money, but they should be informed so that they might choose another way for the girls to try to earn the money.

5.4 HOW DOES THE LEGISLATION AGAINST TRAFFICKING WORK?

As I have mentioned many times before in this paper it has been very hard to find relevant laws that I could use for this paper, which has made it much more difficult because I can only hope that I found the most relevant and laws. One of the largest problems when it comes to the legislations in the Mekong Sub-region is that some of the countries have not been willing to admit that there have been any problems with trafficking and prostitution, which have led to that the legislations that will control this are relatively new. But even if this has been a problem, today there are many legislations that have been created or changed so that they will protect the women and children.

One of the largest problems when it comes to trafficking is that it is a cross-border gang organisation, which means that many different countries, people and criminals are involved in the process. This makes it hard to catch the criminals in the act because so many of them are involved, and when they are finally caught it is very hard to give them any hard punishments because they have only been involved in a small part of the process. One of the best ways that the NGO's and the police have to catch the perpetrators is to raid the brothels and prosecute the owners to the brothels, and this might be one of the reasons to why the punishments for the owners have increased during the last years. But there are also other problems that have to do with the legal systems, one of them being corruption. In Thailand there used to be a law that said that if there existed any child prostitution within the police district, the responsible police district would have to pay a fine. This led to that many of the officers chose to look the other way and instead take payments from the owners of the brothels. But to get a hold of the problem with child prostitution the law was changed, and today it states that if the police find any children that are being sold as prostitutes they will be rewarded, which is one way to fight the corruption and the problem with child prostitution.

Since the problem with prostitution and trafficking have been known for quite some time in Thailand, they also have had the opportunity to create more effective laws against trafficking and prostitution than the other countries in the Mekong Sub-region. As many of the countries in the Mekong Sub-region, Thailand has put much effort on creating laws to combat trafficking, especially when it comes to the trafficking in children into prostitution. One of them is the "National policy and Plan of Action for the Prevention of Eradication of Commercial Sexual Exploitation of Children". One of the most important laws is the "Prevention and Suppression of prostitution Act", which was changed as late as 1996 so that the women and girls that are working as prostitutes now are protected. And as Archavanitkul says, the new law has led to that the prostitution has become decriminalised and treats the prostitutes as victims of poverty and organised crime. One thing that I think is very good with this law is that they define what prostitution is, and states that it can both be with this person's consent or against her will. Another thing that is very good with this law is that it is focused on victims categorised in three different ages the first being persons over the age of 18, the second of persons between the age 15 to 18, and the last one of persons under the age of 15. This because the punishments get more severe the younger the victims are. This is also a very good legislation because it looks both at trafficking and prostitution and divides them into different sections, where the criminals can be charged for many different crimes and be convicted for all of them, some of the penalties even leading to life imprisonment or death. There are also many other legislations that I have looked at but this is the one that I find the most interesting.

It was not until very late (1998) that the problem with trafficking started to get addressed by the Vietnamese government, and before that it was instead seen as illegal immigration or prostitution. Before the year 1998 the situation was very dangerous for the girls because the government had condemned prostitution, forcing the girls to become more isolated. This also led to that the owners and the agents could have a very hard control over the girls, forcing them to do what they wanted and punishing them if they didn't. But then in 1998 everything changed and the girls now started to become secure, and they no longer had to fear being convicted of being an illegal immigrant, or thrown in jail for being a prostitute. I think this is very good and it is a great first step when it comes to combating trafficking and prostitution. Because of that Vietnam just recently have open up to the outside world it has been very hard to find any laws that have been translated into English. All I could find after a couple of month's search were short descriptions of some of the laws. But one of the laws that I found a description of is one that is very similar to the Thai law, and that is the Penal Code from 1997, in which it states that that if a person is trying to force a child to have sex or sells a child for the intention of the sex industry there is a penalty of minimum 20 years of imprisonment up to life imprisonment.

China is very similar to Vietnam when it comes to trafficking and prostitution, and also in China it is not until the last couple of years that they have started to recognize the problem with trafficking. The methods that the government used before the changes were also similar to Vietnam; the government used to do mass-round ups of girls that came from Vietnam or Cambodia and then send them back home to their own countries. A huge problem with this is one that I have mentioned earlier and that is that many of the girls had children that were sent back with them, but when they returned back home the children became law less and land less because they did not have Vietnamese citizenship. The changes that China made were almost the same that had been done both in Thailand and in Vietnam, and they constituted harder punishments in the Criminal Law, which has changed the punishment for trafficking with up to life imprisonment, which makes it a capital punishment.

The last country that I was able to find any laws about was Cambodia, which actually surprised me a bit because it is a very closed country for the outside world, and it is not until very recently that NGO's have been allowed to work in the country. The government in Cambodia had not until the late 1990's paid any attention the trafficking and had not done much to change this problem. But then in 1995 the trafficking in Cambodia started to get more and more into the government focus and in the beginning of 1996 they approved a new law on the "Suppression of Kidnapping", and with the implementation of this law, Cambodia became one of the countries in the Mekong Sub-region with the most progressive laws when it comes to trafficking. They also signed and agreed on to implement a five-year plan on the elimination of child exploitation into the national legislation that was drawn up on the World Conference on Commercial Sexual Exploitation of Children that was held in Stockholm in 1996. But there is still much to do for Cambodia when it comes to the legal aspect, one of them being to fight the corruption that makes the judicial system in the country very weak. But it is very important at the same time to mention that not all of the police force and government officials are corrupted. There are many within both the police and government who are working together with the NGO's and try to change both the laws and the situation for the women and girls that have been trafficked. The NGO's support the government and the police with documents about the situation, which helps them to draw up strategies about combating trafficking. When I was reading about Cambodia I became very impressed on how far they have come in such a short time. It is very clear that they are serious about taking care of the problem with trafficking and that they want to eliminate it.

All the countries in the Mekong Sub-region have agreed on and signed the Declaration of the Human rights and the Convention on the Rights of the Child. One thing that is very good about the Declaration of the Human rights and the CRC is that they are not meant to be legislations but instead they should be seen as guidelines. I think this is very good, especially when it comes to the Declaration of the Human Rights, because as I see it, it can be a bit problematic if it instead would work as a law. This mainly because I see the Declaration of Human Rights as being focused a little too much on the individual, which may be good for the western world, but does not fit for example the Asian part of the world, where they are more focused on the collective. When it comes to the CRC I feel that this is something that the world needs as a guide line to show that children must have the same value as adults, but at the same time I can see that it can be a bit problematic and a bit hard for some parts of the world to make some of the paragraphs in the convention work. Among other things it is stated that there should be no child labour for children, which means children under the age of 18 or the legal age of the countries. But this can, in as the case of the Mekong Sub-region become problematic because of that there are old traditions in the society that say that it is the duty of the children to help support the family.

One way to get around these problems both with the Declaration of the Human Rights and the CRC would be if they were rewritten, so that it could fit all the different societies in the world. I already know that this is something that would be impossible to do but the thought is good. Perhaps the UN could agree on that there could be amendments in form of regional declarations, which would be approved by the UN, to be inserted into the different declarations and conventions. This would also help to eliminate the view which today exists, that the Human Rights is the Western world view on how the world should look and some extreme thinkers even mean that the Human Rights is a form of imperialism where the Western world tries to force their view upon the rest of the world.

But even if I have looked at many of the problems and the dilemmas with the Declaration of the Human Rights and the CRC I think they are two very important conventions when it comes to trafficking and prostitution. Trafficking is a modern form of slave trade and it shall never be accepted. This is why I feel that the guidelines that are drawn up in the HR Declaration and the CRC need to be implemented by all the countries in the world. Same thing goes for the child prostitution, even though I realize that it would be very hard to eliminate all forms of prostitution (with this I mean prostitution that involves women over the age of 18), because it is seen as an easy way for the girls to make money. But countries must never allow that children be forced into prostitution. They must do everything to secure and educate the children about the dangers with prostitution and they should also educate the families and adults so that they know what will happen with the children. This is why I see that there is a need for the HR Declaration and the CRC.

I have also been looking at the ILO, which is a sub organisation to the UN. They are also looking at children rights, but are only focused on the labour. They do not talk about trafficking as much as the Declaration of Human Rights does and the CRC. The most important convention when it comes to the problem with prostitution is the **Worst form of Child Labour Convention from 1999**. In this convention the ILO states what the members need to do to change the situation when it comes to child labour. It clearly states that trafficking in children into dangerous and hazardous work (which prostitution is the worst form of) is not accepted and that the members need to do everything that they can to change the situation for the children. A positive thing about the ILO Conventions is that the countries can choose to make reservations from some parts of the

Conventions. These are parts that they will have trouble with when they try to implement the conventions into the national legislations. One example can be when it comes to child labour that so many countries in the world have trouble to keep under the minimum age. Then they can make a reservation against this article while they try to change the problem/situation. What I think is very good with the ILO conventions is that they are very clear in their articles and that they define what they mean with different terms like trafficking, child prostitution etc. The conventions also states and describes what necessary measures that the members needs to take in the different conventions, when they have implemented them into the national legislation.

One thing that is very good with the ILO and that makes it different from the UN when it comes to looking at child labour and child rights is that they have different goals. The ultimate goal for both organisations is that there should not exist any child labour. For the UN this is a demand, but as ILO sees it, there should not exist any child labour but to be able to reach this goal one have to start with the worst form of labour and start to eliminate them. Then they can start to look at the other forms of labour. Another thing that is a difference between the UN and the ILO is when it comes to minimum age. The UN sees that the minimum age for children to start to work is 18. But the ILO has divided it into two groups, the first being 15 up to 18 where children are able to do easier forms of work like housekeeping etc. And then when the children reach the age of 18 they are free to enter the hazardous jobs like mining, prostitution etc.

5.5 CONCLUSION

As I have mentioned before, the main purpose with this paper was to get a greater understanding of the problem with trafficking in the Mekong Sub-region. I became interested in this problem when I was performing interviews in Thailand and came across the problem with trafficking, during almost every interview. I chose to look at the Mekong Sub-region because I wanted to see what the problem with trafficking was like in the different parts of South East Asia, and also because it felt natural after already having collected much of the material when I was in Thailand. It has been very interesting to look at the different parts of the Mekong Sub-region, and I feel that I have learned much about the countries and how the situation is in the different countries. When I was writing my paper about child prostitution I learned much about the situation in Thailand, but I also wanted to see how the situation was in the rest of the Mekong Sub-region, and what I have found during my research is that the situation has started to be resolved, in the rest of the region as well, or at least it was until the financial crisis.

One thing that all the countries have in common is that they all today have admitted that they have a problem with trafficking. This I found very interesting because when I started out I thought that countries like Cambodia and Myanmar not would admit that they had a problem with trafficking, especially not Cambodia since it has been a very closed country for the outside world. Before in this chapter I have been looking at the globalisation, which is something that has affected all the countries in the Mekong Sub-region. This is especially clear when looking at the effects of the financial crisis that hit Asia in 1997. All the countries in the Mekong Sub-region have in one way or another tried to adapt to the western world economy and this led to that their economy started to break, first in Thailand and then one after the other the rest of the countries started to have problems with the economy.

Another effect of the globalisation is the trafficking, which also is closely related to the globalisation of the economy (with this I mean that the criminal organisations now have larger

markets that they can access throughout the world, which in turn has led to that women and children can be trafficked throughout the world with out much problem). But the trafficking is also closely linked to the globalisation of the economy and the financial crisis. Many of the women and children that voluntarily, or by force are trafficked are this because of that they and their families need money and this is the only way that they are able to survive. When the countries are having trouble with the economies, more and more families are in need of money, which in turn leads to, that more and more women and girls are being trafficked into prostitution. And even if many of the families say that they do not know what will happen to the women and children, deep inside them they know because they are the ones that have received the money.

One of the hardest problems when it comes to the globalisation of the organised crime is that it gets harder and harder to find the guilty persons, because so many are involved. Many times the gangs and the organisations turn the girls over to other persons when they change countries. This is both a way to see to it that the girls never know their traffickers and also a way for them to be able to stay clear from the police. The globalisation also makes it hard when it comes to returning the girls. But because of that the countries in the Mekong Sub-region now have admitted that there is a problem, and started to co-operate and want to fight the trafficking, the problem with returning girls to their home countries has become less of a problem than before, even if they still have a lot of work to do.

One of the largest problems with trafficking and prostitution, especially child prostitution, is that when they have started to get a hold of the problem in one country, for example Thailand, the problem with prostitution only moves to another country, like the Philippines. This is because the demand is so high that there always are people that are willing to make money out of the sex tourists. This is what has happened in the Mekong Sub-region - when they have started to get a hold of the problem in one country, the problem has moved to a neighbouring country. This is why I think it is very important for the countries in the Mekong Sub-region to see to it that they develop their laws further so that they will be able to punish the gangs that are responsible for the cross boarder trafficking. It is also very important that the countries work together. But this is something that will take time; one of the reasons is that the countries have different political systems that hinder the work. One example is that when girls from China are going to return home from Thailand, there are many problems due to the Chinese bureaucracy. The girls' documents will have to go through many different agencies, which can take several months. This is something that I feel that they have to change because the girls need to be returned home as fast as possible, or the risk is great that she will go back and enter the prostitution again.

One thing that surprised me but also cost me a lot of agony was the legislation chapter. It was a very hard chapter to write because I had problems with finding material about the legislations, not when it came to Thailand, but with all the other countries. Legislations were very hard to find. That is why I finally had to exclude some of them from the chapter. But the legislations that I found were very interesting, because they showed that the countries are putting lots of effort into changing the legislations so that the women and children will be protected. The country that surprised me the most was Cambodia, this because it has been a very closed country and has had a lot of civil war during the last couple of decades. But still they have in the 1990s changed the laws so that they have one of the most progressive laws in the world against trafficking. This together with Thailand, which has very high sentences for people who are involved in trafficking. Another thing that I was very surprised to find was that all the countries had changed their constitutions so that women and girls that have been trafficked or are working

in prostitution, now are protected by the law and seen as victims instead of as before when they were viewed as criminals.

Another discussion that I have had in this paper is the one about Human Rights versus Asian Values. I think that there are many great things with the Declaration of HR and I think it is necessary that there exist guidelines that can be implemented into the national legislations. And a declaration that I find very important is the CRC, because the children around the world need protection. But at the same time I can see that there is a conflict between the HR declaration, the CRC and the Asian Values and the old Asian traditional cultural values. In Asia there is a tradition that the children should support the families and see to it that they survive, and this they have to do with every mean that they can. This will mean that they even choose prostitution so that the family can survive.

I think that in the perfect world there will not be any child labour, but it is not a perfect world that we live in and that is why I think that there are some forms of child labour that are better than others. As long as the children don't end up in bonded labour or child prostitution, which are the worst form of child labour and it needs to be eliminated. That is why I feel that there need to be a co-operation between the world countries when it comes to creating legislations and guidelines, because as it is today with the international legislations as the CRC and HR declaration, they are much seen as a western world creation. This is what I like with the ILO-IPEC declarations because the countries can choose to put in reservations against some parts of the declaration, while they still are trying to fulfil the agreement. All the countries in the Mekong Sub-region have signed the ILO conventions that I have been looking at in this paper, but there are also some reservations that I also have mentioned. But also here there is the problem with cultural differences, because the ILO declarations are also seen as western creations.

The problem with trafficking is a global problem and there are so much else that I would like to research about when it comes to trafficking. When I first started this research my plan was to compare the trafficking in Europe to the trafficking in Asia. But then when I started, I quite soon found out that it would be a too big of a problem to cover in a master paper, when I at the same time wanted to look at how the trafficking works within the Mekong Sub-region. But if I sometime would continue to research about trafficking this would be one of the things that I would like to look at. This is because of that trafficking is as much of a problem in Europe as it is in Asia, and one of the countries that many of the Thai girls that are trafficked arrive in Denmark. It would also be very interesting to see what the EU does to stop the problem with trafficking within and into Europe. I have heard that the EU is going to put a lot of effort into researching the problem with trafficking, but the question is if it is going to result in a legislation or if it is going to be a long continued research project that never results in anything.

The problem with trafficking is very complex and it will not be solved over night, the governments and organisations both governmental and non-governmental will have to put down much effort to be able to get a hold of the problem. Trafficking is the modern form of slave trade, no matter if it is into bonded labour, domestic work, regular labour, marriage or prostitution. This is something that is very important to fight, and if the countries want to be able to get a grip over the problem with child prostitution they maybe should start with the trafficking because many of the children that are being forced into prostitution also have been trafficked from other countries. As I mentioned before the world is not a perfect place, but this must not stop us from continuing the fight to end trafficking. And as long as there is people (for example like the members of the organisation Coalition to fight against Child Exploitation) who are willing to give anything to end the trafficking this fight will never end.

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