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**Sex Trafficking and Applied Ethics: Major Moral Issues
with Special Reference to Buddhist Ethics**

PhD Thesis

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Abstract

The issue of human trafficking has gained more awareness as more investigations, research, scholarship, and reports from multiple organizations have appeared. The Trafficking in Persons report, for instance, is an annual report since 2001 by the U.S. Department of State that examines in detail the locations of origin and destination for trafficking while addressing influences on and efforts to combat it. A deeper understanding needs to explain how and why persons in a particular place, in this case, Thailand, become involved in prostitution and the related problem of human trafficking. The general objective of this thesis is to examine the threat of human trafficking to the global community with a particular focus on sex trafficking in Thailand. The premise on which this thesis is based pertains to the argument that forms of human trafficking and commercial sex exert a profound impact on modern Thai society. The analysis starts by looking at human trafficking as a global issue, and then examines types of human trafficking, forms of exploitation, and their worldwide impact before narrowing it down to Thai society. Next is a focus on Theravāda Buddhism and how it relates to human trafficking and prostitution positively and negatively. This thesis focuses on Buddhism because it is the dominant religion in Thai society, where this research is primarily based. It explores the moral issues that arise, especially from prostitution in Thailand, focusing mainly on the ethical perspectives of Deontology and Utilitarianism. This thesis then compares Buddhist and Western ethical views on the issues of sex trafficking, prostitution, and interpretations offered. The thesis also points out the importance of these results and how crucial it is to combine each theory's strengths to deal with the harms of sex trafficking.

Περίληψη

Η εμπορία ανθρώπων έχει αποκτήσει αυξανόμενο ενδιαφέρον με τη βαθμιαία εμφάνιση πλειάδας ερευνών και εκθέσεων από ποικίλους οργανισμούς. Για παράδειγμα, η ετήσια έκθεση της εμπορίας ανθρώπων του Υπουργείου Εξωτερικών των ΗΠΑ εξετάζει λεπτομερώς τις χώρες προέλευσης και προορισμού για την εμπορία ανθρώπων, ενώ παράλληλα ερευνά τις επιρροές και τις προσπάθειες για την καταπολέμησή της. Η διατριβή εστιάζει στην κοινωνία της Ταϊλάνδης ως σημείο αναφοράς με σκοπό να προσδώσει βαθύτερη κατανόηση στο φαινόμενο και να ερμηνεύσει το πώς και γιατί άτομα σε συγκεκριμένες χώρες -όπως η Ταϊλάνδη, στην προκειμένη περίπτωση- εμπλέκονται στην πορνεία και στην εμπορία ανθρώπων. Η βασική επιδίωξη αυτής της διατριβής είναι να εξετάσει την εμπορία ανθρώπων σε παγκόσμια κλίμακα με ιδιαίτερη έμφαση στο εμπόριο λευκής σαρκός στην Ταϊλάνδη. Η ερμηνευτική υπόθεση στην οποία βασίζεται αυτή η διατριβή αντλείται από το επιχειρήμα ότι η εμπορία ανθρώπων και συγκεκριμένα το εμπόριο λευκής σαρκός ασκούν ισχυρό αντίκτυπο στην κοινωνία της Ταϊλάνδης. Αρχικά διερευνάται η εμπορία ανθρώπων ως παγκόσμιο φαινόμενο και, στη συνέχεια, αναλύονται οι τύποι εμπορίας ανθρώπων, οι μορφές εκμετάλλευσης και ο αντίκτυπό τους στην παγκόσμια κοινότητα, προτού η έρευνα επικεντρώσει στην κοινωνία της Ταϊλάνδης. Η διατριβή εστιάζει στη βουδιστική σχολή Theravāda και στο πώς αυτή σχετίζεται, θετικά και αρνητικά, με την εμπορία ανθρώπων και την πορνεία. Ο Βουδισμός επιλέγεται ως κεντρική ερμηνευτική προσέγγιση επειδή είναι η κυρίαρχη θρησκεία στην κοινωνία της Ταϊλάνδης η οποία αποτελεί το σημείο αναφοράς αυτής της έρευνας. Επιπροσθέτως, διερευνώνται τα ηθικά ζητήματα που προκύπτουν, ειδικά από την πορνεία στην Ταϊλάνδη, και ερμηνεύονται, πρωτίστως, υπό το πρίσμα της δεοντοκρατικής και συνεπειοκρατικής ηθικής. Στη συνέχεια, αυτή η διατριβή συγκρίνει τις ερμηνευτικές προσεγγίσεις της βουδιστικής και δυτικής ηθικής σχετικά με το εμπόριο λευκής σαρκός και της πορνείας. Τέλος, επισημαίνεται η σημασία αυτής της συγκριτικής μελέτης και πόσο σημαντικό είναι να συνδυαστούν τα πλεονεκτήματα κάθε ηθικής παράδοσης για την αντιμετώπιση του φαινομένου της εμπορίας λευκής σαρκός.

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CHAPTER ONE

INTRODUCTION

1.1 Introduction

Human trafficking is a profoundly complex and multifaceted crime that concerns every nation of the modern world. It spans numerous illicit activities and attracts a diverse group of actors. An effective and efficient approach in its study would be to pinpoint its primary forms, select the most prevalent and perform a comprehensive analysis. Sex trafficking is considered one of the most prevalent forms of trafficking and inflicts some of the worst consequences on its victims and the societies that it affects. Still, while isolated, the context of sex trafficking remains enormous. It impacts nation-states, communities, and cultures in every possible aspect, and at the same time, its causes and the factors that influence its prevalence vary depending on the different contexts that it emerges from. Sex trafficking flows involve countries with varying levels of economic development, social structures, culture dynamics, migration flows, or religions that, in turn, comprise just a few of the factors that, along with the specific interrelationships that develop between them, create additional unique contexts that demand to be studied in isolation. For these reasons, this thesis will concentrate on Thailand as the specific domestic context of choice that will guide the current work in studying sex trafficking and its interrelationship with prostitution and the Thai sex industry.

Prostitution is nothing new, but the degree of human trafficking in this and especially other kinds of labor continues unabated. There is no question of the interest and concern with this topic, but satisfactory answers and approaches to dealing with it are still lacking. One approach is to understand many if not all of the components that make up this phenomenon without prejudging any of the relevant actors. Such an understanding of what is happening from the point of view of each link in the chain would allow further examination into the connections and assist the overall strategy to change it.

With this in mind, the thesis will focus specifically on Thailand, the author's country of origin. It is there that she has already investigated this topic indirectly with her Master's thesis on the Thai tourist police. Because of the prevalence of labor and human trafficking issues, it is more difficult for Thais to secure visas to visit and stay in developed countries, which the author has experienced firsthand in struggling and

failing thrice to obtain a valid visa for the USA. While it is true that the overall economic status of a country determines the process of its citizens' applications for visas, it is common knowledge that Thailand has a reputation for prostitution and human trafficking, unfortunately. Therefore, Thailand is the most logical choice to study sex trafficking and prostitution because of the author's personal history and the timely regional and international significance.

From a wide variety of agents of sex trafficking and the commercial sex industry, this thesis is mainly concerned with those who, for whatever compelling reasons, take a clear additional step and enter into a more official position, one in which the term prostitute is less ambiguous. Even here, though, there remains a certain amount of freedom among those choosing to enter a profession. In the case of Thailand, many of these individuals work for themselves, even if others are involved to some degree as facilitators, and they have the ability to choose their customers and continue to remain at the same establishment or leave. Others are completely independent and have no connection with any bar or establishment. Again, the local structure determines the situation here. Although there may be choices, multiple economic incentives would compel them to continue in one form or another, whether it means changing locations to a more lucrative establishment or moving to another location. Such a phenomenon of voluntary commercial sex work is an entirely different situation than when other agents take control of people and deprive their freedom to choose the specifics of work, such as when a trafficker confiscates one's passport. In an existential sense, there is still freedom to run away and so on, and many victims elect to do so if they realize that they have been tricked or the level of harm they endure compels them to attempt to escape, but the point is they are clearly in another category, one more akin to an indentured servant and sexual slave.

The thesis will examine the role of Buddhist ethics in prostitution in general and sex trafficking in particular. In parallel with other religions, it is possible to outline a general ethical approach and align it with the thinking of those participating in all aspects of prostitution and sex trafficking and those whose duty or job is to look the other way or deal with the ensuing problems. How big of a role does such an ethical system play? Regardless of the amount of public support, is there enough strength to enforce laws and interfere with operations that obviously provide enough income to offer attractive or otherwise lucrative incentives? Stated simply, if there is wide agreement on this issue, why does it continue to exist? Do we need to accept that there may be no

solution at all? As uncomfortable as it sounds, this is one possibility. Any realistic partial solutions require a closer consideration of the various points of view of all the actors.

Throughout the 15th to 19th centuries, there were estimates that about 13 million people were captured and sold as slaves;¹ The data from the International Labor Organization (ILO) estimates that around 40.3 million² people today are in the form of modern slavery. According to the Walk Free Foundation, women and girls fall to modern slavery 71 percent of all modern slave victims.³ Sadly, more than 10 million children, or about 25 percent, are young slaves from all slaves around the world.⁴

Human trafficking is regarded as modern-day slavery⁵ and can also be referred to as trafficking in persons (TIP), which involves all kinds of exploitation. It entails the “use of force, fraud, or coercion to compel victims to perform labor or services or commercial sex acts”.⁶ Human traffickers aim to make the highest profits by exploiting their victims through various methods and by any means possible without caring if that method may cause loss of victims’ lives. It is a high-value business and one of the fastest-growing illegal industries globally, with a dreadful estimated number of victims around the world.⁷

The highly profitable nature of human trafficking is one of the reasons that its agents continue to engage in it. Various reasons make human trafficking a low-risk, high-profit and difficult to combat illicit activity.⁸ One of them is the complex nature of the crime. Oftentimes the actors of human trafficking are organized in a sophisticated

¹ “‘Human Life is More Expendable’: Why Slavery Has Never Made More Money”, The Guardian, accessed February 25, 2020, <https://www.theguardian.com/global-development/2017/jul/31/human-life-is-more-expendable-why-slavery-has-never-made-more-money>.

² International Labour Organization and Walk Free Foundation, *Methodology of the global estimates of modern slavery: Forced labour and forced marriage* (Geneva: International Labour Office (ILO), 2017), 10, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ippec/documents/publication/wcms_586127.pdf.

³ *Ibid.*, 5, 10, 22 and 45.

⁴ *Ibid.*, 5

⁵ “Turn on the Light. Help Stop Human Trafficking”, CRS, last modified January 6, 2021, <https://www.crs.org/get-involved/learn/slavery-and-human-trafficking>.

⁶ “What is Trafficking in Persons?”, Combating Trafficking in Persons (CTIP) Home / U.S. Department of Defense, accessed June 19, 2020, <https://ctip.defense.gov/What-is-TIP/>.

⁷ International Labour Organization and Walk Free Foundation, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: International Labour Office (ILO), 2017), 5, https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf.

⁸ “The Traffickers”, National Human Trafficking Hotline, last modified September 26, 2014, <https://humantraffickinghotline.org/what-human-trafficking/human-trafficking/traffickers>.

manner that exceeds the comprehension of many governmental institutions. Other reasons include unique international features, the inadequacy or lack of adequate regulations, and sometimes the inefficiency of law enforcement agencies and the officials to comprehend the nature of the crime. Also, organized human trafficking crime syndicates exercise a powerful influence on the authorities. Among other reasons, most nations exhibit weak conventional ties among them and a lack of cooperation, which hinder curbing trafficking.

Furthermore, human trafficking is a criminal activity that puts up a challenge to the entire society of the world to look for practical ways and applicable solutions that enable fighting it because it is against the teachings of humanity. Therefore, various steps should be made to make it illegal and eradicate it slowly. There is a need to set up legislation, a strong will, support from the political class, and the recruitment of firm and determined officials who can fight crime without fear. Besides, there is a need to put up enough measures and facilitation to convince the victims of the crime to collaborate with officers that enforce laws and regulations to name the perpetrators of the criminal activity against humankind.⁹ All nations throughout the globe are trying to boost the relationship they have with each other to make the curbing and eradication of human trafficking an achievable objective. Even though there are attempts, considering the hidden nature of human trafficking, it is almost impossible to understand all the problems and the size of the problem.

In conclusion, there is no question of the emotional impact on both participants and observers of prostitution and human trafficking and its relevance to our current, international, free-market-based economies in particular and importance to modern times in general, with all relevant connotations. Despite attempts to study and address these topics by well-meaning individuals or groups, we need to take an unbiased, open, fresh look at all parts of the system in order to gain a fuller, deep understanding. This is a necessary methodological step before considering what partial—or, to be bold, comprehensive—solutions may look like, assuming we can implement any solutions at all and whether the term *solution* is even appropriate. There is no doubt that the different points of view are incongruent, and it is unlikely that they will become compatible. However, a study such as this can delineate these perspectives and provide an overall

⁹ Nataliya Opanovych, “Human trafficking for sex exploitation in Thailand”, *Securitologia* 23, no. 1 (2016): 104, <https://doi.org/10.5604/01.3001.0009.2972>.

understanding grounded in experiential reality rather than ideological stubbornness. Once we have an accurate picture of all the forces involved, uncomfortable as it may be to face, we are more likely to address the underlying concerns of all parties and bring about more long-lasting remedies, or at the very least have a more realistic grasp of what it means to be in such situations.

1.2 The Significance of Sex-Trafficking Research

First, considering the obscure nature of human trafficking, it is almost impossible to understand all the problems and the size of the phenomenon. Attempts to study, research, issues, and various causes of related problems may lead to our understanding of the proliferation of human trafficking. According to the U.S. State Department, research begins to close the knowledge gap in our understanding of human trafficking. Research is an important tool in enhancing the understanding of the US government about human trafficking in many aspects, known as modern slavery, and to guide policies and programs against it. Research has led the anti-human-trafficking community to review existing hypotheses and study new ways to combat human trafficking. Many researchers on sex trafficking give recommendations that the Thailand administration makes efforts to ensure that complete systems that curb human smuggling are implemented.

Second, sex trafficking research is essential because it will sustain Thailand's commitment to establishing a database system on human trafficking that is integrated. The database will have the capability to follow up on individuals identified as victims of human trafficking. The database will be able to follow up on the progress of the victims from their identification stage, their accommodation by the government, and the resolution of the case that the government could have put up against the human traffickers.

No governmental database would be able to encompass all aspects of sex trafficking. As a case in point, there may be a challenge in obtaining information on categories of populations that have been victims of human trafficking, although elaborate research can offer solutions and lead to with feasible recommendations. Also, sex trafficking research will assist in conducting broader research activities on various dimensions of sex exploitation and forced labor.

Furthermore, sex trafficking research clarifies conventional rules and guidelines

on interpreting labor exploitation and human trafficking. For example, continued research on sex trafficking made the Thai Ministry of Labor redefine the scope. Besides, the investigation leads to some recommendations, such as embracing a strategy for pointing out victims of human trafficking.

The issue of human trafficking has gained more awareness as more investigations, research, scholarship, and reports from multiple organizations have appeared. The Trafficking in Persons report, for instance, is an annual report since 2001 by the U.S. Department of State that examines in detail the locations of origin and destination for trafficking, while addressing influences on and efforts to combat it. A deeper understanding needs to explain how and why persons in a particular place, and in the case of this thesis, Thailand, end up involved in prostitution and the related problem of human trafficking. This paper will look at data on trafficking that several organizations provide in the context of social factors in general and Buddhist influence in particular.

This work will examine the role of Theravāda Buddhist ethics in Thais' mindset towards sex trafficking and in which direction drives their action, behavior, and attitudes on issues relevant to sex trafficking and the Thai sex industry. Considering that the Theravāda doctrine predominates and permeates Thai society on every level, the thesis will explore how specific Thai interpretations of Buddha's teachings affect how the phenomena of sex trafficking and prostitution emerge and unfold themselves in Thai communities.

A comparison of Buddhist, Kantian, and Utilitarian ethics follows, and finally, various proposed solutions to address the problem on different levels are discussed.

Research on human trafficking is critical as it informs rational policy changes to ensure that the vice does not continue.

1.3 Contribution, Originality, and Significance of this Thesis

The thesis will contribute immensely to the research about human trafficking in Thailand. It will bridge the gap of human trafficking existing among other countries that are neighbors of Thailand and transport people from Thailand and into Thailand since the state has been used as a destination and as a place of origin of the victims of human trafficking. The research will inform policy changes to curb human trafficking in Thailand and prevent its continued spread to other parts of the world. Conversely, the originality of the thesis is pegged on the various challenges and vices that come along with human trafficking. They include prostitution, forced labor, sex workers,

among others.

The thesis focuses on Buddhism and Western ethics, specifically deontology and utilitarianism. Also, Thailand is used as a principal example to highlight the primary issues that arise from Human Trafficking and particularly sex trafficking in a developing country. The thesis originated from the observation that a significant number of people in Thailand believe that the practice of prostitution is a result of kamma (or karma in Sanskrit) or sinful past lives that compels one to enter into it in order to accumulate merit and secure a more favorable rebirth in a future life. As a result, a significant number of people in Thailand decide not to interfere with the manner in which some people conduct their activities or way of life, as they believe in the Law following the Thai proverb “*Kong Kwian Kam Kwian*”¹⁰ (What goes around, comes around). Therefore, the thesis looks at the relationship between Buddhism and Western ethics in human trafficking in Thailand, which leads to social vices such as gender inequalities and discrimination, prostitution, and sex trafficking.

Also, the thesis originated from the cultures and norms of the Thai people. Regarding the culture of some communities in Thailand, the daughter of a family has an obligation to support her family financially when she becomes a teenager. Thus, many teenage girls are forced to look for alternative ways to get income to provide for their family if they do not have a formal source of income due to a lack of sufficient educational qualifications to enter into the job market. The alternative ways include prostitution and being a commercial sex worker. For instance, in many cases parents consent to or encourage their daughters to be prostitutes in tourist areas, hoping that if a daughter marries a foreign husband most family members will have a better life. Then most family members can quit engaging in economic activity and wait for her to provide financial assistance.

Furthermore, there is a gap in Thai law regarding whether prostitution is legal or illegal, making it an excuse for those who conduct “grey market” business. Some of the administrators of previous governments facilitated human trafficking and the sex trade by taking bribes. Because the trade for sex is freely marketed in touristic areas, there is a need to ascertain particular claims. This thesis tries to look at the causes of human trafficking and the sex trade and, thus, is original.

¹⁰ “List of Thai Language Idioms”, Wikipedia, the Free Encyclopedia, last modified September 2, 2012, https://en.wikipedia.org/wiki/List_of_Thai_language_idioms#cite_note-rid-1.

This thesis is significant concerning the efforts to deal with human trafficking in Thailand and will provide recommendations on how to curb human trafficking in Thailand and other areas. The proposals will go a long way in ensuring that innocent people do not become victims of human trafficking, although most people fall victim to human trafficking as a result of the prevailing circumstances such as poverty, ignorance, desire to travel abroad for the betterment of their lives, among others. Furthermore, the thesis will be educative to people unaware of how human trafficking takes place in Thailand. Therefore, they will be able to learn and take caution to avoid being victims of human trafficking or indirectly supporting sex trafficking via being a sex buyer or a sex tourist. This research also aims to understand the thinking process of Buddhist prostitutes and to recognize the ethical issues of Buddhist prostitution.

1.4 Methodology

This research is a survey/examination of various concepts. That is related to the ethical problem of sex trafficking in Thailand. The research process consists of and is guided by four main theoretical perspectives: Deontology Ethics, Utilitarianism Ethics, Virtue Ethics, and Buddhist Ethics.

To update the present circumstances and understanding of laws that concern human trafficking, I look into the constitutional documents related to anti-trafficking, Thai legislation and country reports, conventions, protocols on prevention, suppression, and punishment of human trafficking in the United Nations, and laws relating to the prevention and suppression of human trafficking in Thailand.

First, I look through the theoretical ethics literature, afterward applied ethics literature in Thai and foreign languages, and then focus on literature that concerns and relates to sex trafficking and ethics in particular. So first and foremost, become acquainted and familiarize me with ethics and the applied ethics and then specific on sex trafficking and ethics. This paper will also show the similarities and differences of the Kantian, Utilitarian, and Buddhist Ethics theories on human trafficking, emphasizing sex trafficking and prostitution as the most controversial aspect of sex trafficking with a particular focus on voluntary prostitution in Thailand.

1.5 Defining Human Trafficking and its Constituent Elements

Universal concession to what constitutes “trafficking in people” was reached very recently. Only in the late 1990s did the States start “separating trafficking from

other practices with which it was commonly associated, such as facilitated irregular migration”. The definition of trafficking was included in the 2000 “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” (Trafficking Protocol, 2000), and it “has since been incorporated into many other legal and policy instruments in addition to national laws”.¹¹

The **international definition** of “**trafficking in persons**”, according to the article 3 of Trafficking Protocol¹², is:¹³

- a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, or practices similar to slavery, servitude or the removal of organs.
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

¹¹ UN Human Rights Office of the High Commissioner, *Human Rights and Human Trafficking: Fact Sheet No. 36* (New York: United Nations, 2014), 2, <https://www.ohchr.org/en/publicationsresources/pages/factsheets.aspx>.

¹² United Nations Convention Against Transnational Organized Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Nov. 15, 2000, T.I.A.S. 13127 (hereafter cited as in the notes as Trafficking Protocol), <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

¹³ Ibid.

- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article.
- d) “Child” shall mean any person under 18 years of age (United Nations, 2004).¹⁴

The “Human Rights and Human Trafficking, Fact Sheet No. 36” of UNODC (2014) proceeds to comment:

“The three key elements that must be present for a situation of trafficking in persons (adults) to exist are therefore: (i) action (recruitment, ...); (ii) means (threat, ...); and (iii) purpose (exploitation).

International law provides a different definition for trafficking in children (i.e., persons under 18 years of age). The “means” element is not required in this case. It is necessary to show only: (i) an ‘action’ such as recruitment, buying and selling; and (ii) that this action was for the specific purpose of exploitation. In other words, trafficking of a child will exist if the child was subjected to some act, such as recruitment or transport, the purpose of which is the exploitation of that child.”¹⁵

Trafficking in persons has three elements based on the definition in the Trafficking in Persons Protocol (see Figure 1.1):

1. **The Act** (What is done): recruitment, transportation, transfer, harboring or receipt of persons.
2. **The Means** (How it is done): threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving benefits to a person in control of victims.

¹⁴ United Nations Office on Drug and Crime UNODC, *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto* (New York: United Nations, 2004), 42-43, art. 3

<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

¹⁵ UN Human Rights Office of the High Commissioner, *Human Rights*, 3.

3. **The Purpose** (Why it is done): to exploit, which includes exploiting the prostitution of others, forced labor, slavery or similar practices, and the removal of organs.¹⁶

To determine whether a particular circumstance constitutes trafficking, one should consider the definition in the Trafficking in Persons Protocol and the constituent elements of the offense, as defined by relevant domestic legislation.¹⁷

ACT	MEANS	PURPOSE	
Recruitment	Threat or use of	Exploitation, including	
Transport	force	Prostitution of others	
Transfer	Coercion	Sexual exploitation	
Harboring	Abduction	Forced labor	
Receipt of persons	Fraud	Slavery or similar	= TRAFFICKING
	Deception	practices	
	Abuse of power or vulnerability	Removal of organs	
	Giving payment or benefits	Other types of exploitation	

Figure 1.1: Elements of Human Trafficking

Source: UNODC, *Toolkit to Combat Trafficking in Persons*, 3.

Furthermore, the definition of the 2000 Protocol contributes to the **identification** of the **important features** of **human trafficking**. The “Human Right and Human Trafficking: Fact Sheet No. 36” illustrates them as follows:¹⁸

- *“Trafficking affects women, men and children, and involves a range of exploitative practices.* Trafficking was traditionally associated with the movement of women and girls into sexual exploitation. The international legal definition set out above makes clear that men and women, boys and girls can all be trafficked—and that the range of potentially exploitative practices linked to trafficking is very wide. The list of examples set out in the definition is open-ended and new or additional exploitative purposes may be identified in the future.

¹⁶ UNODC, *Toolkit to Combat Trafficking in Persons* (New York: United Nations Publication, Sales No. E.08.V.14, 2008), 2, https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook%5B1%5D.pdf.

¹⁷ *Ibid.*, 2-3.

¹⁸ UN Human Rights Office of the High Commissioner, *Human Rights*, 3.

- *Trafficking does not require the crossing of an international border.* The definition covers internal as well as cross-border trafficking. That is, it is legally possible for trafficking to take place within a single country, including the victim's own.
- *Trafficking is not the same as migrant smuggling.* Migrant smuggling involves the illegal, facilitated movement across an international border for profit. While it may involve deception and/or abusive treatment, the purpose of migrant smuggling is to profit from the movement, not the eventual exploitation as in the case of trafficking.
- *Trafficking does not always require movement.* The definition of trafficking identifies movement as just one possible way that the "action" element can be satisfied. Terms such as "receipt" and "harboring" mean that trafficking does not just refer to the process whereby someone is moved into situations of exploitation; it also extends to the maintenance of that person in a situation of exploitation.
- *It is not possible to 'consent' to trafficking.* International human rights law has always recognized that the intrinsic inalienability of personal freedom renders consent irrelevant to a situation in which that personal freedom is taken away. This understanding is reflected in the "means" element of the definition of trafficking. As noted by the drafters of the Trafficking Protocol: 'once it is established that deception, coercion, force or other prohibited means were used, consent is irrelevant and cannot be used as a defense'¹⁹.²⁰

Above all else, we should distinguish between human trafficking and human smuggling as human trafficking and human smuggling (migrant smuggling) are fre-

¹⁹ United Nations Office on Drugs and Crime. Division for Treaty Affairs, Legislative Guides for the Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (New York: United Nations Publication, Sales No. E.05.V.2, 2004), 270, <https://digitallibrary.un.org/record/543728>.

²⁰ UN Human Rights Office of the High Commissioner, *Human Rights*, 3-4.

quently befuddled. The two violations are altogether different, and it is crucial to comprehend the contrast between the two. Human trafficking includes exploiting men, women, or children for forced labor or commercial sexual exploitation. Human smuggling contains “providing a service to an individual who voluntarily seeks to gain illegal entry into a foreign country”. The illegal act may begin as human smuggling; however, it can rapidly transform into human trafficking.²¹

The United Nations’ Protocol against the Smuggling of Migrants by Land, Sea, and Air, supplementing the UN Convention against Transnational Organized Crime, intends to curb the smuggling of migrants, protect their rights and foster international cooperation. The article 3 of the Protocol defines smuggling of migrants as follows:²²

- (a) “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
- (b) ‘Illegal entry’ shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;
- (c) ‘Fraudulent travel or identity document’ shall mean any travel or identity document:
 - i. That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or
 - ii. That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
 - iii. That is being used by a person other than the rightful holder;

²¹ U.S. Immigrations and Customs Enforcement (ICE), “Human Trafficking vs Human Smuggling”, *The Cornerstone Report: Safeguarding America Through Financial Investigations* 13, no. 1 (Summer 2017): 1, <https://www.ice.gov/sites/default/files/documents/Report/2017/CSReport-13-1.pdf>.

²² OECD, *Illicit Trade: Converging Criminal Networks, OECD Reviews of Risk Management Policies* (Paris: OECD Publishing, 2016), 38, <http://dx.doi.org/10.1787/9789264251847-en>.

(d) ‘Vessel’ shall mean any type of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.²³

Analysts often fail to delineate the differences between human trafficking and the various forms of illegal migration, such as when searching for better living conditions. Confusing trafficking in persons with the smuggling of migrants is extensive in the examination of the two phenomena.²⁴ The difficulty in differentiating between situations of trafficking and smuggling may involve the following reasons:²⁵

- Smuggled migrants may become victims of trafficking.
- Traffickers may concurrently be smugglers while using identical routes for both practices.
- The harsh conditions and realities of smuggling makes it difficult to believe that someone consented to it.²⁶

Despite that, essential distinctions separate the two practices.²⁷

Those differences involve the concepts of consent, border crossing, exploitation, and source of profit.²⁸

- *Consent*: While smuggled migrants generally consent to be smuggled, trafficking victims never give genuine consent. They are either forced or coerced or give their consent, which is later “rendered meaningless by the traffickers’ actions”.
- *Border crossing (Transnationality)*: Smuggling expedites a migrants’ illegal passage to another country. Trafficking in persons does not require a border crossing and may befall within a country’s borders or across borders. Thus, the “legality or illegality of the border crossing is irrelevant in the trafficking of persons”.

²³ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, Dec. 12, 2000 (entered into force Jan. 28, 2004), art. 3.

²⁴ OECD, *Illicit Trade*, 39.

²⁵ UNODC, Toolkit to Combat Trafficking in Persons, 4.

²⁶ *Ibid.*

²⁷ OECD, *Illicit Trade*, 39.

²⁸ *Ibid.*, 39.

- *Exploitation*: The association of smuggler with the migrant typically concludes at the border crossing. Smugglers do not aim to exploit migrants “after arriving at the destination”. On the contrary, trafficking always “involves continued exploitation of victims after arrival at their destination”.
- *Source of profit*: While smugglers profit from the act of facilitating border crossing, traffickers do so by exploiting their victims.²⁹

²⁹ OECD, *Illicit Trade*, 39; UNODC, *Toolkit to Combat Trafficking in Persons*, 4.

Table 1.1: Key differences between trafficking in persons and smuggling of migrants

	<i>Trafficking in persons (adults)</i>	<i>Trafficking in persons (children)</i>	<i>Migrant smuggling</i>
<i>Victim's age</i>	Over 18	Below 18	Irrelevant
<i>Mental element</i>	Intention	Intention	Intention
<i>Material element</i>	Act Means Exploitative purpose	Act Exploitative Purpose	Act: Procurement of an illegal entry Purpose: for financial or other material benefit
<i>Consent of the trafficked or smuggled person</i>	Irrelevant once the means are established	Irrelevant; means do not need to be established	The smuggled person consents to the smuggling
<i>Transnationality</i>	Not required	Not required	Required
<i>Involvement of an organized criminal group</i>	Not required	Not required	Not required

Source: Adapted from UNODC, Toolkit to Combat Trafficking in Persons, 5.

Furthermore, article 3 (b) of the Trafficking in Persons Protocol raises the issue of **consent**. Assuming victims consent by any improper means (threat, force, deception, coercion, giving or receiving of payments or benefits, abuse of power, or position of vulnerability), their consent is negated. It cannot be used for the defense of the trafficker. Regarding children, “regardless of whether their consent was obtained without using any illegal means, children have special legal status”.³⁰ Victims “cannot be considered to have consented to being exploited where consent was obtained through improper means or, in the case of children, where their particularly vulnerable status makes it impossible for them to consent in the first place”.³¹

Consent is rendered irrelevant when:³²

- *There are fraudulent job offers:* “The victims clearly do not consent to the subsequent exploitation”.
- *There is deceit regarding the work conditions:* The seriousness of the offense is not mitigated “because the victim was aware of the nature of the work but not aware of the working conditions”.

³⁰ UNODC, Toolkit to Combat Trafficking in Persons, 5.

³¹ *Ibid.*, 6.

³² *Ibid.*

- *The exploitation involves children:* “Where a child and the child’s parents give their consent to the use of the child for labor, the child is still a victim of trafficking, even where they gave their consent without being threatened, forced, coerced, abducted or deceived. Where an act of trafficking and the purpose of trafficking are established, the fact that none of the improper means were utilized does not mitigate the crime where children are involved”.³³

In practice, consent of the victim can constitute defense in domestic law. Still, if any improper means of trafficking are established, consent becomes irrelevant, and consent-based defenses are invalid. Trafficking occurs if consent is invalidated, whenever traffickers employ any improper means. Consent of the victim at one stage of trafficking does not establish consent at all stages of the process. Thus, the absence of consent at every stage frames an act of trafficking.³⁴

After establishing a clear distinction between trafficking in persons and migrant smuggling, it is essential to point out that the consequences of falsely classifying victims of trafficking as smuggled migrants often limit trafficked persons from being treated according to their rights as victims.³⁵

That human trafficking **violates human rights** is recognized by governments and legal institutions that fight against it. Human rights law has denounced any kind of. Human rights law denounced from its earnest any kind of discrimination, forced labor, debt bondage, forced marriage, and the sexual exploitation of children and women; and safeguarded the right of someone to leave and return to his/her origin.³⁶

The **most pertinent human rights to trafficking in persons** are:³⁷

- The prohibition of discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status
- The right to life
- The right to liberty and security

³³ Ibid.

³⁴ Ibid.

³⁵ Kristina Kangaspunta, “Trafficking in persons”, in *Routledge Handbook of International Criminology*, ed. Cindy J. Smith, Sheldon X. Zhang, and Rosemary Barberet (New York: Routledge, 2018), 178-191.

³⁶ UN Human Rights Office of the High Commissioner, *Human Rights*, 4.

³⁷ Ibid., 4.

- The right not to be submitted to slavery, servitude, forced labor or bonded labor
- The right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment
- The right to be free from gendered violence
- The right to freedom of association
- The right to freedom of movement
- The right to the highest attainable standard of physical and mental health
- The right to just and favorable conditions of work
- The right to an adequate standard of living
- The right to social security
- The right of children to special protection³⁸

Various human rights issues are applicable at different stages of the trafficking practice. Some might correlate to the causes of trafficking—the right to an adequate standard of living—and others to the actual process of trafficking—the right to be free from slavery. Nevertheless, others correspond to the response to trafficking—the right of suspects to a fair trial. Finally, some rights are associated with multiple aspects of trafficking in persons.³⁹

International human rights law prohibits numerous practices that link with human trafficking. As a case in point, **debt bondage**, defined as “the pledging of personal services as security for a debt where the value of those services is not applied towards the liquidation of the debt or their length or nature is not limited and defined”, is outlawed. Victims of trafficking often enter into debt bondage which the traffickers use to control and exploit them. Another prohibited practice is forced labor, defined by Convention No. 29 concerning Forced or Compulsory Labour of the International Labour Organization (ILO) as: “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [herself] voluntarily”. Accordingly, “Slavery, servitude, child sexual exploitation, forced marriage, servile forms of marriage, child marriage, enforced prostitution and the exploitation of prostitution” also relate to trafficking and are prohibited by international human rights law.⁴⁰

³⁸ Ibid.

³⁹ UN Human Rights Office of the High Commissioner, *Human Rights*, 5.

⁴⁰ Ibid., 5.

International human rights law raises a fundamental question of whether it prohibits “trafficking in persons” instead of “practices associated with trafficking”. The answer to this dilemma can reshape “the nature of a State’s obligations and responsibilities”. Only the Convention on the Elimination of All Forms of Discrimination against Women (art. 6) and the Convention on the Rights of the Child (art. 35) are human rights treaties that comment extensively on trafficking. Nevertheless, the international community has reached a consensus “over the past decade that trafficking is a serious violation of human rights”.⁴¹

Examination of the concept of exploitation in accordance with Trafficking in Persons Protocol

The typical definitions of exploitation designate two different meanings, one technical and another normative. The technical one establishes exploitation as “making use of or deriving benefit from a thing or situation”. The normative definition indicates a conceivably disparaging “way of taking advantage of a person (or their characteristics or their situation) for one’s own ends”.⁴²

In politics and philosophy, “exploitation”, in conjunction with persons, is associated with an individual’s weakness or vulnerability, becoming the object of exploitation. In other words, “To exploit a *person* is to use a weakness in order to gain substantial control over the person’s life or labour”.⁴³ But this form of exploitation is not always wrong, particularly in situations of inequalities of power. Unlawful ‘exploitation’ must contain injustice.⁴⁴

The concept of exploitation, concerning taking unfair advantage, lies in a continuum. There are situations “in which it is both legally and socially acceptable for one person to derive an unequal, possibly even unfair advantage from another”, and there are other instances where the unfair advantage results in severe harm. Slavery and servitude are some practices that are linked to this end of the continuum and, at least at the

⁴¹ Ibid.

⁴² Judy Pearsall and Bill Trumble, eds. *The Oxford English Reference Dictionary* (New York: Oxford University Press, 1996), quoted in UNODC, *The Concept of ‘Exploitation’ in the Trafficking in Persons Protocol* (Vienna: United Nations, 2015), 21, https://www.unodc.org/documents/congress/background-information/Human_Trafficking/UNODC_2015_Issue_Paper_Exploitation.pdf.

⁴³ Ted Honderich, ed., *The Oxford Companion to Philosophy* (New York: Oxford University Press, 2005), quoted in UNODC, *The Concept of ‘Exploitation’*, 21.

⁴⁴ Honderich, *The Oxford*, quoted in UNODC, *The Concept of ‘Exploitation’*, 21-22.

level of law and policy, are now universally condemned.⁴⁵

In international law “the use of the term exploitation mirrors the aforementioned duality of meanings referred to above, but does not contain a general definition of exploitation ... certain practices commonly identified as ‘exploitative’ are indeed defined ... However, other practices, such as the exploitation of the prostitution of others, and economic or sexual exploitation in relation to children, are not”.⁴⁶

The **Trafficking in Persons Protocol** does not define ‘exploitation’. Nevertheless, Article 3 provides a list of examples that includes, at a minimum, “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”. While none of these practices are subject to definition within the Protocol, some have been defined in other international instruments. The phrase “at a minimum” verifies that “forms of exploitation not explicitly mentioned in the definition could also be captured within the Protocol’s definition of trafficking in persons”.⁴⁷ The *Travaux Préparatoires* elaborates on that matter “[t]he words ‘at a minimum’ will allow States parties to go beyond the offences listed in this definition in criminalizing [and are] also intended to make it possible for the protocol to cover future forms of exploitation (i.e. forms of exploitation that [are] not yet known”.⁴⁸

The 2009 **UNODC Model Law** remarks “that while exploitation is not explicitly defined in the Protocol, this concept is generally associated with particularly harsh and abusive conditions of work, or ‘conditions of work inconsistent with human dignity’”.⁴⁹ Further, the Model law recommends “that States may consider their own experiences and the existing legal framework in deciding whether to include other forms of exploitation”. Nevertheless, it does cautions “against imprecision in stipulating ad-

⁴⁵ UNODC, *The Concept of ‘Exploitation’*, 22-23.

⁴⁶ *Ibid.*, 23.

⁴⁷ *Ibid.*, 24.

⁴⁸ UNODC, *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto* (New York: United Nations Publication, Sales No. E.06.V.5, 2006), 343n22, https://www.unodc.org/documents/treaties/UNTOC/Publications/Travaux%20Preparatoire/04-60074_ebook-e.pdf, quoted in UNODC, *The Concept of ‘Exploitation’*, 24.

⁴⁹ UNODC, *Model Law Against Trafficking in Persons* (Vienna: United Nations Publication, Sales No. E.09.V.11, 2009), 36, https://www.unodc.org/documents/human-trafficking/Model_Law_against_TIP.pdf, “citing relevant provisions of Belgium, French and German law”, quoted in UNODC, *The Concept of ‘Exploitation’*, 26.

ditional forms, asserting that the principle of legality requires these to be well defined”.⁵⁰

The list of forms of exploitation is an integral part of the Trafficking in Persons Protocol. It organizes the minimum parameters of the third element of the definition—the phrase “for the purpose of” in article 3(a) typically provides the basis for identifying the criminal intent of the offense—and establishes a minimum list of purposes of exploitation. States Parties are expected “to *at least* include these forms of exploitation and may also target other forms of exploitation”.⁵¹

Exploitation of the prostitution of others and other forms of sexual exploitation

The “exploitation of the prostitution of others and other forms of sexual exploitation” came as a final compromise after intense disagreements, during the negotiations for the Protocol, on the inclusion of ‘prostitution’ as a purpose of trafficking.⁵² An Interpretative Note confirmed that the Trafficking in Persons Protocol “addresses the exploitation of the prostitution of others and other forms of sexual exploitation only in the context of trafficking in persons” and also that the Protocol “is therefore without prejudice to how States parties address prostitution in their respective domestic laws”.⁵³

The general interpretation of the phrase “**Exploitation of the prostitution of others**” denotes profiting from the prostitution of another person. As such, it sets the “locus of (usually criminal) conduct in a person other than the prostitute”.⁵⁴

The international approach on prostitution and sexual exploitation maintains that “exploitation” as used in conjunction with prostitution should separate individuals who might obtain benefit from their own prostitution from those who obtain benefit from the prostitution of others.⁵⁵

“Sexual exploitation” also remains undefined in the Protocol, and neither has an agreed international legal definition. International human rights law incorporates it only in the context of children. According to the Convention on the Rights of the Child, the practices of “sexual exploitation of children” are: “(a) The inducement or coercion of a

⁵⁰ UNODC, *Model Law 2009*, 35, “citing relevant provisions of Belgium, French and German law”, quoted in UNODC, *The Concept of ‘Exploitation’*, 26.

⁵¹ UNODC, *The Concept of ‘Exploitation’*, 26.

⁵² *Ibid.*, 27.

⁵³ UNODC, *Travaux Préparatoires*, 347, quoted in UNODC, *The Concept of ‘Exploitation’*, 27-28.

⁵⁴ UNODC, *The Concept of ‘Exploitation’*, 28.

⁵⁵ UNODC, *Travaux Préparatoires*, 344n27, quoted in UNODC, *The Concept of ‘Exploitation’*, 28.

child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials”.⁵⁶

The UNODC Model Law suggests that any definitions of “sexual exploitation” incorporated in national laws should mean: “the obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual services, including pornographic acts or the production of pornographic materials”.⁵⁷

Forced labor or services

The accepted international legal definition of forced labour is set out in ILO Convention No. 29: “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.⁵⁸ This definition contains the subjective element of *involuntariness* and the objective requirements of a State or a private individual ordering personal work or service by threatening a sanction in case of noncompliance.⁵⁹ The ILO Convention definition of forced labor was reaffirmed, without amendment, in 2014 with the adoption of a Protocol to the Forced Labour Convention.⁶⁰

Article 3(a) of the Protocol of Trafficking in Persons initially included only “forced labour”. The addition of “services” enabled “sexual labor” “exacted from ‘any person under the menace of any penalty, and for which the said person has not offered [him or herself] voluntarily’” to be incorporated in the broader term of forced labor. Therefore, it allowed more flexible interpretations by States with different opinions on the issue. Conceivably, the term “services” authorized the prohibition of “other illegal or unregulated activities that States may not recognize as labour”.⁶¹

Regarding the interpretation of “voluntariness”, the ILO asserts that it should signify that the engagement of the victims was either against their free will or that it was impossible to resign from “with a reasonable period of notice, and without forgoing

⁵⁶ U.N. Convention on the Rights of the Child, 1577 U.N.T.S. 3, Nov. 20, 1989 (entered into force Sept. 2, 1990), art. 34; UNODC, *The Concept of ‘Exploitation’*, 29.

⁵⁷ UNODC, *The Concept of ‘Exploitation’*, 29-30.

⁵⁸ ILO Convention Concerning Forced and Compulsory Labour, 39 UNTS 55, ILO No. 29, June, 28 1930 (entered into force May 1, 1932), 2(1), quoted in UNODC, *The Concept of ‘Exploitation’*, 30.

⁵⁹ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Kehl, Germany: N.P. Engel, 2005), 150, quoted in UNODC, *The Concept of ‘Exploitation’*, 30.

⁶⁰ UNODC, *The Concept of ‘Exploitation’*, 30.

⁶¹ *Ibid.*, 31.

payment or other entitlements”.⁶²

Slavery or practices similar to slavery

The League of Nations Slavery Convention, established the international legal definition of slavery in Article 1 as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”.⁶³ and urged all States for “the complete abolition of slavery in all its forms”.⁶⁴ The phrase “slavery in all its forms” does not serve to extend the definition beyond “those practices involving the demonstrable exercise of powers attached to the right of ownership”.⁶⁵

The phrase “practices similar to slavery” clearly pertains to the Supplementary Slavery Convention of 1956, which does not define contemporary forms of slavery. Instead, it selectively includes in the concept of “exploitation” the following set of practices and outlaws them:⁶⁶

- **Debt bondage:** Article 1(a) defines it as “the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined”.
- **Serfdom:** Article 1(b) defines it as “the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status”.
- **Servile forms of marriage:** Article 1(c) defines them as any institution or practice whereby “(i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents,

⁶² International Labour Organization, *ILO global estimate of forced labour: results and methodology* (Geneva: International Labour Office, Special Action Programme to Combat Forced Labour (SAP-FL), 2012), 19, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf, quoted in UNODC, *The Concept of ‘Exploitation’*, 31.

⁶³ Convention to Suppress the Slave Trade and Slavery, 60 LNTS 253, Sept. 25, 1926 (entered into force Mar. 9, 1927) (hereafter cited as Slavery Convention), art. 1.

⁶⁴ *Ibid.*, art. 2.

⁶⁵ Jean Allain, *The Slavery Conventions: The Travaux Préparatoires of the 1926 League of Nations Convention and the 1956 United Nations Convention* (Leiden: Martinus Nijhoff Publishers, 2008), 50-79, quoted in UNODC, *The Concept of ‘Exploitation’*, 33.

⁶⁶ U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 226 UNTS 3, Sep. 7, 1956 (entered into force Apr. 30, 1957) (hereafter cited as Supplementary Slavery Convention); UNODC, *The Concept of ‘Exploitation’*, 33-34.

guardian, family or any other person or group; or (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or (iii) A woman on the death of her husband is liable to be inherited by another person”. Important to note that forced marriage—“which is the union of two persons, at least one of whom has not given their full and free consent to the marriage”—is not included and neither distinctly classified as similar to slavery.⁶⁷

- **Sale of children for exploitation:** Article 1(d) defines it as “[a]ny institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour”.⁶⁸

Servitude

The 1956 Supplementary Convention recognizes victims of “practices similar to slavery” as “persons of servile status”.⁶⁹ Additionally, the international human rights law prohibits subjecting a person to servitude.⁷⁰ Relevant instruments generally regard servitude as separate from⁷¹ and broader than slavery, referring to “all conceivable forms of domination and degradation of human beings by human beings”.⁷² An alternative interpretation assigns different relative severity to the two concepts:⁷³

Slavery indicates that the person concerned is wholly in the legal ownership of another person, while servitude concerns less far-reaching forms of restraint and refers, for instance, to the total of the labor conditions and/or the obligations to work or to render services from

⁶⁷ UNODC, *The Concept of ‘Exploitation’*, 34.

⁶⁸ *Ibid.*

⁶⁹ Supplementary Slavery Convention, art. 7(b); UNODC, *The Concept of ‘Exploitation’*, 35.

⁷⁰ Universal Declaration of Human Rights, adopted by UNGA Res. 217A (III), U.N. GAOR, 3rd sess., 183rd plen. mtg., U.N. Doc. A/810 at 71 (Dec. 10, 1948), Art. 4; and, International Covenant on Civil and Political Rights, 999 UNTS 171, Dec. 16, 1996 (entered into force Mar. 3, 1976), art. 8(2), quoted in footnote 87 in UNODC, *The Concept of ‘Exploitation’*, 35.

⁷¹ Marc J. Bossuyt, *Guide to the “Travaux Préparatoires” of the International Covenant on Civil and Political Rights* (Dordrecht: Martinus Nijhoff Publishers, 1987), quoted in UNODC, *The Concept of ‘Exploitation’*, 35.

⁷² Bossuyt, *Guide to the Travaux Préparatoires*, 167, quoted in UNODC, *The Concept of ‘Exploitation’*, 35.

⁷³ UNODC, *The Concept of ‘Exploitation’*, 35.

which the person in question cannot escape and which he cannot change.⁷⁴

Most agree that the discrimination between slavery and servitude is distinct and qualitative, that: “[s]ervitude should be understood as human exploitation falling short of slavery”.⁷⁵ Nonetheless, the Explanatory Report to the European Trafficking Convention affirms that this “particularly serious form of denial of freedom” is to be viewed as “a particular form of slavery, differing from it less in character than in degree”.⁷⁶ Moreover, In *Siliadin v France*, the European Court of Human Rights reaffirmed this interpretation and identified servitude as “an obligation to provide one’s services that is imposed by the use of coercion, and is to be linked with the concept of ‘slavery’”.⁷⁷

Removal of organs

Of the Protocol’s listed examples of exploitative end purposes of trafficking, “**removal of organs**” is the only one that does not necessarily establish a crime in its own right. In contradiction to “sexual exploitation, forced labor or services, slavery, practices similar to slavery and servitude”, which are crimes regardless they were committed in the context of trafficking, the removal of organs “may be lawful or unlawful depending on the purpose and circumstances of that removal. In most States organ removal will be lawful under certain specified circumstances”.⁷⁸

Various relevant developments further expanded the understanding of trafficking to include the following forms of exploitation:

⁷⁴ Pieter V. Dijk, Pieter Dijk, and Godefridus J. Hoof, *Theory and Practice of the European Convention on Human Rights* (Deventer: Kluwer Law and Taxation Publishers, 1990), 242.

⁷⁵ Jean Allain, “On the Curious Disappearance of Human Servitude from General International Law”, *Journal of the History of International Law / Revue d'histoire du droit international* 11, no. 2 (2009): 304, <https://doi.org/10.1163/138819909x12468857001505>.

⁷⁶ Council of Europe, *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, (Warsaw: Council of Europe Treaty Series - No. 197, 2005), par. 95, accessed September/October 17, 2021, <https://rm.coe.int/16800d3812>, quoted in UNODC, *The Concept of ‘Exploitation’*, 35.

⁷⁷ *Siliadin v. France*, (2006) 43 EHRR 16 (ECHR, 26 July 2005, No. 73316/01), par. 124, quoted in UNODC, *The Concept of ‘Exploitation’*, 35-36.

⁷⁸ UNODC, *The Concept of ‘Exploitation’*, 37.

- **Forced Begging:** The EU Trafficking Directive 2011/36/EU105 incorporates “begging” in its exploitative purposes list and associates it with forced labor.⁷⁹ According to its explanatory note, “forced begging should be understood as a form of forced labour or services as defined in ILO Convention No 29: ‘[t]herefore, the exploitation of begging, including the use of a trafficked dependent person for begging, falls within the scope of the definition of trafficking in human beings only when all the elements of forced labour or services occur’.”⁸⁰
- **Exploitation of criminal activities:** The EU Trafficking Directive 2011 also includes “exploitation of criminal activities” in its exploitative purposes list.⁸¹ The explanatory note elaborates that it “should be understood as the exploitation of a person to commit, inter alia, pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain”.⁸²
- **Forced Adoption:** The Interpretative Note of the Trafficking in Persons Protocol pronounced that: “[w]here illegal adoption amounts to a practice similar to slavery ... it will also fall within the scope of the protocol.”⁸³ Following this interpretation, only when adoption is committed “with a view to the exploitation of the child or young person or of his labour”⁸⁴ will establish an action of trafficking. Illegal adoption is not to be identified as trafficking under the Protocol unless an exploitative intent is substantiated.⁸⁵

Despite the absence of an international legal definition, the concept of exploitation as it relates to trafficking harmonizes with the comprehensive meaning of “one person taking unfair advantage of another person, their vulnerability, or their situation”.

⁷⁹ Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA OJ L 101/1 (Apr. 15, 2011), art. 2(3), accessed August 14, 2021, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0036>; UNODC, *The Concept of ‘Exploitation’*, 38.

⁸⁰ Directive 2011/36/EU, chapeau par. 11; UNODC, *The Concept of ‘Exploitation’*, 38.

⁸¹ Directive 2011/36/EU, art. 2(3); UNODC, *The Concept of ‘Exploitation’*, 38.

⁸² Directive 2011/36/EU, chapeau par. 11; UNODC, *The Concept of ‘Exploitation’*, 38.

⁸³ UNODC, *Travaux Préparatoires*, 347.

⁸⁴ Supplementary Slavery Convention, art. 1(d), quoted in UNODC, *The Concept of ‘Exploitation’*, 38-39.

⁸⁵ UNODC, *The Concept of ‘Exploitation’*, 38-39.

In that context, trafficking-related exploitation admittedly encompasses both sexual exploitation and exploitation of another person's labor.⁸⁶

Acknowledging the international definition of trafficking allows the possibility for expansion of its provisions, particularly on the forms of exploitation, various States developed their own understandings of human trafficking in the context of their domestic legislation.⁸⁷

Moldova's legislative measures of human trafficking represent a unique interpretation of the international trafficking legislation. The definition of the Trafficking in Persons Protocol comprises the foundation "for a new understanding of what constitutes trafficking in a specific domestic jurisdiction". The Moldovan legislature maintained the elements of "methods", and "means" but further developed the "purpose" element by the introduction of new forms of exploitation:⁸⁸

- a) compelling to perform work or services, by use of force, threats or other forms of coercion, in violation of the legal provisions connected to labor conditions, remuneration, health and security;
- b) slavery, use of certain practices similar to slavery, or resorting to other ways of deprivation of liberty;
- c) compelling to engage in prostitution, to participate in pornographic performances, with a view to the production, distribution and any introduction into circulation of such performances, the acquisition, sale or possession of pornographic material, or practicing other forms of sexual exploitation;
- d) compelling harvesting of organs or tissues for transplantation or collection of other component parts of the human body;
- e) using a woman as a surrogate mother or for reproductive purposes;
- f) abuse of a child's rights with a view to illegal adoption;
- g) use in armed conflicts or in illegal military formations;
- h) use in criminal activities;

⁸⁶ Ibid., 39.

⁸⁷ Jean Allain, "Conceptualizing the Exploitation of Human Trafficking", in *The SAGE Handbook of Human Trafficking and Modern Day Slavery*, ed. Jennifer B. Clark and Sasha Poucki (London: SAGE Publications, 2019), 4-5.

⁸⁸ Ibid., 4.

- i) compelling to engage in begging;
- j) sale to another person;
- k) compelling to engage in other activities that violate fundamental human rights and freedoms.⁸⁹

The U.S. legislature ratified The Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7102) where a series of definitions relevant to trafficking are provided:

It distinguishes two “severe forms of trafficking in persons”, sex trafficking and labor trafficking, and defines them as:

(8) ...

Sex trafficking: in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;

or

Labor trafficking: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

TVPA also introduces a definition for **sex trafficking**:

(9) ... The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex.

And in addition, it expands on the following relevant concepts or forms of exploitation:

(2) **Coercion:**

(A) threats of serious harm to or physical restraint against any person;

⁸⁹ Law on Preventing and Combating Trafficking in Human Beings, No. 241-XVI, Oct. 25, 2005 (Moldova), quoted in Allain, “Conceptualizing the Exploitation”, 4-5.

- (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (C) the abuse or threatened abuse of the legal process.

(3) Commercial Sex Act:

means any sex act on account of which anything of value is given to or received by any person.

(4) Debt Bondage:

The term “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(5) Involuntary Servitude:

The term “involuntary servitude” includes a condition of servitude induced by means of

- (A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
- (B) the abuse or threatened abuse of the legal process.⁹⁰

Thai Law on Human Trafficking Definition

The definition of trafficking in Thai law closely follows the Protocol’s definition. Still, it modifies the purpose element, excludes some of the Protocol’s stipulated exploitation forms, and includes some additional ones.⁹¹ Thailand’s law on human trafficking was ratified in 2008, amending previous relevant legislation. The

⁹⁰ Victims of Trafficking and Violence Protection Act of 2000 (TVPA). Pub. L. No.106-386, 8 U.S.C. §1101, §7101, 114 STAT 1464 (2000); see also Department of State United States of America, *Trafficking in Persons Report June 2017* (Washington, DC: U.S. Department of State Publication / Office of the Undersecretary for Civilian Security, Democracy, and Human Rights, 2017), 3, <https://www.state.gov/wp-content/uploads/2019/02/271339.pdf>.

⁹¹ UNODC, *The Concept of ‘Exploitation’*, 69.

definition of trafficking in the Anti-Trafficking in Persons Act was developed in accordance with the three elements of the Protocol's definition. Significant differences exist only in the "purpose" element. The Thai Anti-Trafficking Act defines exploitation as:⁹²

"seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labour or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion, regardless of such person's consent".⁹³

The primary differences with the Protocol's definition are:

- Additional forms of exploitation are included (pornography, causing a person to be a beggar, practices resulting in forced extortion);
- Other forms of exploitation are omitted (practices similar to slavery, servitude);
- There is express inclusion of the "means" element in some forms (removal of organs, practices resulting in forced extortion);
- There is "inclusion of the provision on consent ('regardless of consent') within the element of exploitation rather than in connection with the 'act' element".
- The more comprehensive phrase "or any other similar practices resulting in forced extortion", is preferred instead of "includes".⁹⁴

None of the forms of exploitation listed in the legislation are defined except for forced labor and services.

Concerning the purpose "seeking benefits from prostitution, production or distribution of pornographic materials and other forms of sexual exploitation", the Thai interpretation of "seeking benefits from prostitution" associates closely with the international interpretation of "exploitation of the prostitution of others". Benefits are typically financial, but also non-financial benefits are included. "Other forms of sexual exploitation" is more applicable in cases of children, as the element "means" is

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid., 70.

not necessary, but in cases of adults becomes a more complicated issue—since the element ‘means’ is vital in distinguishing prostitution and pimping from trafficking. The phrase “other forms of sexual exploitation” holds a valuable interpretative versatility for Thai jurisprudence, “in ensuring that additional practices could be captured under the law”.⁹⁵

“**Forced labor or services**” is the only form of exploitation that is defined: “compelling the other person to work or provide service by putting such person in fear of injury to life, body, liberty, reputation or property, of such person or another person, by means of intimidation, use of force, or any other means causing such person to be in a state of being unable to resist”. Certain concepts within that definition—such as fear of injury to liberty, reputation, property—lack clarity.⁹⁶

The general view in Thai jurisprudence on **slavery** suggests “complete de facto ownership of another person, almost always through the use of severe violence and intimidation”.

The stipulated purpose “**causing another person to be a beggar**” is particularly important for Thailand, where exploitative begging is a major issue. Investigations and prosecutions of begging can develop into very complicated cases. In one case:

“the court was required to consider whether the exploitation element had been satisfied when the mother of the ‘victim’ had indeed caused that person to be a beggar but that this had happened in a setting where the family was begging and the money was used to sustain the family. The prosecution argued that the child had been ‘pushed’ into begging and, therefore that this was indeed a case of trafficking. However, the trial judge acquitted the mother on the grounds that she had not, in fact, intended to exploit the child”.⁹⁷

Regarding “**similar practices resulting in forced extortion**”,⁹⁸ Thailand has experienced trafficking associated with **commercial surrogacy**. In a relevant recent case, in which “victims were brought/sent/detained /confined through use of force and

⁹⁵ Ibid.

⁹⁶ Ibid., 70-71.

⁹⁷ Ibid., 71.

⁹⁸ Ibid.

deception for purposes of being exploited through commercial surrogacy”,⁹⁹ the court judged the three elements of the definition were satisfied. “The form of exploitation cited in this case was ‘sexual exploitation’” since **trafficking for commercial adoption** is not considered a pressing problem in Thailand, and such cases fall outside the Thai trafficking law.¹⁰⁰

Last but not least, in Thailand, the penalties for trafficking are very severe. For that reason, the crime of trafficking is reserved for the most serious forms of exploitation as it would be prejudicial to apply it to less serious offenses. For instance, exploitative labor is prevalent in Thailand and manifests itself in various forms. A broader concept of exploitation could “overwhelm the criminal justice system and divert resources and attention away from where they are most needed”.¹⁰¹

1.6 Defining Sex Trafficking

After providing a theoretical framework of human trafficking definition and its constituents elements, in the context of the 2000 Trafficking Protocol, and examples of alternative interpretations from domestic legislatures, this section will examine what constitutes sex trafficking. This segment is a concise diagram of sex trafficking at both the worldwide and national levels. Obviously about the significance of it is fundamental to be clear about what is implied by human trafficking and sex trafficking.

An examination of article 3 of the Trafficking Protocol help extrapolate a tripartite definition consisting of three elements:¹⁰²

- *The act itself*: “recruitment, transportation, transfer, harboring or receipt of persons”.¹⁰³
- *The means used to accomplish the act*: “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”.¹⁰⁴

⁹⁹ Ibid., 72.

¹⁰⁰ Ibid.

¹⁰¹ Ibid., 73.

¹⁰² Michelle M. Dempsey, Carolyn Hoyle, and Mary Bosworth, “Defining Sex Trafficking in International and Domestic Law: Mind the Gaps”, *Emory International Law Review* 26, no. 1 (2012): 143, <https://ssrn.com/abstract=2261194>.

¹⁰³ Ibid., 144.

¹⁰⁴ Ibid.

- *The purpose of committing it: “the exploitation of the prostitution of others or other forms of sexual exploitation”.*¹⁰⁵

Therefore, a definition of sex trafficking concerning solely adult cases forms as follows:¹⁰⁶

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation ...

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.”¹⁰⁷

Dempsey, Hoyle, and Bosworth acknowledged significant disparities in sex trafficking definition between international law and domestic legislative adaptations from many States.¹⁰⁸ These discrepancies are mainly identified in the above three elements.¹⁰⁹ And they conclude,

“considered several possible explanations for these gaps, the Authors have concluded that none of these explanations provides a satisfying answer to reconcile the inconsistencies between international and domestic law definitions of trafficking. As such, the conclusion to be reached from this analysis is that the state parties identified above as having defined trafficking more narrowly in their domestic criminal

¹⁰⁵ Ibid.

¹⁰⁶ Ibid., 143n30.

¹⁰⁷ United Nations Office on Drug and Crime UNODC, *United Nations Convention*, 42-43, art. 3.

¹⁰⁸ Dempsey, Hoyle, and Bosworth, "Defining Sex Trafficking", 137-138.

¹⁰⁹ Ibid., 143-144.

codes than it is defined in Article 3 of the Palermo Protocol are prima facie in violation of their obligations under the Protocol”.¹¹⁰

Nonetheless, various scholars proceeded to offer their own interpretations on sex trafficking. The general consensus holds that sex trafficking is a form of human trafficking—the other being labor trafficking—and involves the exchange of commercial sex acts, such as pornography, stripping, or prostitution, for financial gain.¹¹¹ Sex trafficking involves a vulnerable person, a victim controlled and sold by a trafficker. It always combines differing force, fraud, or coercion levels since the victims do not participate voluntarily. The trafficker, who in most cases is male, exercises absolute control over various aspects of the victims’ life, particularly on the way they conduct the sex work and the proceeds they gain.¹¹²

Victims of sex trafficking do not always identify themselves as being forced or coerced. In such cases, continuous use of force, fraud, or coercion leads them to perceive themselves as willing participators and identify with prostitutes, reinforcing their belief of acting on their own volition. Frequently traffickers maintain a group of victims that sometimes is labeled as a trafficker’s stable. Victims compete for hierarchy inside the stables to become traffickers’ favorites and gain the status of “bottom bitch”, “bottom girl”, or just the “bottom”. “Bottom girls” are authorized to recruit other victims, punish victims who fail in their obligations, arrange dates, and collect money.¹¹³

Given the previous observations on human trafficking, sex trafficking and labor trafficking are often interrelated. The same individuals may sometimes be victims of forced labor and, on other occasions, victims of sexual exploitation, exploitation of criminal activities, or even facilitating other victims’ transportation for conducting sex acts. As already noted, sex trafficking does not require cross-border transfers of persons. Victims can “be born, raised, and trafficked in the same house without ever having left”. The act of trafficking constitutes, by itself, a criminal act, without the need for the movement of a person.¹¹⁴

Unlike common beliefs, victims of sex trafficking are not always subjects to

¹¹⁰ Ibid., 161.

¹¹¹ Nita Belles, “Defining Sex Trafficking”, in *Handbook of Sex Trafficking: Feminist Transnational Perspectives*, ed. Lenore Walker, Giselle Gaviria, and Kalyani Gopal (Cham, Switzerland: Springer, 2018), 3-4.

¹¹² Ibid., 4.

¹¹³ Ibid.

¹¹⁴ Ibid.

being kidnapped and trapped for sexual slavery. In some cultures, parents themselves are trading their children for sexual exploitation. Surprisingly, some daughters accept the reality of being sex slaves as a means of supporting their families. Typically, though, sex traffickers lure their victims by pretending care and genuine interest for them. The act of sex trafficking occurs in several stages, which are effectuated through multiple methods and intertwined in purpose and intent. Nita Belles discerns the following stages:¹¹⁵

- **Gaining trust-Recruitment:** in the first stage of recruitment, traffickers seek to gain the victims' trust by compellingly satisfying their needs. Like so, they succeed in establishing a more solid connection with the victim.¹¹⁶
- **Seasoning-Breaking:** in the second stage, victims may develop emotions of intimacy towards the trafficker and might even identify a reciprocal erotic attraction. At the same time, traffickers remain determined to exploit the victims sexually. The end goal of the stage is to get the victims to the point that they will do anything for the trafficker. Reaching that objective often demands separating the victims from their support system and increasing sexual contact with them.¹¹⁷
- **Turning out:** In the turning out stage, the trafficker attempts to coerce the victims into performing their first commercial sex act. After they succeed in prostituting them, traffickers feel that they have completely ensnared and dominated their victims.¹¹⁸
- **Maintaining control:** Direct and extreme violence is not the only and, certainly, most effective way to achieve domination. Traffickers use many subtle methods to maintain their control over their victims. To thwart escape attempts, they use information about their victims gathered from previous stages to threaten to harm their loved ones. Traffickers also use "affection and affirmation (in cases where the victims are still erotically attracted to the trafficker), interspersed with manipulative control or violence against" them to maintain control and maximize the profits of the solicitation. Sex trafficking victims might remain under the control of the same trafficker for many years or be traded to

¹¹⁵ Ibid., 5.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Ibid., 6.

others multiple times.¹¹⁹

In an attempt to illuminate more the understanding of sex trafficking and increase the effectiveness of policies and initiatives in combating sex trafficking, Kara Siddharth provides the following definitions:¹²⁰

“—**Slave trading** can be defined as the process of acquiring, recruiting, harboring, receiving, or transporting an individual, through any means and for any distance, into a condition of slavery or slave-like exploitation.

—**Slavery** can be defined as the process of coercing labor or other services from a captive individual, through any means, including exploitation of bodies or body parts.”¹²¹

Siddharth portrays sex trafficking crimes as consisting of the components of slave trading and slavery. Slave trading denotes the supply aspect of sex trafficking and slavery the demand. Both of these components involve the steps of acquisition, movement, and exploitation. “The interrelationship of these elements” unveils the “anatomy of sex trafficking”, which is depicted in figure 1.2.¹²²

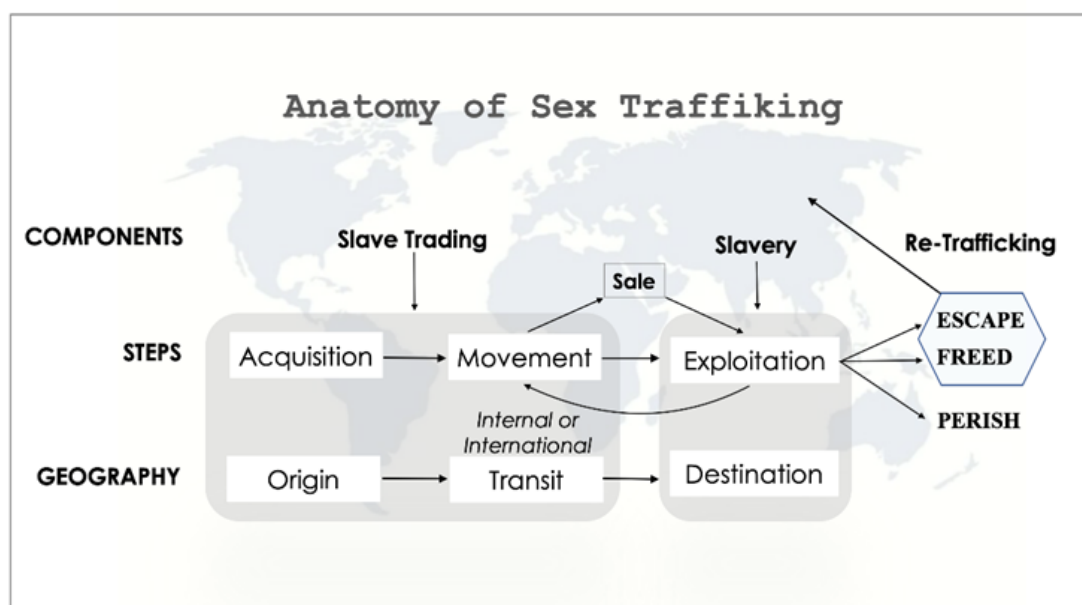


Figure 1.2: Anatomy of Sex Trafficking.

¹¹⁹ Ibid.

¹²⁰ Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (New York: Columbia University Press, 2010), 5.

¹²¹ Adapted from Kara, *Sex Trafficking*, 5.

¹²² Ibid., 6.

Source: Adapted from Kara, *Sex Trafficking*, 6.

For Siddharth, there are five main ways to accomplish the **acquisition** of sex slaves: deceit, sale by family, abduction, seduction or romance, or recruitment by former slaves. In particular:¹²³

- **Deceit:** Deceit involves false job, travel, marriage, or other offers accompanied by false promises for a better life with the purpose of acquiring slaves. Desperate people find the appeal of high-paying jobs in wealthy and developed nations unlikely to resist. The method of false marriage offers is widespread and effective for slave acquisition in countries “where marriage is the only way for a female to secure social acceptance, basic rights, and avoid a lifetime of persecution”. Traffickers employ deceit with high effectiveness in refugee camps.¹²⁴
- **Sale by Family:** Desperation also impels numerous families to sell their children into slavery. Slave traders make job offers for a child in exchange for payments that might represent several months’ income in underdeveloped countries. There are also rare cases where parents sell their children out of greed.¹²⁵
- **Abduction:** False job offers or sales by families are more prevalent than abductions. The reason lies in that abduction makes the transportation stage much more challenging.¹²⁶

¹²³ Ibid.

¹²⁴ Ibid., 7.

¹²⁵ Ibid., 8.

¹²⁶ Ibid.

- **Seduction or Romance:** Promises of love is also a very effective method for ensnaring sex trafficking victims. Traffickers approximate attractive, helpless young girls and persuade them with deceptive affectionate behavior to migrate to wealthy countries “where they can build a life together”. Sid-dharth describes, “[f]alse documents are provided for travel, and the lover-boy usually sends the young woman in advance by train or plane and tells her to meet a friend upon arrival. That friend is almost always a slave trader or brothel owner”.¹²⁷
- **Recruitment by Former Slaves:** Becoming a recruiter offers the opportunity for sex slaves to improve their life in the sex trafficking industry. They often earn significant profits from the commissions for each new slave they recruit.¹²⁸

Concerning the **movement** component of sex trafficking, in international trafficking, sex slaves are transported from countries of origin through transit countries into destination countries. In internal trafficking cases, a single country acts as origin, transit, and destination simultaneously, and the methods used to accomplish this movement vary greatly. Macro-movements of sex slaves involve transit from impoverished regions and countries to more affluent ones. A recent trend consists of a two-step process of moving the victims from rural regions into urban centers in the same country and then transporting them internationally. The purpose of this new mode of trafficking is to “break slaves more completely before transporting them abroad”, rendering them more compliant, less likely to escape, and consequently more profitable in the slave trade.¹²⁹

Lastly, the **exploitation** component mainly involves the lack of monetary compensation for sex services and rape, torture, starvation, and humiliation as a means of pleasuring the traffickers and breaking the slaves’ spirit. Many victims are acquired, transported, and exploited by a single crime network. The process of subordinating and breaking the victims into slavery begins in transportation and continues after the slave trade to ensure their absolute obedience and complete submission to the sex buyer. Sid-dharth identifies six main venue types where the exploitation of sex slaves occurs:

¹²⁷ Kara, *Sex Trafficking*, 9; UNODC, *Global Report on Trafficking in Persons 2014* (New York: United Nations publication, Sales No. E.14.V.10, 2014), 32, https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf.

¹²⁸ Kara, *Sex Trafficking*, 9-10.

¹²⁹ *Ibid.*, 10-11.

brothels, clubs, massage parlors, apartments, hotels, and streets.¹³⁰

Furthermore, the analysis of sex-trafficking phenomena by Kritaya Archavanitkul in 1998, who conceptualizes human trafficking as a continuum, is an effective approach to the definition of human trafficking (see figure 1.3).¹³¹

FORCED	
A	Victims are forced and/or kidnapped
B	Victims are given false information and are trafficked into types of business other than promised
C	Victims are aware of the kind of work, but not the work conditions
D	Victims are aware of the kind of work and work conditions, but are not aware of and/or are unable to foresee the difficult situations they may encounter
E	Workers (who may have been trafficking victims before) are aware of the kind of work and work conditions, but are not given an alternative worksite (cannot choose where they want to work)
F	Workers (who may have been trafficking victims before) are aware of the kind of work and the work conditions, and are able to select their worksite
VOLUNTARY	

Figure 1.3: The trafficking continuum

Source: Adapted from, Archavanitkul Kritaya, “*Combating the Trafficking in Children and Their Exploitation in Prostitution and Other Intolerable Forms of Child Labour in Mekong Basin Countries*”, *A Subregional Report submitted to International Programme of the Elimination of Child Labour (IPEC) International Labour Organisation (ILO)*, (Bangkok, Thailand, Nakhon Pathom: Institute for Population and Social Research, Mahidol University, 1998), quoted in Connell, “Human-trafficking”, 44.

Examining figure 1.3, it is obvious that victims of human trafficking in classes A and B are trafficking cases who have not consented to be trafficked. In classifications C through to E, notions of agency, choice, informed consent, and abuse of power must be taken into account, particularly when social and monetary measures and conditions that limit people’s life choices, the ability to freely consent and render them vulnerable to being victims of sex trafficking.¹³² As for classification F, Connell by citing MacKinnon, argues, “Moreover, the specific nature of commercial sexual activity operates at all levels, from A through to F. Therefore, even at level F, it is arguable that commercial

¹³⁰ Siddharth comments that hotels are not frequently preferred because they are not secure. Prostitutes who operate in hotels are usually former slaves who have accepted their “fate” and strive to earn the highest profits possible. Street prostitution extends the communication and escape opportunities of the sex slaves. Traffickers select victims who they can trust. Escape from the streets is difficult for the sex slaves due to distance from their home regions, lack of money, and the risk of incarceration or deportation since their passports are withheld by the traffickers. Kara, *Sex Trafficking*, 11-15.

¹³¹ Lisa Mary Connell, “Human-trafficking for Sexual Exploitation in Australia: The Deafening Silence on Deman”, (PhD diss., Victoria University, 2012), 44, http://vuir.vu.edu.au/21449/1/Lisa_Mary_Connell.pdf.

¹³² Connell, “Human-trafficking”, 45.

sexual activity in societies dominated by men is inherently exploitative and not truly ‘voluntary’.”¹³³

Common terminological misconceptions in the sex trafficking study

The use of the phrase “sex trafficking” interchangeably with prostitution is very common. The two terms, though, are not identical to each other. Prostitution is the voluntary engagement in a sex act and involves maintaining control over the monetary transaction. Voluntary commercial sex acts are an undeniable reality, as is the case for countless victims of forced prostitution. Thus, prostitution that results from sex trafficking should be termed **forced prostitution**. Migrant smuggling also differentiates from sex trafficking in that it constitutes a crime against a country since it facilitates illegal border crossing. Belles argues that sex trafficking “is the controlling of and selling of a person for sex who may or may not have originated from outside the country”. Nonetheless, “the two crimes often occur in conjunction with one another”.¹³⁴

While forced prostitution is a common practice in sex trafficking, individuals being prostituted should be called **victims of sex trafficking** or survivors after they are freed or escaped but not prostitutes. Individuals who are buying sex should also be called with a more accurate name, describing the act they are committing—the vernacular name for a sex buyer is a “john” or “trick”—and thus, the use of the name **sex buyer** is judged as more appropriate for that purpose. Next, the word pimp used to label **sex traffickers** fails to describe their criminal identity and the crime they are committing; therefore, the label sex trafficker should be maintained.¹³⁵ Finally, sex trafficking is frequently incorrectly identified as the sex industry or the sex trade. Such terminology conceals the criminal character of the sex trafficking act and conveys legitimacy to the issue. Sex “trafficking is a crime punishable by law and should always be referred to as such”.¹³⁶

Furthermore, the terms sex worker and prostitute are also often confused and used incorrectly. **Sex worker** refers to an individual whose occupation is in the sex sector. It encompasses the people that render sexual services directly and the people that serve in that industry. A sex worker gets paid as a result of engaging in sexual acts

¹³³ Catharine Mackinnon, *Toward a feminist theory of the state* (Cambridge: Harvard University Press, 1989), 134 quoted in Connell, “Human-trafficking”, 45.

¹³⁴ Belles, “Defining Sex Trafficking”, 7.

¹³⁵ Ibid.

¹³⁶ Ibid., 8.

or behaviors that are sexual, which entail different degrees of contact with customers. Additionally, some sex workers get paid to take part in performing sexual activities live. Others engage in sexy dancing styles, among other activities, to get the attention of the audience. Such acts include peep shows, lap dancing, and even taking part in sexual activities that serve as therapy to customers—sexual surrogates (Bowersox, 2016). Therefore, the term sex worker is general as it can also refer to people who do not take part in sex directly, such as testers of sex toys and pole dancers. Another category of sex workers that would not be categorized as prostitutes is a manager of talents, an adult who takes the role of negotiating and securing pornographic responsibilities for their customers. Additionally, some take nude pictures and edit them to be viewed by adults, and others review pornographic material through watching and rating them.

In addition, some individuals elect the term sex worker to prevent bringing about the stereotype that is connected with the term prostitute. Such terminology decreases discrimination of the participants of the sex industry, enables a more effective social inclusion, and ensures that real prostitutes do not become solely associated with all the vices of prostitution.¹³⁷ Being a sex worker is different from being exploited sexually or being coerced to engage in sexual activities. It is an individual's voluntary choice and entails the commercialization of sex for earning money or acquiring products. Also, a sex worker may come from any gender, and the reason for engaging in commercial sex activities may be different from one person to another. In general, the differences between prostitution and sex trafficking contains the following: A prostitute is usually aware of the type of work she will participate in, while exploited victims typically do not; prostitutes work either independently or with a pimp, while victims always have a trafficker to control them; prostitutes usually work in in the same geographic location while the trafficker moves victims to different regions; prostitutes might be legal or illegal but are always paid while trafficked victims are always illicit and never paid; lastly while prostitution might not always involve force, fraud, or coercion, sex trafficking always does so.¹³⁸

¹³⁷ Nicola Piper, "A Problem by a Different Name? A Review of Research on Trafficking in South-East Asia and Oceania", *International Migration* 43, no. 1-2 (2005): 206, <https://doi.org/10.1111/j.0020-7985.2005.00318.x>; Jini L. Roby and Jacob Tanner, "Supply and Demand: Prostitution and Sexual Trafficking in Northern Thailand", *Geography Compass* 3, no. 1 (2009): 90, <https://doi.org/10.1111/j.1749-8198.2008.00181.x>.

¹³⁸ Tiffany Dovydaitis, "Human Trafficking: The Role of the Health Care Provider", *Journal of Midwifery & Women's Health* 55, no. 5 (2010): 462-463, <https://doi.org/10.1016/j.jmwh.2009.12.017>; Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik, eds., *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (Boulder, CO: Paradigm

While both voluntary prostitution and sex trafficking are illegal under the laws of many countries, voluntary prostitution in most cases is regarded as an immoral offense and “public nuisance that has existed since ancient times” and is tolerated by law enforcement officers for being a petty offense or because of corruption. Nevertheless, human trafficking is a severe crime against humanity and should always carry severe penalties.¹³⁹

1.7 The Human and Sex Trafficking Framework in the Context of Thailand

The 2009 UNODC’s “Global Report on Trafficking in Persons” positions sexual exploitation as the most common form of human trafficking with 79 percent prevalence. The second most prevalent form was forced labor (18 percent). However, “this may be a misrepresentation because forced labor is less frequently detected and reported than trafficking for sexual exploitation”.¹⁴⁰ The 2020 report shows sexual exploitation is still most prevalent, but with a decreasing trend (50 percent), forced labor increased its prevalence (38 percent), while exploitation for criminal activity comes third (6 percent), and forced begging fourth (1 percent). Notably, female victims predominate the cases of sexual exploitation.¹⁴¹

Human trafficking draws its framework from various contexts like cultural attitudes, economic interests, and international and domestic legislation. For example, multiple entwined cultural, economic, and legal factors contribute to the exploitation of Burmese migrants in Thailand. Increased demand for low-cost migrant labor and interest in the sex industry in Thailand, negative Thai cultural attitudes against the Burmese,

Publishers, 2005), quoted in Dovydaitis, “Human Trafficking”, 462; Jo Doezema, “Who gets to choose? Coercion, consent, and the UN Trafficking Protocol”, *Gender & Development* 10, no. 1 (March 2002): 20-27, <https://doi.org/10.1080/13552070215897>; Svitlana Batsyukova, “Prostitution and Human Trafficking for Sexual Exploitation”, *Gender Issues* 24, no. 2 (June 2007): 46-50, <https://doi.org/10.1007/s12147-007-9001-0>.

¹³⁹ Wanchai Roujanavong, “Human Trafficking: A Challenge to Thailand and the World Community”, in *Annual Report for 2011 and Resource Material Series No. 87, last modified August 2012* (Fuchu, Tokyo: United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), 2012), 136, https://www.unafei.or.jp/english/publications/Resource_Material_87.html.

¹⁴⁰ Roujanavong, “Human Trafficking”, 135; and, UNODC, *Global Report on Trafficking in Persons – February 2009* (UN Office on Drugs and Crime and the UN Global Initiative to fight Human Trafficking, 2009), 50, https://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf.

¹⁴¹ UNODC, *Global Report on Trafficking in Persons 2020* (New York: United Nations publication, Sales No. E.20.IV.3, 2021), 11, https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf.

specific Myanmar economic interests, “and lack of legal status for people experiencing human rights abuses in Burma” are contributing factors for to trafficking of people from Burma for various forms of exploitation. Due to the same elements, there is also a rise in the numbers of “undocumented irregular migrant workers ... who are subject to all forms of exploitation at the hands of employers”.¹⁴²

The three main types of exploitation in trafficking in persons that predominate in Thailand are: “exploitation through the prostitution of others or other forms of sexual exploitation”, “forced labour or services and slavery or practices similar to slavery”, and “forced begging”.¹⁴³

Exploitation through the prostitution of others or other forms of sexual exploitation is the most widespread form of human trafficking in Thailand. The victims of sexual exploitation are predominantly women and girls.¹⁴⁴

Prostitution involves voluntary and enslaved sex workers. Voluntary prostitution and exploitation of prostitution of others are different in that in that voluntary prostitutes consent to sex work. At the same time, trafficked victims are “forced, coerced, or placed under undue influence to engage in prostitution”. Visiting a brothel might lead someone to regard the sex workers as voluntarily consenting to offer their sexual services. Yet, numerous methods are used to force sex trafficking victims to appear voluntary.¹⁴⁵ Such control methods can involve:¹⁴⁶

- Traffickers demand exorbitant debts from the victims, known as “debt bondage”. after being deceived by false promises of decent and well-paying jobs in affluent foreign countries. There are also voluntary female prostitutes going abroad to participate in the commercial sex business. Often, these women are unaware that they will end up in heavy debt bondage, be confined with no freedom of movement, and receive no payment until they pay off their debt via their sexual services. Such victims usually originate from impoverished families in rural areas with low education.

¹⁴² Christa Foster Crawford, "Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and their Impact on Women and Girls from Burma of the Working Conditions," *Thailand Law Journal* 12, no. 1 (Spring 2009), accessed June 29, 2020, <http://thailawforum.com/articles/Trafficking-in-Thailand%20.html>.

¹⁴³ Roujanavong, “Human Trafficking”, 135.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid, 136.

- Traffickers also exploit the vulnerability of the victims, upon reaching the destination in a foreign country, due to their unfamiliarity with the area, the language, the culture and the Thai legal system. Thus, victims are trapped and inhibited from escaping. Traffickers reinforce this state of helplessness by confiscating victims' passports and money and detaining them in brothels "under the control of pimps or 'mama-sans' (brothel madams)".
- There are also cases of forced marriage between young women—often minors—and aging men for limited periods (six months to one year or more) in exchange for high monetary compensations to the parents, under the guise of dowries.¹⁴⁷

Obviously the multifaceted and composite character of sex trafficking in Thailand oftentimes renders law enforcement officers unable to discern between voluntary prostitution and forced prostitution.¹⁴⁸

Victims of trafficking in "**forced labor or services and slavery or practices similar to slavery**" often belong to the category of illegal economic migrants. There are more than two million illegal migrants in Thailand. Men and women from impoverished rural areas looking to better their lives' conditions often fall victims to human trafficking. Most of these illegal migrants lack the education and skills for engaging in economically satisfying gainful employment.. Traffickers deceive them with false offers of well-paying jobs abroad in crossing the borders and trap them into debt bondages and forced labor in farms and factories under inhumane conditions.¹⁴⁹Initially, slave workers are prohibited from leaving the workplace and are even detained within the factories or farms until their debt is settled.¹⁵⁰

Except for the above sectors, the massive *fishing industry* in Thailand employs numerous legal and illegal foreign migrants. Victims exploited in the fishing industry are usually illegal economic migrants. A different form of forced labor is domestic servitude. Among many migrant domestic servants in Thailand that enjoy fair working conditions and treatment, some become victims of trafficking by their bosses. They experience violence, sexual assault or sexual harassment, and other illegal acts.¹⁵¹

Trafficking in the form of forced begging takes advantage of the already very

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid, 136-137.

¹⁵⁰ Ibid, 137.

¹⁵¹ Ibid.

lucrative begging activities in Thailand. While many “voluntary” beggars manage to earn very good profits, others fall into the category of migrant infants, children, and aged persons, transported from neighboring countries, that fall victim to forced begging. Removal of organs to collect human body parts is a form of human trafficking that constitutes a growing illicit business. Transplantation of malfunctioning organs is a regulated medical procedure, but most countries ban any act of trading and purchasing such organs. Acquiring new organs for organ transplants can be conducted legally only via donation. The demand, though, “is overwhelmingly higher than the supply”. Wealthy people who do not wait on the ever-growing waiting list “choose illegal markets through clinics or hospitals willing to perform such illegal operations for money”.¹⁵² Wanchai Roujanavong elaborates further on the process: “the crime of organ theft from living persons is not widespread because the alternatives of stealing and illegally buying human organs from the deceased are already quite big businesses around the world. However, there is no report of human trafficking for the removal of organs in Thailand”.¹⁵³

Children are also **trafficked** from Cambodia, Lao PDR, and Myanmar to Thailand for labor trafficking, sexual exploitation, and forced begging. Child labor is prevalent in border regions where many children enter Thailand every day to work in agriculture, markets, or seafood processing. Children from Cambodia, Lao PDR, and Myanmar regularly operate as beggars in various Thai cities. Notwithstanding the explicitness of the issue, it remains under-researched. It is yet unclarified whether “these children are recruited from their home countries for the purpose of begging or whether they were born to migrants who were already living in Thailand”.¹⁵⁴

Countries in the **trafficking flow**—sending, receiving, or being hubs for the transportation of trafficking victims—are classified as **origin**, **transit**, and **destinations** of human trafficking. Each country may be more than one in the trafficking flow.¹⁵⁵ The examination of trafficking flows requires discerning the functioning of a country of either a sender or receiver of trafficking victims. However, whether countries are

¹⁵² Ibid.

¹⁵³ Ibid., 138.

¹⁵⁴ UNODC, *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand, August 2017* (Bangkok: United Nations Office on Drugs and Crime, 2017), ix, https://www.unodc.org/documents/southeastasiaandpacific/Publications/2017/Trafficking_in_persons_to_Thailand_report.pdf.

¹⁵⁵ OECD, *Illicit Trade*, 44.

more of an origin or destination country depends on many factors—a definite distinction between origin and destination countries is impossible. Such broad categorizations risk obscuring essential details. In addition, the existence of domestic trafficking in most States renders them automatically as origins and destinations. Yet, “if only cross-border trafficking is considered, countries may belong to both categories”.¹⁵⁶ Most countries function as countries of origin of human trafficking for their own citizens and as destination ones for foreigners. It is very rare to find countries that function solely as origin or destination. Considering that, the 2014 United Nations Trafficking in Persons Report expanded further on the subject:¹⁵⁷

“Countries may be thought of as being more typical origin or more typical destination countries. While countries play both roles, the majority of the trafficking flows are either outbound (in the case of a more typical origin country) or inbound (more typical destination). A more typical country of origin of cross-border trafficking may detect some foreign victims who are being exploited within its territory, but the outbound flow of that country’s citizens for exploitation in other countries will be far larger. Out of the 78 countries that provided information concerning the citizenship of the convicted offenders, 37 were considered to be more typical origin countries of cross-border trafficking, whereas 41 were considered more typical destination countries. While it should be kept in mind that the diverse national situations cannot be fully captured by such a broad categorization, when looking at the global level, classifying countries as more typical origin or destination countries of trafficking in persons is nonetheless very useful for trying to understand and describe typical cross-border trafficking flows.”¹⁵⁸

Countries of origin are commonly underdeveloped and have high rates of poverty. In contrast, destination countries tend to be wealthier and more developed. They seem to afford plenty of economic and social mobility opportunities that appeal to people prepared to migrate to achieve a better life. Western countries such as the United

¹⁵⁶ UNODC, *Global Report on Trafficking in Persons 2014*, 25

¹⁵⁷ *Ibid.*, 25.

¹⁵⁸ *Ibid.*

States, Canada, the United Kingdom, France, Switzerland, and Germany are all destination countries for sex trafficking.¹⁵⁹

Although it is rare to find countries with all three statuses, Thailand is one of the few countries that bear all three country-classes of human trafficking:¹⁶⁰

- **As a country of origin:** Many Thai women are trafficked to work in foreign, more wealthy nations. In many such cases, victims were kept in debt bondage of approximately US \$75,000 or more and if they refuse to work as sex slaves, they are detained, deprived of food, assaulted, or raped until they give in. The primary destinations for Thai human trafficking victims are Japan, Germany, the United States, the United Kingdom, South Africa, Australia, with Japan being the most frequent one. The victims' profiles point out impoverishment and undereducation.¹⁶¹
- **As a destination country:** More economically advanced than some neighboring countries, Thailand attracts many illegal immigrants from neighboring nations who search “for better-paid jobs, or to escape from unrest within their own country”. The approximate number of illegal immigrants in Thailand exceeds 2,000,000, and the majority of them originate from Myanmar. They mainly concentrate on the construction, fishing and seafood industry, factories, restaurants, and houses as domestic workers. Additionally, many female illegal immigrants work in commercial-sex businesses. The traffickers threaten female victims that if they seek help from police, they will be arrested, imprisoned, and deported due to their status as illegal immigrants.¹⁶² Moreover, labor exploitation of illegal immigrants is another conspicuous human rights violation in Thailand. The exploitation of immigrants for forced labor derives from factories employing illegal immigrants to secure low labor costs and increase their profits.¹⁶³ Lastly, many children and elderly persons from Cambodia are trafficked into Thailand for forced begging.¹⁶⁴

¹⁵⁹ Mary Crawford, “International Sex Trafficking”, *Women & Therapy* 40, no. 1-2 (2016): 107, <https://doi.org/10.1080/02703149.2016.1206784>.

¹⁶⁰ Roujanavong, “Human Trafficking”, 138; Crawford, “International Sex Trafficking”, 107.

¹⁶¹ Roujanavong, “Human Trafficking”, 138.

¹⁶² *Ibid.*, 139.

¹⁶³ *Ibid.*, 140.

¹⁶⁴ *Ibid.*, 141.

- **As a transit country:** Roujanavong remarks on the reasons that make Thailand a hub for human trafficking: “Thailand is located in the center of the South-East Asian region and is a traveling hub for that reason, providing international flights to nearly everywhere in the world. These are some reasons why Bangkok is a place traffickers use to traffic victims to other countries worldwide”. Chinese human traffickers and migrant smugglers use Thailand to transport trafficking victims and illegal migrants from the southern part of China. These victims are conveyed via Myanmar into the northern part of Thailand and then to Bangkok. Using this route is more efficient than going through China.¹⁶⁵

Thailand is an origin, destination, and transit country for human trafficking in the Mekong Sub-region, an area consisting of Thailand, Burma, Laos, the Yunnan province of China, Cambodia, and Vietnam. Thailand is a unique example as a country where voluntary sex work intermingles with sex trafficking in particular ways that render the issue of sex trade almost intractable and challenging to untangle. There is an apparent link between sex trafficking and prostitution. While not all sexual exploitation constitutes human trafficking, many economic, socio-cultural, and legal factors contributing to forced prostitution are also elements of the context that drives “voluntary” prostitution. Christa Foster Crawford remarks on that matter, “were there not a demand for the sex industry in its various forms, there would be no sex trafficking”.¹⁶⁶

The sex trade has a significant impact on Thailand’s economic growth. It is estimated that in the late 90s Thai sex industry afforded around US\$22–30 billion in annual profits to the Thai national economy—10–14 percent of the country’s GDP.¹⁶⁷ In the absence of official statistics on the numbers of sex workers,¹⁶⁸ estimates range from 90,915 to 2,000,000 in 1997.¹⁶⁹ Probably the most reliable but outdated calculation was

¹⁶⁵ Ibid., 141.

¹⁶⁶ Crawford, “Trafficking in Thailand”.

¹⁶⁷ Lin Lim, ed., *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia* (Geneva: International Labour Office, 1998), 10; Roby and Tanner, “Supply and Demand”, 90.

¹⁶⁸ Roby and Tanner, “Supply and Demand”, 91.

¹⁶⁹ Kritaya Archavanitkul, *Trafficking in Children for Labour Exploitation Including Child Prostitution in the Mekong Sub-region: A Research Report* (Bangkok: ILO-IPEC, 1998), quoted in Roby and Tanner, “Supply and Demand”, 91.

conducted by Steinfatt at 120,000–150,000,¹⁷⁰ based on Sittitrai et al.¹⁷¹ research.¹⁷²

Subsequently, the numbers of sex trafficking victims are even more intangible. While there are sex slaves in the Thai sex industry,¹⁷³ most Thai prostitutes—about 80 percent in foreigner-oriented bars—are considered voluntary prostitutes with a primary objective of bettering their lives.¹⁷⁴ Anecdotal evidence, challenging to validate, about the conditions that brought them into the trade varies. On some occasions, parents sell their daughters from a very young age, “with debt bondage to repay over many years”,¹⁷⁵ and might end up traded to brothels or individuals.¹⁷⁶ Others are exploited in their communities¹⁷⁷ or migrate to urban centers for better work opportunities and choose to work at brothels, where they become victimized.¹⁷⁸

While a conceptual distinction between voluntary prostitution and sex slaves is available, considering the above, conducting an analysis of sex trafficking separated from the general sex trade is not feasible. Common dynamics shared by the two phenomena, lack of separate data, and conceptual fusion in the scientific community render separate studies impracticable.¹⁷⁹ In the context that sex trafficking is subsumed into the sex industry, exploring the sex trade as a whole is a reasonable and effective approach in furthering our understanding of the phenomenon.¹⁸⁰

In Thailand, the situation of the sex trade and sex trafficking is ever-changing. Urban migration, augmented disposable income, and the thriving of sex tourism, caused by the modernization process of the 80s and 90s, are viewed as determinants of the rise

¹⁷⁰ Steinfatt, *Working at the Bar*, 21.

¹⁷¹ Sittitrai W et al., “Female commercial sex work in Thailand: prevalence and risk determinants”, in *Proceedings of the Ninth International Conference on AIDS* (Berlin, Germany 1993), quoted in Roby and Tanner, “Supply and Demand”, 91.

¹⁷² Roby and Tanner, “Supply and Demand”, 91.

¹⁷³ Elaine Pearson, “Trapped in the Traffic”, *New Internationalist* 337, last modified July 5, 2017, <https://newint.org/features/2001/08/05/trapped>.

¹⁷⁴ Steinfatt, *Working at the Bar*, 52.

¹⁷⁵ Kevin Bales, *Disposable People: New Slavery in the Global Economy* (Berkeley: University of California Press, 2012), 41.

¹⁷⁶ Louise Brown, *Sex Slaves* (London: Virago Press, 2000), 107.

¹⁷⁷ Therese M. Caouette, Yuriko Saito, and International Organization for Migration, *To Japan and Back: Thai Women Recount Their Experiences* (Geneva: International Organization for Migration, 1999), 28.

¹⁷⁸ Roby and Tanner, “Supply and Demand”, 91.

¹⁷⁹ Kate Butcher, “Confusion between prostitution and sex trafficking”, *The Lancet* 361, no. 9373 (2003): 1983, [https://doi.org/10.1016/s0140-6736\(03\)13596-9](https://doi.org/10.1016/s0140-6736(03)13596-9); Ronald Skeldon, “Trafficking: A Perspective from Asia”, *International Migration* 38, no. 3 (2000): 7-30, <https://doi.org/10.1111/1468-2435.00113>.

¹⁸⁰ Roby and Tanner, “Supply and Demand”, 91.

of commercial sex.¹⁸¹ Several other factors have reinforced these increases, like AIDS and anti-prostitution legislation.¹⁸² Even foreign legislation like the PROTECT Act¹⁸³ of the United States is likely to have played a role.¹⁸⁴ Concurrently, the decline in fertility and the increase in girls' school enrollment induce a decrease in the numbers of Thai sex workers.¹⁸⁵ This recession generates gaps that draw women and girls from Myanmar, Laos, China, Cambodia, Eastern Europe, and the Americas.¹⁸⁶ Estimations reveal that 16 percent of prostitutes in Thailand are foreign, with around 90 percent from Myanmar.¹⁸⁷ Sensibly, most foreign sex workers are found in Chiang Mai and Chiang Rai in northern Thailand, adjacent to Myanmar.¹⁸⁸

Important to point out victims of sex trafficking are suffering notably higher harm than voluntary prostitutes.¹⁸⁹ When it is voluntary, they can work at their discretion.¹⁹⁰ Yet, trafficked victims experience slavery conditions: "earnings may be withheld, they may be physically abused, underfed, sleep-deprived, physically restrained or prevented from leaving ... Half of the Burmese prostitutes were HIV-positive, compared to 15 percent among brothel workers on the whole¹⁹¹".¹⁹² Debt bondage, inability to speak the local language, and deportation risks are additional parameters that render sex slaves particularly vulnerable to exploitation and abuse.¹⁹³

¹⁸¹ Lim, *The Sex Sector*, 131; Mark VanLandingham and Lea Trujillo, "Recent Changes in Heterosexual Attitudes, Norms and Behaviors among Unmarried Thai Men: A Qualitative Analysis", *International Family Planning Perspectives* 28, no. 1 (2002): 6-15, <https://doi.org/10.2307/3088270>.

¹⁸² Eleanor Maticka-Tyndale et al., "Contexts and patterns of men's commercial sexual partnerships in northeastern Thailand: Implications for AIDS prevention", *Social Science & Medicine* 44, no. 2 (1997): 199-213, [https://doi.org/10.1016/s0277-9536\(96\)00146-3](https://doi.org/10.1016/s0277-9536(96)00146-3); Kiat Ruxrungham, Tim Brown, and Praphan Phanuphak, "HIV/AIDS in Asia", *The Lancet* 364, no. 9428 (2004): 70, [https://doi.org/10.1016/s0140-6736\(04\)16593-8](https://doi.org/10.1016/s0140-6736(04)16593-8).

¹⁸³ The Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, 117 Stat. 650 (Public Law 108-21), <https://www.govinfo.gov/content/pkg/STATUTE-117/pdf/STATUTE-117-Pg650.pdf>, (PROTECT Act) issued that it is a crime for the US citizen to engage or attempt to engage in illicit sexual activity with minors in other nations. The Act also "increased sentences and abolished the statute of limitations in cases dealing with child trafficking into the United States", quoted in, Roby and Tanner, "Supply and Demand", 104.

¹⁸⁴ Roby and Tanner, "Supply and Demand", 91.

¹⁸⁵ Simon Baker, *The Changing Situation of Child Prostitution in Northern Thailand: A Study of Changwat Chiang Rai* (Bangkok: ECPAT International, 2000), <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.202.2567&rep=rep1&type=pdf>.

¹⁸⁶ Steinfatt, *Working at the Bar*, 28.

¹⁸⁷ David Kyle and Rey Koslowski, *Global Human Smuggling: Comparative Perspectives* (Baltimore, MD: Johns Hopkins University Press, 2001), 42.

¹⁸⁸ Brown, *Sex Slaves*, 49.

¹⁸⁹ Roby and Tanner, "Supply and Demand", 92.

¹⁹⁰ Steinfatt, *Working at the Bar*, 131, 147.

¹⁹¹ Lim, *The Sex Sector*, 6.

¹⁹² Roby and Tanner, "Supply and Demand", 92.

¹⁹³ *Ibid.*, 92.

Last but not least, a brief account of **trauma bonding** as a possible course of victim’s psychological transformation in trafficking cases would necessitate even more the need to regard and explore sex trafficking as a subset of the sex trade. In sex trafficking cases, the relationship between the victim and the trafficker may also involve trauma bonding, commonly referred to as “Stockholm Syndrome”. Trauma bonding occurs when traffickers use “rewards and punishments within cycles of abuse to foster a powerful emotional connection with the victim”. Traffickers often act as protectors to dominate and confuse the victims and induce an attachment that may include developing feelings of affection and loyalty for the trafficker on the part of the victim. Traumatic bonds can become particularly intense if “fear of the trafficker is paired with gratitude for any kindness shown”. Recurrent trauma may remodel victims’ brain development and thought processes, resulting in unbearable feelings of dissociation and psychological and emotional dullness. Thus, in their attempt to escape emotional numbness, they might pursue intense situations. As a result, victims may return to their exploiter due to the intense and familiar nature of the abusive relationship.¹⁹⁴ In addition, trauma bonding is also examined as an extreme variance of appeasement strategies, with plentiful examples of its employment by numerous other species in nature. It is activated reflexively—with more primitive parts of the brain taking control over the ones responsible for higher mental functions—in life-threatening situations and as a last resort for protecting victims’ physical, mental, and emotional integrity.

Traffickers regularly confine, intimidate victims, and employ various other coercive methods that interfere with their perceived or actual ability to escape. Threats to one’s physical and mental integrity can often lead to the formation of trauma bonding. Victims frequently feel helpless and respond to any form of “help” or “kindness” from their exploiters by developing attachment and gratitude in a desperate attempt to increase their chances of survival. Lack of alternative sources of support also reinforces psychological coercion. Psychiatrist and trauma expert Bessel Van der Kolk explains, “Pain, fear, fatigue, and loss of loved ones and protectors all evoke efforts to attract increased care. When there is no access to...other sources of comfort, people may turn toward their tormentors”.¹⁹⁵

¹⁹⁴ Department of State United States of America, *Trafficking in Persons Report June 2020* (Washington, DC: U.S. Department of State Publication / Office to Monitor and Combat Trafficking in Persons, 2020), 20, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

¹⁹⁵ *Ibid.*

It is very challenging, if not impossible, to estimate the prevalence of trauma bonding. Unfortunately, there is plenty of anecdotal evidence that sex trafficking victims protect traffickers and present themselves as voluntary sex workers. Granting that social and economic circumstances may influence victims' predisposition and the numerous examples of sex trafficking in Thailand, trauma bonding is another worthwhile factor contributing to the complexities of reporting cases and quantifying the phenomenon.¹⁹⁶

1.8 Root Causes and Contributing Factors in Sex Trafficking with Special Remarks in Thailand's Framework

This section addresses the root causes of human trafficking with special emphasis on the contributing factors to sex trafficking in Thailand. While various social, economic, cultural, and other factors that drive the multifaceted phenomenon of human trafficking are specific to trafficking patterns of each State, many of these factors and root causes are common in trafficking or shared between different regions, patterns or cases. The UNODC "Toolkit to Combat Trafficking in Persons" (2008) identifies various common push-pull factors that contribute to the increase or perpetuation of trafficking in persons:¹⁹⁷

- "Poverty, oppression, lack of human rights, lack of social or economic opportunities, dangers from conflict or instability" constitute some of the domestic situations that drive people to migrate in search of better conditions. "Political instability, militarism, civil unrest, internal armed conflicts, and natural disasters" are potent factors in increasing human trafficking flows. Destabilization and displacement of communities make people vulnerable to exploitation and abuse. Armed conflicts often cause displacements and overwhelming human casualties, and create a considerable number of orphans who end up being like street scavengers. The children that are found in the streets are more vulnerable to human trafficking than any other category of people. Such factors tend to "**push**" potential victims into migration and the control of traffickers.
- Furthermore, other factors tend to "**pull**" human beings into exploitation

¹⁹⁶ Ibid.

¹⁹⁷ UNODC, Toolkit to Combat Trafficking in Persons, 423.

and abuse. Poverty and prosperity often reinforce migration and trafficking patterns in which victims move from extreme poverty to less extreme poverty conditions. The accelerated increase in internet services and broadcast or telecommunication media has possibly increased the desire in citizens of developing countries to migrate to developed ones.¹⁹⁸

Even families sell their children, hoping that their offspring will escape chronic poverty and enjoy a better life with more opportunities. Cultural practices like the devaluation of women and girls in certain societies “make them disproportionately vulnerable to trafficking”.¹⁹⁹

Additional factors that facilitate human trafficking are permeable borders, corrupt government officials, and international organized criminal groups or networks. Moreover, the limited effectiveness in controlling the borders by relevant enforcement instruments, inadequate legislative measures, lack of political will or commitment to enforcing existing legislation represent how institutional inefficiency contributes to the increase in trafficking practices.²⁰⁰

Contributing Factors in Sex trafficking in Thailand

There are various perspectives in the examination of the phenomena of prostitution and sex trafficking. One view marks sexual exploitation of others as rights violations perpetrated by individuals or organized crime and claims that decriminalization and regulation will protect all prostitutes, voluntary or not.²⁰¹ A different approach focuses on the feminist interpretation of gender inequality and describes the female sex trafficking victims through the lens of a patriarchal social structure limiting women’s opportunities in paid labor.²⁰² Last but not least, the market perspective examines sex trafficking “as a method to balance the supply and demand of sex workers, who enjoy

¹⁹⁸ Ibid., 424.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Heyzer, N. (2002). Combating trafficking in women and children: A gender and human rights framework. Plenary address at the Conference on the Human Rights Challenge of Globalization: Asia-Pacific-US: Trafficking in Persons, Especially Women and Children. Honolulu, Hawaii, 13–15 November; Jyoti Sangera, “In the Belly of the Beast: Sex Trade, Prostitution and Globalization”, a Discussion Paper for South Asia Regional Consultation on Prostitution, Bangkok, Thailand, February 1999; Barbara Sullivan, “Trafficking in women”, *Feminist Journal of Politics* 5, no. 1 (2003): 67-91, <https://doi.org/10.1080/1461674021000056773>.

²⁰² Kathleen Barry, “Female Sexual Slavery: Understanding the International Dimensions of Women's Oppression”, *Human Rights Quarterly* 3, no. 2 (1981): 44-52, <https://doi.org/10.2307/761856>; Kathleen Barry, *Female Sexual Slavery* (London: New York University Press, 1984); Sullivan, “Trafficking in women”, 67-91.

varying degrees of choice”.²⁰³

The supply and demand paradigm, while lacking theoretical uniformity, is considered one of the most appropriate for examining sex trade, prostitution, and sex trafficking.²⁰⁴ This model has been implemented as a theoretical framework for interpreting prostitution and the analysis of sex trafficking by various researchers.²⁰⁵

Socio-cultural, economic, and political factors influence the supply and demand in the sex industry by nurturing social ecosystems that perpetuate exploitative sexual services and behaviors.²⁰⁶ Some scholars remark that studies on sexual exploitation focus mainly on the supply side.²⁰⁷ Evidently, the demand side is equally important and should also be examined.²⁰⁸

Proponents of the market model argue that without the demand for commercial sex, there would not be supply in the sex industry²⁰⁹ and thus, without the demand, there would not be sex trafficking.²¹⁰ The already intricate relationship of balance between supply and demand interacts in even more complex ways with the conditions that lead to trafficking.²¹¹ Of course, overwhelming demand cannot be the sole cause for the prevalence of sex trafficking and sex trade; other factors like the illegal character of the sex trade play an essential role, too.²¹² Nevertheless, “where there is a market for com-

²⁰³ Roby and Tanner, “Supply and Demand”, 92.

²⁰⁴ Andrea M. Bertone, “Transnational Activism to Combat Trafficking in Persons”, *Brown Journal of World Affairs* 10, no. 2 (Spring 2004): 1, <https://www.jstor.org/stable/24590517>; Roby and Tanner, “Supply and Demand”, 93.

²⁰⁵ Roby and Tanner, “Supply and Demand”, 93.

²⁰⁶ Ibid.

²⁰⁷ Annuska Derks, Roger Henke, and Vanna Ly, *Review of a Decade of Research on Trafficking in Persons, Cambodia* (San Francisco, CA: The Asia Foundation & USAID, 2006); Donna M. Hughes, *Best practices to address the demand side of trafficking*, (Rhode Island: University of Rhode Island, 2004), accessed May 21, 2021, https://childhub.org/sites/default/files/library/attachments/554_584_EN_original.pdf; Roby and Tanner, “Supply and Demand”, 93.

²⁰⁸ R. Catalla, *Research report: demand-side of trafficking in three service sectors in Cambodia*. (Bangkok: ILO-IPEC, 2004), 6, quoted in Roby and Tanner, “Supply and Demand”, 93; Hughes, “Best practices”; Elaine Pearson, *Mekong Challenge: The Human Trafficking: Redefining Demand. Destination factors in the trafficking of children and young women in the Mekong sub-region (Abridged)* (Bangkok: ILO-IPEC, 2005), 4, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_29_en.pdf; Roby and Tanner, “Supply and Demand”, 93.

²⁰⁹ Hughes, “Best practices”; Janice G. Raymond, “Prostitution on Demand: legalizing the consumers as sexual consumers”, *Violence Against Women* 10, no. 10 (2004): 1156–1186, <https://doi.org/10.1177/1077801204268609>.

²¹⁰ Hughes, “Best practices”.

²¹¹ Roby and Tanner, “Supply and Demand”, 93.

²¹² Jini L. Roby, Jennifer Turley, and JoAnna G. Cloward, “U.S. Response to Human Trafficking: Is it enough?”, *Journal of Immigrant & Refugee Studies* 6, no. 4 (2008): 508–525, <https://doi.org/10.1080/15362940802480241>.

modities or services, competition arises to provide them at lower overhead costs to consumers with differential financial abilities”.²¹³ Jini L. Roby and Jacob Tanner in their article, “Supply and Demand: Prostitution and Sexual Trafficking in Northern Thailand” classified the contributing factors to sex trafficking flows of Northern Thailand following the demand and supply model. In the demand factors they included the historical precedence of prostitution in Thailand, the social acceptance of the sex trade, various gender-based cultural mores, corruption of the law enforcement and the military and the phenomenon of international sex tourism. Next, they identified the supply factors according to what drives families and women to resort to the sex trade, “often through illegal means and exploitative circumstances”.²¹⁴ This classification included, gender-based cultural factors, religious forces, political turmoil in Myanmar and economic factors.

While this Thesis draws influence from all of the above models, it will concentrate mainly on the role of Theravāda Buddhism as a contributing factor in sex trafficking and prostitution along with factors that pertain to Thai socio-cultural values, ideals, and mores. In particular, the emphasis lies on how specific selective interpretations of Theravāda doctrines from Thai Theravādins has led to the formation of harmful and devaluing attitudes towards women, mainly, but also the disadvantaged, sustain the discrimination against them, nurture inequality, and increases their vulnerability to sexual exploitation and abuse.

For over a thousand years, Thailand had experienced legitimate prostitution when courtesans were authorized officially by the king to offer their sexual services exclusively to the elite.²¹⁵ Official laws since the fifteenth century recognized the right of men to hold and treat women as properties. Wives could be abused or sold as slaves without sanctions. The prestige of having multiple wives was high. In that era, there were recognized three types of wives: a major wife (*mia klang muang*), a minor wife (*mia klang nork*), and a slave wife (*mia klang tasi*). Family and negotiations between parents arranged the major wife. The minor wife allowed more children and influence. The slave wife was mainly purchased for sexual pleasure and the performance of servile

²¹³ Roby and Tanner, “Supply and Demand”, 93; see also, J. Jaskold Gabszewicz and J.-F. Thisse, “Price competition, quality and income disparities”, *Journal of Economic Theory* 20, no. 3 (1979): 340-359, [https://doi.org/10.1016/0022-0531\(79\)90041-3](https://doi.org/10.1016/0022-0531(79)90041-3).

²¹⁴ Roby and Tanner, “Supply and Demand”, 95.

²¹⁵ Thomas M. Steinfatt, *Working at the Bar: Sex Work and Health Communication in Thailand* (London: Ablex Publishing, 2002), 9.

duties. All housewives were socialized to be submissive, restrict their own sexual desires and satisfy the sexual appetites of their husbands.²¹⁶ In the Ayutthaya period (1350–1767 CE), prostitution was also legal, regulated, and taxed. In 1909, the Venereal Disease Act demanded prostitutes be licensed and healthy.²¹⁷ In 1934 a royal decree banned polygamy, and set the basis for the proliferation of prostitution that replaced the ancient custom of the minor and slave wives.²¹⁸ In 1960, the Prostitution Suppression Act banned prostitution, but the Entertainment Places Act practically re-legalized it in 1966. The Prevention and Suppression of Prostitution Act of 1996 implemented more severe sanctions for child prostitution²¹⁹ and effected a ban on soliciting a prostitute for the first time in Thailand.²²⁰ In addition, the American military presence in Thailand during the Vietnam War stirred the nature of Thai prostitution. Being less discreet than Thai or Chinese sex buyers, American soldiers treated Thai prostitutes like “girlfriends”, and displayed them without hesitation. During the war, American GIs obtained “mia chao” or rented wives to entertain them in Bangkok, Pattaya, and other Thai cities during their rest and recreation periods.²²¹

While the impoverishment and underdevelopment of Myanmar are well studied,²²² the levels of poverty in Thailand are more obscure. The country adopted an economic development model, which facilitated considerable economic growth in large urban centers but left rural regions underdeveloped.²²³ Some theorize that urbanization, modernization, and industrialization are major driving forces in expanding prostitution and sex trafficking.²²⁴ For instance, the average price for a northern Thai girl sold as a sex slave was 50,000 baht, a sizeable monetary relief for poverty-stricken farmers.²²⁵ Additionally, financial inequality is a possible factor driving young Burmese women of the upper and middle-class to resort to prostitution in Thailand—almost two-thirds of

²¹⁶ Kara, *Sex Trafficking*, 175.

²¹⁷ Brown, *Sex Slaves*, 201; Kinsey Dinan, *Owed Justice: Thai Women Trafficked Into Debt Bondage in Japan* (New York: Human Rights Watch, 2000), 191; Roby and Tanner, “Supply and Demand”, 94.

²¹⁸ Kara, *Sex Trafficking*, 175.

²¹⁹ Steinfatt, *Working at the Bar*, 19.

²²⁰ Brown, *Sex Slaves*, 201; Dinan, *Owed Justice*, 191; Roby and Tanner, “Supply and Demand”, 94.

²²¹ Penny V. Esterik, *Materializing Thailand* (Oxford, New York: Berg Publishers, 2000), 175.

²²² Brown, *Sex Slaves*; Kyle and Koslowski, *Global Human Smuggling*.

²²³ Barbara A. Weightman, *Dragons and Tigers: A Geography of South, East, and Southeast Asia* (New York: John Wiley & Sons Inc., 2002); Roby and Tanner, “Supply and Demand”, 97.

²²⁴ Bales, *Disposable People*, 45.

²²⁵ *Ibid.*, 41.

Burmese sex workers in Thailand belong to these social classes.²²⁶ Furthermore, consumerism seems to push many Thais to adopt similar practices.²²⁷

Globalization holds a crucial role in the recent massive expansion of **sex tourism**.²²⁸ Modern global society witnesses sex workers being exploited as goods from third parties and consumed as services by the clientele.²²⁹ In that context, sex tourism is regarded as a stress relief valve for keeping the workforce satisfied and productive.²³⁰ Men from developed countries dream of traveling to meet exotic Asian women who would satisfy their sexual appetites enthusiastically.²³¹ Opportunities to indulge in sexual activities that would otherwise be unacceptable in their countries are abundant in sex tourism destinations and at a meager cost.²³²

The appalling conditions imposed by the military junta in Myanmar push vast numbers of Burmese to migrate to Thailand—as for 2005 alone, Thailand sheltered 121,000 Burmese refugees.²³³ Consequently, the majority of Burmese prostitutes in Thailand are victims of the junta’s tyranny and persecution—especially minorities like the hill tribes of Akha, Lahu, and Tai Yi-Shan.²³⁴ There are countless reports of Burmese soldiers raping and torturing women.²³⁵ Over 2 million people have escaped the dictatorial regime since 1980, around 5 percent of Myanmar’s total population.²³⁶ Numerous Burmese women view Thailand as a relatively safe country offering a chance for survival. As a case in point, a Burmese prostitute said, “why should we stay in Burma to be raped by soldiers? [In Thailand] we get raped as well, but we get paid”.²³⁷

There are reports that Thai soldiers force Burmese refugees in Thailand to return

²²⁶ Brown, *Sex Slaves*, 30; Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik, eds., *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (Boulder, CO: Paradigm Publishers, 2005), 47, quoted in Roby and Tanner, “Supply and Demand”, 97.

²²⁷ Bales, *Disposable People*, 40; Phra S. Duangsisen, “Consumerism, Prostitution, And Buddhist Ethics”, *Chulalongkorn Journal of Buddhist Studies*, 2(1), 1-11 2, no. 1 (2003): 1-11, <https://so06.tcithaijo.org/index.php/cjbs/article/view/244851>.

²²⁸ Jini L. Roby, “Women and children in the global sex trade: toward a more effective policy”, *International Social Work* 48, no. 2 (2005): 136–147, <https://doi.org/10.1177/0020872805050206>; Sangera, “In the Belly”.

²²⁹ Roby and Tanner, “Supply and Demand”, 95.

²³⁰ Sangera, “In the Belly”, 13.

²³¹ *Ibid.*

²³² Bridget Anderson and Julia O’Connell Davidson, *Is Trafficking in Human Beings Demand Driven?: A Multi-country Pilot Study* (Geneva: IOM Migration Research Series, No 15, International Organization for Migration, 2003), https://publications.iom.int/system/files/pdf/mrs_15_2003.pdf.

²³³ Roby and Tanner, “Supply and Demand”, 96.

²³⁴ Brown, *Sex Slaves*, 87; Roby and Tanner, “Supply and Demand”, 96.

²³⁵ Kyle and Koslowski, *Global Human Smuggling*, 43.

²³⁶ Brown, *Sex Slaves*, 50.

²³⁷ *Ibid.*, 50; Roby and Tanner, “Supply and Demand”, 97.

to Burma and traffic young girls back to Thailand as sex slaves.²³⁸ At the same time, many law enforcement and government officials ignore trafficking and related illicit activities by accepting bribes,²³⁹ while others become majority or minority owners of brothels.²⁴⁰ Unfortunately, Thai police and border patrol officers escape punishment on a regular basis.²⁴¹ The Transparency International Corruption Perceptions Index data support that Thailand remains very high in the corruption index (score 36/100 and rank 104/180).²⁴²

Socio-cultural Factors and the Gender Inequality in Thailand

In Thailand and other Southeast Asian countries, women have a traditional duty to support their parents —*totdan bunkhun* or paying back one's parents as gratitude for their upbringing—, but for many of them, their destitute living conditions stand in between as an enormous obstacle.²⁴³ Sex work offers young, uneducated girls from rural areas the opportunity to fulfill those family obligations. While gradually becoming less prevalent, this practice still holds a significant value in Thai societies, especially among hill tribes and Northeast Thailand or Isan.²⁴⁴ A study on this subject observed that among hill tribes in Northern Thailand, 60 percent of families had a daughter working as a prostitute to support her family. Nevertheless, these young women face less discrimination than before.²⁴⁵ Studies also reveal a possible increase in the practice of selling children—which has endured for centuries in Thailand and Myanmar—,²⁴⁶ likely due to the expanding economic gap “between the urban rich and rural poor”.²⁴⁷ Additionally, loss of virginity in young and unmarried women usually diminishes their social value, rendering them almost comparable with prostitutes²⁴⁸ and driving many impoverished women to prostitution as the only means of living.²⁴⁹

²³⁸ Kyle and Koslowski, *Global Human Smuggling*, 45).

²³⁹ Dinan, *Owed Justice*, 195; Kyle and Koslowski, *Global Human Smuggling*, 228.

²⁴⁰ Brown, *Sex Slaves*, 201.

²⁴¹ *Ibid.*, 203.

²⁴² “Corruption Perceptions Index 2020 for Thailand”, Transparency.org, accessed September 4, 2021, <https://www.transparency.org/en/cpi/2020/index/tha>.

²⁴³ Brown, *Sex Slaves*, 34; Lim, *The Sex Sector*, 13.

²⁴⁴ Baker, *The Changing Situation of Child Prostitution*.

²⁴⁵ Brown, *Sex Slaves*, 52; Caouette, Saito, and International Organization for Migration, *To Japan and Back*, 73.

²⁴⁶ Bales, *Disposable People*; Kevin Bales, *Understanding Global Slavery: A Reader* (Berkeley, CA: University of California Press, 2005).

²⁴⁷ Roby and Tanner, “Supply and Demand”, 96.

²⁴⁸ Steinfatt, *Working at the Bar*, 17.

²⁴⁹ Roby and Tanner, “Supply and Demand”, 96.

In Southeast Asia, there is an overall view that men are very limited in regulating their sexual desires and that prostitution is a valuable outlet for society.²⁵⁰ As recent as in the late 90s, many Thai teachers, particularly females, held that prostitution protected “good” women against rape.²⁵¹ Married men visiting prostitutes is a relatively accepted practice and more preferable than having a “minor” wife—who might claim the husband’s property—since some men have multiple wives in stark contrast to the prohibition of polygamy.²⁵² A study showed that many Thai men and women view commercial sex as acceptable for a married man.²⁵³ Notably, Kara remarks that the majority (90 percent) of Thai men had visited prostitutes, with around 50 percent having their first sexual experience with a prostitute—which could be either be a commercial sex worker or victim of sex trafficking.²⁵⁴

Culturally influenced social views on women are a major factor in effecting and sustaining human trafficking practices.²⁵⁵ The sexually inexperienced virgin is the ideal Thai prostitute, and “deflowering” her often equates to enhanced masculinity and prolonged life, thus fueling the demand for young girls.²⁵⁶ Others believe that sex with virgins is invigorative and has medicinal-like effects,²⁵⁷ prompting for trafficking and trading of virgin girls.²⁵⁸

It is hypothesized that Thai men are the primary contributors to Thai women’s prostitution. There is a significant number of stories of women that get engaged in prostitution in Thailand who had been married initially. However, they became single mothers as a result of a bitter divorce. Lacking any financial or other assistance from their children’s father(s), they do not have any option apart from engaging in prostitution and the sex trade to take care of their children.²⁵⁹

The socialization of Thai women has historically centered on producing “good

²⁵⁰ Roby and Tanner, “Supply and Demand”, 94.

²⁵¹ Lim, *The Sex Sector*, 12.

²⁵² Y. Mohiuddin, “Human trafficking: slavery in the twenty-first century” (speech, Key note address given at FOTIM International Conference on Gender Studies, January 17–19, 2006), quoted in Roby and Tanner, “Supply and Demand”, 94.

²⁵³ Bales, *Disposable People*, 46.

²⁵⁴ Kara, *Sex Trafficking*, 176.

²⁵⁵ Roby and Tanner, “Supply and Demand”, 95.

²⁵⁶ Brown, *Sex Slaves*, 37.

²⁵⁷ Roby, “Women and children”, 136–147.

²⁵⁸ Bales, *Disposable People*, 56.

²⁵⁹ Chai Podhisita et al., “Socio-cultural context of commercial sex workers in Thailand: an analysis of their family, employer, and client relations”, *Health Transition Review* 4 (1994): 297-320, <https://www.jstor.org/stable/40652380>; C. Manopaiboon et al., “Leaving sex work: Barriers, facilitating factors and consequences for female sex workers in northern Thailand”, *AIDS Care* 15, no. 1 (2003): 45, <https://doi.org/10.1080/012021000039743>.

women” who are well inclined in housekeeping. Thai society has accepted for centuries that women are the weaker sex and of lower intelligence.²⁶⁰ With the recent promotion of Thai women’s education, derogatory assumptions and discrimination against women are gradually declining. However, negative gender prejudices remain effective and stand valid in Thai society.²⁶¹

While in Thailand, female exploitation and oppression have been justified on the basis of Kamma, women generally endured bias, abuse, and discrimination without complaints.²⁶² That Thai women “enjoy” the “privilege” to manage household economics is misleading following that in many cases, poverty leaves nothing to manage.²⁶³

Kabilsingh points out that negative beliefs on women are mainly due to Chinese and Indian cultural intermixing and heritage. Many Chinese immigrants married Thais and integrated their patriarchal and androcentric ideas—in traditional China, women are subordinate—with Thai perceptions. Similarly, in Indian cultural traditions, women should always be under the supervision and protection of men. Women “were not independent human beings, but were, like livestock or land, the possessions of men”.²⁶⁴

Thai men regularly manifest exploitative attitudes towards women, sustaining an androgenic and nearly misogynistic society that compels women to assimilate these beliefs. This structural violence, supported by tradition and approved by religion,²⁶⁵ leaves a deep mark on Thai women’s self-image and self-worth and often restrains women’s interests in the vain pursuit of the beauty of their physical appearance.²⁶⁶ For instance, many young women, influenced by the pervasive promotion of high standards for female beauty by the media and the popularity of beauty contests, turn to cosmetic surgery to improve their appearance. Quite often, prostitution is elected as the only means to cover the high cost of such operations.

Kabilsingh rejects poverty as the sole factor of prostitution and sex trafficking in Thailand. She accounts for several other factors that root mainly in Thailand’s culture and dysfunction in the socialization process of both men and women. Young rural women’s low level of education and economic instability further their migration in

²⁶⁰ Chatsumarn Kabilsingh, *Thai Women in Buddhism* (Berkeley, California: Parallax Press, 1991), 13.

²⁶¹ *Ibid.*, 15.

²⁶² *Ibid.*, 16.

²⁶³ *Ibid.*, 19.

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*

²⁶⁶ *Ibid.*, 20.

large urban centers, desperately searching for job opportunities while lacking fundamental skills. Official economic development directions target material and industrial growth with little attention to social and cultural development. Governmental advertisement of tourism, in many cases, turns out to be an indirect promotion of sex tourism and prostitution. The mass media also promotes consumerism and materialism and prompts many Thais to pursue luxurious, easy, and exhibitionistic lifestyles. Further, the emphasis on women's virginity, which means to be preserved for their husbands, influences women's self-esteem. For example, in many rape or even sex trafficking cases, young female victims equate their loss of virginity to complete depreciation of their value and accept prostitution as the only option for their future. As already discussed, some girls become prostitutes "out of a sense of duty or obligation to their parents to share the family's economic burden".²⁶⁷ Often older daughters "are asked to 'sacrifice' for their parents and their younger siblings".²⁶⁸ Moreover, numerous Thai proverbs that denigrate women and parallel them to commodities or objects of male desire.²⁶⁹ Last but not least, she indicates that the majority of men in Thailand embrace "sexist, Brahmanical social values that came to Thailand in the Ayudhya period".²⁷⁰ These values encourage men to regard women as trophies and prove their virility by "winning" as many of them as possible. Consequently, Thai men regularly visit brothels for that reason, and those who avoid doing so risk becoming social outcasts. Under such social conditions, even Thai women often accept prostitution without complaints.²⁷¹

Unfortunately, the aforementioned cultural views institutionalize discrimination against women and debilitate their potential to orient themselves effectively into Thai society.

Theravāda Buddhism as a Contributing Factor to Sex Trafficking and Thai Sex Industry

Theravāda Buddhism is the majority religion in Thailand. About 95 percent of Thailand's population are Buddhists. According to Thai interpretations of the Theravāda doctrine, women are inferior to men due to a lack of merit in their previous life,²⁷²

²⁶⁷ Kabilsingh, *Thai Women in Buddhism*, 78

²⁶⁸ *Ibid.*, 78.

²⁶⁹ Kabilsingh, *Thai Women in Buddhism*, 78; Kara, *Sex Trafficking*, 172-173.

²⁷⁰ Kabilsingh, *Thai Women in Buddhism*, 79

²⁷¹ Kabilsingh, *Thai Women in Buddhism*, 76-79.

²⁷² Khin Thitsa, *Providence and Prostitution: Image and Reality for Women in Buddhist Thailand* (London: Change International Reports, 1980).

and they have to be reborn as a male to attain Nibbāna.²⁷³ Similar interpretations hold that Buddhism does not advocate against prostitution, supports it indirectly,²⁷⁴ and promotes passive acceptance of suffering and misfortune.²⁷⁵ The aforementioned interpretations cause women to lose faith in themselves, diminish their self-esteem and self-respect, and accept men as superior.²⁷⁶

In Theravāda Buddhist literature, various passages denote the weak nature of women and their inferiority towards men while other passages praise the value of women. Unfortunately, Thai Theravāda tradition has assimilated the notion of women's subservience.²⁷⁷ Most of these texts were transcribed centuries after Buddha's parinibbana by monks and inevitably bear much of their era's social and cultural context. Nevertheless, such texts are still integrated literary and without any further contextualization by most Thai Theravādins. The content of these manuscripts categorically shapes the contemporary views on the value of women and their ideal image.²⁷⁸

Buddha's teachings are recorded stating that women are "a stain on celibacy"²⁷⁹, which in Thailand is interpreted literally, and monks are not to contact women directly. Thus, male weakness in the self-regulation of the sex drive is reconstructed to the devaluing belief that women impede the spiritual development of monks. For Kabilsingh, similar passages reveal the androgenic and misogynist influence of male ascetic scribes on Buddhist literature.²⁸⁰ In explaining his doubts about women becoming members of the monastic order (Saṅgha), Buddha appears to state that women "are selfish, poor in wisdom ... and that they cannot work and cannot travel to distant lands". Buddhist scriptures invariably describe women as precious commodities obligated to please their husbands.²⁸¹ Women are depicted as lacking the prerequisite qualities to become a buddha and that only a man can become one.²⁸² Similar assertions lead many Thais to believe, and even monks prescribe, that women are born due to their bad Kamma²⁸³ accumulated

²⁷³ Bales, *Disposable People*, 38.

²⁷⁴ Steinfatt, *Working at the Bar*, 91.

²⁷⁵ Bales, *Disposable People*, 39.

²⁷⁶ Roby and Tanner, "Supply and Demand", 96.

²⁷⁷ Kara, *Sex Trafficking*, 174; Kabilsingh, *Thai Women in Buddhism*, 22-23; Esterik, *Materializing Thailand*, 68.

²⁷⁸ Kabilsingh, *Thai Women in Buddhism*, 22-23.

²⁷⁹ *Ibid.*, 25

²⁸⁰ *Ibid.*

²⁸¹ *Ibid.*, 26.

²⁸² *Ibid.*, 27.

²⁸³ SEE CHAPTER 5 for more detail on Buddhist theory of Kamma

from previous lives and have to be reborn as men to attain the highest spiritual development.²⁸⁴ Manuscripts also illustrate Buddha denying the ordination of women and their acceptance in the Saṅgha several times and agreeing only after he authorized the Eight Garudhammas, eight rules stipulating the respect of the nuns towards the monks. These rules have often been used as a base of support on the argument that Buddha was a misogynist and wanted women to remain subordinate to men.²⁸⁵ Even after this approval, he is portrayed saying that women's presence in the Saṅgha will cause its demise by shortening its longevity by five hundred years.²⁸⁶

Modern Thailand continues to prohibit the ordination of nuns (bhikkhunis).²⁸⁷ Considering that monastic life still provides an opportunity for impoverished communities to offer modest levels of education to their youth and protect or dissuade them from illicit activities, the lack of such opportunity for young women is a serious drawback to their adequate socialization. Further, the Theravāda practice offers two paths for spiritual advancement and soteriological objectives.²⁸⁸ The nibbānic path mainly reserved for monks leads to the ultimate goal of nibbāna and the kammatic path that points to the accumulation of merit through various meritorious acts for securing a more favorable rebirth for the next life.²⁸⁹ On the one hand, negating women's option to become nuns reinforces existing negative attitudes towards the value of women and, on the other hand, gravely diminishes the choices of female Theravādins for spiritual advancement. In profoundly religious cultures like Thailand's, such limitations are crucial. In fact, Thai Theravādins dedicate significant amounts of time and financial resources to the accumulation of merit.²⁹⁰

Theravāda Buddhists "glorify" the hierarchy that results from the accumulation of merit. The peculiar domestic interpretation of Buddha's teachings views kings as occupying the highest level of this hierarchy, followed by the ascetics, the wealthy social class, men, women, the disabled, the impoverished, and the animals. Wealth and power manifest a high level of good merit during past lives, while poverty, disease, being a woman or slave, and any other suffering state indicate sinful past lives. Such

²⁸⁴ Kabilsingh, *Thai Women in Buddhism*, 31.

²⁸⁵ *Ibid.*, 28-29.

²⁸⁶ *Ibid.*, 30.

²⁸⁷ A more detailed account on the Bhikkhuni Sangha will be presented in chapter 5

²⁸⁸ See chapter 5

²⁸⁹ See chapter 5

²⁹⁰ Kara, *Sex Trafficking*, 173.

representations of Theravāda doctrines normalize inequality in Thailand. The “under-privileged” can only hope to accumulate merit that will lead to a favorable rebirth, and there are times that prostitution or even the menace of trafficking seem like the sole viable solution.²⁹¹ Siddharth Kara remarks, “As a highly educated Thai woman who worked for a major IGO in Bangkok told me, ‘In Thailand, the best thing a man can do is become a monk, the best thing a woman can do is be reborn a man’... While such beliefs are more entrenched in rural Thailand than in Bangkok, the culture of female inferiority nevertheless pervades the capital”.²⁹²

Monks in Theravāda societies have the vital role of spiritual guidance to the laity. They are highly respected, and their advice is always considered seriously by the laypeople. At the same time, the Sangha is regarded as incomparable field merit, and most Thais prioritize their offerings and support to the monastic order. Prostitutes often choose to donate a high portion of their profits to temples hoping that they will deliver themselves from their misdeeds in current life and somehow redeem their immoral conduct. Monks accept these donations on the basis that everybody can perform good actions. Still, by not rejecting their offerings, they indirectly steer young girls toward the path of prostitution for attaining wealth and accumulating merit.²⁹³

Psychological and social studies on the effects of discrimination, expectations, and concepts of self and others provide significant evidence that enables the scientific evaluation of the impact of Buddhists' discriminatory attitudes and beliefs against women.²⁹⁴

Thai scholars Juree Vichit-Vadkan and Ouyporn Khuankaew have reported the disparaging attitudes toward women in Thailand, which link to a great degree to Theravāda Buddhism. In 2002 Khuankaew remarks:²⁹⁵

This structural karma of women's oppression is caused by several factors such as poverty and war, but the main root causes are values and belief systems ... and [mental] pictures of women and men. These

²⁹¹ Ibid., 174.

²⁹² Ibid., 173.

²⁹³ Esterik, *Materializing Thailand*, 85-87.

²⁹⁴ Allison A. Goodwin, “Right View, Red Rust, and White Bones: A Reexamination of Buddhist Teachings on Female Inferiority”, *Journal of Buddhist Ethics* 19 (January 2012): 235, accessed January 10, 2021, <https://blogs.dickinson.edu/buddhistethics/files/2012/04/Goodwin-Right-View-Final-Edit-April-29-2012.pdf>.

²⁹⁵ Ibid., 246.

are the images perpetuated through family, school, media, and religious teachings. In all places where we asked workshop participants how women and men are viewed and valued in their society, the followings were the answers: “Women are weak, thus cannot be independent. They need parents or husbands to protect and guide their lives. Women are supposed to be good listeners and good followers of their parents or husbands. Once married, women are the property of men, and have to be loyal to their husbands. Widowed women are viewed as worthless. Women’s roles are as mother and housewife...” [In contrast, the following statements show how] men are viewed and valued in these societies: “Men are protectors, ones who sacrifice, leaders of the household and community, the bread winners, ones who are trustworthy, ones who are strong and brave, confident and wise” (22-26).²⁹⁶

Vichit-Vadakan expounds on the effect of Buddhist beliefs and attitudes on “Thai women’s status and self-image”:²⁹⁷

[T]he impact of religion on women’s status and position is profound, yet subtle ... Thai Buddhism has thrived and continues to thrive on account of women ... But the place of women in Buddhism is secondary to men’s ... A woman, even a female child, must not touch a monk. Women are viewed as polluted because of their menstrual blood. Young girls and old women are not excepted, possibly because of the former’s potential to become polluted, and the latter’s history of having been polluted. Fundamentalist Buddhists would rationalize that those who are born female have worse karma than men from the outset. It is the belief that a woman must suffer and learn to bear her suffering bravely so that she may be born a man in the next life. Many do not seem to question this belief, treating it as a universal truth. Excluded from direct contact with monks, who are symbols of sacredness, women are also barred from becoming nuns, and therefore

²⁹⁶ Ouyporn Khuankaew, “Buddhism and Domestic Violence: Creative Responses to Karmic Fatalism”, *International Network of Engaged Buddhists. WFB Review: Journal of the World Federation of Buddhists* 39, no. 3-4 (2002): 22-26 quoted in Goodwin, “Right View”, 247.

²⁹⁷ Goodwin, “Right View”, 247.

cannot gain merit as such. But women can gain extra merit from sons who are ordained ... The point to stress here is that women's position and status in society are low relative to men's. Women are subservient to men, second in rank ... They choose to submit to men, or take the back seat (521-522).²⁹⁸

Minorities who are discriminated against as inferior exhibit worse performance at school than non-stigmatized individuals and often avoid or fail to succeed in several rewarding work and academic environments.²⁹⁹ It has already been discussed how low levels of education negatively impact women's empowerment and increase their vulnerability to sexual exploitation and abuse.

The omnipresent characteristic of gender discrimination in modern Buddhist societies is the predominance of negative attitudes toward women, imitating the ones described in Buddhist literature resulting in low female empowerment.³⁰⁰

Low-income females in countries whose majority religions proclaim abrogating attitudes toward women are discriminated against the most. This translates to malnutrition, inadequate medical services, increased domestic violence, and families trading their daughters in the sex market or sanctioning their entrance to sex work, which, in turn, raises the prevalence of HIV infection rates in female prostitution, first and foremost.³⁰¹

²⁹⁸ Juree Vichit-Vadakan, "Women and the Family in Thailand in the Midst of Social Change", *Law & Society Review* 28, no. 3 (1994): 521-522, <https://doi.org/10.2307/3054071> quoted in Goodwin, "Right View", 247-248.

²⁹⁹ Margaret A. Gibson, "Complicating the Immigrant/Involuntary Minority Typology", *Anthropology & Education Quarterly* 28, no. 3 (1997): 431-454, <https://doi.org/10.1525/aeq.1997.28.3.431>; Joe L. Kincheloe, Shirley R. Steinberg, and Aaron D. Gresson, eds., *Measured Lies: The Bell Curve Examined* (New York: St. Martin's Press, 1996); John U. Ogbu, *Minority Education and Caste: The American System in Cross-cultural Perspective* (New York: Academic Press, 1978); John U. Ogbu, "Minority Education in Comparative Perspective", *The Journal of Negro Education* 59, no. 1 (1990): 45-57, <https://doi.org/10.2307/2295291>; John U. Ogbu, "Minority Status and Schooling in Plural Societies", *Comparative Education Review* 27, no. 2 (1983): 168-190, <https://doi.org/10.1086/446366>; John U. Ogbu, "Understanding Cultural Diversity and Learning", *Educational Researcher* 21, no. 8 (1992): 5-14+24, <https://doi.org/10.3102/0013189x021008005>; Ogbu and Simons "Voluntary and Involuntary Minorities" 155-188; Claude M. Steele, "A Current Theory on Why Blacks Score Lower Than Whites on the Scholastic Assessment Test", *The Journal of Blacks in Higher Education*, no. 22 (1998): 11, <https://doi.org/10.2307/2998806>; Claude M. Steele, "A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance", *American Psychologist* 52, no. 6 (1997): 623, <https://doi.org/10.1037/0003-066X.52.6.613>; Goodwin, "Right View", 258.

³⁰⁰ Goodwin, "Right View", 259.

³⁰¹ "ASIA: A General View of the Conditions of Women in Asian Countries", Asian Human Rights Commission, last modified March 7, 2010, <https://www.humanrights.asia/news/ahrc-news/AHRC-STM-044-2010/>; Lama Khandu, "Trafficking in Buddhist Girls: Empowerment through Prevention", in *Buddhist Women and Social Justice: Ideals, Challenges, and Achievements*, ed. Karma Lekshe

Conclusion

This thesis looks at Thailand as a destination country, a transit country, and a country of origin in human trafficking and its relationship with Buddhism, Western ethics, and the sex trade. A significant number of researchers and reporters indicate that human trafficking is widely spread and rooted in the Thailand community. Nevertheless, there is light at the end of the tunnel because there is the hope of mitigating the menace of human trafficking through the implementation of various recommendations. First, it is advisable to provide public education so that people can be aware of the dangers of prostitution in the community. Second, all stakeholders should make efforts to convince the upcoming generation so that they can change how they think about the support they give to their parents and siblings. They should not make it a priority to engage in immoral activities (prostitution and sex trade) to get income. Another recommendation is to stop the notion that only the daughters should provide financial support to the parents. The policy will reduce the number of the new generation that resort to prostitution. Instead, it should be known that all the family members have an obligation to provide financial support to the parents and themselves.

This study is divided into five chapters. In the current first introductory chapter (1), there is the definition of human trafficking and its constituent elements, human trafficking and sex trafficking, proposed factors that contribute to trafficking, and the importance of sex trafficking research and contribution, originality, and significance of this thesis. Chapter (2), Relevant Literature, aims to provide the reader with information about what is said in the literature related to this study. Chapter (3) looks at the overview of sex trafficking in Thailand and global trafficking. After that follows Chapter (4), which looks into the Western Ethical Traditions regarding sex trafficking and specifically sex work and prostitution. Chapter (5) describes the Theravāda Buddhist Ethical Tradition and how it relates to sex trafficking, specifically sex work and prostitution. And finally, the conclusion of this thesis compares the western ethics of Utilitarianism, Deontology with the Theravāda Buddhist ethics on prostitution and provides remarks on how western ethics and Buddhist ethics could effectively be applied in Thailand as

Tsomo (Albany, NY: State University of New York Press, 2004), 170; Khuankaew, "Buddhism and Domestic Violence", 22-26; Areewan Klunklin and Jennifer Greenwood, "Buddhism, The Status of Women and The Spread of HIV/AIDS in Thailand", *Health Care for Women International* 26, no. 1 (2005): 46-61, <https://doi.org/10.1080/07399330590885777>; Goodwin, "Right View", 261.

a response to the phenomenon of sex trafficking and its interrelationship with the Thai sex industry.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Various studies have been conducted to explore the issue of human trafficking in the world. While some studies attempt to examine how human trafficking is undertaken, others aim at exploring the forces responsible for human trafficking. It is prudent to note that human trafficking has adverse effects on a country's economy and can also lead to severe repercussions on the involved victims. This literature review attempts to explore various conducted studies that have touched on the issue of human trafficking on a variety of levels. This literature review intends by no means to deliver an exhaustive account of research on human trafficking. Its scope is to represent the general tendencies on the research and study of human trafficking and sexual exploitation and how it distributes on the various aspects of the phenomena on a relatively proportional basis, wherever possible. The review begins with studies on ethics, namely the Western ethical traditions and specifically with the Kantian and Utilitarian, and Buddhist approaches on human trafficking and prostitution. Following, it presents studies on human trafficking and prostitution from a moral perspective. The subsequent sections cover research on counter-trafficking responses and approaches, along with how human trafficking is conducted and studies on its effects. The last three sections deal with the interrelationship on human trafficking, sexual exploitation and prostitution, and conclude with miscellaneous issues of human trafficking and a brief review of news articles on sex trafficking in Thailand.

2.2 Literature Reviews

2.2.1 Kantianism and Utilitarianism towards Human Trafficking and Prostitution.

An exploration of human trafficking and prostitution as it pertains to various ethical perspectives reveals a variety of sources on Utilitarian and Kantian perspectives.

One such article is Ioannou (2009)³⁰² which gives a glimpse on the Utilitarian and Kantian Views on prostitution. With the help of both the deontological and utilitarian perspectives, Ioannou (2009) proves that prostitution, whether legal or illegal, is unethical. Noting that utilitarian perspectives judge the morality of action from the happiness aspect, he contends that prostitution is unethical since it does not result in higher happiness on the side of the victims.³⁰³ Most of the victims are forced into prostitution, and hence it is wrong. The author goes on to explore the Deontological aspect of prostitution and is supported with statistical evidence; he concludes by pointing out that, indeed, prostitution is unethical.³⁰⁴

McNary-Loiacono, (2012) is an additional study that delves into exploring the moral aspect of prostitution. However, this study differs from Ioannou (2009) since it asserts that prostitution is not immoral at all.³⁰⁵ McNary-Loiacono, (2012) utilizes the Utilitarian and Kantian lenses to argue that there is no immoral aspect of prostitution. With the use of the Utilitarian perspective, the author concludes that prostitution is moral.³⁰⁶ However, through the use of the Kantian lenses, he observes that there are a variety of assertions. Still, none of the arguments serve to prove the morality or immorality of prostitution. McNary-Loiacono (2012) tests, criticized, and analyzed the basis of prostitution; he points out that there is utility in sex and work.³⁰⁷ Hence, the move of illegalizing prostitution is like outlawing the entire work profession.³⁰⁸ However, Kantianism does not give an explicit assertion on the morality of prostitution, and hence he concludes that prostitution is not immoral but moral on reasonable grounds.³⁰⁹

Sandel, (2011) is one systematic exploration of casual sex on the grounds of Kantianism. The author claims that Kant was against any form of sexual intercourse except the one taking place between husband and wife who are legally married.³¹⁰ Using Kant's views and written essays, the author notes that casual sex (prostitution) is

³⁰² Dean Ioannou, "The Utilitarian and Kantian Views on Prostitution", *SCRIBD*, (October 29, 2009): 4-8, <https://www.scribd.com/doc/38416476/The-Utilitarian-and-Kantian-Views-on-Prostitution>.

³⁰³ Ioannou, "The Utilitarian", 8.

³⁰⁴ *Ibid.*

³⁰⁵ Haley McNary-Loiacono, "Ethical Analysis of Prostitution: Is it Moral or Immoral?", *Salem State University, SCRIBD*, (October, 5, 2012): 1, <https://www.scribd.com/document/115868832/Prostitution-and-Ethics>.

³⁰⁶ *Ibid.*, 12.

³⁰⁷ *Ibid.*, 10.

³⁰⁸ *Ibid.*

³⁰⁹ *Ibid.*, 10-11.

³¹⁰ Michael J. Sandel, "What Matters Is the Motive / Immanuel Kant", in *Justice: What's the Right Thing to Do?* (New York: Farrar, Straus and Giroux, 2009), 103-139.

objectionable, he perceives that such kind of sexual engagement pertains satisfaction of sexual desire, rather than respect for the humanity of the sexual partner.³¹¹ Sandel, notes the opposition of Kant towards casual sex as based on autonomy, the free will of the rational mind and the personal acts of consent.³¹² At this point then, the author highlights that those engaging in prostitution, do not engage with a free will. This point is quite prudent since it can be linked with human trafficking, whereby the victims are forced to engage in sexual activities to survive.

Singer, (2000) wrote an explorative essay that notes that a majority of what is fascinating stems from Kant's philosophy; a compelling account of how sexuality can be a moral possibility exceeds the cramped aspects he proposes. Singer notes that Kant's conception of marriage and relying on a contractual trade of rights can be irremediable due to its formal emptiness. He goes on to note that Kant's notion of human love as goodwill and an interest in the welfare of the couple is defensible for as long as it goes.³¹³ However, Singer (2000) notes that it does not delve deeper into explaining the moral aspect of love; be it on sexuality or in marriage.³¹⁴ Singer, (2000) and Sandel, (2011) are similar in the sense that they explore prostitution with regard to Kantianism. However, while Sandel, agrees with Kant, Singer, is quite objective and tries to point out the flaws that exist in Kant's exploration of Casual Sex.

2.2.2 Buddhism towards Human Trafficking and Prostitution.

Tavivat Puntarigvivat (1997) notes that Thailand is well known globally for having well-established sex and prostitution industries.³¹⁵ Thailand is also known to have thousands of monks, actually more than a quarter million, but the number of prostitutes is more than the monks.³¹⁶ This is because young women in Thailand who are in search of a better life get themselves drawn to the sex industry. Puntarigvivat (1997), indicates that in the past some of these women were tricked or forced into prostitution by mafia gangs, but nowadays they feel pressure from poverty, consumerism, and even

³¹¹ Ibid.

³¹² Ibid.

³¹³ Irving Singer, "The Morality of Sex: Contra Kant", *Critical Horizons*, 1, no. 2 (April 21, 2015): 188, <https://doi.org/10.1163/156851600750133333>.

³¹⁴ Ibid., 175.

³¹⁵ Tavivat Puntarigvivat, "Toward a Buddhist Social Ethics: The Case of Thailand", *Cross Currents*, 48, no. 3, (Fall 1998) <http://www.crosscurrents.org/buddhistethics.htm#FN4>.

³¹⁶ Bhikkhu Buddhadasa, *Dhammic Socialism*, ed. and trans. Donald K. Swearer (Bangkok: Thai Inter-Religious Commission for Development, 1993), 23, <https://www.suanmokkh.org/books/83>.

at times filial piety³¹⁷. The government in its fight to eliminate prostitution has experienced many pitfalls, mainly due to the high levels of corruption in the country. Puntarigivat, (1997) notes that prostitution is against the teachings of Buddhism, but in Thailand, the Buddhist community seems to have turned a blind eye to the issue. Generally, Puntarigivat (1997) expresses that in Thai communities parents prefer female children over males. This is mainly because females are more helpful to parents. Some of these females go to urban areas to search for better jobs, which sometimes leads to their engagement in prostitution. But these do not concern their low-income families as much because they are in a better position of receiving more cash from their daughters, and thus they forgive their sins. Puntarigivat (1997) expresses that prostitution is a result of unpleasant economic and social structures and a form of gender oppression. Most people resist from talking about the phenomenon in public, although it is a known phenomenon. One of the Buddhist social ethics precepts is to refrain from sexual misconduct. Prostitution is a well-known type of sexual misconduct, and thus there is a need for Buddhists to take the phenomenon more seriously. The Buddhist community has started standing up for the oppressed, fighting for their rights and well-being. Puntarigivat (1997) notes that there is a need for the Buddhist community to address the phenomenon of prostitution alongside other economic, social and political problems which are known to be contributing to the menace of prostitution.

Alexander Berzin (1998)³¹⁸ indicates that Buddhist ethical system is based on avoiding any action that is motivated by a longing desire, anger, and naivety, and being able to discriminate between the constructive actions and those that are destructive. Berzin (1998) argues on that according to Buddhism, some sexual behavior and motivations are destructive while others are constructive. The destructive behaviors are those that are always tainted with confusion and lead to unhappiness, whereas constructive behavior constitutes actions that lead to the ordinary happiness that does not last and does not satisfy our needs. One of the destructive actions according to the Buddhist community is prostitution. Berzin (1998) points out that prostitution may be triggered by different factors: longing desires for sexual actions, anger or hostility, naivety, and

³¹⁷ Puntarigivat, "Toward a Buddhist Social Ethics".

³¹⁸ Alexander Berzin, "Buddhist Sexual Ethics: Main Issues", *Study Buddhism: by Berzin Archives*, (September 1998) <https://studybuddhism.com/en/tibetan-buddhism/path-to-enlightenment/karma-rebirth/buddhist-sexual-ethics-main-issues>.

lack of a sense of moral self-dignity. Berzin (1998) notes that according to the traditional Buddhist presentation of inappropriate sexual conduct, having sex with a prostitute is okay, given that the man pays for the services provided by the prostitute. A further implication states that parents are at liberty to sell their daughters to prostitution. These traditional beliefs have since been changed, and Buddhism is against any kind of sexual oppression, whether constructive or destructive.

Tiosavljević, Djukić-Dejanović, Turza, Jovanović, & Jeremić (2016)³¹⁹ note that India's Hindu society teaches about people's duty in life so as they may be saved. This duty is based on the caste unto which the people are born into. The different castes have their morals and rules that apply to their members. Some castes have it that prostitution is an inherited profession. However, upon the emergence of Buddhism, it allowed people to abandon prostitution even during a prostitute's life in this world. The Muslim conquerors of India used to isolate and limit prostitution to a specific area, where they used the prostitutes to raise money by paying tax. This however changed in the twentieth century, when the public deemed prostitution as degradation to the position of women.

According to Chang, Davies, & Kauffman, (2012), the ultimate goal of Buddhists is to eliminate all suffering, and thus attainment of the highest level of happiness.³²⁰ In the Buddhist ethics education framework, there are eight noble paths for one to be ethical. One of the noble paths is the right livelihood, which mainly addresses the ethics or responsibility of a person as far as the economic life is concerned.³²¹ Chang, Davis, & Kauffman (2012) argue that Buddhism discourages all the economic activities that are harmful to other living beings, social morality, or the natural environment.³²² Prostitution is among the prohibited trades by the Buddhist community in ancient society.³²³

Avila, (2008), notes that Buddhism contributes to the low economic status of

³¹⁹ Danijela Tiosavljević, Slavica Djukić-Dejanović, Karel Turza, Aleksandar Jovanović, and Vida Jeremić, "Prostitution as a Psychiatric Situation: Ethical Aspects", *Psychiatria Danubina*, 28, no. 4 (2016): 350, <https://hrcak.srce.hr/file/261077>.

³²⁰ Otto H. Chang, Stanley W. Davis and Kent D. Kauffman, "Accounting Ethics Education: A Comparison with Buddhist Ethics Education Framework", *Journal of Religion and Business Ethics*, 3, no. 1, article 4, (July 2012): 5, <https://core.ac.uk/download/pdf/47229839.pdf>.

³²¹ Bhikkhu Bodhi, "The Noble Eightfold Path: The Way to the End of Suffering", *Access to Insight (BCBS Edition)*, last modified November 13, 2013, <https://www.accesstoinsight.org/lib/authors/bodhi/waytoend.html>.

³²² Chang, Davis and Kauffman, "Accounting Ethics", 9.

³²³ *Ibid.*

women in Thailand because it defines how the women are viewed in accordance to the Buddhist scripture and the traditional Thai culture and by failing to provide equal religious outlets for women as for men.³²⁴ Avila (2008) observes that Buddhism is indirectly involved with the politics of the sex trade industry in Thailand, although in a sophisticated manner.³²⁵ Avila (2008) defines the relationship between Buddhism and prostitution to be rooted in the gender issue.³²⁶ The study also notes that Thai Buddhism supports, to some extent, prostitution and even sustain the industry through its coexistence with it and also through permitting it to be conflated with the acquisition of religious merit.³²⁷

Proskow, (2002), reviews that the views of Buddhist towards prostitution have significantly changed over time.³²⁸ Traditionally, some Buddhist narratives depicted prostitutes as strong, courageous and influential women in the society. These narratives made the community view prostitutes positively, at those times than they are viewed today.³²⁹ Proskow, (2002), notes that modern Buddhism views prostitutes as one of the lowest groups in the social ladder, and does not offer them much respect.³³⁰

2.2.3 Human Trafficking and Prostitution from a Moral Perspective

While the literature review has prospects of affirming the correlation between human trafficking and prostitution, little literature exists exploring human trafficking from a moral perspective. With an emphasis on Buddhism, Deontology, and Utilitarianism, the research investigates human smuggling and its ethics. However, it is also prudent to note a variety of studies that have explored the issues of human trafficking and prostitution on moral grounds. While some have focused on logical arguments, others have taken religious grounds in opposition.

Indeed, the involvement in activism and advocacy on human trafficking remains a favorite move in addressing the moral aspect of human trafficking. Zimmerman (2011) is a study that briefly explores the issue of human trafficking. It goes ahead to

³²⁴ Sandra Avila, "Buddhism and its relation to women and prostitution in Thai society", (MA diss., Florida International University, 2008), 95, <https://doi.org/10.25148/etd.fi14032376>.

³²⁵ Ibid., 42.

³²⁶ Ibid., 94.

³²⁷ Ibid., 43.

³²⁸ Amy Proskow, "Trading Sex for Karma in Thailand: An Analysis of the Reciprocal Relationship Between Buddhist Monastics and Thai Prostitutes", *Honors Theses: Western Michigan University*, Paper 1887, (2002):12, https://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=2905&context=honors_theses.

³²⁹ Ibid.

³³⁰ Ibid.

avail a glimpse of three main social movements that pose prudent historical precedents for Christian anti-trafficking activism in the early 19th century abolitionist movements and the 20th-century social purity movements and the religious freedom movement. The author further examines two of the popular anti-trafficking frameworks inherent in most Christian anti-trafficking activism and advocacy in the US, and he observes their various assumptions pertaining to both freedom and slavery. Zimmerman (2011) notes that while Christians unanimously contend that human trafficking is wrong, the techniques that they utilize and the ends they hope to attain are different and, at times, contradictory.³³¹ Davidson, (2002) is another essay that attempts to explore the rights and wrongs of prostitution. His focus is that prostitution is a form of work and should be referred to as sex work.³³²

In his essay, Davidson (2002) critically investigates current Euro-American feminist discourse as it pertains to prostitution. The author asserts that to come up with analyses that are relevant to the experience of more than a mere minority of “first world” women; individuals who are concerned with prostitution as a kind of work are supposed to look beyond the liberal discourse, as it engages property and contractual. Consent for techniques necessary to conceptualize the rights and wrongs of sex work.³³³

An alternative approach to human trafficking is the feminist approach as pointed out by Lobasz (2009). As initially pointed out, human smuggling has transformed in significant ways to be perceived as a security threat.³³⁴ Lobasz (2009) notes that traditional security approaches to international human trafficking demand for its analysis as a threat to both the state and the control of the borders in the country. However, as regards the feminist approach, human trafficking challenges the traditional security framework as it prioritizes the security of the trafficked individuals and the recognition of how the trafficked people are handled by both the traffickers and the state. The author asserts that the feminist approach to human trafficking is essential for comprehending and tackling the phenomenon. The feminists point out the ethical and pragmatic basis

³³¹ Yvonne C. Zimmerman, “Christianity and Human Trafficking”, *Religion Compass* 5, no. 10, (2001): 567-578, <https://doi.org/10.1111/j.1749-8171.2011.00309.x>.

³³² Julia O’Connell Davidson, “The Rights and Wrongs of Prostitution”, *Hypatia* 17, no. 2 (2002): 84-98. <http://www.jstor.org/stable/3810752>.

³³³ Ibid.

³³⁴ Jennifer K. Lobasz, “Beyond Border Security: Feminist Approaches to Human Trafficking”, *Security Studies* 18 no. 2, (2009): 319-44, <https://doi.org/10.1080/09636410902900020>.

for widening the analytical focus from states to individuals. The most crucial contribution of feminists is inherent in the examinations of the social construction of human trafficking, which sheds light on the destructive function that both racist and sexist stereotypes play in creating the category of the trafficking victims.

In our contemporary society, one of the emerging discourses pertains to the condemnations of people trafficking (especially regarding women and girls with the intent of prostitution) as a violation of human rights. The use of human rights in this discourse has been supported by individuals who attempt to challenge narrow victim hierarchies; however, such accounts fail to candidly point out which specific aspects of the activity violate certain rights and how they are in violation. In this discourse, Munro (2008) explores the applicability of the protections against slavery and the inhumane treatments related to the context of diversity and complexity of current people trafficking. In arguing against human trafficking, the author emphasizes exploitation in human trafficking as a violation of human trafficking.³³⁵

2.2.4 How to Stop Human Trafficking

Chuang (2006) notes that the existing legal responses towards human trafficking usually echo an in-depth reluctance to curb the socioeconomic causes of the issue. Since such legal responses approach trafficking as either an act or a series of acts of violence, most responses majorly emphasize prosecuting the responsible traffickers, and to a negligible degree, safeguarding the trafficked people.³³⁶ Despite the fact that such approaches consider the repercussions of human trafficking, Chuang (2006) notes that they appear to ignore the wider socioeconomic reality that triggers trafficking that engages human beings. In her study, Chuang (2006) attempts to give a different picture of trafficking as a form of migratory reaction to contemporary globalizing socioeconomic patterns. She argues that in order to be efficient, counter-trafficking techniques are supposed to target the inherent conditions that propel people to embrace dangerous labor migration tasks. In her article, Chuang is systematic in recommending that the current counter-trafficking techniques should be assessed in an attempt to evaluate their potential for long-term effectiveness. She goes on to advocate for strategic utilization

³³⁵ Vanessa E. Munro, "Of Rights and Rhetoric: Discourses of Degradation and Exploitation in the Context of Sex Trafficking". *Journal of Law and Society* 35, no. 2 (2008): 240-264. <http://www.jstor.org/stable/20109793>.

³³⁶ Janie Chuang, "Beyond a Snapshot: Preventing Human Trafficking in the Global Economy", *Indiana Journal of Global Legal Studies* 13, no. 1 (Winter 2006): 137-163, <https://doi.org/10.2979/gls.2006.13.1.137>.

of the nondiscrimination principle to enhance primary economic, social, and cultural rights. Chuang concludes by noting that the deprivation of the fundamental economic, social, and cultural rights are the ones that have served to sustain the trafficking phenomenon. Indeed, this research is quite critical as it helps to introduce the need to sort out the root causes of human trafficking. Poverty and other socioeconomic factors propel people to engage in risky activities, and this is where human trafficking begins.

Human trafficking as it pertains to women is an impetus for the vice of prostitution in most instances. To curb this, Van Impe (2000) is a study which addresses the issue of how to come up with appropriate measures to control the problem of trafficking in women.³³⁷ With a clear focus on research findings from an initial study investigating smuggling between Belgium and the Philippines,³³⁸ Van Impe (2000) suggests a variety of insights into the issue of human trafficking. The study asserts that there exists no natural or unidimensional remedy to the problem of human trafficking.³³⁹ This is because a various complicated set of factors impacts the problem, usually as a blend of each. Van Impe (2000) is of the opinion that small control measures are not sufficient to curb the flow of trafficking in women, and there is the urgent need for a legal approach that wholly depends on a single kind of legislation, albeit excessively narrow. According to the article, an otherwise efficient strategy is supposed to blend and balance punitive measures with the protection of human rights, a stricter border control installment, and getting rid of the primary causes of irregular movements. He concludes by asserting there is a need for measures to be agreed on, and then coordinated between, the origin, transit and the receiving countries. Van Impe (2000) and Chuang (2006) are additional studies which relate to each other. While Chuang (2006) calls for an ultimate focus on the causes of human trafficking, Van Impe (2000) lays prominence on the need to create a balance on curbing the causes and enforcing the legal approaches in reducing human trafficking.

The problem of human trafficking is highly linked to women, and as a result, a majority of existing literature describes human trafficking in light of women. According to Kempadoo, Sanghera, and Pattanaik (2012), the story of human trafficking has a long

³³⁷ Kristof Van Impe, "People for Sale: The Need for a Multidisciplinary Approach towards Human Trafficking", *International Migration*, 38 no. 3, (2000): 113-91, <https://doi.org/10.1111/14682435.00117>.

³³⁸ *Ibid.*, 118.

³³⁹ *Ibid.*, 115.

history and delves into issues and concerns associated with women's economic independence, autonomy, and mobility. The study notes that any particular change in the situation of women, especially the one pertaining to "unsupervised women", results in the emergence of a plethora of issues that revolve around morality and chastity.³⁴⁰ Kempadoo, Sanghera, and Pattanaik (2012) observe such a trend as it pertains to the context of female migration both locally and internationally. In the issue of migrants, women outnumber men, and the associated area of concern regarding this relates to trafficking women and prostitution. Furthermore, the article argues that to curb this menace, there is a need to advance both protectionist and empowering ideas among women. This will serve to sensitise women against the vice and empower them socially and economically.

In a similar manner to Kempadoo, Sanghera, and Pattanaik (2012), Perry & McEwing (2013) agree that the sale of women and children accounts for the highest percentage in human trafficking globally.³⁴¹ The authors note that Southeast Asia serves to be the most significant international hub for the illegal industry of human trafficking. The study explores the statistics of human trafficking in the Southeast Asia region, noting that 225,000 women and kids are trafficked annually, which accounts for an astounding one-third of the global human trafficking trade. The researchers highlight a variety of health complications that stem from human trafficking and thus justify the needed for remedy or rather techniques of stopping the vice. With the help of a Cochrane-based systematic search methodology, the study found that the fundamental social determinants that facilitate trafficking include poverty, female gender, migration, lack of policy and policy enforcement, and caste status. After a keen investigation of the critical causes of human trafficking, the study suggests protective determinants that mitigate trafficking. They include citizenship, formal education, higher caste status, and birth order. Perry & McEwing (2013) conclusively point out that social determinants are fundamental to the various processes that mitigate and enhance the human trafficking issue in Southeast Asia. The authors are systematic in suggesting the enhancement

³⁴⁰ Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik, eds., *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (New York: Routledge, 2012).

³⁴¹ Kelsey McGregor Perry, and Lindsay McEwing, "How Do Social Determinants Affect Human Trafficking in Southeast Asia, and What Can We Do About It? A Systematic Review", *Health and Human Rights* 15, no. 2 (December 2013): 138-59, https://healtrafficking.files.wordpress.com/2015/03/how-do-social-determinants-affect-human-trafficking-in-southeast-asia-and-what-can-we-do-about-it_-a-systematic-review2-27.pdf.

of both education and empowerment and the development of effective policies. The study concludes by asserting that such moves can serve to decrease how vulnerable women and children can be to current human trafficking. The need to focus on the causes rather than the result of human trafficking remains the basis of most studies. Education and empowerment can decrease human trafficking since it can inform and give women the power to reject the forces that lead to human trafficking.

Beyrer (2001) is an entirely different study that highlights the human rights abuses during civil wars and how they relate to human trafficking. In this study, it was women and children who were the ones rendered helpless and vulnerable, hence subject to a variety of exploitations.³⁴² The human rights abuses that women can go through in civil unrest include rape, sexual violence, exposure to the risk of HIV infection, and being trafficked into prostitution. The study is entirely focused on the civil conflict in the context of Shan States in Burma. It points out that it is the contributing factor to the trafficking of ethnic Shan women and girls in the sex industry in Southeast Asia. This also explains the high HIV infection observed among women. Beyrer (2001) also explores the chronic human rights abuses in the context of the Shan states. In response to the issue, the study proposes the need for political resolution in times of a crisis to curb the problem. Conclusively, Beyrer (2001) sheds light on approaches intended to prevent trafficking, focusing on empowering women whether in the sex industry or not. This study remains in the category of studies that call for women's empowerment in the technique of curbing human trafficking, which culminates in prostitution.

Shamir (2012) is a critical study that notes that the legal instruments installed to combat human trafficking have failed substantially.³⁴³ He states in his review that the current efforts help a significantly small number of victims out of thousands who currently fall under the category of trafficked persons. Shamir (2012) consequently advocates for a paradigm shift in anti-trafficking policy, and hence necessitates a shift from the currently predominant human rights approach to the adoption of a labor approach that aims at the structure of labor markets vulnerable to extreme exploitative labor practices. According to the author, the paradigm shift avails increasingly efficient methods

³⁴² Chris Beyrer, "Shan women and girls and the sex industry in Southeast Asia; political causes and human rights implications", *Social Science & Medicine*, 53 no.4 (2001): 543-50, [https://doi.org/10.1016/s0277-9536\(00\)00358-0](https://doi.org/10.1016/s0277-9536(00)00358-0).

³⁴³ Hila Shamir, "A Labor Paradigm for Human Trafficking", *UCLA Law Review* 60, no. 1 (November 2012): 76-136, <https://www.uclalawreview.org/pdf/60-1-2.pdf>.

for combating trafficking. Shamir (2012) proposes five measures in implementing the anti-trafficking policies as based on the labor approach. The first measure is the prevention of criminalizing and deporting employees who report exploitation; the second measure is the elimination of binding arrangements; the third measure is the reduction of recruitment fees and the power the middlemen have; the fourth measure is to guarantee the right to form unions. The last measure is the enforcement of the application of labor and employment laws to those vulnerable workers. Such suggested strategies in the study form a basis for all the studies that attempt to explore the means of fighting human trafficking in the world.

2.2.5 How Human Trafficking Is Conducted

Logan, Walker, & Hunt (2009) argue that the issue of contemporary slavery or human trafficking has caught the attention of the media and the international community.³⁴⁴ Despite this, they note restricted study on the nature and scope of Human trafficking in the US. Logan, Walker, & Hunt, (2009) describe and synthesize nine reports that assess the legal representative knowledge organization service of the US and how it is related to human trafficking cases. Logan, Walker, & Hunt (2009) explains how human trafficking can be described and gives cases where human trafficking cannot be related. They go on to describe the factors that contribute to being vulnerable to trafficking and the factors that keep a person trapped by the situation. They also examine the differences that exist between the human trafficking crime and other crimes that are committed in the US. After this, they show ways through which one can identify the people who have been affected by human trafficking or, as they put it, the victims of human trafficking. Lastly, they provide ways in which human trafficking can be addressed and contained in the United States. Logan, Walker, & Hunt (2009) define human trafficking as the recruitment, harboring, transportation, supply, or obtaining a person for labor by using force, fraud, or even coercing to serve involuntarily. They describe sex trafficking as the inducing of a commercial sex act on a person under the age of eighteen years. According to them, the most common cause of human trafficking is experienced when people are tricked into traveling to the US where they are promised an excellent job with good pay. Still, after their arrival, their passports are confiscated,

³⁴⁴ T.K. Logan, Robert Walker, and Gretchen Hunt, "Understanding Human Trafficking in the United States", *Trauma, Violence, & Abuse*, 10, no.1 (January 2009), 3-30, <https://doi.org/10.1177/1524838008327262>.

and they are forced to do heavy work with little or no pay at all.

Shelley (2010) examines the forms through which human trafficking is carried out globally. The study reveals the operations that accrue in the trafficking business and also describes the nature of the traffickers. The article further demonstrates the business models of human trafficking that exist and how human trafficking differs worldwide by the use of a historical and comparative perspective. Shelley (2010) then—through a wide range of academic material, which includes actual prosecuted cases, diverse reports and field works, interviews conducted in Asia, Latin, America, Africa and Europe—concludes that there is a likelihood that the menace of human trafficking will grow in the world in the 21st century because of economic and demographic inequalities which exist in the world. According to the article, the rise of conflicts and global climate changes are also likely to contribute much to the menace of human trafficking.³⁴⁵ Similar to Logan, Walker, & Hunt (2009), the study describes human trafficking as the recruitment, transportation, transfer, harboring, and receipt of people, through the means of threat or use of force, or other forms of coercion or abduction or fraud, deception, abuse of power or of a position of vulnerability or receiving and giving payments to achieve the consent of one person having control over another person. Exploitations that the trafficked persons are exposed to include being forced to engage in sexual activities, forced into prostitution, forced labor or services, slavery, and servitude. There is a dire need for the government to coordinate efforts with civil society, the business community, multilateral organizations, and the media to collectively come up with solutions that will contain the growth of human trafficking.³⁴⁶

Laczko (2005) indicates in his study that containing human trafficking has become a significant priority for many governments around the world. Many governments are allocating more resources and devoting greater efforts to try and reduce the menace of human trafficking, which has been on the rise in recent years. It is pointed out in the study that in the US trafficking has become a significant issue. This led to the establishment of the Office to Monitor and Combat Trafficking of People by the US State Department in October of 2001 with the purpose of containing the menace.³⁴⁷ Laczko (2005) further goes on indicating that research on trafficking has been difficult due to

³⁴⁵ Louise Shelley, *Human Trafficking: A Global Perspective*, (Cambridge: Cambridge University Press, 2010) <https://doi.org/10.1017/CBO9780511760433>.

³⁴⁶ Logan, Walker and Hunt, “Understanding Human Trafficking”.

³⁴⁷ Frank Laczko, “Data and Research on Human Trafficking”, *International Migration* 43, no. 1-2 (2005): 5-16, <https://doi.org/10.1111/j.0020-7985.2005.00309.x>.

the fact that most trafficking cases are yet to be discovered. Another hindrance to the research is due to the fact that the victims of trafficking and the survivors included are often afraid to narrate their experiences, making it challenging to acquire first-hand information from the exploited³⁴⁸. Laczko (2005) concludes that there has been significant progress in recent years towards a better understanding of the human trafficking problem and the establishment of international legal norms regarding human trafficking. The study noted that the trafficking problem is generally limited to mapping routes and identifying the major countries of origin and destination. In addition, there is a need for interdisciplinary research due to the fact that trafficking crosses so many disciplinary boundaries. Laczko (2005) indicates a need to study the traffickers, clients and law enforcement agencies who are somehow connected to trafficking instead of focusing all attention on the victims of trafficking to enable the view of a broader picture of the trafficking problem. Generally, the existing data on trafficking needs to be fully exploited and analyzed to better understand the issue of human trafficking and enable in curbing it.³⁴⁹

Tyldum & Brunovskis (2005) noted in their study that there had been a significant increase in studies and publications on the issue of human trafficking, mainly triggered by the awareness to the problem internationally. Most of these studies are meant to describe the elements that are associated with human trafficking, which includes the scope of human trafficking at large, trends that can be used to describe the phenomenon of human trafficking, and the behavior depicted by the victims of human trafficking. The study notes that the methodologies employed in the studies are not well suited for the above purposes. Due to limitations in data availability, interferences are always experienced. This calls for an urgent improvement on research methods that will be used to study the human trafficking menace. The study indicates that research on the issue of human trafficking is generally difficult due to a number of reasons. The imminent

³⁴⁸ Roy Ahn et al., "Human Trafficking", *American Journal of Preventive Medicine* 44, no. 3 (2013): 284, <https://doi.org/10.1016/j.amepre.2012.10.025>; See also Susie B. Baldwin et al., "Identification of human trafficking victims in health care settings", *Health and Human Rights* 13, no. 1 (June 2011): 36-49, <http://www.jstor.org/stable/healthumarigh.13.1.36>; Elizabeth Miller et al., "Migration, Sexual Exploitation, and Women's Health: A Case Report From a Community Health Center", *Violence Against Women* 13, no. 5 (May 2007): 486-497, <https://doi.org/10.1177/1077801207301614>; Ronak B. Patel, Roy Ahn, and Thomas F. Burke, "Human Trafficking in the Emergency Department", *The western journal of emergency medicine* 11, no. 5 (December 2010): 402-4, accessed July/August 14, 2021, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3027426/pdf/wjem11_5p40

³⁴⁹ Laczko, "Data and Research", 5-16.

reason is that the populations involved in trafficking such as victims and traffickers are considered to be hidden populations. This means that their size and boundaries are unknown, and there is no sampling frame to group them. In addition, the population often refuses to cooperate with the study questions or give unreliable answers to protect their privacy. Similar to Logan, Walker, & Hunt (2009) and Shelley, (2010), Tyldum & Brunovskis (2005) describe human trafficking as the recruitment, transportation, transfer, harboring, or receipt of persons, through threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Tyldum & Brunovskis (2005) point out that most policy areas related to human trafficking like prostitution are greatly impacted by politics, thus complicating the situation further. Tyldum & Brunovskis (2005) describe how various types of data on human trafficking are produced, the analysis of the data, and give suggestions on methods that will improve the techniques of data collection and development of new methodologies. Tyldum & Brunovskis (2005) also describe the stages that are undergoing in trafficking, which include people at risk of being trafficked, current victims of trafficking and former victims of trafficking. The study explains the number of people in each stage, the characteristics of the people in each stage and the probability of the people moving from one stage to another. Tyldum & Brunovskis (2005) conclude that the available data sources on trafficking only cover a small portion of the total population of the victims of trafficking. Furthermore, there is a lack of empirical knowledge about the causes and mechanisms related to trafficking; thus, process indicators such as poverty, patterns describing migration, and missing people do not give a viable estimate of the population of the victims of trafficking.³⁵⁰

In their study, Zimmerman, Hossain, & Watts (2011) note that human trafficking is an international crime known to have implicated so much violence against women, men and children. Despite studies carried out to explain the violence related to human trafficking, a blind eye has been turned towards the health of the victims of trafficking. According to the study, health risks and consequences usually begin when

³⁵⁰ Guri Tyldum, and Anette Brunovskis, "Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking", *International Migration*, 43(1-2), (2005): 17-34. <https://doi.org/10.1111/j.0020-7985.2005.00310.x>.

people are recruited into the trafficking process. The health risks then continue throughout the period when the people are exploited, and they are evident even after they have been released from the traffickers. Zimmerman, Hossain, & Watts (2011) point out that the making of policies, providing services and research in general only touches shortly on criminal violations that are experienced by the victims during the period of exploitation while forgetting the health problems associated with trafficking. In addition, the public health sector does not take the issue of human trafficking to be a health concern. Zimmerman, Hossain, & Watts (2011) formulates a conceptual framework that highlights the migratory and exploitative nature of a high-level trafficking experience. This process includes acquiring the persons, transporting the persons, how they are exploited, and their integration or reintegration. The study also touches on the detention and re-trafficking stages of the victims of human trafficking. The study notes that the victims of trafficking often suffer from physical, sexual, and psychological harm, occupational hazards, legal restrictions, and problems associated with marginalization and stigmatization. Zimmerman, Hossain, & Watts (2011) support that for proper addressing of the health risk associated with trafficking, there should be interventions implemented between nations and across different sectors to assure the protection and the healing of the victims of trafficking.³⁵¹

In her paper, Surtees (2008) describes the patterns traffickers use from the South-Eastern of Europe. The article explains that the menace of human trafficking cannot be simply solved by changing the victims' behavior. Instead, the traffickers should be studied and identified. Their operation structures identified to help manage the crime of human trafficking and anticipate future developments in the trafficking industry. The study of the traffickers' behavior opens a new insight into the circumstances and opportunities in which trafficking is performed and the traffickers' methods in organizing it. The research indicates that most human trafficking activities are conducted by organized criminal groups in South-Eastern Europe, as opposed to South-East Asia, where the process is informal and generally managed through personal connections. These networks are well organized, and the traffickers are well connected to senior personnel in the region. The traditional way of acquiring the victims, such as kidnapping, is relatively uncommon nowadays. Instead, the traffickers acquire their

³⁵¹ Cathy Zimmerman, Mazedra Hossain, and Charlotte Watts, "Human trafficking and health: A conceptual model to inform policy, intervention and research", *Social Science & Medicine* 73, no. 2 (2011): 327-35, <https://doi.org/10.1016/j.socscimed.2011.05.028>.

victims through more advanced methods, which include promises and facades of legality.³⁵²

In this method, the traffickers trick their victims into migrating to acquire greener pastures after exploiting the victims' frustrations with low income and lack of employment opportunities in their home countries. Surtees (2008) further describes that the traffickers play on their relationship with the victims to acquire them. The study then describes the strategies employed by the traffickers in transporting the victims. Lastly, the study describes the exploitation of the victims touching mainly on their living and working conditions and salaries. Generally, to better understand the phenomenon of human trafficking, attention needs to be paid to the traffickers instead of entirely looking at the victims only. This will enable the formulation of effective law enforcement strategies to counter the menace of human trafficking at large.³⁵³

Wilson & Dalton (2008), in their study, define human trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Wilson & Dalton (2008) argue that although the menace of human trafficking is attracting attention globally, it is a problem that has its roots locally. The study explores the characteristics of and how the issue of human trafficking is responded to by examining the Columbus and Toledo communities. The study then assesses the minimum extent to which human trafficking occurs in the two communities. Wilson & Dalton (2008) analyze the cases in which evidence supports the trafficking offense to generate a conservative and lower-bound estimate of trafficking in the communities mentioned above. The study estimates the number of victims of trafficking and gives the characteristics, like attributes of the victims, and the attributes of traffickers, and how they meet. Then the study gives a description of how law enforcement communities respond to the phenomenon of human trafficking as well as how the agencies are made aware of the cases of human trafficking cases. It also describes the factors that facilitated the detection, investigation, and how the problem is prosecuted. Wilson & Dalton (2008) concludes the study by giving lessons that will

³⁵² Rebecca Surtees, "Traffickers and Trafficking in Southern and Eastern Europe", *European Journal of Criminology* 5, no. 1 (2008): 39-68, <https://doi.org/10.1177/1477370807084224>.

³⁵³ Surtees, "Traffickers and Trafficking", 39-68.

improve law enforcement response to human trafficking.³⁵⁴

Salt (2000), in his research, gives a review of the evidence of the existence of human trafficking in Europe. The study argues for the possible emergence of a market for irregular migrators, where its operations are still unclear. Salt (2000) notes that the irregular immigrants who use the market services are often exposed to both unscrupulous providers of services and immigration and policing authorities, thus generating the dependence of safeguards provided by the trafficking networks. This has created a symbiosis between the victims of trafficking and the traffickers. The study then discusses the main conceptual issues and definitional issues that confront the researchers in human trafficking. Later on, the main theoretical approaches concerning human trafficking that have been developed are assessed. The research then reviews the information on the organization and structure of the bodies involved in human trafficking. Salt (2000) gives a conclusion citing the significant priorities of the research.³⁵⁵

Jones, Engstrom, Hilliard, & Sungakawan (2009) report on a study that was meant to better understand the different dynamics employed on human trafficking. Their analysis takes the case of four women survivors of sex trafficking whose narrations shed light on the understanding of the dynamics of trafficking. Jones, Engstrom, Hilliard, & Sungakawan (2009) note that most research on the issue of human trafficking do not use the voices of the victims of trafficking. Thus, their analysis is more vital in bettering the understanding of human trafficking. The research goes on to explore the experiences of the victims of human trafficking to increase their presence and awareness to the public on trafficking. The study describes the trafficking process, mainly touching on the trafficking between Japan and Thailand. Jones, Engstrom, Hilliard, & Sungakawan (2009) also notes that the findings of their study can be applied to explain the menace of human trafficking in other regions in the world because the circumstances are much more the same. The research also indicates that understanding the hardships that the victims of trafficking underwent serves as a significant starting point for a comprehensive study and understanding of the human trafficking phenome-

³⁵⁴ Jeremy M. Wilson, and Erin Dalton, "Human trafficking in the heartland: Variation in law enforcement awareness and response", *Journal of Contemporary Criminal Justice* 24, no.3 (2008): 296-313, <http://dx.doi.org/10.1177/1043986208318227>.

³⁵⁵ John Salt, "Trafficking and Human Smuggling: A European Perspective", *International Migration* 38, no.3 (2000): 31-56, <https://doi.org/10.1111/1468-2435.00114>.

non and thus will help develop solutions and ways to curb the problem of human trafficking.³⁵⁶

2.2.6 Effects of Human Trafficking

Aradau (2004) argues that the effects of human trafficking can be divided into two major categories. These categories include security threats and humanitarian problems. The study focuses mainly on the trafficking of women for sexual exploitations and explores how they are identified as illegal immigrants, victims of trafficking, prostitutes and bodies that suffer. Aradau (2004) then goes on to explain how the issue of human trafficking can be articulated to security and humanitarian problems. The study noted that it is complicated to identify the threats posed by human trafficking to the state, according to a report by Europol. All in all, the significant problems associated with the menace of human trafficking are explained: increase in drug abuse, increase in unregistered arms, and increase in the rate of prostitution. The article then tries to explain how to appropriate the humanitarian discourse, efforts to rescue migrants and trafficked women are integrated into the danger continuum.³⁵⁷

In their study, Wheaton, Schauer, & Galli (2010) state that human trafficking affects economic growth in both the national and international communities. This is because in trafficking, freedom of choice and financial gain is significantly undermined, and they are the primary principles needed for productivity. Wheaton, Schauer, & Galli (2010) note that there is an expectation by the crime experts that human trafficking will be more than both drugs and arms trafficking within the decade. The researchers argue that this will be possible because of the frequency at which human trafficking occurs, the cost of human beings, and the vast profit that traffickers gain from human trafficking. The research develops an economic model that can be used to explain human trafficking and the economic factors that affect human trafficking globally. Wheaton, Schauer, & Galli (2010) view human trafficking as a competitive industry, where traffickers act as links between the victims and merchants. Wheaton, Schauer, & Galli (2010) indicate that the victims of trafficking suffer from a wide range of health risks

³⁵⁶ Loring Jones et al., "Human trafficking between Thailand and Japan: lessons in recruitment, transit and control", *International Journal of Social Welfare* 20, no. 2 (2009): 203-11, <https://doi.org/10.1111/j.1468-2397.2009.00669.x>.

³⁵⁷ Claudia Aradau, "The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitisation of Human Trafficking", *Millennium: Journal of International Studies* 33, no.2 (2004): 251-77, <https://doi.org/10.1177/03058298040330020101>.

triggered by their experiences and the circumstances they faced while they were in captivity. Most of the victims meet inadequate medical care, as indicated by the study. Still, this problem is solved when they get the chance to interact with healthcare professionals who identify and treat them accordingly. Wheaton, Schauer, & Galli (2010) also note that human trafficking victims have a wide range of services that they need and go beyond what the victims may need immediately. Thus, other needs like safe housing, legal advice, and support to acquire income need to be addressed. For the victims' needs to be met appropriately, the service providers need to fully understand the victims' situation and their experiences while in captivity, as the study points out. The study concludes by indicating that it is essential for professionals and organizations to fight the barriers they face as they try to provide effective services and support to the human victims.³⁵⁸

Isaac, Solak, & Giardino (2011) describe human trafficking as a complex problem that touches on economic, physical, and sexual exploitations of people treated as simple commerce products. Their study points out that human trafficking takes both aspects of the domestic and international view in the US. The research indicates that health providers are trying to develop a solution to meet the medical care and psychological care of the victims of human trafficking while still in captivity and after being released from captivity.³⁵⁹

Omar Mahmoud & Trebesch (2010) note that human trafficking is a humanitarian problem that affects most countries around the globe. Despite this, there is a lack of proper research on the issue, which will enable fighting the menace. The study attempts to analyze human trafficking and labor migration economics, mainly looking at micro-data and household surveys. The research concludes that individual human trafficking is likely to be more experienced in places where emigration is high. This is mainly because of a low recruitment cost for traffickers in the emigration areas, which results in more negative self-selection into migration. The study also concluded that illegal migration makes the risks for trafficking more imminent, and formulation of prevention strategies needs to target the phenomenon's control. If effective and efficient policies

³⁵⁸ Elizabeth M. Wheaton, Edward J. Schauer and Thomas V. Galli, "Economics of Human Trafficking", *International Migration* 48, no. 4 (August 2010): 114-41, <https://doi.org/10.1111/j.1468-2435.2009.00592.x>.

³⁵⁹ Reena Isaac, Jennifer Solak, and Angelo P. Giardino, "Health Care Providers' Training Needs Related to Human Trafficking: Maximizing the Opportunity to Effectively Screen and Intervene", *Journal of Applied Research on Children: Informing Policy for Children at Risk* 2, no. 1 article 8 (2011): 1-32, <http://digitalcommons.library.tmc.edu/childrenatrisk/vol2/iss1/8>.

are formulated and put into action, human trafficking will be reduced or even eradicated based on the study's findings.³⁶⁰

Tsutsumi, Izutsu, Poudyal, Kato, & Marui (2008) show how there is little knowledge about the mental health status of women victims of trafficking. In their study, they explore the status of the mind of these victims, mainly focusing on anxiety, depression, and post-traumatic stress disorder of the survivors of human trafficking. This is achieved primarily by comparing those forced into prostitution and those who worked in other areas like domestic workers. The study indicates that the groups of victims were adversely affected by anxiety, depression, and post-traumatic stress disorder, but those in the prostitution group were more affected. In addition, the study notes that there were problems associated with the contracting HIV among those victims who were forced into prostitution. Tsutsumi, Izutsu, Poudyal, Kato, & Marui (2008) suggest that programs should be created, including interventions like psychosocial support, to improve the mental health of the survivors of trafficking. These interventions should focus on the type of hardships that the survivors went through during their period in captivity. In conclusion, the study suggests that the available support to the victims and survivors of human trafficking needs to be focused mainly on these victims' mental health and psychosocial support.³⁶¹

Dovydaitis (2010) indicates that human trafficking is one of the biggest public health problems in both the domestic and international environment. The research suggests that health providers are the only professionals who interact with trafficking victims while still in captivity. Dovydaitis (2010) goes on to suggest that the health professionals are equipped with expert skills of assessment and interview that enable them to be able to identify the victims of trafficking. The article provides health professionals the knowledge they need to know on trafficking and some of the specific tools that these professionals can employ to assist the victims of trafficking in a clinical setup. The study reviews the definitions, statistics, and health care problems that the victims of human trafficking may be experiencing. The research also outlines the health experts' roles in the fight against the human trafficking menace.³⁶²

³⁶⁰ Toman Omar Mahmoud, and Christoph Trebesch, "The Economics of Human Trafficking and Labour Migration: Micro-Evidence from Eastern Europe", *Journal of Comparative Economics* 38 no.2 (2010): 173-88, <https://doi.org/10.1016/j.jce.2010.02.001>.

³⁶¹ Atsuro Tsutsumi, Takashi Izutsu, Amod Poudyal, Seika Kato, and Eiji Marui, "Mental health of female survivors of human trafficking in Nepal", *Social Science & Medicine* 66, no.8 (2008): 1841-7. <https://doi.org/10.1016/j.socscimed.2007.12.025>.

³⁶² Dovydaitis, "Human Trafficking", 462-7.

Rafferty (2008) describes the issue of child trafficking and commercial sex exploitation as gross crimes, child mistreatment in extreme forms, and generally, violations of children's rights. Apparently, children also fall victims to trafficking and suffer in equally severe ways as the grown-ups during their victimization. Rafferty (2008) states that no clear research shows the impact of human trafficking on children's development. Available reports on the issue of children trafficking describe the trauma that the children go through both physically and emotionally, the humiliation that they go through, the violence that they suffer, and the degradation associated with treating victims as a commodity and extreme fear and abuse. The research goes on to provide an overview of the effects of human trafficking on children. It gives some practical implications from other researches related to the areas of child maltreatment and victimization. The study's findings indicate that trafficking poses high risks to the physical, psychological, spiritual, and social-emotional development of victimized children. Lastly, Rafferty (2008) presents the significance of the psychological and social policy and how the menace of human trafficking can be prevented and provides implications on the rehabilitation of the children who have fallen victim of trafficking psychologically.³⁶³

Chuang (2006) notes that the existing legal responses to the menace of human trafficking are often reluctant in addressing the socioeconomic causes of human trafficking, which are the root of the problem. Most legal institutions approach human trafficking as an act of violence; as a result, they focus more on how they will prosecute the traffickers while forgetting how they should protect the trafficked people. The research indicates that mostly the approach of prosecuting traffickers helps greatly in accounting for the consequences of trafficking, but in the long run, it overlooks the larger socioeconomic picture that fuels the phenomenon of human trafficking. Chuang (2006), in his research, tries to relook at trafficking as a migration response to the socioeconomic trends that are currently being experienced globally. The research argues that for the strategies formulated to counter the phenomenon of trafficking to be effective, they should target the underlying conditions that make people accept dangerous migration assignments that are considered hazardous. Chuang (2006) recommends that there is a

³⁶³ Yvonne Rafferty, "The Impact of Trafficking on Children: Psychological and Social Policy Perspectives", *Child Development Perspectives* 2, no. 1 (April 2008): 13-18, <https://doi.org/10.1111/j.1750-8606.2008.00035.x>.

great need to assess the current strategies for fighting trafficking to weigh their effectiveness in the long run. The research also gives the strategic use of non-discrimination principles to promote economic, social, and cultural rights, which their lack has dramatically triggered the trafficking menace.³⁶⁴

In their study, Clawson & Dutch (2008) develop information on how health and human services address the problems facing the victims of human trafficking by looking mainly at their needs. The study is conducted primarily on domestic victims of trafficking but gives more significant attention to the domestic youth survivors of trafficking. Clawson & Dutch (2008) go on to review existing literature to discover the shortcomings of the researches and comes up with improved practices that are meant to address the needs of the victims of human trafficking. This literature's primary goal is to provide information on the existing and future strategies to improve service provision to the highly vulnerable position. Generally, the research focuses mainly on what the victims of human trafficking need and the resources available to meet those needs. In addition to the above, some challenges and barriers exist in providing services to the victims of trafficking. The study highlights solutions to innovative solutions and practices that can be used to overcome these barriers.³⁶⁵

Ahn, Alpert, Purcell, Konstantopoulos, McGahan, Cafferty, Eckardr et al. (2013) describe human trafficking as a human rights violation that is well organized and that it approximately, involves nearly two million victims in the globe every year. Their study indicates that health consequences related to human trafficking make the victims interact with healthcare professionals and provide a chance for identifying them and intervening to free them. The study notes that for the healthcare system to respond positively to the problems facing the victims of trafficking, the healthcare providers need to be aware of the impact of the problem. The healthcare providers need to be educated on ways of identifying and treating the victims compassionately and in a trauma-informed manner. They also need to be trained further on creating productive collaborations with law enforcement agencies in their fight against human trafficking. Ahn, Alpert, Purcell, Konstantopoulos, McGahan, Cafferty, Eckardr and et al. (2013) conclude their research by noting a need to develop, implement, and evaluate proper

³⁶⁴ Chuang, "Beyond a Snapshot", 137-63.

³⁶⁵ Heather J. Clawson, and Nicole Dutch, "Addressing the needs of victims of human trafficking: Challenges, barriers, and promising practices", *US Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation*, (2008): 1-10, <https://aspe.hhs.gov/system/files/pdf/75471/ib.pdf>.

educational and training programs that will enable in focusing the menace of human trafficking for healthcare personnel.³⁶⁶

Hodge (2014) notes that human trafficking is a pressing social justice concern. The problem is trying to be addressed by uniquely situated social work. The study's main aim is to help equip social work practitioners in assisting the victims of human trafficking. It also indicates that the traffickers get their victims from the most vulnerable populations, mostly from developing nations. Traffickers force the victims to serve their interests by applying physical and psychological pressure. The research points out different implications of the human trafficking phenomenon, particularly for social work professionals, mainly regarding assisting the victims of human trafficking. It also notes a direct link between the social work professionals and the victims of trafficking in identifying, saving them from trafficking, and restoring them. The study concludes that human trafficking is a major violation of the rights of human beings since they are considered to be commodities that can be bought, sold, and exploited as the traffickers wish. In the research, Hodge, (2014), notes that trafficking poses a challenge on human rights regarding social work professionals. Thus, he discusses ways to identify the victims of trafficking, facilitate their exit from the trafficking menace, and in the long run assist them in rebuilding their lives and restoring their psychological wellness.³⁶⁷

Kotrla (2010) argues that although most social workers are acquainted with the issue of human trafficking, they are still not so familiar with studies showing that the youth are the most vulnerable group for becoming victims of sex trafficking. The research states that most women are currently in prostitution due to falling victims to trafficking since minors. Kotrla (2010) tries to bring light to the issue of minor domestic trafficking by exploring the known information that defines the people at risk of becoming victims and how the social work profession is supposed to address the issue.³⁶⁸

Lange (2011) notes in his study that human trafficking is both a global and national crime phenomenon, complex in its nature. The study states that the victims of human trafficking suffer from physical, psychological, and financial problems. In the United States, the Trafficking Victims Protection Act of 2000 (TVPA) and other laws

³⁶⁶ Roy Ahn et al., "Human Trafficking", 283-9.

³⁶⁷ David R. Hodge, "Assisting Victims of Human Trafficking: Strategies to Facilitate Identification, Exit from Trafficking, and the Restoration of Wellness", *Social Work* 59, no.2 (4 April 2014): 111-118, <https://doi.org/10.1093/sw/swu002>.

³⁶⁸ Kimberly Kotrla, "Domestic Minor Sex Trafficking in the United States", *Social Work* 55, no.2 (April 2010): 181-7, <https://doi.org/10.1093/sw/55.2.181>.

were passed to protect the victims of trafficking for both labor and prostitution and provide assistance and other benefits to comfort their lives. In the research, it is noted that strategies were implemented to encourage the victims of human trafficking to come forward for easy identification and subsequent assistance. These implementations include campaigns that alerted the general public of domestic violence situations by creating awareness campaigns to increase calls to the police for help. Other recommendations included the urging of human trafficking and domestic violence victims to call for help themselves. Lange (2011) notes that the above techniques have greatly succeeded in combating domestic violence and minimizing its occurrence by far but have not done so well in reducing the menace of sex trafficking so far. In addition, the research explores the challenges faced by victims of sex trafficking in their search for assistance and provides a recommendation of ways through which they can be identified and saved from the menace of sex trafficking.³⁶⁹

McClain & Garrity (2011) argue that the menace of human trafficking affects many youths worldwide. Among these youths, women and children make up a more significant percentage of the people affected by the phenomenon of human trafficking. Further, the research argues that nurses are very aware of the menace of sex trafficking as a form of sexual violence among the youth population. Thus, nurses are better placed in identifying, intervening, and advocating for the victims of human trafficking the same way they do for the victims of other violent crimes. From the study, McClain & Garrity (2011) differ with the belief that human trafficking is the exploitation of human rights and instead see it as a form of slavery that is part of daily life. The largest form of exploitation that the research notes the victims of human trafficking are forced into is sexual harassment. This leads to the conclusion that young women and the youth are the most vulnerable group for trafficking to meet the mentioned purpose. McClain & Garrity (2011) also note that the hidden nature of human trafficking makes it extremely hard for nurses to identify the incidents and the implications that it may have on the victims and formulate ways to rescue them.³⁷⁰

³⁶⁹ Andrea Lange, "Research note: challenges of identifying female human trafficking victims using a national 1-800 call center", *Trends in Organized Crime* 14, no.1 (March 2011): 47-55, <https://doi.org/10.1007/s12117-010-9107-8>.

³⁷⁰ Natalie M. McClain, and Stacy E. Garrity, "Sex Trafficking and the Exploitation of Adolescents", *Journal of Obstetric, Gynecologic & Neonatal Nursing*, 40(2), (2011): 243-52. <https://doi.org/10.1111/j.1552-6909.2011.01221.x>.

2.2.7 Human Trafficking and Prostitution

Batsyukova (2007) is one study that attempts to facilitate an understanding of sex trafficking and prostitution by giving a distinction between the two. According to the researchers, it is not prostitution alone that can trigger sex trafficking; but rather the exploitation of prostitution. To support its assertion, the study provides examples of anti-prostitution and pro-prostitution policies. One of the primaries focuses on the human trafficking issue remains to be how it is related to women and children trafficked for the purpose of sexual exploitation.³⁷¹ This continues to be the focus of the present paper, though it is specific to Thailand and attempts to merge Buddhist ethics. Alvarez & Alessi (2012) is a study that recommends social workers confront the issue with an acknowledgment of how people are forced to work in other areas. The study critically investigates the contemporary discourse on human trafficking since the primary focus is on women and children. However, Alvarez & Alessi (2012) notes that the emphasis on women diverts attention from the context of globalization and the exploitation of human labor. This study is quite critical as it analyzes the term human trafficking, especially how it became associated with anti-prostitution campaigns. It concludes by suggesting guidelines for a framework that is based on social work values. Evidently, Alvarez & Alessi (2012) remains one of the studies that contend there is a correlation between human trafficking and prostitution.³⁷²

Among the fascinating studies exploring the link between human trafficking and prostitution is Cho, Dreher, & Neumayer (2012). In this study, the researchers investigated whether there is a correlation between legalizing prostitution and increased human trafficking. In compliance with the economic theory, the study insinuates that there exist two opposing impacts of unknown magnitude. First, the study notes that the scale effect of legalized prostitution results in the growth of the prostitution market; consequently, this prompts an increase in human trafficking. Secondly, the study explores the substitution effect that serves to decrease the demand for trafficked women as lawful prostitutes are preferred over the trafficked ones. According to the researcher's empirical analysis for a cross-section amounting to 150 nations, it was evident that the scale effect is superior to the substitution effect. In conclusion, Cho, Dreher, & Neumayer

³⁷¹ Batsyukova, "Prostitution and Human Trafficking", 46-50.

³⁷² Maria Beatriz Alvarez, and Edward J. Alessi, "Human Trafficking Is More Than Sex Trafficking and Prostitution: Implications for Social Work", *Affilia* 27, no. 2 (May 2012): 142-52, <https://doi.org/10.1177/0886109912443763>.

(2012) point out that, on average, nations whereby prostitution is legal experience higher instances of human trafficking influx than countries with illegal prostitution.³⁷³

There is little existing systematic research focusing on therapy, rehabilitation, and social integration of women who were initially trafficked into prostitution. Crawford & Kaufman (2008) is a unique study that investigates features and results of Nepali sex trafficking survivors. The study randomly selects twenty case files of survivors who were rehabilitated in the refuge of an anti-trafficking NGO. The study noted that all the participants suffered from physical and behavioral sequelae. 75 percent of the survivors ultimately relocated to their villages. Crawford & Kaufman (2008) is a study that attempts to suggest that the current rehabilitation and integration efforts are yielding positive results. Strictly speaking, though, the study also sheds light on the existing link between human trafficking and prostitution.³⁷⁴

2.2.8 Varied Perceptions of Human trafficking

There has been an increase in transnational organized crime in recent years as globalization has reached many regions in the world. This has led to a decrease in the nation-states and the control of their borders. According to Shelley (2010), most transnational crime has been related to the increase and development of the drug trade in various regions in the world like Latin America, Italy, Africa, and Asia. However, Shelley notes that by the late 90s, the illegal trade in drugs represented an equal proportion of legitimate business in steel and textile, which was 7.5 percent of the world trade. Indeed, while the drug trade remains the most lucrative side of transnational crime, several years have witnessed a significant development in organized crime of smuggling and human trafficking. Shelley further points out that a majority of criminals have turned to the aspect of transnational crime due to its high returns and decreased risk. Others not initially engaged in transnational crime have entered the trade due to its low initial entry costs and the significant demand for trafficked individuals and smuggled goods. Indeed, such a study is quite elaborative and illustrative as it engages us in a

³⁷³ Seo-Young Cho, Axel Dreher, and Eric Neumayer, "Does Legalized Prostitution Increase Human Trafficking?", *World Development* 41, no.1 (2013): 67-82, <https://doi.org/10.2139/ssrn.1986065>.

³⁷⁴ Mary Crawford and Michelle R. Kaufman, "Sex Trafficking in Nepal: Survivor Characteristics and Long-Term Outcomes", *Violence Against Women* 14, no. 8 (August 2008): 905-16, <https://doi.org/10.1177/1077801208320906>.

discussion of the impetus to the transnational trade of human trafficking.³⁷⁵

As pointed out in earlier studies, the transnational trade of women and girls is usually related to prostitution. Indeed, as Decker, McCauley, Phuengsamran, Janyam, & Silverman (2010) noted, such trafficking of women and girls for sexual exploitation in a global aspect remains a sad form of gender-based violence and is perceived to confer peculiar reproductive and sexual vulnerabilities. Up to the current time, little research has served to engage in comparative analysis of the sexual risk or the health repercussions among the female sex workers (FSWs) based on their experiences in the sex trafficking business. Decker, McCauley, Phuengsamran, Janyam, & Silverman (2010) conducted a study with the objective of engaging in a comparative analysis of the sexual risk and the associated sexual and reproductive health outcomes among a variety of female sex workers. This was done with the focus on trafficking as being a primary entry mechanism to sex work. After the study was conducted, it displayed that almost 10 percent of the female sex workers met the criteria for trafficking as an entry mechanism for prostitution. Compared to their counterparts who were not trafficked, the sex-trafficked female sex workers had higher prospects of having gone through sexual violence at the beginning of the sex work³⁷⁶. This study depicts sex trafficking as an entry technique to prostitution and the dangers of sexual and reproductive well-being. Further, regarding human trafficking, the study points out the dire need for in-depth attempts to identify and aid the vulnerable population of trafficked people. Additionally, the current STI/HIV prevention programs can be impeded by the restricted capacity for condom use and the increased instances of violence seen among those trafficked for sex work.

Phongpaichit (1999) notes that between 1991 and 1994, 20,982 Thai women were deported from Japan as illicit workers. He points out that a majority of them lacked proper travel documentation since they had gone to Japan with the help of fake passports from a variety of nationalities. Additionally, approximately 80 percent of them had the experience of working in the sex work industry. The agents who assisted them in crossing to Japan charged them a fee of almost 800,000 baht per individual and then

³⁷⁵ Louise Shelley, "Human Trafficking as Transnational Organized Crime", in *Human Trafficking: A Global Perspective*, (Cambridge: Cambridge University Press, 2010), 83–111, <https://doi.org/10.1017/CBO9780511760433.006>.

³⁷⁶ Michele R. Decker et al., "Sex trafficking, sexual risk, sexually transmitted infection and reproductive health among female sex workers in Thailand", *Journal of Epidemiology & Community Health* 65, no. 4 (2011): 334-9, <https://doi.org/10.1136/jech.2009.096834>.

forced them to give in to sex attempts from clients as a form of paying back. The agents, in this case, are said to have made a net profit of more than four billion baht annually from trafficking these females.³⁷⁷

2.2.9 News Articles on Human Trafficking in Thailand

To get a candid picture of the human trafficking issue in Thailand, a comprehensive review of news articles is quite pertinent. Using news articles based in Thailand and around the world, various reports exist pertaining to human trafficking, prostitution, and the multiple efforts put in place to challenge such acts.

Even in this current society, the Thai government is still attempting to tighten its efforts to curb human trafficking. Patathayo (2018) explores the process of preparing official guidelines for the police to handle human trafficking cases preparing official guidelines for the police to handle human trafficking cases. The Australia-Asia Program is helping the Thai government to Combat Trafficking in Persons (AAPTIP) project. The collaboration aims to ensure that Thailand develops guidelines so that the police can work smoothly to ascertain effective legal enforcement and transparency in the legal proceedings whereby human traffic cases pertain. Patathayo (2018) notes that the draft guidelines have accounted for the common impediments that the law enforcers encounter as they attempt to solve human trafficking cases.³⁷⁸

Human trafficking is not only a reserve for adults; existing reports indicate that it also blends aspects of child pornography. Patathayo & Apisakulchat (2018) report on the renewed government's efforts to curb child pornography as it relates to human trafficking. According to the news article, a total of six Thai individuals were arrested in connection with the existing 500 child porn websites. It is pointed out that an emerging human trafficking technique is to entice female and male youths to take indecent pictures and videos and then sell them through social media. Indeed, this is a new form of human trafficking as it engages itself in online means whereby the victims earn money through sexual exposure of their bodies.³⁷⁹

³⁷⁷ Pasuk Phongpaichit, "Trafficking in People in Thailand", in *Illegal Immigration and Commercial Sex: The New Slave Trade*, ed. Phil Williams, (London and Portland: Frank Cass, 1999): 74-105.

³⁷⁸ Suriya Patathayo, "Draft guidelines for police to tackle human trafficking ready", *The Nation*, last modified May 10, 2018, <http://www.nationmultimedia.com/detail/national/30344988>

³⁷⁹ Suriya Patathayo, Thawee Apisakulchat, and The Nation, "Six Thai Arrested, 500 Child Porn Websites Blocked in Anti-Trafficking Crackdown", CTN News L Chiang Rai Times, last modified February 5, 2021, <https://www.chiangraitimes.com/crime-chiang-rai-thailand/six-thai-arrested-500-child-porn-websites-blocked-in-anti-trafficking-crackdown/>.

The prostitution ring pertaining to human trafficking and Thailand is a long one, and it engages various countries. Thailand has a well-established Anti Human trafficking Unit. It is commonly referred to as Thailand's Anti Human Trafficking Task Force (TATIP). According to Fevre (2018), TATIP was responsible for taking down a Ugandan Prostitution Ring. According to the given reports, the traffickers are alleged to use threats of black magic against their relatives in Uganda. The success by Thailand illustrates its success in breaking what is perceived as a significant transnational human trafficking operation which is accountable for the trafficking of many Ugandan women into Thailand and other Asiatic Countries for prostitution. Most of these cases are trickster narratives whereby the victims are lured to high job prospects. However, on reaching the destination country, they are told that there are no vacancies and are hence supposed to engage in sex work to attain an income. Also, they have been robbed of their money and anything of value they came with from their country and are said to be indebted to those responsible for their coming to the host country. Such form of manipulation is characteristic of any way of human trafficking as it shows that a majority of those engaging in prostitution are coerced to by circumstances.³⁸⁰

Conclusion

In summary, it is evident that there still exists human trafficking in the modern world, either directly or indirectly, as most researchers noted. Human trafficking, in most cases, leads to the sex trade and, in turn, prostitution. Buddhism, Deontology, and Utilitarianism describe an immoral action as an action that does not lead to a higher form of happiness. The available literature concludes that prostitution does not result in the highest happiness on the side of the victims. Thus, it is branded immoral from Buddhism, Deontology, and Utilitarianism perspective. Although this is entirely true, it raises room for some questions: What if a person engages in prostitution through his or her own accord?? What if prostitution makes the person that engages in it happy? For instance, from some traditional beliefs, Proskow (2002) notes that prostitutes were depicted as courageous and strong women in society.³⁸¹ Some people do not change their traditional beliefs, so even in the modern world, there is a chance that there are those who believe that prostitution will make them strong, courageous, and powerful. This

³⁸⁰ John Le Fevre, "Authorities mum on capture of 'grandmother' of Ugandan human trafficking in Thailand", *AEC News Today*, last modified May 10, 2018, <https://aecnewstoday.com/2018/authorities-mum-on-capture-of-grandmother-of-ugandan-human-trafficking-in-thailand/>.

³⁸¹ Proskow, "Trading Sex for Karma", 12.

raises a need for more study on the issue of prostitution from an ethical perspective. Even though Buddhism, Deontology and Utilitarianism raise the facts that prostitution is immoral, much less literature explores human trafficking from a moral standpoint. However, research shows that human trafficking and prostitution are correlated. If by any chance there is a need to control the menace of prostitution, human trafficking needs to be controlled too. This raises the fact that human trafficking also needs to be researched from a moral perspective to gain a clear insight into the menace.

Over time, studies have been developed on how to stop the menace of human trafficking. The available studies indicate that the level of human trafficking is still on the rise, even after governments have put in place laws that are meant to protect the citizens from the threat. In addition, some of the existing legal responses towards the issue are too reluctant to curb the phenomenon in general. Laws have been formulated branding human trafficking as an act of violence, and these laws are applied in prosecuting the human traffickers while overlooking the victims of human trafficking. Still, the question arises of what good prosecuting the human traffickers will do for their victims if there are no appropriate measures put in place to address the effects that human trafficking causes in the victims' lives. This calls for a need to change the view that the governments have towards the phenomenon. Maybe instead of concentrating entirely on prosecuting the traffickers, they could start looking at ways to help the victims recover from their traumatic experiences and re-integrate into society efficiently and effectively.

On the same note, governments should also get proper insight into how human trafficking is conducted. For one to be able to stop a phenomenon, one needs to know the root of the disaster. For the cause of human trafficking to be established efficiently, there is a need to study both the traffickers and the victims. There is a need to understand what makes the victims vulnerable to human trafficking, the factors that keep the victims trapped by the situation, and formulating protective measures. Studies indicate that refugees are the most susceptible to human trafficking. Other victims are promised much better job opportunities than those available in their home countries. This calls for a need to address the political situations in some countries that arise among refugees and handle the economic concerns in the countries so that people get better working conditions and better pay. Although studies have mainly focused on the victims, there is still not much research to explore why the traffickers engage in human trafficking even after the implementation of laws against it. Such research, and the investigation

of the phenomenon from the trafficker's perception, may lead to formulating more effective measures for curbing the menace of human trafficking.

Research shows that human trafficking has many effects on the victims. These effects are not only experienced during the period that the victims are in slavery, but they extend throughout the victim's entire life, even after he/she has been rescued from the menace. It is noted that the effects are both physical and psychological, and measures have been implemented to treat both. Further, human trafficking also impacts the families of the victims and the governments at large. There is little research to show the difficulties that the victims' relatives undergo when their members are in slavery and the challenges they experience when supporting the victims to get over the physical and psychological effects of trafficking. There is also little study exploring how human trafficking affects governments politically, economically, and socially. This calls for a need for more study to be directed to these topics.

CHAPTER THREE

GLOBAL OVERVIEW OF HUMAN TRAFFICKING

3.1 The International Framework of Human Trafficking

The previous chapter described sex trafficking definition according to the Palermo protocol, which declares that sex trafficking is “human trafficking for the purpose of sexual exploitation and slavery”. Before delving into sex trafficking in Thailand, there is a need to explore the international framework of human trafficking.

The UNODC Global Report on Trafficking in Persons 2020 bases its analysis on mainly official statistics of detected cases of trafficking in persons, collected from 148 countries which comprise more than 95 percent of the global population and covers the years 2016-2018. The collected official statistics regard officially recorded cases of trafficking by national authorities and incorporate reports of the profiles of victims and offenders and the characteristics of trafficking cases. The report also includes data from years before 2016 for comparison purposes. Additionally, the Report derives its data from a collection of summaries of national court cases of the Member States involving convictions attained for human trafficking. The cases span eight years and number 489 cases from 71 different countries, involving a total of 2,963 victims and 1,576 offenders. UNODC extrapolated from this collection “21 indicators, including the characteristics of criminal networks, trafficking methods, risk factors of victims, monetary transactions among traffickers, and business models used by traffickers”.³⁸² The Report also uses research papers or assessment reports provided by national authorities, international organizations, and academia. “UNODC elaboration on national data” are data and analyses based on the official statistics reported to UNODC by the Member States. Below is a summary of the total number presented for “2018 (or most recent)”:³⁸³

³⁸² UNODC, Global Report on Trafficking in Persons 2020, 25.

³⁸³ Ibid., 25.

Table 3.1: Summary of the total number presented for “2018 (or most recent)”.

Number of detected victims reported 2018 (or most recent)	49,032
Number of detected victims for which age and sex is reported 2018 (or most recent)	48,478
Number of detected victims for which a form of exploitation is reported 2018 (or most recent)	39,805
Number of detected victims for which citizenship is reported 2018 (or most recent)	27,610
Number of persons investigated/suspected or arrested reported 2018 (or most recent)	9,429
Number of persons prosecuted reported 2018 (or most recent)	7,368
Number of persons convicted reported 2018 (or most recent)	3,553
Number of persons convicted for which citizenship is reported 2018 (or most recent)	3,475

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 25.

Regarding the **Profile** of the **victims**, females remain particularly vulnerable to trafficking in persons. In 2018, about 50 percent of the globally detected victims were adult women, and 20 percent were girls, while almost one-third comprised children and 20 percent were adult men. The victims' profile, though, varies depending on different regions. Sub-Saharan African countries detected more children than adults, and Eastern European and Central Asian States detected much more adult victims than other parts of the world. European, North American, and Asian countries had higher numbers of adult female victims, while in North Africa and the Middle East, detections of adult male victims predominated. The absolute number of victims detected reflects geographical discrepancies in the capacity to detect, record, and report on trafficking in persons (see: Table 3.2: UNODC Countries' regional classification).³⁸⁴

³⁸⁴ Ibid., 31.

Table 3.2: UNODC’s classification of Countries by region and subregion.

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 26.

EUROPE AND CENTRAL ASIA			SOUTH ASIA, EAST ASIA AND THE PACIFIC		AMERICAS			AFRICA AND THE MIDDLE EAST	
WESTERN AND SOUTHERN EUROPE	CENTRAL AND SOUTH-EASTERN EUROPE	EASTERN EUROPE AND CENTRAL ASIA	SOUTH ASIA	EAST ASIA AND THE PACIFIC	NORTH AMERICA	CENTRAL AMERICA AND THE CARIBBEAN	SOUTH AMERICA	SUB-SAHARAN AFRICA	NORTH AFRICA AND THE MIDDLE EAST
Andorra Austria Belgium Cyprus Denmark Finland France Germany Greece Ireland Italy Liechtenstein Luxembourg The Netherlands Norway Portugal Spain Sweden Switzerland Turkey The United Kingdom of Great Britain and Northern Ireland	Albania Bosnia and Herzegovina Bulgaria Croatia Czechia Estonia Hungary Latvia Lithuania Montenegro North Macedonia Poland Romania Serbia Slovakia Slovenia	Armenia Azerbaijan Belarus Georgia Kazakhstan Kyrgyzstan The Republic of Moldova The Russian Federation Tajikistan Ukraine Turkmenistan Uzbekistan	Bangladesh Bhutan India Maldives Nepal Pakistan Sri Lanka	Australia Brunei Darussalam Cambodia China Cook Islands Indonesia Japan Malaysia Mongolia Myanmar Nauru New Zealand Palau The Philippines The Republic of Korea Singapore Solomon Islands Thailand Timor-Leste	Canada Mexico The United States of America	The Bahamas Costa Rica Dominican Republic El Salvador Honduras Guatemala Nicaragua Panama Trinidad and Tobago Jamaica Panama Trinidad and Tobago	Argentina Bolivia (Plurinational State of) Brazil Chile Colombia Ecuador Paraguay Peru Uruguay Venezuela (Bolivarian Republic of)	Angola Benin Botswana Burkina Faso Cabo Verde Cameroon Chad Cote d'Ivoire Eswatini Democratic Republic of Congo The Gambia Ghana Guinea Guinea-Bissau Kenya Lesotho Liberia Madagascar Malawi Mali Mauritius Mozambique Namibia Niger Nigeria Rwanda Senegal Seychelles Sierra Leone South Africa Togo Uganda United Republic of Tanzania Zambia Zimbabwe	Algeria Bahrain Egypt Iraq Israel Jordan Kuwait Lebanon Morocco Oman Qatar Saudi Arabia Sudan Syrian Arab Republic Tunisia United Arab Emirates

The shares of detected victims of trafficking in persons, by age group and sex, in 2018 from a total of 48,478 victims (estimates based on information detected in 135 countries in 2018 or, if unavailable for that year, in 2019, 2017 and 2016) show that 46 percent of them were adult women, 20 percent were adult men, 15 percent were boys and 19 percent were girls. The Report confirms a 15-year trend of shifting in the distribution of the age and sex of victims. Adult women are gradually less commonly detected, and when children reached 30 percent. The numbers of detected boys have increased considerably when compared to girls. In the last five years, the number for men remained stable at around 20 percent. Victim profiles also differ on the purposes they are being trafficked. In 2018, most adult females were victims of trafficking for sexual exploitation. Adult males were mainly victims of trafficking for forced labor, but a substantial number of men were trafficked for sexual exploitation or other forms of exploitation.³⁸⁵

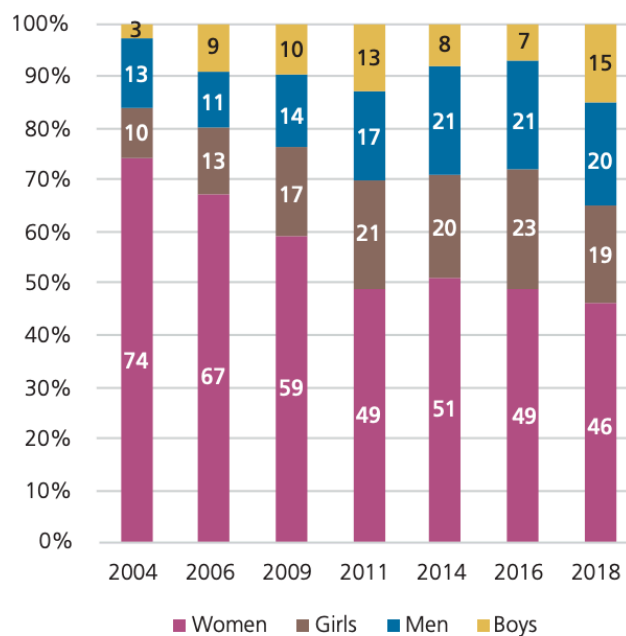


Figure 3.1: Trends in age and sex profiles of detected trafficking in selected years.

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 32.

³⁸⁵ Ibid., 32.

Regarding the **forms of exploitation** and according to the UNODC Report, globally, most victims are trafficked for the purpose of sexual exploitation. In particular, 50 percent trafficked for sexual exploitation, and 38 percent for forced labor, during 2018. 33 Over the past ten years, the annual numbers of victims of forced labor have been increasing. The following most detected form of exploitation is forced criminal activity-approximately 6 percent of total victims detected globally.³⁸⁶ Trafficking for the purpose of exploitative begging is recorded in nineteen countries, estimating it at around one percent of total detected victims in 2018. Nevertheless, forced begging accounts for about 30 percent of the total detected victims in North Africa and the Middle East. Victims of trafficking for the purpose of forced marriage also exhibit a decreasing trend in detection. Only nine countries report cases, approximating one percent of the global total. Mixed forms of exploitation, involving forced labor combined with sexual exploitation, also constitute about 1 percent of the total victims. Cases of trafficking of pregnant women and/or trafficking of infants, both for the purpose of illegal adoption, though in minimal numbers, they are detected in multiple countries.³⁸⁷ Trafficking for the purpose of organ removal, while rare, was detected in North Africa, South and South-East Asia, Central America, and Europe. Detections for 2017 approximated 25 victims, while in 2018, they had climbed to 40. The detected forms of exploitation and the affected victims fluctuate depending on the subregions, “In 2018, trafficking for forced labor was the most detected form of trafficking in Eastern Europe and Central Asia, where it mostly involved adults, while in South Asia, both adults and children were detected”.³⁸⁸ In Sub-Saharan Africa, where forced labor was by a significant margin the most common form, most victims were children. Trafficking for sexual exploitation was the most common form of trafficking in Western and Southern Europe, Central and South-Eastern Europe, as well as in East Asia and the Pacific and all regions of the Americas. The victims of sexual exploitation mainly consisted of adult women. In contrast, the sex and age profiles of victims of forced labor display greater variability in the distribution. Detected victims for other purposes of trafficking are minimal when

³⁸⁶ Ibid., 33-34.

³⁸⁷ Ibid, 35.

³⁸⁸ Ibid., 36.

compared to sexual exploitation and forced labor. The age and sex profiles of the trafficked victims and the respective forms of exploitation “among each group, were reported by 106 countries globally”³⁸⁹. The information from these reports confirms that most victims are adult women, approximately 42 percent, and are trafficked for sexual exploitation.³⁹⁰

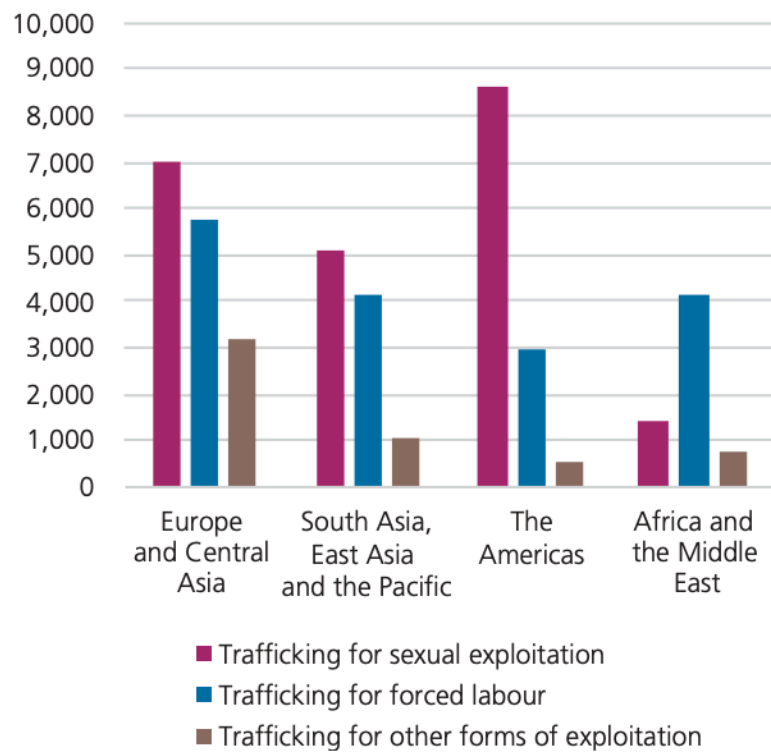


Figure 3.2: Trends in the shares of forms of exploitation among detected trafficking victims, 2006–2018.

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 34.

³⁸⁹ Ibid.

³⁹⁰ Ibid., 36.

Table 3.3: Detailed forms of exploitation among detected trafficking victims, 2018 (or most recent).

Form of Exploitation

<i>Sexual exploitation</i>	50%
<i>Forced labor</i>	38%
<i>Criminal activity</i>	6%
<i>Begging</i>	1,5%
<i>Forced marriage</i>	1%
<i>Mixed forms</i>	1%
<i>Infant selling</i>	min.
<i>Removal of organs</i>	min.
<i>Other and unknown</i>	min.

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 34.

Note: min.=minimal.

Table 3.4: Shares of forms of exploitation among detected victims of trafficking in persons by age group and sex, 2018 (or most recent).

Victims' age and sex	Forms of exploitation and respective shares			
	Sexual exploitation	Forced Labor	Organ removal	Other
<i>Adult women</i>	77%	14%		9%
<i>Adult men</i>	17%	67%	1%	15%
<i>Girls</i>	72%	21%		7%
<i>Boys</i>	23%	66%		11%

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 33.

Table 3.5: Shares of sexual exploitation and forced labor among detected victims of trafficking in persons by age group and sex, 2018 (or most recent).

Victims' age and sex	Forms of exploitation and respective shares	
	Sexual exploitation	Forced Labor
<i>Adult women</i>	67%	26%
<i>Adult men</i>	5%	38%
<i>Girls</i>	25%	15%
<i>Boys</i>	3%	21%

Source: Adapted from UNODC, *Global Report on Trafficking in Persons 2020*, 36.

Regarding the **offenders' profile**, in 2018, most individuals investigated or arrested, prosecuted, and/or convicted of trafficking in persons remain males, totaling over 60 percent of the sum of offenders. In addition, 36 percent of those prosecuted for trafficking were female. Most offenders are adults, and only a fraction—about 1 percent boys and 1 percent girls of total convicted—are under 18, both boys and girls. The sub-region of Eastern Europe and Central Asia convicts considerably more females than males, about 80 percent, while in Central America and East Asia, males and females received an almost equal number of convictions. In contrast, Western and Southern Europe, North America, North Africa, and the Middle East reported lower percentages in convicted females. The GLOTIP notes that the differences in the sex profile of individuals convicted may reflect different factors since research indicates that female traffickers may exhibit increased involvement in the recruitment phase of human trafficking,³⁹¹ and continues, “this could explain the significant differences in the sex profiles

³⁹¹ See UNODC, *Global Report on Trafficking in Persons 2012* (New York: United Nations publication, Sales No. E.13.V.6, 2012), 30, https://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf; UNODC, *Global Report on Trafficking in Persons 2014* (New York: United Nations publication, Sales No. E.14.V.10, 2014), 27-29, https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf; UNODC, *Global Report on Trafficking in Persons 2016* (New York: United Nations publication, Sales No. E.16.IV.6, 2016), 36-39, https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf.

of perpetrators in origin and destination countries reflected at all stages of criminal proceedings”³⁹².³⁹³ Most offenders convicted in 2018 were citizens of the country where the conviction was declared. Specifically, 74 percent were local nationals, 18 percent foreign nationals within the region of conviction, and 8 percent foreign nationals from other regions. Nevertheless, countries of origin and countries of destination displayed disparities in the offenders' citizenship profiles. Countries of origin generally convict fewer foreigners—95 percent are nationals—while countries of destination record “larger shares of convictions of foreign citizens”, 52 percent foreigners.³⁹⁴

The way that **traffickers operate** displays significant variability. The 2020 GLOTiP describes the traffickers may involve young males acting as recruiters of their younger schoolmates into sexual exploitation, parents who force their children in begging, urban gangs, structured transnational organized criminal groups, brokers negotiating children's work in rural villages,³⁹⁵ and also licensed multinational recruitment agencies and legal companies³⁹⁶.³⁹⁷ Identifying the profile of the trafficker facilitates appropriate criminal justice responses and can further provide critical information about the scope and impact of the crime. There are various organizational structures in human trafficking operators that can be divided into two general categories: organized criminal

³⁹² UNODC, *Global Report on Trafficking in Persons 2018* (New York: United Nations publication, Sales No. E.19.IV.2, 2018), 35, https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf.

³⁹³ UNODC, *Global Report on Trafficking in Persons 2020*, 37.

³⁹⁴ *Ibid.*, 39.

³⁹⁵ Bal K. Kumar KC, Govind Subedi, and Bhim Raj Suwal, *Forced Labour of Adults and Children in the Agricultural Sector of Nepal: Focusing on Haruwa-Charuwa in Eastern Tarai and Haliya in Far-western Hills* (Kathmandu: International Labour Organization (ILO) - Country Office for Nepal, 2013), 50, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_217086.pdf; Gulnara Shahinian (Special Rapporteur), Human Rights Council, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Gulnara Shahinian, *Mission to Ghana, (22-29 November 2013)*, 8-10 par. 27-38, U.N. Doc. A/HRC/27/53/Add.3 (1 Oct. 2014), <https://digitallibrary.un.org/record/780608?ln=fr>; Urmila Bhoola (Special Rapporteur), Human Rights Council, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, Urmila Bhoola, *Mission to Niger*, U.N. Doc. A/HRC/30/35/Add.1 (30 July 2015), 12-13, <https://undocs.org/A/HRC/30/35/Add.1>.

³⁹⁶ International Labour Organization (ILO), *Presence of Human Trafficking and Forced Labour in Labour Migration-Sri Lanka* (Sri Lanka: International Labour Organization (ILO) Country Office for Sri Lanka and Maldives, 2019), 40-41, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_735511.pdf; UNODC, *The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons* (Vienna: United Nations, 2015), 10, https://www.unodc.org/documents/human-trafficking/2015/Recruitment_Fees_Report-Final-22_June_2015_AG_Final.pdf.

³⁹⁷ UNODC, *Global Report on Trafficking in Persons 2020*, 40.

groups,³⁹⁸ and “opportunistic traffickers that operate alone or in cooperation with one or other traffickers”.³⁹⁹

GLOTiP further distinguishes the two categories of trafficking actors as follows:

1. Organized criminal groups are divided into:
 - Governance-type organized criminal groups, employing security governance in communities or territories by inducing fear through violence. Their criminal activities may target various markets;
 - Business-enterprise-type organized criminal groups, comprising of three or more traffickers systematically working together with human trafficking being their main criminal activity.
2. Opportunistic traffickers are distinguished into:
 - Opportunistic association of traffickers working together, where two traffickers operate together, or more than two traffickers do not systematically work together beyond a single crime act;
 - Individual traffickers typically operating on their own.⁴⁰⁰

Organized criminal groups are more effective in trafficking more victims for a more extended period and usually employ more violent methods of control and exploitation. Most of the victims in the court cases considered by the 2020 Report were exploited by organized criminal groups. An overwhelming majority of the victims in the court cases analyzed for the report are females. In particular, females were reported in

³⁹⁸ The GLOTiP 2020 quotes in page 40: Article 2(a) of the United Nations Convention on Transnational Organized Crime (UNTOC) contains a definition of ‘organized criminal group’ as a (I) group of three or more persons that was not randomly formed, (II) existing for a period of time and (III) acting in concert with the aim of committing at least one crime punishable by at least four years’ incarceration (IV) in order to obtain, directly or indirectly, a financial or other material benefit. It should be noted, however, that in accordance with the UNTOC, countries may apply more stringent definitions by reducing the minimum number of persons to be engaged in the criminal activity in order to form an organized crime group. Some countries consider a group formed by two or more persons as an Organized Crime group. For the purpose of this analysis, Organized Criminal Group is as defined by Article 2 (a) of the UNTOC.

The UNTOC covers only crimes that are ‘transnational’, a term cast broadly. The term covers not only offences committed in more than one State, but also those that take place in one State but are planned or controlled in another. Also included are crimes committed by groups that operate in more than one State, and crimes committed in one State that has substantial effects in another State.

³⁹⁹ UNODC, Global Report on Trafficking in Persons 2020, 40.

⁴⁰⁰ *Ibid.*, 41.

88 percent of the cases perpetrated by business-enterprise-type of criminal groups, in 91 percent of cases operated by individual traffickers, in 97 percent of the cases where the governance-type of criminal groups or by an opportunistic association of traffickers. Men were commonly victims of business-enterprise criminal groups at about 12 percent of the cases, mainly for forced labor.⁴⁰¹

Intimate partners and relatives can also be actors of trafficking. As discussed in the first chapter, young male traffickers lure vulnerable female victims into a romantic relationship.⁴⁰² They mainly traffic sole victims at a time and act individually. Usually, they target young women who have experienced adverse family history and lack of affection.⁴⁰³ They sustain sexual exploitation of the victims by using diverse methods of manipulation and systematic coercion. Often victims do not recognize the abuse involved in their relationship with the perpetrators and even avoid reporting partner abuse.⁴⁰⁴ Thus, the abusive relationship between victims and exploiters emulates closer to domestic violence cases than common organized crime trafficking activities.⁴⁰⁵ Such trafficking practices are also employed by siblings or even parents. There are several reports of mothers trafficking their adolescent daughters for sexual exploitation and fathers forcing their children into street begging or criminal activities.⁴⁰⁶

Concerning the **small and large recruiting agents**, social norms like parents sending their children to work to support their families financially increase vulnerability to trafficking for underage persons. Traffickers of children use methods of deception

⁴⁰¹ Ibid.

⁴⁰² MYRIA, Federal Migration Centre, “Annual Report 2015, Trafficking and Smuggling in Human Beings Tightening the Links”, *MYRIA*, January 2016, 23-40, accessed July 14, 2021, <https://www.myria.be/files/Annual-report-2015-trafficking-and-smuggling-full.pdf>; Dutch National Rapporteur, DNR, *Samen tegen mensenhandel Een integrale programma-aanpak van sek-suele uitbuiting, arbeidsuitbuiting en criminele uitbuiting* (DNR, 2018), 12, quoted in ⁴⁰² UNODC, Global Report on Trafficking in Persons 2020, 44.

⁴⁰³ London Abused Women’s Centre (LAWC), *Sex Trafficking & Sexual Exploitation: Keeping Youth Safe* (London: LAWC, 2018), 11, <https://www.lawc.on.ca/wp-content/uploads/2018/04/Youth-Package-Phoenix.pdf>; Federal Centre for the Analysis of Migration Flows, the Protection of Fundamental Rights of Foreigners and the Fight against Human Trafficking, *Human Trafficking: Building Bridges, 2013 Annual Report of the independent rapporteur on human trafficking* (Brussels: 2014), 23, <https://www.myria.be/files/Trafficking-report-2013.pdf>.

⁴⁰⁴ Maite Verhoeven et al., “Relationships Between Suspects and Victims of Sex Trafficking. Exploitation of Prostitutes and Domestic Violence Parallels in Dutch Trafficking Cases”, *European Journal on Criminal Policy and Research* 21, no. 1 (2013): 49-64, <https://doi.org/10.1007/s10610-013-9226-2>.

⁴⁰⁵ Ibid.

⁴⁰⁶ UNODC, Global Report on Trafficking in Persons 2020, 44.

of families by false and insincere financial support, which gradually converts into debt bondages that perpetuate the exploitation of the children. Children are exploited in different regions and different production and economic sectors like agriculture or fishing. Similar practices are reported in migrant smuggling for forced labor where traffickers cooperate with professional recruitment agents or agencies that facilitate emigration and job placement in the destination countries.⁴⁰⁷

Legal businesses that may appear legitimate and **ordinary people** are sometimes **involved** in human **trafficking**. Owners and administrators of companies in the agricultural, fishing, cleaning, construction, garment, and foodservice industries have been convicted for trafficking persons for forced labor. Additionally, legal companies also are involved in trafficking for sexual exploitation. Furthermore, ordinary people are documented involving in trafficking for domestic servitude. Such victims are recruited to work in houses of middle or high-income families. Householders and family members force the victims to work long hours, restrict their personal space, and limit their movement and socialization with the outside world. In the more extreme forms of domestic servitude, family members have abused victims physically, sexually, and psychologically.⁴⁰⁸

Financial Profits of Human Trafficking

Traffickers perceive their victims as commodities for sale and commercial profit, disregarding their human dignity and rights. Several stages of trafficking in person offer the opportunity to offenders for profit.⁴⁰⁹ At the recruiting phase, profits come

⁴⁰⁷ UNODC, *Global Report on Trafficking in Persons 2020*, 45; See also, Kumar KC, Subedi, and Suwal, *Forced labour*, 50; Gulnara Shahinian (Special Rapporteur), Human Rights Council, *Report Ghana*, 8-10 par. 27-38; Urmila Bhoola (Special Rapporteur), Human Rights Council, *Report Niger*, page 13; International Labour Organization (ILO), *Presence of Human Trafficking*, 40-41; UNODC, *The Role of Recruitment*, 10; Joy Ngozi Ezeilo (Special Rapporteur), Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, Joy Ngozi Ezeilo, on Her Mission to the United Arab Emirates*, U.N. Doc. A/HRC/23/48/Add.1 (22 February 2013), 6, <https://digitallibrary.un.org/record/756097?ln=en>.

⁴⁰⁸ UNODC, *Global Report on Trafficking in Persons 2020*, 45-46; Human Rights Council, Report of the Special Rapporteur trafficking in persons, especially women and children, on Her Mission to Jordan, U.N. Doc. A/HRC/32/41/Add. (18 June 2016), 6, <https://digitallibrary.un.org/record/842655?ln=en>; Maria Grazia Giammarinaro (Special Rapporteur), Human Rights Council, Report of the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, Mission to Malaysia, U.N. Doc. A/HRC/29/38/Add.1 (15 June 2015), 6, https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_29_38_Add.1.pdf.

⁴⁰⁹ UNODC, *Global Report on Trafficking in Persons 2020*, 46-47.

by “selling” the victims, and the height of these earnings depends on the trafficker’s negotiating abilities for the value of the victim. At the exploitation phase, profits are derived from selling services offered by the victims to third parties or by reducing the costs of the victims’ services.

Between 2007 and 2017, 15 countries in six regions worldwide provided information about the commercial value of recruiting victims. Most cases involved women (26), few cases involved girls (two cases), a man, or a baby (one case each). The adult female victims were bought for as little as 36 USD to 23,600 USD. Further, “in 26 out of the 30 recorded cases, women and girls were sold to exploiters for less than 5,000 USD, with some victims sold for less than 1,000 USD in eight of these cases. In 22 out of the 30 cases, the broker received less than 2,000 USD for each recruited victim.”⁴¹⁰

The GLOTiP report notes that “while these findings are not representative of the global human trafficking market dynamics, they do challenge many of the market value estimations commonly provided”.⁴¹¹ Moreover, “[w]hile some studies have tried to estimate the market value of sexual exploitation,⁴¹² limited analysis has been done to estimate profits at recruitment”.⁴¹³ The actual monetary transaction to recruit a trafficking victim appears to be far less than expected. Comparing the commercial gains from the examined court cases and national average incomes cautions that the recruiting phase of trafficking victims could be less profitable than an average legal job.⁴¹⁴ Besides, other illicit trafficking activities seem much more profitable than trafficking in persons.⁴¹⁵ Human trafficking profits are higher in the exploitation phase, considering

⁴¹⁰ Ibid., 47.

⁴¹¹ Ibid., 48; FATF Financial Action Task Force and APG Asia/Pacific Group on Money Laundering, *Financial Flows from Human Trafficking* (Paris: FATF, 2018), 74, www.fatf-gafi.org/publications/methodandtrends/documents/human-trafficking.html.

⁴¹² Alexis Aronowitz, Gerda Theuermann, and Elena Tyurykanova, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* (Vienna: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2010), <https://www.osce.org/files/f/documents/c/f/69028.pdf>.

⁴¹³ UNODC, *Global Report on Trafficking in Persons 2020*, 48.

⁴¹⁴ Beatrix S. Zakhari, “Legal Cases Prosecuted under the Victims of Trafficking and Violence Protection Act of 2000”, in *Human Traffic and Transnational Crime: Eurasian and American Perspectives*, ed. Sally W. Stoecker and Louise I. Shelley (Lanham: Rowman and Littlefield Publishers, Inc., 2005), 125-150.

⁴¹⁵ UNODC, *World Wildlife Crime Report: Trafficking in Protected Species, 2020* (New York: United Nations Publication, Sales No. E.20.XI.8, 2020), 55, https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World_Wildlife_Report_2020_9July.pdf.

it is more closely attached to the consumption of the victims' services.⁴¹⁶

The victims' travel costs and accommodation expenses are initially covered by the trafficker and then turned into unbearable debts for the victims to pay back. The debt also serves as a coercion method that hinders victims from escaping. Information about profits of exploitation is limited. Nonetheless, the total returns estimated from single court cases generally approximated a few thousand US dollars. Only some cases exceeded 100,000 USD, which concerned large criminal organizations exploiting numerous victims for more than three years for sexual exploitation, forced labor, or forced criminal activity. In most reported cases (12 out of 16), though, traffickers gained no more than 5,000 USD per victim, with only three reporting monthly earnings per victim exceeding 10,000 USD. Since the illegal profits in human trafficking worldwide correlate mainly with the victims' number, accurate estimations are very difficult to attain. Despite that, the fact that single traffickers earn comparatively low income illustrates the little value they assign to their victims. Often victims are "sold" for just a few hundred dollars, similar to a few grams of methamphetamine. Notwithstanding the smaller market of trafficking in persons compared to other illicit markets, the harm associated with trafficking in persons is incomparable.⁴¹⁷

In 2014 the International Labor Organization (ILO) published the **"Profits and poverty: the economics of forced labour"** providing **global estimates** of the **profits of forced labor** based on data collected by the ILO for the 2012 Global Estimate of Forced Labor. According to ILO estimates, the principal financial losers are victims of forced labor and the countries of origin or countries of destination. As already mentioned, victims of forced labor work under hazardous conditions and suffer "wage retention, debt repayments, and underpayment of wages"⁴¹⁸, resulting in dramatic earning losses. Forced labor causes destination countries to "lose revenues from non-payment of taxes due to undeclared incomes or the illegal nature of the jobs concerned".⁴¹⁹ Moreover, in the countries of origin, the meager wages of forced laborers critically

⁴¹⁶ UNODC, Global Report on Trafficking in Persons 2020, 48.

⁴¹⁷ Ibid., 49.

⁴¹⁸ International Labour Organisation, *Profits and Poverty: The Economics of Forced Labour* (Geneva: International Labour Office (ILO), 2014), 12, <https://www.ilo.org/global/topics/forced-labour/publications/profits-of-forced-labour-2014/lang--en/index.html>.

⁴¹⁹ Ibid.

impact salary levels which in developing countries negatively affects investments rates and efforts to improve income inequalities.⁴²⁰

The estimate incorporates three forms of forced labor: **labor exploitation** outside domestic work, **forced domestic work**, and **forced sexual exploitation**. They all relate to 18.7 million victims out of the 20.9 million people estimated to be in forced labor in 2012 (state-imposed forced labor is excluded). The total illicit profits are estimated to be US\$150.2 billion per year. Forced labor exploitation accounts for US\$51.2 billion, including approximately US\$8 billion from coerced domestic work. The higher number of victims in Asia and the higher profit per victim in Developed Economies results in Asia having the highest share in profits, amounting to US\$ 51.8 billion, as well as the Developed Economies with respective US\$ 46.9 billion profits.⁴²¹ Annual profit per victim is highest in the Developed Economies accounting for US\$34,800 per victim, followed by countries in the Middle East with US\$ 15,000 per victim profit, and the lowest profits existing in the Asia-Pacific region (US\$ 5,000 per victim) and in Africa (US\$3,900 per victim).⁴²²

Forced sexual exploitation accounts for an estimated US\$ 99 billion per year, approximating two-thirds of the profits from forced labor. Victims of forced labor exploitation, including domestic work, agriculture, and other economic activities, are estimated to account for US\$ 51 billion annual profits. The profits from forced labor in agriculture, forestry, and fishing, are estimated to be US\$ 9 billion per year. Profits for other economic activities are estimated at US\$ 34 billion per year, including construction, manufacturing, mining, and utilities. Private households that employ domestic workers under conditions of forced labor save about US\$8 billion annually. It was estimated that forced domestic workers were paid about 40 percent of the wage they should have received on average. Profits per victim are estimated to be highest in forced sexual exploitation. The high demand for sexual services and prices that sex buyers are willing to pay, along with its “low capital investments and low operating costs”⁴²³, may partially explain its high profitability. Forced sexual exploitation has an estimated

⁴²⁰ Ibid.

⁴²¹ Ibid., 13.

⁴²² Ibid., 14.

⁴²³ Ibid., 15.

global average profit of US\$ 21,800 per year per victim, which makes it six times more profitable than all other forms of forced labor, and five times more profitable than forced labor exploitation.⁴²⁴

All victims of forced sexual exploitation are not paid by the sex buyers. Instead, pimps and brothel owners receive the payments, and the victims remain oblivious of the height of the transaction. In many cases of debt bondage, the exploiters withhold all of the victims' earnings, denying any payments to them for months. The profits of sexual exploitation are shared by various intermediaries: recruiters, those in charge of victims' travel and transport, corrupted law enforcement instruments, “owners of flats or houses, companies in charge of advertising”⁴²⁵, and, last but not least, the brothel owners, pimps and prostitution networks operators. The total annual profits of forced sexual exploitation are estimated at US\$99 billion globally. While the profits are highest in Asia due to a large number of victims, the annual profits per victim are highest in Developed Economies (US\$80,000) and the Middle East (US\$55,000), considering the higher prices of sexual services.⁴²⁶

Methods used

The means used by traffickers to control their adult victims vary according to the different phases of the trafficking process. Usually, they begin by employing deceptive means and progressively intensify the aggressiveness of their tactics. The means for recruiting adult victims—the report refers to adult victims as, according to the UN Trafficking Protocol, when the victim is a child, the “means” are not required to define a trafficking case—manifest a marked absence of physical violence. Only eight of the considered cases involved physical violence during the recruitment phase, where the offenders mainly used deception.⁴²⁷ The means varied “from fake and lucrative job advertisements to direct outreach by traffickers under the pretense of wanting friendships”⁴²⁸. Traffickers repeatedly used deceptive methods to exploit victims in economic need. In the exploitation phase, while there was widespread use of explicit violence,

⁴²⁴ Ibid.

⁴²⁵ Ibid., 26.

⁴²⁶ Ibid., 26-27.

⁴²⁷ UNODC, Global Report on Trafficking in Persons 2020, 52.

⁴²⁸ Ibid., 53.

numerous cases reported other forms of control like the confiscation of travel documents and/or taking advantage of the migration status of victims as a means to secure better control on the exploited victim. Interestingly, the employed means of recruitment and control remained almost the same in child trafficking cases. While the report notes that the results of its analysis were “not necessarily representative of the trafficking phenomenon”⁴²⁹, traffickers used coercion to exploit their victims in more than 50 percent of the cases of trafficking in persons reported by the Member States. In about 10 percent of these cases, and for 22 percent of the victims considered, traffickers used extreme violence. Nevertheless, traffickers did not seem to exercise explicit violence during the trafficking process in several cases. In about 27 percent of cases and 26 percent of the victims, offenders used non-violent approaches, abusing victims’ emotional, economic or other vulnerabilities.⁴³⁰

Trafficking flows

The 2020 GLOTIP report recorded 534 different **trafficking flows**. The report defined “flow” as a “combination of one origin country and one destination where at least five victims were detected during the period considered”.⁴³¹ More than 120 countries reported having victims from more than 40 different countries of origin. Still, it is possible that national authorities failed to detect some flows, leading to an even more complex diffusion of human trafficking. Trafficking flows generally manifest a limited geographical range. Trafficking of victims usually occurs within neighboring subregions and regions.⁴³² The most detected victims worldwide were domestically trafficked. Above 50 percent of victims whose citizenship was reported were victims of domestic trafficking during 2018.⁴³³

In addition, while the percentage of **domestically trafficked victims** has increased over the recent years, not all countries bear the same shares of domestic trafficking. Most countries in South Asia, Eastern Europe, and Central Asia reported higher

⁴²⁹ Ibid.

⁴³⁰ Ibid.

⁴³¹ Ibid., 54n83.

⁴³² UNODC, Global Report on Trafficking in Persons 2012, 13; UNODC, Global Report on Trafficking in Persons 2014, 38-39; UNODC Global Report on Trafficking in Persons 2016, 41-42; UNODC Global Report on Trafficking in Persons 2018, 41-44.

⁴³³ UNODC, Global Report on Trafficking in Persons 2020, 54.

levels than other regions. Still, countries in Western and Central Europe and North America have also detected an increase in domestic trafficking over the last few years. Deriving from analysis of court cases, in high-income States, domestic trafficking differentiates from **cross-border trafficking**. In most internal flows, victims are girls or young women trafficked for sexual exploitation, which are mainly targeted due to personal risk factors, such as behavioral and emotional issues correlated with adverse childhood, dysfunctional families, or substance abuse.⁴³⁴ According to the World Health Organization classification, these risk “factors are defined as mental, behavioral or neurodevelopmental disorders (MBN disorders)”.⁴³⁵ On the contrary, the cross-border trafficking cases in high-income countries had more adult victims, trafficked for various exploitative purposes, and targeted due to their economic needs or irregular migration status.⁴³⁶

Regarding the **flows in domestic trafficking**, victims can still be transported across large geographical territories “when they are recruited and exploited in different states or provinces of large countries”⁴³⁷. In many court cases, victims were exploited near the area of their recruitment. In other cases, they were transported from poorer to more affluent areas. Victims were also trafficked from poor communities to tourist areas, plus several others frequently trafficked from small villages to urban areas. It is important to point out that while some domestic victims may be detected before being trafficked abroad, their cases constitute cross-border trafficking and not domestic trafficking. For example, there were cases where the victims were recruited for exploitation. Still, the transportation across the border failed, and the victim was recorded in the country of recruitment.⁴³⁸

⁴³⁴ Ibid., 55.

⁴³⁵ “The International Classification (ICD-11) of the World Health Organization defines ‘Mental, behavioural and neurodevelopmental disorders’ as syndromes characterised by clinically significant disturbance in an individual’s cognition, emotional regulation, or behaviour that reflects a dysfunction in the psychological, biological, or developmental processes that underlie mental and behavioural functioning. These disturbances are usually associated with distress or impairment in personal, family, social, educational, occupational, or other important areas of functioning”. See “International Classification of Diseases (ICD)”, WHO | World Health Organization, accessed August 25, 2021, <https://www.who.int/classifications/icd/en/>, quoted in UNODC, *Global Report on Trafficking in Persons 2020*, 56n86.

⁴³⁶ UNODC, *Global Report on Trafficking in Persons 2020*, 56.

⁴³⁷ Ibid., 57.

⁴³⁸ Ibid., 56-57.

Most **cross-border trafficking flows** occur within the same subregion or region. North America, Western and Southern Europe, and the Middle East's wealthy nations are the only destinations with significant levels of victims from other regions. Data on repatriated victims confirm the general pattern of cross-border trafficking limited mainly in subregions. The same data unveil further long-distance trafficking activity. For instance, there are cases of South American citizens trafficked to and repatriated from Europe, North America, East Asia, and the Middle East. Victims from West, East, and Southern Africa are also trafficked to and repatriated from the Middle East. Additionally, victims from Central and South-Eastern Europe are also trafficked to and repatriated from Eastern Europe.⁴³⁹

The combined analysis on data of detection and repatriation indicates that Europe, the Middle East, North America, and countries in East Asia and the Pacific function as destination countries that “draw” victims from a diverse pool of origins. The UNODC report remarks that “during 2017-2018, countries in Western and Southern Europe detected victims of 125 different citizenships”⁴⁴⁰ and considering the origin “of transregional trafficking flows is concerned ... victims from East Asia and Sub-Saharan Africa were detected in a large number of countries in almost every region of the world”, while, “Central and South-Eastern European victims were detected in large numbers, but mainly in European destinations”.⁴⁴¹

ILO's Global Estimates on Modern Slavery

The **ILO**, the **Walk Free Foundation**, in partnership with the International Organization for Migration (IOM), delivered **global and regional estimates of modern slavery** derived from various data sources, namely the Walk Free Foundation's survey data for 2014 and 2015, data from 26 national surveys jointly conducted by ILO and Walk Free Foundation in 2016 and data from the IOM's database of human trafficking cases since 2012. The central element constituted of 54 “specially designed, national probabilistic surveys involving interviews with more than 71,000 respondents across

⁴³⁹ Ibid., 59.

⁴⁴⁰ Ibid., 61.

⁴⁴¹ Ibid.

48 countries”.⁴⁴²

ILO’s conservative estimates showed that 40.3 million people were victims of modern slavery in 2016, forced by means of coercion and threats to work against their will or live in a forced marriage. The prevalence analysis of the phenomenon indicated that there were 5.4 victims for every thousand people in the world in 2016.⁴⁴³

From the total number of victims, 24.9 million people were in forced labor, and 15.4 million people were living in a forced marriage. In other words, 62 percent of the victims were being forced, by private individuals and groups or by state authorities, to work under threat or coercion as sex workers, domestic workers, in factories, agriculture, fishing industry, and other sectors. The resulting products and services regularly often appeared in what resembled legal business channels. Another 32 percent of the victims were living in a forced marriage, being deprived of their sexual autonomy. Moreover, in many cases, marriage provided the perfect guise for forced labor exploitation.⁴⁴⁴

Women and girls accounted for 71 percent of total victims suggesting highly gendered patterns of employment and migration. Females amounted to 99 percent of victims of forced sexual exploitation and 84 percent of victims of forced marriages. They were primarily exploited for forced labor in the private sector (in domestic work and the sex industry) and forced marriage. Women and girls seem to be disproportionately affected by human rights violations in the form of domestic and sexual violence and discriminatory attitudes concerning their “access to property, education, and even citizenship”.⁴⁴⁵

Men were disproportionately subjected to state-imposed forms of forced labor and to forced labor in sectors that require manual labor. Males can be victims in any form of modern slavery, including forced sexual exploitation and forced marriage.⁴⁴⁶

The ILO remarked that the most alarming finding was that one in four victims

⁴⁴² International Labour Organization and Walk Free Foundation, *Global Estimates*, 15.

⁴⁴³ *Ibid.*, 21.

⁴⁴⁴ *Ibid.*, 22.

⁴⁴⁵ *Ibid.*

⁴⁴⁶ *Ibid.*, 23.

of modern slavery in 2016 were children below 18 years, amounting to 10 million persons. Children constituted approximately 37 percent of the victims of forced marriage and around 21 percent of forced sexual exploitation, 18 percent of forced labor exploitation, and 7 percent of those forced to work by state authorities.⁴⁴⁷

The difference in the prevalence of modern slavery between children and adults is relatively diminutive. Globally, there were 5.9 adult victims of modern slavery for every 1,000 adults and 4.4 child victims for every 1,000 children. While in comparison with children, adults were more likely to be subjected to all three forms of forced labor, children were more likely than adults to be victims of forced marriage. The estimates indicated that for every 1,000 children, there were 2.5 victims of forced marriage, and for every 1,000 adults, there were 1.9 victims of forced marriage.⁴⁴⁸

The most prevalent forms of forced labor of children can either result from their parents being victims of forced labor or children being in forced labor on their own as a result of various means of coercion and trafficking.⁴⁴⁹

Between 2012 to 2016, there was a total of 89 million victims of modern slavery, with 82.7 million being victims of forced labor and 6.5 million of forced marriage. The duration of victimization in modern slavery varied considerably. While some escaped after a few days or weeks, others were victimized for years. According to IOM's data on registered victims since 2012, the average duration of forced labor was slightly more than 20 months, 23 months for the victims of sexual exploitation, while forced labor imposed by state authorities displayed great variability in duration, ranging between few days per month to several years.⁴⁵⁰

Concerning the regional prevalence—which according to ILO's report should be evaluated carefully, taking into account crucial inconsistencies and limitations of the data —, Africa demonstrated the highest one with 7.6 victims for every thousand people, followed by the Asia and the Pacific region with 6.1 victims for every one thousand, Europe and Central Asia (3.9/1,000), the Arab States (3.3/1,000), and finally the Americas (1.9/1,000). Asia and the Pacific exhibited the highest prevalence of forced labor

⁴⁴⁷ Ibid.

⁴⁴⁸ Ibid., 24.

⁴⁴⁹ Ibid., 25.

⁴⁵⁰ Ibid.

with 4.0 victims per one thousand, while Africa showed the highest prevalence of forced marriage (4.8/1,000).⁴⁵¹

The Asia and the Pacific region had the largest absolute number of victims of modern slavery, amounting to 62 percent of the total number of victims of modern slavery globally. Next was the Africa region (23 percent), Europe and Central Asia (9 percent), the Americas (5 percent), and finally, the Arab States (1 percent). Taking into account the different forms of modern slavery, the Asia and the Pacific region still held the highest percentage of victims, accounting for 73 percent of victims of forced sexual exploitation, 68 percent of those forced to work by state authorities, 64 percent of those in forced labor exploitation, and 42 percent of victims of forced marriages.⁴⁵²

- Furthermore, the ILO estimated the distribution of forced labor in regard to its three broad categories, namely:
- Forced labor exploitation, covering all forced labor imposed by private agents except for commercial sexual exploitation.
- Forced sexual exploitation included any forced commercial exploitation of women and men who have, along with any kind of commercial sexual exploitation of children.

State-imposed forced labor, referring to forced labor imposed by the military, any compulsory participation in public works, and forced prison labor.⁴⁵³

The estimate showed that 24.9 million persons were victims of forced labor in 2016. Of all these victims, 16 million (64 percent) were victims of forced labor exploitation, 4.8 million (19 percent) were victims of forced sexual exploitation, and 4.1 million (17 percent) were victims of forced labor imposed by state authorities. Twenty-three percent of victims of forced labor were exploited outside their country of residence. Victims of forced sexual exploitation were most likely to have been exploited outside their country of residence, accounting for 74 percent of the total of victims exploited outside their country residence. On the other hand, victims of forced labor im-

⁴⁵¹ Ibid., 26.

⁴⁵² Ibid., 27.

⁴⁵³ Ibid., 28.

posed by state authorities were almost exclusively exploited in their countries of residence.⁴⁵⁴ The large percentage of victims exploited outside their country of residence suggests that combating modern slavery necessitates initiatives that will ensure safe and regular procedures of migration.⁴⁵⁵

Interestingly, while poverty is frequently mentioned as an important risk factor for modern slavery, examining the relationship between the income levels of the victims' country of residence and the country where the exploitation took place showed low mobility across income groupings. It was estimated that 94 percent of victims of forced labor was exploited in a country that belonged in "the same income-based regional grouping as their country of residence".⁴⁵⁶

Concerning forced labor exploitation imposed by private actors except for commercial sexual exploitation, there were an estimated 16 million victims in 2016. Females constituted 57 percent of the total victims, while males constituted 43 percent. Approximately 20 percent of the victims were children who worked either alone or together with their parents. In forced labor exploitation where the type of work was known, domestic work accounted for 24 percent, followed by the construction sector (18 percent), manufacturing (15 percent), and agriculture and fishing (11 percent) sectors.⁴⁵⁷

Male victims were largely predominated in agriculture, forestry, and fishing (68 percent), manufacturing and construction (82 percent respectively), begging (90 percent), and mining and quarrying (100 percent). Female victims were much more likely to be in the accommodation and food services (92 percent) and in domestic work (61 percent).⁴⁵⁸

Regarding the means of coercion used in cases of forced labor, withholding of wages, or the threatening to do so, was the most prevalent, endured by 24 percent of the exploited victims. Next most prevalent were threats of violence (17 percent), acts

⁴⁵⁴ Ibid., 29-30.

⁴⁵⁵ Ibid., 30.

⁴⁵⁶ Ibid., 31.

⁴⁵⁷ Ibid., 32.

⁴⁵⁸ Ibid., 33.

of physical violence (16 percent), and threats against the family (12 percent). Additionally, it was estimated that male and female victims faced different forms of coercion. Male victims faced more frequent threats against the family (65 percent), withheld wages (62 percent), confinement (63 percent), deprivation of food and sleep (66 percent), and threats of legal action (68 percent). On the other hand, female victims were much more often sexually abused (98 percent) and had their passports confiscated (65 percent).⁴⁵⁹

Over half the men and women in forced labor exploitation were under debt bondage. When taking into account adult victims being exploited in agriculture, domestic work, or manufacturing, debt bondage accounted for more than 70 percent of them.⁴⁶⁰

Forced sexual exploitation of adults and commercial sexual exploitation of children involved 4.8 million victims in 2016. The vast majority were females, accounting for more than 99 percent of the total victims of forced sexual exploitation. The Asia and the Pacific region hosted more than 70 percent of victims of forced sexual exploitation, followed by 14 percent in Europe and Central Asia, 8 percent in Africa, 4 percent in the Americas, and 1 percent in the Arab States. The duration of sexual exploitation averaged about 23.1 months before the victims were freed or managed to escape.⁴⁶¹

Children comprised more than 1 million of the victims of forced sexual exploitation and represented 21 percent of all victims. Worth noticing that the actual value is higher than the 2018 estimates considering child victims of commercial sexual exploitation are very challenging to detect.⁴⁶²

Conservative estimates denote that 15.4 million people were victims of forced marriage in 2016, with 6.5 million of these cases occurring from 2012 to 2016, and the remainder happened before this period but continued into it. The estimated prevalence indicated that 2.1 per thousand persons were living in forced marriage in 2016, globally.⁴⁶³

⁴⁵⁹ Ibid., 35.

⁴⁶⁰ Ibid., 36.

⁴⁶¹ Ibid., 39.

⁴⁶² Ibid., 40.

⁴⁶³ Ibid., 43.

The regions of Africa and Asia and the Pacific hosted more than 90 percent of all forced marriages. Prevalence in Africa was estimated at 4.8 victims for every 1,000 people, followed by the Asia and the Pacific region at 2.0 per 1,000, Europe and Central Asia region and the Arab States region at 1.1 per 1,000, and the Americas at 0.7 per 1,000. Notably, “[t]hese regional figures, however, were affected by differences across regions in data availability”.⁴⁶⁴

Thirteen million women and girls were estimated as victims of forced marriage in 2016, accounting for 84 percent of all victims of forced marriage. Worth noting, the share of females in forced marriage was 84 percent, which was considerably higher than their 71 percent share in all forms of modern slavery.⁴⁶⁵

Thirty-seven percent of people living forced marriage were estimated to be children when the marriage took place. Forty-four percent of child victims were forced to marry before the age of 15, with the youngest victims being nine years of age when forced to marry. Girls constituted 96 percent of all child victims.⁴⁶⁶

3.1.1 International Counter-Trafficking Instruments

UNODC International Framework for Action

In 2009 United Nations Office on Drugs and Crime (UNODC) published the “International Framework for Action to Implement the Trafficking in Persons Protocol”. The Framework for Action is a technical assistance tool that guides the effective implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons. The Framework’s objectives emulate the United Nations Trafficking Protocol provisions based on promoting “the 3ps”, prevention, protection, prosecution, along with national and international cooperation and coordination.⁴⁶⁷ Following the United Nations Trafficking Protocol, the fight against human trafficking necessitates systematic strategies that address all aspects of its illicit activities and concurrently secure the rights and protection of victims. Up until 2008, overviews of national measures and

⁴⁶⁴ Ibid., 44.

⁴⁶⁵ Ibid., 45.

⁴⁶⁶ Ibid., 46.

⁴⁶⁷ UNODC, *International Framework for Action to Implement the Trafficking in Persons Protocol* (New York: United Nations, 2009), 3, https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf.

implementation of the Protocol provisions indicated that most States Parties to the Protocol had taken steps to harmonize their legislature with the Protocol. However, further joint actions need to be implemented to amplify multidisciplinary anti-trafficking strategies and develop dedicated and sustainable resources.⁴⁶⁸

Effective implementation of anti-human trafficking policies faces constant challenges in allocating sufficient financial resources. Moreover, difficulties regarding prevention, protection, and prosecution efforts concentrate on the areas: (a) **knowledge and research**, (b) **capacity-building and development**, and (c) **monitoring and evaluation**.⁴⁶⁹

Elaborating, implementing, and evaluating anti-human trafficking strategies and developing evidence-based policies necessitate **research** into particular national, regional, and international trafficking in persons contexts. In addition, such **knowledge** and research profoundly foster a more comprehensive understanding of the crime and the violations of human rights it entails, considering the diversity of interpretations of the Protocol by Member States.⁴⁷⁰ The greater comprehension of the scope and nature of human trafficking would establish the foundations for more effective national, regional, and global counter-efforts. Until 2009, many Member States display inadequate collection of even the most essential data, and others fail to collect data to facilitate insight into the national situation and ensure international comparability. The available data are commonly not categorized according to age, gender, nationality, ethnicity, ability, or form of exploitation.⁴⁷¹ There is also insufficient qualitative research on the diverse dimensions of human trafficking, like the legal, social, cultural, and economic factors contributing to the vulnerability of children and adults. Additionally, the demand factors, routes, patterns or trends, and perpetrators' modus operandi should be further investigated. Lastly, emphasis should be put on identifying effective responses for the protection, rehabilitation, and integration or reintegration of victims.⁴⁷²

Strengthening national **capacity** is essential to Member States for extending,

⁴⁶⁸ Ibid., 4.

⁴⁶⁹ Ibid., 5.

⁴⁷⁰ Ibid.

⁴⁷¹ Ibid., 5-6.

⁴⁷² Ibid., 6.

maintaining, and adapting their institutional and technical ability to develop, implement and assess their anti-human trafficking policies and strategies. This capacity should embrace all varieties of responses to trafficking in persons, specifically: prevention, protection, prosecution, cooperation, and coordination.⁴⁷³

Systematic gathering and analyzing data on trafficking in persons is another essential step for expanding the “knowledge base and **monitoring** trends and patterns at national, regional, and international levels”⁴⁷⁴. Data gathering and analysis are also crucial for setting **assessment standards** for the progress in implementing national policies, strategies, and programs.⁴⁷⁵

The United Nations Office of the High Commissioner for Human Rights (UNHCHR) issued “Recommended **Principles and Guidelines**” to assist the Member States in establishing monitoring procedures for the human rights impact of anti-trafficking laws, policies, programs, and interventions. It is also suggested that this role should be assigned to available independent national human rights institutions.⁴⁷⁶ Member States should ensure a standardized national system for collecting and sharing data to allow the different agencies to use common language, methods, and procedures that would enable comparability within and across different countries. Additionally, Member States should use the findings from regular monitoring and impact evaluations to help identify gaps in the national response and adapt their measures and policies for preventing and combating trafficking in persons.⁴⁷⁷

The **guiding principles** interact with each other and address all aspects for a comprehensive anti-human trafficking response. The principles as stated in the UNODC Framework for Action are:⁴⁷⁸

⁴⁷³ Ibid.

⁴⁷⁴ Ibid., 7.

⁴⁷⁵ Ibid.

⁴⁷⁶ U.N. Economic and Social Council (ECOSOC), *Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council*, U.N. Doc. E/2002/68/Add.1, (May 20, 2002), (hereafter cited as ECOSOC, *Recommended Principles*), Guideline 1, par. 7, <https://undocs.org/E/2002/68/Add.1>, quoted in UNODC, *International Framework for Action*, 7.

⁴⁷⁷ UNODC, *International Framework for Action*, 7.

⁴⁷⁸ Ibid., 8.

- Human rights-based approach: The human rights of trafficked persons should always be prioritized by all efforts to prevent and combat trafficking and protect, assist and rectify victims.⁴⁷⁹
- *Principle of non-discrimination*: The applications and interpretations of the Trafficking Protocol’s measures should not discriminate against human trafficking victims.⁴⁸⁰
- *Gender-sensitive approach*: The distinctive features of trafficking in men and women should be recognized and addressed, along with existing differences and similarities in the experiences, vulnerabilities, and differential impacts.⁴⁸¹
- *Child-Rights approach and child participation*: The best interest of at-risk and child victims should be prioritized, granting they are entitled to special protection measures—following United Nations Convention on the Rights of the Child (CRC) and its Optional Protocol on the sale of children, child prostitution and child pornography.⁴⁸²
- *The United Nations Trafficking Protocol and other international instruments* “The United Nations Trafficking Protocol” supplements the “United Nations Convention against Transnational Organized Crime” and should be interpreted together. The Protocol shall not affect, by any means, the rights, obligations, and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law, international labor standards and, in particular, where applicable, the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees and the principle of non-refoulement as contained therein.

⁴⁷⁹ ECOSOC, Recommended Principles, par. 3, quoted in UNODC, International Framework for Action, 8.

⁴⁸⁰ Trafficking Protocol, art. 14.

⁴⁸¹ Jean D’Cunha (Technical Advisor on Migration and Trafficking, India), Expert Group Meeting on “Trafficking in women and girls”, *Trafficking in persons: a gender and rights perspective*, U.N. Doc. EGM/TRAF/2002/EP.8 (Nov. 8, 2002), <https://www.un.org/womenwatch/daw/egm/trafficking2002/reports/EP-DCunha.PDF>.

⁴⁸² UNICEF, *Guidelines on the Protection of Child Victims of Trafficking: UNICEF Technical Notes* (New York: UNICEF Headquarters, September, 2006), <https://gdc.unicef.org/resource/guidelines-protection-child-victims-trafficking>.

- *Comprehensive international approach:* Effectiveness in the prevention and combating of human trafficking, especially women and children, demands comprehensive international strategies in the countries of origin, transit, and destination and measures to prevent “such trafficking, to punish the traffickers, and to protect the victims of such trafficking...”.⁴⁸³
- *Interdisciplinary, coordinated, integrated approach:* The multifaceted global issue of trafficking in persons requires to be dealt with multiple policies aligned and harmonized with prevention and combating actions. The Member States should regulate and ensure the coordination between the various governmental agencies involved in anti-trafficking activities, between those agencies and NGOs, and between the agencies different Member States.¹⁷
- *Evidence-based approach:* The prevention and combating of trafficking in persons should be based on the development and implementation of policies and measures deriving from data collection and research along with regular monitoring and evaluation of anti-trafficking responses.
- *Sustainability:* Sustainable anti-trafficking responses endure over time “and adapt creatively to changing conditions. Sustainability refers to coherence of practices in both time and efficiency”.⁴⁸⁴

The Framework for Action centers on **five “key pillars of intervention”**⁴⁸⁵ to warrant effective and comprehensive anti-trafficking responses: *prosecution, protection, prevention, national coordination and cooperation, and international cooperation and coordination*.⁴⁸⁶

Prosecution: While many countries include offenses in their legislation for criminalizing trafficking in persons, these legislative initiatives fail to incorporate the entirety of Protocol’s provisions resulting in low conviction rates. According to the

⁴⁸³ Trafficking Protocol, preamble.

⁴⁸⁴ UNODC, International Framework for Action, 8-9.

⁴⁸⁵ *Ibid.*, 9.

⁴⁸⁶ *Ibid.*

UNODC's Framework of Action, developing effective prosecution mechanisms demands the following measures:⁴⁸⁷

- a. *Domestic laws* and their implementation should comply *with* the United Nations Trafficking Protocol and other international standards and prioritize the victim's rights. In that regard, implemented laws should ensure:
 - i. That trafficking in persons means a criminal offense defined in the United Nations Trafficking Protocol and prioritizes prosecuting offenders of trafficking in persons.
 - ii. Criminalization of illicit activities associated with human trafficking (corruption, money laundering, obstruction of justice, and participation in an organized criminal group).
 - iii. Appropriate sanctions and confiscation of the related proceeds.
 - iv. The rights of victims and witnesses along with collaboration between law enforcement, social welfare, and civil society.
 - v. The development of proactive case investigation based on intelligence-led procedures without single dependence on victims' testimonies.⁴⁸⁸ Moreover, the judicial procedures protect trafficked victims from re-victimization.
- b. Ensure the enforcement of national anti-human trafficking legislation.
- c. Lastly, relevant institutions should be established to improve the effectiveness and efficiency of the anti-human trafficking efforts.⁴⁸⁹

Protection: Trafficked persons' identification is essential for victims' assistance and protection. Unfortunately, many countries lack or need to improve such processes and mechanisms. Improving the safety of victims requires the following measures:⁴⁹⁰

⁴⁸⁷ *Ibid.*, 10.

⁴⁸⁸ European Commission Directorate-General Justice, Freedom and Security, *Report of the Experts Group on Trafficking in Human Beings* (Brussels: 22 December, 2004), 41.

⁴⁸⁹ UNODC, *International Framework for Action*, 10.

⁴⁹⁰ *Ibid.*

- a. Implement appropriate legislative measures for comprehensive protection of and assistance to victims of trafficking and their empowerment and protection from re-victimization.
- b. Develop or strengthen the identification process.
- c. Ensure the enforcement of legislation measures.
- d. Establish or strengthen national referral mechanisms for victim protection and assistance.
- e. Employ measures according to international standards and a human rights-based approach for the victims' protection and assistance.
- f. Ensure that the returns of victims are voluntary decisions and always preceded by a risk assessment and with due regard for their safety.⁴⁹¹

Prevention: Prevention is necessary for effective anti-human trafficking responses. Still, prevention strategies are often not integrated into more comprehensive trafficking-in-person policies and “lack evidence-based research and planning as well as impact evaluations”⁴⁹². For improving prevention strategies and programs, the following anti-trafficking efforts should ensure:⁴⁹³

- a. Legislative measures and establishment of comprehensive policies and programs to prevent trafficking in persons and protect victims from re-victimization, including efforts to promote legal migration for adequate employment opportunities.
- b. Effective domestic protection systems for children as well as children's active participation in the development of preventive measures.
- c. Consistency among public policies related to trafficking in persons.
- d. The development or reinforcement of actions for lessening vulnerability to human trafficking.
- e. The evaluation of prevention programs' needs and impacts.⁴⁹⁴

National coordination and cooperation: Considering the complexity of traf-

⁴⁹¹ Ibid., 11.

⁴⁹² Ibid.

⁴⁹³ Ibid.

⁴⁹⁴ Ibid.

ficking in persons, Member States should employ inter-agency coordination and cooperation mechanisms for effective and efficient “information exchange, strategic planning, division of responsibilities, and sustainability of results”⁴⁹⁵. In order to improve national cooperation and coordination, the following measures warrant:⁴⁹⁶

- a. The development and implementation of comprehensive and evidence-based human trafficking policies and their coherence with related policies.
- b. Establish a system or mechanism of multidisciplinary cooperation and coordination among relevant stakeholders.
- c. Monitoring and evaluation of national strategies to enable course-corrective actions.⁴⁹⁷

International cooperation and coordination: Since trafficking in persons is often committed across borders, Member States must cooperate and coordinate among themselves and with international and regional organizations. In order to improve international cooperation and coordination, the following measures should warrant:⁴⁹⁸

- a. The legal foundations for international cooperation.
- b. National “capacity in extradition, mutual legal assistance, transfer of sentenced persons, joint investigations, international cooperation for purposes of confiscation”⁴⁹⁹.
- c. National capacities for the identification, return, risk assessment, and reintegration of victims of trafficking.
- d. The promotion of formal and informal cooperation.
- e. Consistency “in policy recommendations and technical assistance provided by international and regional organizations”⁵⁰⁰.

⁴⁹⁵ Ibid., 12.

⁴⁹⁶ Ibid.

⁴⁹⁷ Ibid.

⁴⁹⁸ Ibid., 12-13.

⁴⁹⁹ Ibid., 12.

⁵⁰⁰ Ibid., 13.

- f. The division of labor according “to organizations’ mandates and core competencies to avoid unnecessary duplication of efforts and rationalize activities to make them cost-effective”⁵⁰¹.
- g. The cooperation and mutual programming with international and regional organizations to develop and implement shared strategies and programs.⁵⁰²

TIER Ranking of the U.S. Department of State

The U.S. Department of State, in its Trafficking in Persons Report, ranks each country in one of four **TIERS**, as mandated by the 2000 Trafficking Victims Protection Act (TVPA). The ranking is not based on the size of a country’s trafficking problem but on the extent that its governmental endeavors to eradicate human trafficking adhere to the minimum standards set by TVPA, which are in general compatible with the Palermo Protocol guidelines. TIER 1 by no means indicates that a country has eliminated the human trafficking problem or puts enough effort to combat it. Instead, it suggests that governments have attempted to address the issue according to TVPA’s minimum standards. Governments should exhibit substantial advancement in their counter-trafficking efforts on a yearly basis to maintain a TIER 1 ranking. The Department of State remarks that “Tier 1 represents a responsibility rather than a reprieve”. The Department assesses countries’ efforts based on the following:⁵⁰³

Domestic laws should prohibit the severe forms of trafficking in persons under the TVPA definition and prescribe criminal punishment of the offenders. The criminal penalties should equal to at least four years’ deprivation of liberty or more severe penalties. The human trafficking legislation should be implemented by vigorous prosecution and sentencing of offenders. There should be proactive victim identification measures, systematic identification procedures along with government funding, and partnerships with NGOs to provide optimum assistance and support to victims. Additionally, governments should guarantee protection measures to victims, provide legal and other assistance and protect their rights, dignity, or psychological well-being.

⁵⁰¹ Ibid.

⁵⁰² Ibid., 12-13.

⁵⁰³ Department of State United States of America, *Trafficking in Persons Report June 2020*, 39.

Lastly, governments should warrant victims' safe and humane repatriation-reintegration, adopt measures to curb human trafficking, and strive to "reduce the demand for commercial sex acts and international sex tourism".⁵⁰⁴

Tier rankings are not influenced by: efforts initiated exclusively by nongovernmental actors; general public awareness events that are not linked with the prosecution of traffickers, protection of victims, or prevention of trafficking; and "broad-based law enforcement or developmental initiatives".⁵⁰⁵

The U.S. Department of State outlines Tier ranking as follows:

- **Tier 1** countries fully meet the TVPA's minimum standards for the elimination of trafficking.
- **Tier 2** countries do not fully meet the TVPA's minimum standards but strive significantly to adhere to those standards.
- **Tier 2 Watch List:** Countries whose governments do not fully meet the TVPA's standards but strive significantly to adhere to those standards, and for which:
 - a. The government fails to take adequate measures to effectively address the very significant or significantly increasing estimated number of victims of severe forms of trafficking.
 - b. The government "fails to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year"⁵⁰⁶.
- **Tier 3** countries do not fully meet the TVPA's minimum standards and are not endeavoring to do so. TVPA provides additional factors in determining whether a country should be on Tier 2 (or Tier 2 Watch List) versus Tier 3. Such ranking depends on:
 - ✓ whether and to what extent a country is a country of origin, transit, or destination for severe forms of trafficking;

⁵⁰⁴ Ibid.

⁵⁰⁵ Ibid., 40.

⁵⁰⁶ Ibid.

- ✓ whether and to what extent countries’ governments do not meet the TVPA’s minimum standards and whether “officials or government employees have been complicit in severe forms of trafficking”⁵⁰⁷;
- ✓ the measures governments need to adopt to comply with the minimum requirements considering their available resources and capabilities to combat effectively severe forms of trafficking in persons;
- ✓ the extent governments dedicate adequate “budgetary resources to investigate and prosecute human trafficking, convict and sentence traffickers; and obtain restitution for victims of human trafficking”⁵⁰⁸; in addition to protecting the victims and preventing the crime from occurring.⁵⁰⁹

A 2019 amendment to the TVPA declares as proof of countries’ failure to make significant efforts to meet the TVPA’s minimum standards fully, the existence of government policies or patterns of:

- Trafficking
- Trafficking in government-funded programs
- Forced labor
- Sexual slavery in government camps, compounds, or outposts
- Employing or recruiting child soldiers⁵¹⁰

Furthermore, according to a 2008 amendment to the TVPA, any country that has been ranked Tier 2 Watch List for two consecutive years and would otherwise be ranked Tier 2 Watch List for the next year will instead be ranked Tier 3 in that third year.⁵¹¹ The Secretary of State is authorized to waive the automatic downgrade only following credible evidence that a government has a written plan and its implementation constitutes “making significant efforts to meet the TVPA’s minimum standards for

⁵⁰⁷ Ibid., 41.

⁵⁰⁸ Ibid.

⁵⁰⁹ Adapted from Department of State United States of America, *Trafficking in Persons Report June 2020*, 40-41.

⁵¹⁰ Adapted from Department of State United States of America, *Trafficking in Persons Report June 2020*, 41.

⁵¹¹ Department of State United States of America, *Trafficking in Persons Report June 2020*, 41.

the elimination of trafficking and is devoting sufficient resources to implement the plan”.⁵¹²

Under the TVPA, countries ranked as Tier 3 may face the following restrictions:

“... President may determine not to provide U.S. government nonhumanitarian, non-trade-related foreign assistance as defined in the TVPA ... withhold funding for government official or employee participation in educational and cultural exchange programs ... President may also determine to instruct the U.S. Executive Director of each multilateral development bank and the International Monetary Fund to vote against and use their best efforts to deny any loans or other uses of the institutions’ funds ... for most purposes (except for humanitarian, trade-related, and certain development-related assistance). ... President may waive application of all or part of the foregoing restrictions upon a determination that the provision to a Tier 3 country of such assistance would promote the purposes of the TVPA or is otherwise in the national interest of the United States. The TVPA also authorizes the President to waive funding these restrictions if necessary to avoid significant adverse effects on vulnerable populations ...”⁵¹³

3.1.2 Risk and Harms of Human Trafficking and Sexual Exploitation

Human trafficking is a despicable criminal act that involves extreme forms of a wide array of abuse, exploitation, and human rights violations. The examples of studies on the harms, risks, and social and health consequences are numerous and most of the time require intervention. Among other models that attempt to describe the human trafficking process, the “Stages of the Human Trafficking Process model” allows to effectively connect trafficking victims’ harms and risks with the different stages of the crime. The model enables examining the gradual nature of the process or its diachronic elements, its various stages or

⁵¹² Ibid., 41-42.

⁵¹³ Ibid., 42.

the synchronic elements, and its geographical perspective. Namely, the stages are: the *Recruitment* stage, *Travel-transit*, *Exploitation*, *Detention*, *Integration or Reintegration*, and the *Re-trafficking* stage. This multi-aspect risk assessment reveals how harms accumulate over the process of trafficking, delineates possible respective interventions, and illustrates the vast array of harms and risks victims face in the trafficking ordeal.⁵¹⁴

The *recruitment* stage correlates closely with victims' level of vulnerability to traffickers' deceptive tactics.⁵¹⁵ Recruiters can be local opportunistic agents, members of criminal gangs, or even victims' friends and family members⁵¹⁶.⁵¹⁷ At this stage, victims' personality and character traits, pre-existing health conditions, family history (abuse or neglect), socio-cultural, economic, and environmental factors of their home country may significantly impact their health consequences from experiencing traumatic events.⁵¹⁸

Where the recruitment takes place is also important. Some may be recruited away from their home country, like refugee camps.⁵¹⁹ Others may be kidnapped, while

⁵¹⁴ Cathy Zimmerman, Mazeda Hossain, and Charlotte Watts, "Human trafficking and health: A conceptual model to inform policy, intervention and research", *Social Science & Medicine* 73, no. 2 (2011): 328, <https://doi.org/10.1016/j.socscimed.2011.05.028>; Michael Fleisher et al., *Human Trafficking in Eastern Africa: Research Assessment and Baseline Information in Tanzania, Kenya, Uganda, and Burundi* (Geneva: International Organization for Migration (IOM), 2008); Cathy Zimmerman et al., *The Health Risks and Consequences of Trafficking in Women and Adolescents: Findings from a European Study: Human Rights Analysis of Health and Trafficking and Principles for Promoting the Health Rights of Trafficked Women* (London: London School of Hygiene & Tropical Medicine and the Daphne Programme of the European Commission, 2003).

⁵¹⁵ Michèle A. Clark, "Vulnerability, prevention and human trafficking: the need for a new paradigm", in *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, ed. Kristiina Kangaspunta (Vienna: United Nations Office on Drugs and Crime, 2008), 59-78, https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf.

⁵¹⁶ Michael Fleisher, *Human Trafficking in Eastern Africa*; Surtees, "Traffickers and Trafficking", 39-68; Cathy. E. Zimmerman et al., *Stolen Smiles, a Summary: On the Physical and Psychological Health Consequences of Women and Adolescents Trafficked in Europe* (London: The London School of Hygiene & Tropical Medicine, 2006).

⁵¹⁷ Zimmerman, Hossain, and Watts, "Human trafficking and health", 328.

⁵¹⁸ Brian D. Gushulak and Douglas W. MacPherson, "Population Mobility and Health: An Overview of the Relationships Between Movement and Population Health", *Journal of Travel Medicine* 11, no. 3 (May 2004): 171-178, <https://doi.org/10.2310/7060.2004.18490>; Zimmerman, Hossain, and Watts, "Human trafficking and health", 328-329.

⁵¹⁹ Sue Nelson et al., "Literature Review and Analysis Related to Human Trafficking in Post-Conflict Situations", Office of Women in Development, Bureau for Economic Growth, Agriculture and Trade, (EGAT/WID) U.S. Agency for International Development (USAID). 2004, accessed May 18, 2021, <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.216.4907&rep=rep1&type=pdf>.

most fall victims to deceptive promises for a better life.⁵²⁰ Such factors can contribute both to health consequences and vulnerability to traffickers' recruitment attempts. Economic insecurity and instability, political turmoil, history of interpersonal violence can often act as push factors for labor migration.⁵²¹ A history of abuse, neglect, various adverse childhood experiences, family dysfunction, and psychic and physical trauma may extend the duration or influence the development of symptoms even after the trafficking event has terminated.⁵²² Such health outcomes might involve physical sequelae (chronic pain, physical disabilities),⁵²³ psychological reactions (anxiety, depression, hostility, suicidal ideation, self-harm, etc.),⁵²⁴ and various risk behaviors⁵²⁵. Preexisting childhood sexual abuse increases the likelihood of developing sexual and reproductive health disturbances, as well as a variety of psychological disorders, including suicidal ideation and behavior⁵²⁶. Post-trafficking centers' data reveal that the recruited women and children very often have a history of abuse. A relevant study showed that 59 percent of women reported experiences of preexisting experiences of physical or sexual abuse, and 15 percent reported sexual abuse before the age of 15.⁵²⁷ Potential victims may also migrate for more favorable work opportunities due to family financial or health crisis.⁵²⁸

⁵²⁰ Michael Fleisher et al., *Human Trafficking in Eastern Africa*.

⁵²¹ Marjan Wijers and Lin Lap-Chew, *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution: Preliminary Report* (Foundation Against Trafficking in Women & Global Alliance Against Traffic in Women, 1999), <https://documentation.lastradainternational.org/lsidocs/1137-Trafficking%20in%20women%20Wijers-Lap%20Chew.pdf>.

⁵²² Vincent J. Felitti et al., "REPRINT OF: Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study", *American Journal of Preventive Medicine* 56, no. 6 (2019): 774-786, <https://doi.org/10.1016/j.amepre.2019.04.001>.

⁵²³ M. P. Koss and L. Heslet, "Somatic consequences of violence against women", *Archives of Family Medicine* 1, no. 1 (1992): 53-59, <https://doi.org/10.1001/archfami.1.1.53>.

⁵²⁴ Bonnie L. Green et al., "Outcomes of single versus multiple trauma exposure in a screening sample", *Journal of Traumatic Stress* 13, no. 2 (2000): 271-286, <https://doi.org/10.1023/a:1007758711939>.

⁵²⁵ Louise-Anne McNutt et al., "Cumulative Abuse Experiences, Physical Health and Health Behaviors", *Annals of Epidemiology* 12, no. 2 (2002): 123-130, [https://doi.org/10.1016/s1047-2797\(01\)00243-5](https://doi.org/10.1016/s1047-2797(01)00243-5).

⁵²⁶ Elizabeth O. Paolucci, Mark L. Genuis, and Claudio Violato, "A Meta-Analysis of the Published Research on the Effects of Child Sexual Abuse", *The Journal of Psychology* 135, no. 1 (2001): 17-36, <https://doi.org/10.1080/00223980109603677>.

⁵²⁷ Cathy Zimmerman et al., "The Health of Trafficked Women: A Survey of Women Entering Posttrafficking Services in Europe", *American Journal of Public Health* 98, no. 1 (2008): 55-59, <https://doi.org/10.2105/AJPH.2006.108357>.

⁵²⁸ Surtees, "Traffickers and Trafficking", 39-68; Zimmerman, Hossain, and Watts, "Human trafficking and health", 329.

The **travel-transit** stage includes victims' transportation, which may involve multiple transit points and their arrival at the location of exploitation.⁵²⁹ Many internationally trafficked individuals undergo illegal and dangerous transportation practices. Women and girls frequently fall victim to sexual brutality. In addition, numerous illegal activities occur in the transit stage, like abduction or false imprisonment.⁵³⁰ Illegal border-crossing can often be under severe and life-threatening conditions. At this stage, the victims may also start to realize that they have been deceived. Experiences like rape, threats, confinement, and document confiscation that make victims sense of the impending dangers are commonly labeled as the "initial trauma" or the beginning of a series of traumatic events.⁵³¹

The **exploitation** stage is when labor or service exploitation and abuse take place. This stage generally exemplifies the full extent of exploitation and abuse that characterize trafficking in person,⁵³² and inevitably aggravates the already developed mental and physical health problems of the victims. As already mentioned, such violations of human dignity and integrity involve deprivation of basic needs, forced labor, debt bondage, sexual and physical violence, and abuse, and coercion, including threats against individuals and their family members. Adult female victims of sexual exploitation undergo severe levels of violence. For instance, Zimmerman et al. (2008) showed that 76 percent of women encountered severe physical violence, 90 percent sexual abuse, and another 89 percent threats.⁵³³ In general, though, adult victims more often endure labor hazards, threats, and physical violence. Labor exploitation involves long working hours and hazards exposure like engaging in dangerous tasks and without adequate training or protective equipment

⁵²⁹ Michael Fleisher et al., *Human Trafficking in Eastern Africa*.

⁵³⁰ Christine Bruckert and Colette Parent, *Trafficking in Human Beings and Organized Crime: A Literature Review* (Ottawa: Research and Evaluation Branch Community, Contract and Aboriginal Policing Services Directorate Royal Canadian Mounted Police, 2002), https://documentation.lastradainternational.org/lisidocs/bruckert_02_crime_0708.pdf.

⁵³¹ Alain Brunet et al., "The effects of initial trauma exposure on the symptomatic response to a subsequent trauma", *Canadian Journal of Behavioural Science / Revue canadienne des sciences du comportement* 33, no. 2 (2001): 97-102, <https://doi.org/10.1037/h0087132>; Zimmerman, Hossain, and Watts, "Human trafficking and health", 329.

⁵³² Wijers and Lap-Chew, *Trafficking in women, forced labour and slavery-like practices in marriage, domestic labour and prostitution*. Utrecht: Foundation Against Trafficking in Women, Global Alliance Against Traffic in Women.

⁵³³ Zimmerman, "The Health of Trafficked Women", 55-59.

and under harsh weather conditions.⁵³⁴

Traffickers differ in the coercive tactics they employ. Some victims might be subjected to life-threatening savagery or even slavery, and others, while not assaulted physically, may encounter severe psychological abuse and control. Even more unfortunate consequences anticipate victims that are trafficked to foreign regions. They may not comprehend the local language or be familiar with the customs, culture, legal procedures, or even the location they are transferred. These conditions augment their sense of helplessness and lead to suicidal behavior or desperate escape attempts with fatal consequences.⁵³⁵ In addition, health services are rare, and even when severe health conditions demand medical care, they might be provided by untrained individuals. Poor or non-existent health services are a great concern, bearing in mind the numerous unwanted pregnancies between female victims and the horrible miscarriages, abortions, and live births conditions and procedures they have to tolerate.⁵³⁶

The **detention** stage refers to a small share of trafficked victims during their custody or detention from state authorities or when required to cooperate with them.⁵³⁷ While in custody, many face considerable health and safety risks like unhygienic conditions, malnutrition, and lack of adequate health care.⁵³⁸ Stigma, discrimination, prosecution-related stress, and legal procedures are only a few of the multitude of social and legal stressors they might face.⁵³⁹ Studies show that victims that consent to collaborate in criminal investigations may encounter inadequate protection measures and support

⁵³⁴ Zimmerman, Hossain, and Watts, “Human trafficking and health”, 329.

⁵³⁵ Zimmerman, The Health Risks.

⁵³⁶ Laura J. Lederer and Christopher A. Wetzel, “The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities”, *Annals of Health Law* 23, no. 1 (Winter 2014): 61-91, <https://lawecommons.luc.edu/annals/vol23/iss1/5/>; Zimmerman, Hossain, and Watts, “Human trafficking and health”, 330.

⁵³⁷ Council of Europe, “Council of Europe Convention on Action against Trafficking in Human Beings”, *Council of Europe Treaty Series* 197 (May 2005), https://doi.org/10.1163/2210-7975_hrd-9953-2014006 and <https://rm.coe.int/168008371d>.

⁵³⁸ “Universal Periodic Review of Brazil (April 2008)”, Human Rights Watch, last modified October 28, 2020, <https://www.hrw.org/news/2008/04/06/universal-periodic-review-brazil>.

⁵³⁹ Cathy Zimmerman, “Trafficking in women: A qualitative study to conceptualise and map health risks”, (PhD diss., London School of Hygiene and Tropical Medicine, 2003).

mechanisms.⁵⁴⁰ They might also fall victims to retaliations by traffickers or re-traumatization in delivering narrations of their past events.⁵⁴¹ While characterized by different risks and detention conditions, this stage can cooccur with the integration-reintegration stage, *especially* for those victims that cooperate with authorities or apply for asylum procedures and concurrently find themselves in a period re-adjusting their lives after their traumatic trafficking experience.⁵⁴²

Zimmerman describes **integration or reintegration** by using an adapted definition of “integration” of the European Council on Refugees and Exiles (ECRE):

“Integration [or reintegration] are long-term and multi-dimensional stages of either integrating into a host country [or re-integrating into a home country setting], which are not achieved until the individual becomes an active member of the economic, cultural, civil and political life of a country and perceives that he or she has oriented and is accepted”.⁵⁴³

Social stigma, re-trafficking risk, and psychological sequelae are closely intertwined with the process of integration and reintegration.⁵⁴⁴ Some trafficked persons will enter this stage without some health needs. As a case in point, a study recorded that 57 percent of women and adolescents entering post-trafficking services centers reported remarkable symptomatology of depression, anxiety, and post-traumatic stress disorder, in addition to numerous—more than 12—physiological symptoms like headaches (82 percent), fatigue (81 percent), dizzy spells (70

⁵⁴⁰ Janice Lam and Klara Skrivankova, *Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK* (Anti-Slavery International, 2008), <https://resourcecentre.savethechildren.net/document/opportunities-and-obstacles-ensuring-access-compensation-trafficked-persons-uk/>.

⁵⁴¹ Elaine Pearson, *Human Traffic, Human Rights: Redefining Victim Protection* (London: Anti-Slavery International, 2002), http://www.antislavery.org/wp-content/uploads/2017/01/hum_traff_hum_rights_redef_vic_protec_final_full.pdf.

⁵⁴² Zimmerman, Hossain, and Watts, “Human trafficking and health”, 330.

⁵⁴³ Zimmerman, Hossain, and Watts, “Human trafficking and health”, 330; See also, ECRE, *Position on the integration of refugees in Europe* (London: The European Council on Refugees and Exiles (ECRE), 2002), 4, https://www.ecre.org/wp-content/uploads/2016/07/ECRE-Position-on-the-Integration-of-Refugees-in-Europe_December-2002.pdf.

⁵⁴⁴ Zimmerman, “Trafficking in women”.

percent), vaginal discharge (70 percent) and back pain (68 percent).⁵⁴⁵ Integration in destination environments entails difficulties in accessing care and stress levels parallel to refugees and asylum-seekers, which refer to undue social exclusion, discrimination, and inadequate social support and health care.⁵⁴⁶ Those who voluntarily remain in countries of destination have a higher probability of experiencing legal insecurity.⁵⁴⁷ Trafficking survivors returning home often face similar adverse conditions to the ones they left while bearing worse socio-economic and health problems. Safety issues from re-trafficking risks and traffickers' retaliations are always a great concern for those attempting to integrate or re-integrate.⁵⁴⁸

Re-trafficking is an unfortunate but, nevertheless, possible reality for the survivors of human trafficking. Vulnerability is probably influenced by the same factors that lead individuals to their initial entry into the trafficking process, such as scarcity of work opportunities and impoverishment.⁵⁴⁹ Survivors frequently present even lower resilience levels than before their exploitation; others develop the, often misleading, confidence that their acquired experience would benefit them in new migration attempts, and few may indeed become recruiters themselves. A history of abuse and adverse childhood and familial dysfunction correlate with future risk behavior and increase the possibility of re-trafficking.⁵⁵⁰ Besides, there is evidence that young people exhibit a higher vulnerability to re-trafficking, "especially within the two years following a trafficking experience"⁵⁵¹. There is also an indication that the risk of re-trafficking is an additional reason for authorities to warrant

⁵⁴⁵ Zimmerman, "The Health of Trafficked Women", 55-59.

⁵⁴⁶ Zachary Steel et al., "Impact of immigration detention and temporary protection on the mental health of refugees", *British Journal of Psychiatry* 188, no. 1 (2006): 58-64, <https://doi.org/10.1192/bjp.bp.104.007864>.

⁵⁴⁷ Angela Burnett and Michael Peel, "Asylum seekers and refugees in Britain: The health of survivors of torture and organised violence", *BMJ* 322, no. 7286 (March 2001): 606-609, <https://doi.org/10.1136/bmj.322.7286.606>.

⁵⁴⁸ Zimmerman, "Trafficking in women"; Zimmerman, *Stolen smiles*; Zimmerman, Hossain, and Watts, "Human trafficking and health", 330.

⁵⁴⁹ Jobe Alison, *The Causes and Consequences of Re-Trafficking: Evidence from the* (Geneva: IOM International Organization of Migration, 2010), https://publications.iom.int/system/files/pdf/causes_of_retrafficking.pdf.

⁵⁵⁰ Green, "Outcomes of single versus multiple trauma", 271-286; Zimmerman, Hossain, and Watts, "Human trafficking and health", 330-31.

⁵⁵¹ Zimmerman, Hossain, and Watts, "Human trafficking and health", 331.

proper support and compensations for the victims.⁵⁵²

Table 3.6 is adapted from the Zimmerman et al. (2011) study and shows examples of **abuse and risks** associated with their **respective consequences**. It pictures the research on occupational health, domestic and sexual violence, migration, and torture.⁵⁵³ Zimmerman remarks that children and adolescents are possibly at a higher risk of more enduring trafficking-related physical and psychological harm due to their immature development.⁵⁵⁴

⁵⁵² Ibid., 331.

⁵⁵³ Metin Basoglu, *Torture and Its Consequences: Current Treatment Approaches* (Cambridge: Cambridge University Press, 1992); Jacquelyn Campbell et al., “Intimate Partner Violence and Physical Health Consequences”, *Archives of Internal Medicine* 162, no. 10 (2002): 1157-1163, <https://doi.org/10.1001/archinte.162.10.1157>; Jacqueline M. Golding, M. Lynne Cooper, and Linda K. George, “Sexual assault history and health perceptions: Seven general population studies”, *Health Psychology* 16, no. 5 (1997): 417-425, <https://doi.org/10.1037/0278-6133.16.5.417>; Helen Ward, Sophie Day, and Jonathan Weber, “Risky business: health and safety in the sex industry over a 9 year period”, *Sexually Transmitted Infections* 75, no. 5 (1999): 340-343, <https://doi.org/10.1136/sti.75.5.340>.

⁵⁵⁴ M. Fazel and A. Stein, “The mental health of refugee children Fazel, M., & Stein, A. (2002). The mental health of refugee children. *Arch Dis Child*, 87(5), 366-70”, *Archives of Disease in Childhood* 87, no. 5 (2002): 366-370, <https://doi.org/10.1136/adc.87.5.366>.

Table 3.6: Abuse, health risks, and potential health consequences associated with human trafficking.

Examples of forms of abuse or risk	Examples of potential health consequences
<p data-bbox="336 286 576 315"><i>Psychological abuses</i></p> <ul data-bbox="293 331 796 584" style="list-style-type: none"> <li data-bbox="293 331 796 394">• Intimidation of individuals and threats against loved ones, threats with weapons <li data-bbox="293 398 796 490">• Lies, deception, blackmail to coerce individuals to remain and discourage seeking help from authorities <li data-bbox="293 495 796 557">• Unsafe, unpredictable, uncontrollable events and environment <li data-bbox="293 562 796 584">• Isolation and forced dependency 	<p data-bbox="895 286 1050 315"><i>Mental health</i></p> <ul data-bbox="852 331 1353 674" style="list-style-type: none"> <li data-bbox="852 331 1353 360">• Suicidal ideation, self-harm, suicide <li data-bbox="852 365 1353 456">• Post-trauma symptoms and syndromes— Post-Traumatic Stress Disorder, depression <li data-bbox="852 461 1353 553">• Somatic complaints and immune suppression, sleep disturbances, frequent nightmares, <li data-bbox="852 557 1353 620">• Memory loss, dissociation, and cognition problems <li data-bbox="852 624 1353 674">• Aggressive behavior, irritability, violent outbursts
<p data-bbox="336 712 517 741"><i>Physical abuses</i></p> <ul data-bbox="293 757 796 981" style="list-style-type: none"> <li data-bbox="293 757 796 819">• Murder, torture, physical attacks with or without weapon <li data-bbox="293 824 796 887">• Deprivation of sleep, food, and other basic necessities <li data-bbox="293 891 796 920">• Confinement, physical restraint <li data-bbox="293 925 796 981">• Withholding medical or other essential care 	<p data-bbox="895 712 1066 741"><i>Physical health</i></p> <ul data-bbox="852 757 1353 1070" style="list-style-type: none"> <li data-bbox="852 757 1353 848">• Death, acute injuries or chronic physical pain (contusions, head/neck trauma, musculoskeletal damage) <li data-bbox="852 853 1353 916">• Physical disabilities (nerve or bone damage, dental problems) <li data-bbox="852 920 1353 1012">• Fatigue, exhaustion, poor nutrition, malnutrition, starvation, pesticide poisoning, asthma <li data-bbox="852 1016 1353 1070">• Deterioration of pre-existing conditions leading to disability or death
<p data-bbox="336 1079 496 1108"><i>Sexual abuses</i></p> <ul data-bbox="293 1124 796 1377" style="list-style-type: none"> <li data-bbox="293 1124 796 1153">• Forced and coerced sex <li data-bbox="293 1158 796 1187">• Forced prostitution or sexual exploitation <li data-bbox="293 1191 796 1254">• Limited access to sexual or reproductive health products and care <li data-bbox="293 1258 796 1321">• Sexual humiliation, forced nakedness, forced pornography <li data-bbox="293 1326 796 1377">• Coerced misuse of oral contraceptives or other contraceptive methods 	<p data-bbox="895 1079 1235 1108"><i>Sexual and reproductive health</i></p> <ul data-bbox="852 1124 1353 1438" style="list-style-type: none"> <li data-bbox="852 1124 1353 1279">• Sexually transmitted infections, including HIV/AIDS, and related complications Reproductive or sexual health complications (urinary tract or kidney infections) <li data-bbox="852 1283 1353 1346">• Acute or chronic pain during sex, tearing and other damage to vaginal tract or anus <li data-bbox="852 1350 1353 1438">• Unwanted pregnancy, forced or unsafe termination of pregnancy, complications from unsafe terminations
<p data-bbox="336 1447 715 1476"><i>Forced and coerced substance use</i></p> <p data-bbox="240 1491 796 1583">Non-consensual administering and coercive use of alcohol, drugs, or other substance in order to:</p> <ul data-bbox="293 1588 796 1742" style="list-style-type: none"> <li data-bbox="293 1588 796 1617">• Abduct, rape, prostitute individuals <li data-bbox="293 1621 796 1684">• Control activities, coerce compliance, decrease self-protection, prevent escape <li data-bbox="293 1688 796 1742">• Impose long work hours or greater productivity 	<p data-bbox="895 1447 1161 1476"><i>Substance use or misuse</i></p> <ul data-bbox="852 1491 1353 1792" style="list-style-type: none"> <li data-bbox="852 1491 1353 1554">• Drug or alcohol addiction, overdose, self-harm, <li data-bbox="852 1559 1353 1673">• Participation in high-risk activities (unprotected sex, dangerous labor crime) Needle-introduced infection (HIV, hepatitis B/C), brain or liver damage <li data-bbox="852 1677 1353 1769">• Sleep problems (insomnia, lethargy), negative coping behaviors, smoking, risk-taking, isolation <li data-bbox="852 1774 1353 1792">•

Examples of forms of abuse or risk	Examples of potential health consequences
<p><i>Social restrictions and manipulation</i></p> <ul style="list-style-type: none"> • Restriction of movement and activities • Restriction of interpersonal contact • Favoritism or perquisites to cause divisiveness between co-workers • Denial or control of access to information, health, and other services 	<p><i>Social health consequences of social abuses</i></p> <ul style="list-style-type: none"> • Feelings of isolation, loneliness, helplessness • Shame, guilt, loss of self-esteem, stigma and discrimination • Mistrust of others, social withdrawal, difficulty developing healthy relationships • Re-trafficking, re-entry into high-risk conditions
<p><i>Economic exploitation and debt-bondage</i></p> <ul style="list-style-type: none"> • Indentured servitude resulting from inflated debt, resale of individuals or debt • Usurious charges/deceptive accounting • Money-related punishment for perceived misbehavior, escape attempts • Overwork to meet payment demands 	<p><i>Finance-related problems</i></p> <ul style="list-style-type: none"> • Inability to afford basic hygiene, nutrition, safe housing, medical care • Heightened vulnerability to infections, work-related injuries • Dangerous self-medication or foregoing of medication • Rejection by the family for not sending or returning with money
<p><i>Legal insecurity</i></p> <ul style="list-style-type: none"> • Confiscation of passports, travel and other vital documents • Threats to expose individuals' illegal status to authorities • Concealment of individual's legal status from the individual • Fears that health providers will require identity documents or will report to authorities • Restrictive immigration employment laws 	<p><i>Legal and security problems</i></p> <ul style="list-style-type: none"> • Acceptance of dangerous travel and work conditions and obedience to traffickers/employers • Arrest, detention, long periods in immigration detention centers or prisons; unhygienic, unsafe detention conditions • Difficulty obtaining or denial of health treatment from public clinics and other medical services • Traumatic reactions resulting from interrogation or participation in a criminal investigation or asylum proceeding • Unsafe deportation or return, risk of re-trafficking and retribution
<p><i>Occupational hazard and abusive working and living conditions</i></p> <ul style="list-style-type: none"> • Abusive work hours, practices • Dangerous work and living conditions • Poor equipment or machinery training and language barriers • No personal protective equipment • Repetitive work motions, without a break • Work-related penalties and punishment • Exposure to harsh environmental conditions (heat, cold, ocean-water) 	<p><i>Occupational injuries and disease</i></p> <ul style="list-style-type: none"> • Exhaustion and poor nutrition • Bacterial and other infections; parasites, communicable diseases • Dermatological infections, chemical burns, rash • Injury, including limb amputation, abrasions, lacerations • Repetitive motion syndromes • Musculoskeletal injury • Hypothermia, heat exhaustion, dehydration, starvation

Source: Adapted from Zimmerman, Hossain, and Watts, "Human trafficking and health", 332.

Mental health is central when discussing human trafficking consequences on the victims' health due to the severe and often enduring **psychological abuse** they undergo, accompanied by psychosomatic complaints, physical pain, and dysfunctions. These psychological responses are quite frequently correlated with analogous risks. As a case in point, sexually abused, drug-addicted, and socially isolated individuals often develop depression symptoms.⁵⁵⁵ Sexually exploited women commonly manifest typical post-traumatic symptomatology resembling that of repetitive trauma or chronic abuse⁵⁵⁶ like PTSD, depression, anxiety, and hostile behavior usually correlated with their trafficking experience.⁵⁵⁷ Moreover, some studies indicate high levels of post-trafficking "hostility and aggression"^{558, 559}.

⁵⁵⁵ Derrick Silove et al., "Torture, Mental Health Status and the Outcomes of Refugee Applications among Recently Arrived Asylum Seekers in Australia", *International Journal of Migration, Health and Social Care* 2, no. 1 (2006): 4-14, <https://doi.org/10.1108/17479894200600002>.

⁵⁵⁶ Barry Krakow et al., "Sleep Disorder, Depression, and Suicidality in Female Sexual Assault Survivors", *Crisis* 21, no. 4 (2000): 163-170, <https://doi.org/10.1027//0227-5910.21.4.163>.

⁵⁵⁷ Mazedal Hossain et al., "The Relationship of Trauma to Mental Disorders Among Trafficked and Sexually Exploited Girls and Women", *American Journal of Public Health* 100, no. 12 (2010): 2442-2449, <https://doi.org/10.2105/ajph.2009.173229>; L. Ottisova et al., "Prevalence and risk of violence and the mental, physical and sexual health problems associated with human trafficking: an updated systematic review", *Epidemiology and Psychiatric Sciences* 25, no. 4 (2016): 317-341, <https://doi.org/10.1017/s2045796016000135>.

⁵⁵⁸ Michael Fleisher et al., *Human Trafficking in Eastern Africa*.

⁵⁵⁹ Zimmerman, Hossain, and Watts, "Human trafficking and health", 331.

Physical and sexual abuse are the most frequently reported violations and constitute the most solid evidence for the prosecution and conviction of the offenders. In a European study, more than half of adult female survivors described physical abuse, including various forms of beatings and torture.⁵⁶⁰ The prevalence of physical abuse in forced labor settings has attracted less research.⁵⁶¹ Regarding sexual abuse and exploitation, most victims report sexual and reproductive health risks.⁵⁶² For example, a European study revealed that 58 percent of women reported gynecological infection diagnosis.⁵⁶³

Victims of forced sex work commonly face **forced or coerced use of drugs and alcohol**.⁵⁶⁴ The data about coerced drug use other forms of exploitation are scarce. Traffickers induce drug or alcohol addiction in order to control their victims. Drug and alcohol can represent maladaptive coping behaviors driven by the trafficking experience. One study showed that about 20 percent of the trafficking survivors resorted to substance abuse.⁵⁶⁵

Traffickers also regularly use **social restrictions and emotional manipulation** as a means of victim isolation.⁵⁶⁶ Social restrictions can take extreme forms. A study recorded that more than three out of four women were deprived entirely of their freedom to act and move of their own will.⁵⁶⁷

Migrant trafficking for low-skill labor involves **abusive living and working conditions** characterized by high risk. The same conditions hinder the identification

⁵⁶⁰ Zimmerman, *The Health Risks*.

⁵⁶¹ Michael Fleisher et al., *Human Trafficking in Eastern Africa*.

⁵⁶² Claudia Garcia-Moreno et al., "Prevalence of intimate partner violence: findings from the WHO multi-country study on women's health and domestic violence", *The Lancet* 368, no. 9543 (2006): 1260-1269, [https://doi.org/10.1016/s0140-6736\(06\)69523-8](https://doi.org/10.1016/s0140-6736(06)69523-8); J. Leserman et al., "Selected symptoms associated with sexual and physical abuse history among female patients with gastrointestinal disorders: the impact on subsequent health care visits", *Psychological Medicine* 28, no. 2 (1998): 417-425, <https://doi.org/10.1017/s0033291797006508>

⁵⁶³ Zimmerman, "The Health of Trafficked Women", 55-59.

⁵⁶⁴ J. Cwikel, K. Ilan, and B. Chudakov, "Women brothel workers and occupational health risks", *Journal of Epidemiology & Community Health* 57, no. 10 (2003): 809-815, <https://doi.org/10.1136/jech.57.10.809>.

⁵⁶⁵ Michael Fleisher et al., *Human Trafficking in Eastern Africa*; Zimmerman, Hossain, and Watts, "Human trafficking and health", 331.

⁵⁶⁶ Michael P. Johnson, "Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence against Women", *Journal of Marriage and the Family* 57, no. 2 (1995): 283-294, <https://doi.org/10.2307/353683>.

⁵⁶⁷ Zimmerman, "The Health of Trafficked Women", 55-59; Zimmerman, Hossain, and Watts, "Human trafficking and health", 331.

of what constitutes trafficking and labor exploitation. For instance, forced labor in agriculture includes hazardous sun exposure, orthopedic complications from arduous and repetitive labor, and poisoning from pesticides.⁵⁶⁸ In factories, there is a prevalence of respiratory disorders and bacterial or skin infections.⁵⁶⁹ In human trafficking, overcrowded or unhygienic living conditions are also widespread.⁵⁷⁰

Labour exploitation is often indicated by and closely associated with **economic exploitation** and **debt bondage**. Traffickers commonly control the earnings from the exploited recur to several deceptive practices accounting scams, unreasonable travel costs, and inflated debts. Monetary sanctions are also common as a means to induce discipline and increase “productivity”.⁵⁷¹ Victims of international trafficking, individuals forced for criminal activities, or those applying for asylum face **legal insecurity** on a regular basis. Traffickers usually confiscate official documents and render leaving their victims unable to travel legally and in constant fear of being detained for immigration offenses.⁵⁷²

In addition to the above risks and harms, victims of human trafficking are at constant threat of facing discrimination or stigma that usually leads to social isolation, detachment and estrangement, scarcity of health and support services, dissociation symptoms, and depression.⁵⁷³

Regarding **children’s sexual exploitation**, a 2018 systematic review on health

⁵⁶⁸ Emily Q. Ahonen, Fernando G. Benavides, and Joan Benach, “Immigrant populations, work and health—a systematic literature review”, *Scandinavian Journal of Work, Environment & Health* 33, no. 2 (2007): 96-104, <https://doi.org/10.5271/sjweh.1112>; Zimmerman, Hossain, and Watts, “Human trafficking and health”, 333.

⁵⁶⁹ IOM, LSHTM, and UN.GIFT, *Caring for Trafficked Persons: Guidance for Health Providers* (Geneva: International Organization for Migration, 2009), https://ec.europa.eu/anti-trafficking/caring-trafficked-persons-guidance-health-providers_en.

⁵⁷⁰ Bridget Anderson and Ben Rogaly, *Forced Labour and Migration to the UK*, (Study prepared by COMPAS in collaboration with the Trades Union Congress, 2009), accessed August 18, 2021, https://www.compas.ox.ac.uk/2007/pr-2007-forced_labour_tuc/; Zimmerman, Hossain, and Watts, “Human trafficking and health”, 333.

⁵⁷¹ Patrick Belser, Farhad Mehran, and Michaele D. Cock, *ILO Minimum Estimate of Forced Labour in the World* (Geneva: International Labour Office, 2005), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081913.pdf; Zimmerman, Hossain, and Watts, “Human trafficking and health”, 331.

⁵⁷² Zimmerman, Hossain, and Watts, “Human trafficking and health”, 331-333.

⁵⁷³ Khalid Koser, “Asylum Policies, Trafficking and Vulnerability”, *International Migration* 38, no. 3 (2000): 91-111, <https://doi.org/10.1111/1468-2435.00116>; Zimmerman, Hossain, and Watts, “Human trafficking and health”, 333.

issues associated with commercial sexual exploitation and sex trafficking of children (CSE/ST) in sex trafficking points out several studies recording various problems of physical and mental health, sexual/reproductive health, substance use, and healthcare utilization issues among CSE/ST children and youth.⁵⁷⁴ The already firm evidence of the association between substance use and child sexual exploitation⁵⁷⁵ is strengthened by the high prevalence of substance use in exploited children and adolescents, with a higher risk concerning the homeless and runaway group. Such association, though, is possible to diverge among subgroups. A study about female sex workers recorded that substance use was usually introduced earlier than the entry in sex work for “high-paid levels of prostitution”.⁵⁷⁶ At the same time, in “lower-level” prostitutes, the opposite trend was identified. However, another study about child sexual exploitation⁵⁷⁷ noted that substance use is possibly an early-stage outgrowth of sexual exploitation among child and adolescent victims but not adults.⁵⁷⁸

Firm and growing evidence support the increased risk for mental health disorders in children trafficked for sexual exploitation.⁵⁷⁹ While none of the studies included in the PhuongThao et al. review compared psychological morbidity between child and adult victims, others that have combined trafficked adults and children,⁵⁸⁰ showed that rates of anxiety, depression, PTSD in child victims were comparable to the adult victims, implying that sexually exploited children have at least the same probability as adults to encounter severe mental health issues.⁵⁸¹

Another critical remark of the review is that many child victims have undergone

⁵⁷⁴ PhuongThao D. Le et al., “Health Issues Associated with Commercial Sexual Exploitation and Sex Trafficking of Children in the United States: A Systematic Review”, *Behavioral Medicine* 44, no. 3 (2018): 228, <https://doi.org/10.1080/08964289.2018.1432554>.

⁵⁷⁵ Paul J. Goldstein, *Prostitution and Drugs* (Lexington, MA: Lexington Books, 1979).

⁵⁷⁶ *Ibid.*

⁵⁷⁷ Lauren Martin, Mary O. Hearst, and Rachel Widome, “Meaningful Differences: Comparison of Adult Women Who First Traded Sex as a Juvenile Versus as an Adult”, *Violence Against Women* 16, no. 11 (2010): 1252-1269, <https://doi.org/10.1177/1077801210386771>.

⁵⁷⁸ Le, “Health Issues”, 228.

⁵⁷⁹ Ottisova, “Prevalence and risk of violence”, 317–341.

⁵⁸⁰ Ligia Kiss et al., “Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion”, *JAMA Pediatrics* 169, no. 9 (2015): e152278, <https://doi.org/10.1001/jamapediatrics.2015.2278>; Siân Oram et al., “Human Trafficking and Health: A Survey of Male and Female Survivors in England”, *American Journal of Public Health* 106, no. 6 (2016): 1073–1078, <https://doi.org/10.2105/ajph.2016.303095>.

⁵⁸¹ Le, “Health Issues”, 228.

abuse and other traumatic events before their trafficking experience, including family violence, many times accompanied by emotional, physical, and sexual abuse. These findings suggest possible additive effects from repetitive trauma between children trafficked for sexual exploitation and a need to study the impact of a history of abuse on their resilience and vulnerability regarding sex trafficking.⁵⁸²

Commercial sexual exploitation of children can have severe and debilitating mental health consequences for the victims, with a high probability of developing enduring psychological morbidity into adulthood. Furthermore, solid empirical and conceptual evidence support post-traumatic growth in sexually abused children.⁵⁸³ Understanding the mechanisms of post-traumatic growth may encourage the development of effective interventions.⁵⁸⁴

There is a high prevalence of HIV and other STIs among child victims, which is often combined with and reinforced by increased drug use and abuse. Moreover, the high prevalence of STIs in the cases of child victims' pregnancies⁵⁸⁵ necessitates the prioritization of interventions during pregnancy or delivery.⁵⁸⁶

⁵⁸² Le, "Health Issues", 228; Richard J. Chung and Abigail English, "Commercial sexual exploitation and sex trafficking of adolescents", *Current Opinion in Pediatrics* 27, no. 4 (2015): 427-433, <https://doi.org/10.1097/mop.0000000000000242>.

⁵⁸³ Megan McElheran et al., "A conceptual model of post-traumatic growth among children and adolescents in the aftermath of sexual abuse", *Counselling Psychology Quarterly* 25, no. 1 (2012): 73-82, <https://doi.org/10.1080/09515070.2012.665225>.

⁵⁸⁴ Cathy L. Perry and Viviane De Castro Pecanha, "Sex-Trafficked Survivors: The Relation Between Posttraumatic Growth and Quality of Life", *Journal of Human Trafficking* 3, no. 4 (2017): 271-284, <https://doi.org/10.1080/23322705.2016.1224761>.

⁵⁸⁵ Robert W. Deisher, Christina Litchfield, and Kerry R. Hope, "Birth outcomes of prostituting adolescents", *Journal of Adolescent Health* 12, no. 7 (1991): 528-533, [https://doi.org/10.1016/0197-0070\(91\)90082-w](https://doi.org/10.1016/0197-0070(91)90082-w).

⁵⁸⁶ Le, "Health Issues", 228.

Other studies also record several sexual behaviors (i.e., low contraceptive usage) that raise the probability of unplanned or unwanted pregnancy among sex workers, suggesting further research regarding sexual child prostitution⁵⁸⁷ and the prevalence of malnutrition in victims of child sex trafficking⁵⁸⁸. In addition, the prominence of eating disorders, dental health issues, and especially human papillomavirus (HPV) suggest a further focus on long-term health consequences, such as cancer. Besides, multiple sexual partners and early first intercourse characterize child sex trafficking, which correlates with increased cervical cancer risk.⁵⁸⁹ Finally, some studies show the promising results that while sexually exploited children face recurring impediments in accessing healthcare and social services, many succeed in reaching social services and healthcare providers while being victimized.⁵⁹⁰

3.2 Sex Trafficking in Thailand

The Kingdom of Thailand is a Southeast Asian country with a population of nearly 70 million people. It covers an area of 513,120 square kilometers (198,120 sq mi) at the center of the Indochinese Peninsula. Thailand neighbors to the north with Myanmar and Laos, to the east by Laos and Cambodia, to the south by the Gulf of Thailand and Malaysia, and the west by the Andaman Sea and Myanmar. Its maritime borders are shared to the southeast, with Vietnam in the Gulf of Thailand and with Indonesia and India on the Andaman Sea to the southwest. Bangkok is the nation's cap-

⁵⁸⁷ Thérèse Delvaux et al., “The Need for Family Planning and Safe Abortion Services among Women Sex Workers Seeking STI Care in Cambodia”, *Reproductive Health Matters* 11, no. 21 (2003): 88-95, [https://doi.org/10.1016/s0968-8080\(03\)02163-3](https://doi.org/10.1016/s0968-8080(03)02163-3); Ashar Dhana et al., “Systematic review of facility-based sexual and reproductive health services for female sex workers in Africa”, *Globalization and Health* 10, no. 1 (2014): 46, <https://doi.org/10.1186/1744-8603-10-46>; Putu Duff et al., “High Lifetime Pregnancy and Low Contraceptive Usage Among Sex Workers Who Use Drugs- An Unmet Reproductive Health Need”, *BMC Pregnancy and Childbirth* 11, no. 1 (2011): 61, <https://doi.org/10.1186/1471-2393-11-61>.

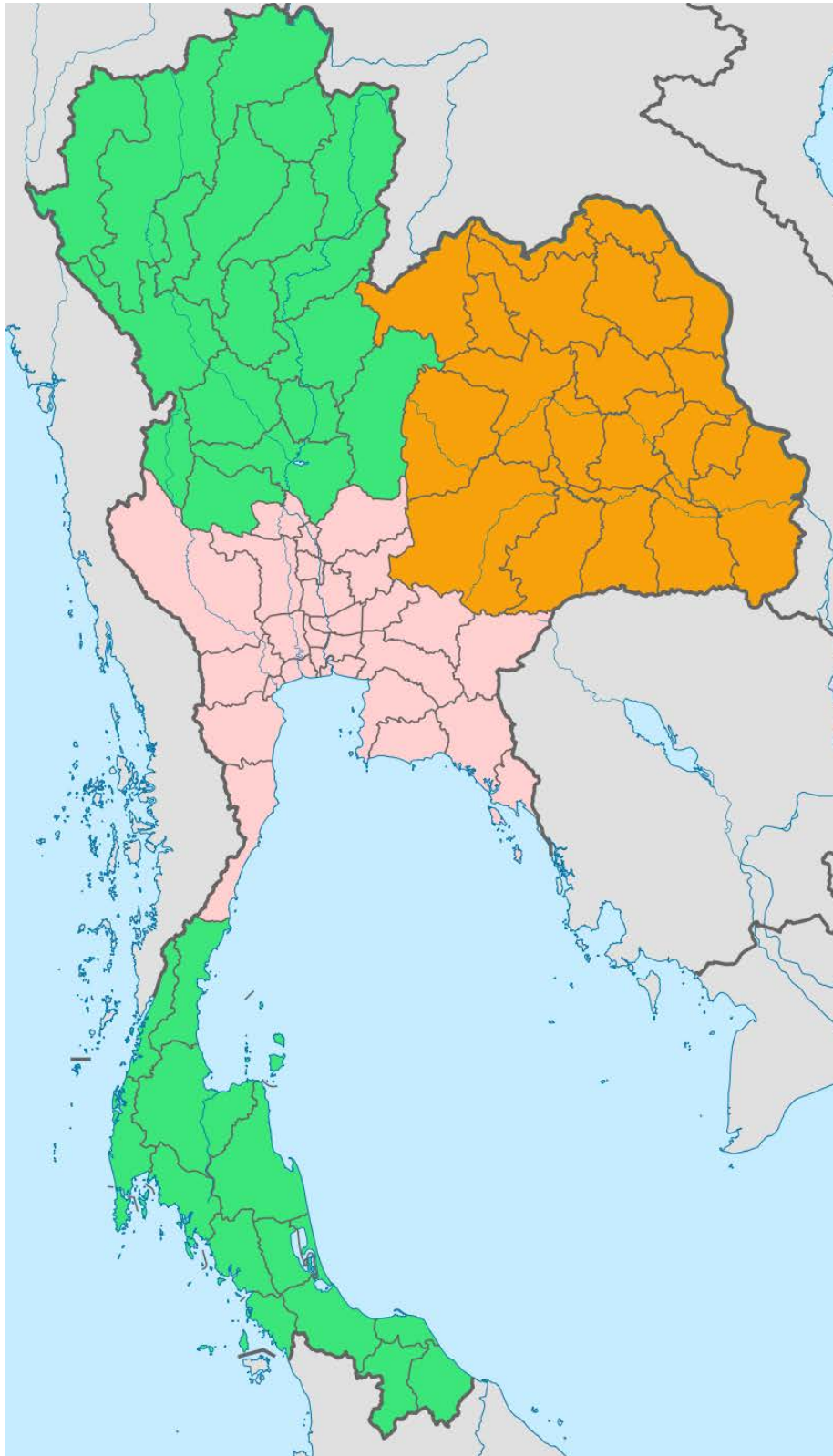
⁵⁸⁸ Brian M. Willis and Barry S. Levy, “Child prostitution: global health burden, research needs, and interventions”, *The Lancet* 359, no. 9315 (2002): 1417-1422, [https://doi.org/10.1016/s0140-6736\(02\)08355-1](https://doi.org/10.1016/s0140-6736(02)08355-1)

⁵⁸⁹ L. A. Brinton, “Epidemiology of cervical cancer—overview”, *IARC scientific publications* 119 (1992): 3-23, PMID: 1428106.

⁵⁹⁰ Le, “Health Issues”, 229; Baldwin, “Identification of human trafficking”, 36-49; Joan A. Reid, “Doors Wide Shut: Barriers to the Successful Delivery of Victim Services for Domestically Trafficked Minors in a Southern U.S. Metropolitan Area”, *Women & Criminal Justice* 20, no. 1-2 (2010): 147-166, <https://doi.org/10.1080/08974451003641206>.

ital and largest city. Thailand is a constitutional monarchy and parliamentary democracy, but it has undergone multiple coups and periods of military dictatorships in its modern history.

Thailand is primarily divided into two distinct region groupings. Those are the six-region grouping used in geographic studies and the four-region grouping used for administrative and statistical purposes. The latter, which is the more relevant for the current thesis, includes the western and eastern regions within the central region and organizes the provinces of Sukhothai, Phitsanulok, Phichit, Kamphaeng Phet, Phetchabun, Nakhon Sawan, and Uthai Thani in the northern region. The four-region system divides Thailand into Northern Thailand, Northeastern Thailand, Central Thailand, Southern Thailand (see map 3.1).



Map 3.1: Four-region grouping system of Thailand.

Source: “Regions of Thailand”, Wikipedia, the Free Encyclopedia, last modified June 10, 2006, https://en.wikipedia.org/wiki/Regions_of_Thailand#/media/File:Thailand_four_regions.svg.

3.2.1 Introduction

“Woman and child abuse is a rooted problem in Thai society. The inferior will always be the victim of the superior. It is the duty of all of us to ‘keep our eyes open and to help prevent any kind of discrimination, physical assault, any kind of abuse to the inferior, namely ‘children and woman’, whom we consider vulnerable in Thai society.” (Pavena Hongsakul)⁵⁹¹

Thailand is a country known throughout the world in many ways, whether it is a country full of smiles as the motto “Land of Smiles” or “Kitchen of the World”.⁵⁹² But there is one fame that cannot create any pride for the Thai people: Thailand is famous throughout the world as one of the largest commercial sexual service providers. Although the Thai government is attempting its best to combat this predicament, sex trafficking and prostitution in Thailand are flourishing.⁵⁹³ Sex workers are visible in various tourist destinations throughout the country. While there are exploitation and harm with many victims seeking help, numerous others do not consider themselves victims in the sex industry and reject any help, mainly due to the economic benefits associated with sex work. Most women enter the sex industry voluntarily to improve their living standards, considering the constant demand and high profits associated with it.⁵⁹⁴ Alternatively, others who were deceived at first and ended up victimized later, after noticing a substantial profit compared to the average labor salaries, alongside the loss of their value as women due to local cultural attitudes and the passive, fatalistic acceptance of their exploitation as an inevitable fate, they decide to remain in the commercial sex market. Such realities set serious obstacles to determining who is a voluntary prostitute or a victim of human trafficking.⁵⁹⁵

⁵⁹¹ Julia Manzanares and Derek Kent, *Only 13: The True Story of Lon* (Bangkok: Bamboo Sinfonia, 2006), v.

⁵⁹² Robert Berendes, “Thailand is the Kitchen of the World”, World Economic Forum, last modified May 31, 2012, <https://www.weforum.org/agenda/2012/05/thailand-is-kitchen-of-the-world/>.

⁵⁹³ Cath Conn, Kristel Modderman, and Shoba Nayar, “Strengthening participation by young women sex workers in HIV programs: reflections on a study from Bangkok, Thailand”, *International Journal of Women's Health* 9 (2017): 619, <https://doi.org/10.2147/ijwh.s141996>.

⁵⁹⁴ Cristina Cardarelli, “Understanding Prostitution in Thailand”, Shout Out UK, last modified January 8, 2021, <https://www.shoutoutuk.org/2014/04/26/sex-trafficking-and-the-sex-trade-industry-in-thailand-an-overview-of-prostitution-the-worlds-oldest-profession/>.

⁵⁹⁵ Roujanavong, “Human Trafficking”, 136.

Tourists love to visit Thailand, the most prominent tourist destination in South-East Asia in 2017.⁵⁹⁶ Thailand moved up to 3rd country of earning highest revenues from tourism globally in 2016, accounting for 50 billion U.S dollars.⁵⁹⁷ According to the Tourism Ministry, in 2018, Thailand welcomed an estimated 38.27 million foreigners visiting the country, 7.5 percent higher than in 2017⁵⁹⁸. There is strong evidence that sex industry plays a vital role in bringing this massive sum of money into the country, considering the worldwide extent of human trafficking.⁵⁹⁹ In recent years, Thailand has received international attention, and human rights groups have described widespread human trafficking practices, including women forced to sell sexual services and trapped in a situation of modern slavery.⁶⁰⁰

Despite the notable international cooperation to combat this problem, the sex industry is constantly expanding in Thailand and many countries worldwide. The sex trafficking sector in Thailand has slowly evolved, and the brothel became a karaoke bar which gradually changed to a massage shop. The internet and social media constitute another new, very convenient means to trick victims into trafficking easily or a communication channel between prostitutes and sex buyers. Therefore, it is difficult to distinguish between sex trafficking and the sex trade industry. It is challenging to separate the victims of activities that the law considers an offense from those who use the same activities to increase their living standards through illegal systems.

Despite its illegal character, the sex industry in Thailand brings enormous returns to the national economy. Nevertheless, the sex trafficking agents do not face opposition from the government. Actually, the level of corruption of Thai officials and

⁵⁹⁶ World Tourism Organization, *UNWTO Tourism Highlights 2018 Edition* (Madrid: UNWTO, 2018), 10, <https://doi.org/10.18111/9789284419876>, and also available at, <https://www.e-unwto.org/doi/pdf/10.18111/9789284419876>.

⁵⁹⁷ *Ibid.*, 6.

⁵⁹⁸ Bangkok Post, “Record 38.27m Tourists in 2018; 41m Expected in 2019”, Bangkok Post Public Company Limited, last modified January 28, 2019, <https://www.bangkokpost.com/business/tourism-and-transport/1619182/record-38-27m-tourists-in-2018-41m-expected-in-2019>.

⁵⁹⁹ “7 Facts You Didn't Know About Human Trafficking”, USC Suzanne Dworak-Peck School of Social Work, accessed August 24, 2021, https://dworakpeck.usc.edu/news/7-facts-you-didnt-know-about-human-trafficking%3Futm_source%3Dtest.

⁶⁰⁰ Beh Lih Yi, “Thailand Taps Tourists to Fight Human Trafficking and Keep the Country Smiling”, The Thomson Reuters Foundation, last modified April 17, 2018, <https://www.reuters.com/article/us-thailand-trafficking-tourism/thailand-taps-tourists-to-fight-human-trafficking-and-keep-the-country-smiling-idUSKBN1HO1D2>.

law enforcement is high. Additionally, they profit from the sex industry while using the free service.⁶⁰¹

Considering the dark nature and numerous obscure methods of human trafficking, trying to understand all the puzzles is virtually impossible. Moreover, seeking to comprehend the context of sex trafficking in Thailand is even more complicated than expected. According to the global slavery index of 2018, it is estimated that more than 610,000 individuals, or 0.89 percent of the entire population,⁶⁰² live in modern-day slavery conditions in Thailand.⁶⁰³

Human trafficking for the purpose of forced labor in the Thai fishing industry enslaves children, women, and men alike from the Greater Mekong Subregion (GMS). A 2017 study by the Issara Institute and the International Justice Mission exploring the experiences of Cambodian and Burmese fishers in Thailand within 2011 and 2016 discovered that almost 38 percent of migrant workers in the Thai fishing industry had been trafficked into the Thai fishing industry, and 76 percent had been held in debt bondage in that lapse of time.⁶⁰⁴ Some responses from the Thai government include criminal law amendments that criminalize some forms of slavery, limited support services, policies that protect persons susceptible to slavery, and a mechanism to coordinate responses.⁶⁰⁵ In this high-income industry, the seafaring laborers, usually young men and boys, go through harsh treatment, including extreme and constant physical abuse and threats, which can be concerning long working hours that are inhumane; they are also deprived of their sleep and food.

Skilled Thai migrants relocate to more affluent countries, such as the United States, Europe, Israel, East Asia, and Australia.⁶⁰⁶ According to the Ministry of Labor,

⁶⁰¹ Opanovych, "Human trafficking", 108.

⁶⁰² Walk Free Foundation, *The Global Slavery Index 2018* (The Global Slavery Index, 2018), 87 and 178, <https://www.globalslaveryindex.org/resources/downloads/>.

⁶⁰³ Researchers need to remember that the number of trafficking victims in the reports is estimated. Given the secretive and illicit nature of human trafficking, it is virtually impossible to understand the magnitude of the problems thoroughly. As a result of the aforementioned reasons, the accurate number of trafficking victims in Thailand is difficult to know and predict since many sufferers do not admit they are victims or are unaware of being trafficked.

⁶⁰⁴ Walk Free Foundation, *The Global Slavery Index 2018*, 48.

⁶⁰⁵ *Ibid.*, 190.

⁶⁰⁶ Walk Free Foundation, *The Global Slavery Index 2016* (The Global Slavery Index, 2016), 147, <https://www.globalslaveryindex.org/resources/downloads/#gsi-2016>.

in 2018, over 427,622 Thai workers worked overseas. H.E. Police General Adul Sangsingkeo, the ministry of labor aimed to send overseas around 40,000 Thai workers in the same year.⁶⁰⁷ In 2018 about 40,000 Thai workers went abroad to ten countries. Thirty thousand migrated in Asia. Twenty thousand went to Taiwan, 6,000 to Korea, 3,000 to Japan, and the remaining to Malaysia, Singapore, Hong Kong, Macau. Five thousand went to Israel, the UAE, and other regions, while 3,000 thousand went to Sweden and 2,000 to Finland.⁶⁰⁸ Despite this, others use irregular channels to relocate themselves for a job opportunity abroad.⁶⁰⁹ The most significant number of migrants, standing at 84 percent,⁶¹⁰ are male Thai workers who engage in the construction, agricultural, and manufacturing industries.⁶¹¹ Female overseas workers tend to get employment in private households or the entertainment industry and sometimes in the service sectors like restaurants. Usually, Thai migrants pay exorbitant fees to facilitate their migration and are thus vulnerable to being exploited by either the recruiters or the employers. In such unfamiliar settings, help for the exploited Thai migrants can be challenging to attain.

According to the Thailand Bank, the number of Thai people working overseas is approximately 1,120,837. On the other hand, according to the Labor Ministry's estimates of June 2016, the number of Thai persons registered to work abroad is only 148,240. Most were located in the following countries: 59,021 in Taiwan, 38,824 in Malaysia, 36,000 in Singapore, 25,824 in Israel, and 22,825 in South Korea.⁶¹²

Thailand emphasized the need to work with its neighbors to prevent the menace of human trafficking. On 11th January 2016, Thailand formed a partnership with an international body known as the United Nations Office on Drug and Crime (UNODC)

⁶⁰⁷ "Ministry of Labor Set Targets! 2018 Sends 40,000 Thai Workers to Work Abroad", Ministry of Labour, last modified May 3, 2018, <https://www.mol.go.th/en/news/ministry-of-labor-set-targets-2018-sends-40000-thai-workers-to-work-abroad/>.

⁶⁰⁸ Ibid.

⁶⁰⁹ Suttiporn Bunmak, "Migrant Networks in Thailand and Malaysia: Irregular Nanyu Workers in Tom Yam Restaurants in Kuala Lumpur", (PhD diss., University of Wollongong, 2010), 96-109, <https://ro.uow.edu.au/theses/3317/>.

⁶¹⁰ Jerrold W. Hugueta and Aphichat Chamratrithirong, eds., *Thailand Migration Report 2011: Migration for Development in Thailand: Overview and Tools for Policymakers* (Bangkok: International Organization for Migration IOM, 2011), 30, http://publications.iom.int/system/files/pdf/tmr_2011.pdf.

⁶¹¹ Ibid., 39.

⁶¹² "Jobs Overseas Cheaper if Sought Via Ministry", Nationthailand, last modified April 11, 2021, <https://www.nationthailand.com/national/30266635>.

and established a new joint venture with the Thailand Institute of justice. This joint venture has to a large extent, helped to reduce this menace of human trafficking. The launch of a collaborative project between UNODC and TIJ in countering human trafficking marked a three-year operation of monitoring the borders by focusing on the cross-border flow of victims from three of its Mekong neighbors. The UNODC-TIJ project strengthened the criminal justice response in all four countries while also improving cross-border cooperation.⁶¹³

According to Jeremy Douglas, regional representative of UNODC, eradicating human trafficking and slavery was crucial in sustainable development goals (SDGs)⁶¹⁴. For the goal to be achieved in the region, authorities from Cambodia, Laos, Myanmar, and Thailand needed to pursue a more coordinated strategy. UNODC brought new international experience and influence in the fight against human trafficking, while the TIJ used its regional and internal knowledge and tools to access the project's success.⁶¹⁵ According to Dr. Kittinpong Kittayarak, the Executive Director of the TIJ, the complex phenomenon of human trafficking defies simplistic solutions. Still, the TIJ believes that this project can significantly help neighbors and simultaneously positively impact the trafficking situation in Thailand. The project was built on two phases, the first phase being the research phase and the second phase being the programming phase. The UNODC embarked on the research phase, while the TIJ started on the programming phase. The TIJ focused on in-depth long-year research to understand the menace of trafficking from Cambodia, Laos, and Myanmar to Thailand. After doing the detailed analysis, they will focus on the law enforcement, justice system, and international assistance response gaps. After that in-depth research by the TIJ, programming followed, which was the task of the UNODC to address the needs identified by the study.⁶¹⁶ According to Mr. Benjamin Smith, UNODC Regional Coordinator for Human Trafficking

⁶¹³ Akara Umapornsakula, "Unique Partnership Started to Tackle Human Trafficking to Thailand", United Nations Office on Drugs and Crime, accessed August 12, 2020, <https://www.unodc.org/southeastasiaandpacific/en/2016/01/human-trafficking-thailand/story.html>.

⁶¹⁴ Akara Umapornsakula, "Sustainable Development Goals", United Nations Office on Drugs and Crime, accessed August 12, 2020, <https://www.unodc.org/southeastasiaandpacific/en/sustainable-development-goals.html>.

⁶¹⁵ "Tackle Human Trafficking to Thailand".

⁶¹⁶ Ibid.

and Migrant Smuggling, one of the significant challenges in combating human trafficking is the lack of complete and accurate data. That is why he emphasized a two-phase approach. He further stressed that a comprehensive study was to be done before embarking on other activities.⁶¹⁷

UNODC and the TIJ completed their research operation in December 2016 and distributed the results to the relevant authorities in the sub-region along with the international partners, who, in turn, took appropriate action and, to a large extent, have helped to reduce the problem of human trafficking.⁶¹⁸

The Recent Status Quo of Human Trafficking in Thailand

In 2020 the Royal Thai Government's Country Report on Anti-Human Trafficking Efforts recorded a significant decrease in the number of cases in all forms of human trafficking compared to the previous year. The number of initiated trafficking cases totaled 131. Of those cases, 117 regarded sexual exploitation (prostitution, production/distribution of pornographic materials, and other forms), declining from 2019 by 68 cases (36.75 percent); two cases related to forced begging, decreasing from 2019 by seven cases (77.78 percent), and 12 were labor trafficking cases, dropping from 2019 by 82 cases (87.23 percent). The statistics from 2016-2020 indicated continuous improvement of the human trafficking issue in Thailand. The Thai government maintains that this result was due to the determined governmental efforts to combatting all forms of human trafficking and prosecuting human traffickers by effective cooperation between all law enforcement agencies departments, the private sector, NGOs, and other stakeholders. Moreover, the government claims that the COVID-19 pandemic also influenced the significant decrease in trafficking cases in 2020 due to the government's measures which helped as well to lessen the risk of vulnerable groups to human trafficking (see table 3.7).⁶¹⁹

⁶¹⁷ Ibid.

⁶¹⁸ Ibid.

⁶¹⁹ Anti-TIP Project by Royal Thai Embassy at Washington D.C., *Royal Thai Government's Country Report on Anti-Human Trafficking Efforts (1 January – 31 December 2020)* (Royal Thai Embassy in Washington, DC, 2020), 7, <https://www.thaianti-humantraffickingaction.org/Home/http://www.thaianti-humantraffickingaction.org/Home/wp-content/uploads/2021/02/Thailand-country-report-on-anti-trafficking-efforts-2020-FINAL-1-Feb-2020.pdf>.

Table 3.7: Number of Human Trafficking Cases Initiated.

Year	Total	Types of Human Trafficking Activities							
		Prostitution	Pornography	Sexual Exploitation	Enslavement	Forced Begging	General Forced Labour	Forced Labour in Fisheries	Extortion/Other
2016	333	244	3	-	-	8	32	43	3
2017	302	246	7	2	-	26	14	7	-
2018	304	249	4	5	-	8	29	6	3
2019	288	158	15	12	33	9	31	4	26
2020	131	95	16	6	0	2	9 + (2)	1	0

Source: Adapted from Anti-TIP Project by Royal Thai Embassy, *Report 2020*, 7.

Note: Number in brackets was forced labour or service cases, which is an offence under the Anti-Trafficking in Persons Act.

In 2020, arrests of suspected human trafficking offenders totaled 179, involving 79 males and 100 females. Of those arrested, 152 were Thai nationals, decreasing from 2019 by 250 persons (62.19 percent). The shares though of the arrested Thai nationals for 2020 increased by 12.5 percent comparing to 2019—85 percent of the total arrested suspects were Thais while in 2019 they comprised the 72.5 percent. The rest involved 27 foreign nationals, decreasing from 2019 by 126 persons (82.35 percent). Notably, arrested Myanmar nationals decreased from 2019 by 98.33 percent. Thai government claimed that the significantly smaller number of suspects arrested in 2020 in comparison with 2019 is possibly due to the enduring “multi-stakeholder collaboration in combatting human trafficking as well as the government’s measures related to people movements during COVID-19 situation” that resulted in the sharp decrease in sex trafficking and labor trafficking cases (see table 3.8).⁶²⁰

⁶²⁰ Ibid., 7-8.

Table 3.8: Number of Suspected Human Trafficking Offenders.

Year	Total	Gender		Nationality				
		Male	Female	Thai (percentage of the total)	Myanmar	Cambodia	Laotian	Others
2016	600	265	335	462 (77%)	35	26	41	36
2017	427	145	282	361 (85%)	9	25	3	29
2018	532	229	303	424 (80%)	30	15	4	59
2019	555	330	225	402 (72.5%)	120	4	6	23
2020	179	79	100	152 (85%)	2	7	0	18

Source: Adapted from Anti-TIP Project by Royal Thai Embassy, *Report 2020*, 8.

The rescued human trafficking victims totaled 229 (65 males and 164 females), declining from 2019 by 1,592 persons (87.42 percent). Of this number, 160 persons were Thais, decreasing from 2019 by 91 persons (36.25 percent), and 69 persons were foreign nationals, dropping by 1,501 persons (95.61 percent) from 2019. The Thai government alleged that the decline in cases related to prostitution, which predominated human trafficking of Thai nationals, could explain the decrease in the number of Thai victims. An additional reason could be the government's tightening measures related to cross-border movements during the COVID-19 situation, which reduced the overall number of victims (see table 3.9).⁶²¹

Table 3.9: Number of Victims of Trafficking.

Year	Total	Gender		Nationality				
		Male	Female	Thai	Myanmar	Cambodia	Laotian	Others
2016	824	411	413	333	238	52	58	143
2017	455	88	367	327	53	26	30	19
2018	631	282	349	345	205	28	14	39
2019	1,821	1,158	663	251	1,306	96	38	130
2020	229	65	164	160	5	5	7+(39)	13

Source: Adapted from Anti-TIP Project by Royal Thai Embassy, *Report 2020*, 8.

Note: The number in parentheses refers to forced labor or services victims, an offense under the Anti-Trafficking Act.

Finally, according to the anti-trafficking report of the Thai government, in 2020,

⁶²¹ Anti-TIP Project by Royal Thai Embassy, *Report 2020*, 8-9.

the Department of Trafficking in Persons Litigation of the Office of the Attorney General (OAG) processed 241 human trafficking cases from inquiry officers across Thailand. Of those cases, 191 were sex trafficking cases, three were forced begging, and 47 were labor trafficking cases (see table 3.10).⁶²²

Table 3.10: Classification of Human Trafficking Cases Pursued by Public Prosecutors.

Type of Exploitation	2016	2017	2018	2019	2020	Total
1) Prostitution, pornographic material production and distribution, and other forms of sex trafficking	335	325	286	242	191	1,379
2) Forced begging	13	25	14	7	3	62
3) Forced labor or services or similar forms of exploitation/ slavery or similar practices	135	68	57	115	47	422
Total	483	418	357	364	241	1,863

Source: Adapted from Anti-TIP Project by Royal Thai Embassy, *Report 2020*, 11.

According to the 2020 **Trafficking in Persons Report** of the **US Department of State** (TiPR), the government of Thailand does not fully meet the minimum standards for eliminating trafficking. However, the report recognizes that the Thai government is making significant efforts to achieve this objective by increasing efforts compared to the previous reporting period. For that reason, as for 2020, Thailand remained on Tier 2. Thai efforts in combating human trafficking included implementing anti-trafficking training to judges and working with NGOs to provide trauma-informed care training to police, prosecutors, and shelter staff. The Thai government investigated more suspected cases of labor trafficking than the previous reporting period, “sentenced convicted traffickers to significant terms of imprisonment”, and “increased the amount of compensation provided to victims through the anti-trafficking fund, and successfully provided restitution to victims of trafficking for the first time during the reporting period”.⁶²³

Nevertheless, the government failed to meet the minimum standards in several areas of critical significance. Thai officials continued to conflate trafficking and smuggling during the reporting period and demonstrated ineffective victim identification procedures. Furthermore, there was no adequate governmental provision of psycho-

⁶²² Anti-TIP Project by Royal Thai Embassy, *Report 2020*, 10.

⁶²³ Department of State United States of America, *Trafficking in Persons Report June 2020*, 482.

social care to victims. In addition, victims residing in government shelters experienced limited freedom of movement. Moreover, the Thai government conducted “the fewest number of trafficking investigations since 2014, convicted the fewest number of traffickers since 2015, and only initiated investigations of two complicit officials”⁶²⁴. Finally, the 2008 anti-trafficking law was amended to include a “separate ‘forced labor or services’ provision which prescribed significantly lower penalties for labor trafficking”. The figure 3.3. represents Thailand’s TIER ranking by year from 2013 up to 2020.⁶²⁵

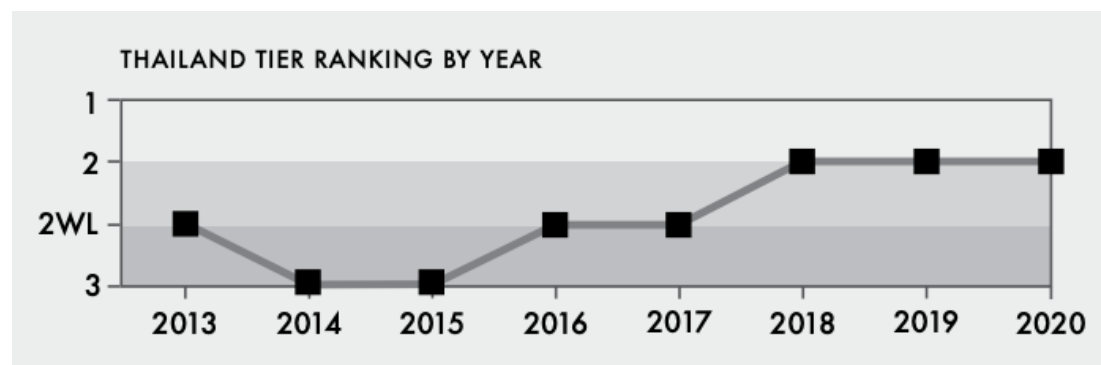


Figure 3.3: Thailand TIER ranking by year.

Source: Department of State United States of America, *Trafficking in Persons Report June 2020*, 482.

Following the reports of the past five years, human traffickers exploit Thai and foreign victims in Thailand and also Thai victims abroad. The offenders traffic Thais for the purpose of forced labor and sexual exploitation in Thailand and countries in North America, Europe, Africa, Asia, and the Middle East. Human trafficking also affects ethnic minorities, highland persons, and stateless persons in Thailand. Thailand is a destination country for forced labor and sex trafficking of women, men, LGBTI individuals, and children from Thailand, other Southeast Asian countries, Sri Lanka, Russia, Uzbekistan, and some African countries in Thailand. Thailand is also a transit country for human trafficking victims from China, North Korea, Vietnam, Bangladesh, India, and Burma with the purpose to be subjected to sexual exploitation and forced labor in countries such as Malaysia, Indonesia, Singapore, Russia, South Korea, the United

⁶²⁴ Ibid.

⁶²⁵ Ibid.

States, and countries in western Europe. There is evidence that the North Korean government is forcing North Koreans to work in Thailand.⁶²⁶

Additionally, boys and girls from Thailand, Burma, Laos, and Cambodia fall victims to sex trafficking in brothels, massage parlors, bars, karaoke lounges, hotels, and private residences. There is increasing sexual exploitation of Thai children by performing “sex acts through videos and photos on the internet, sometimes by blackmailing victims with explicit images”. While children in orphanages face a higher risk of trafficking, some parents or intermediaries induce children from Thailand, Cambodia, and Burma to forced labor in the form of selling flowers or other items in streets, begging, or in domestic service in cities.

Exploitation in the form of forced labor affects Thai nationals and migrant workers and includes “commercial fishing and related industries, the poultry industry, manufacturing, agriculture, domestic work, and street begging”. Migrants are forced to work by means of debt bondage, deceptive recruitment methods, confiscation of identity and other vital personal documents, “illegal wage deductions, and other means”. For example, various agents of human trafficking charge their victims excessively before and after they arrive in Thailand. Thai, Burmese, Cambodian, Vietnamese, and Indonesian males become victims of forced labor on Thai and foreign-owned fishing boats. Some receive meager or intermittent payments, accrue fictitious debts from their exploiters, work for 18 to 20 hours per day for seven days a week, with inadequate nutrition and medical care. They also get physically and psychologically abused and coerced to work longer and harder. Some victims of human trafficking in the fishing industry had difficulty returning home due to remote worksites, underpayment, and a lack of valid identity documents or safe modes of transportation. In fishing and seafood processing, “employers often made confusing wage deductions for documentation fees, advances, and other charges, making it difficult for workers” to account for their wages accurately. Research findings from 2019 to 2020 showed that traffickers exploited 14 to 18 percent of the migrant fishermen in the Thai fishing industry, indicating thousands of migrant workers were forced to work in Thai fishing vessels.⁶²⁷

⁶²⁶ Ibid., 488.

⁶²⁷ Ibid.

Corruption remains a serious issue in Thailand that impairs anti-trafficking efforts. For instance, some government officials were found directly complicit in human trafficking offenses by accepting “bribes or loans from business owners and brothels that exploit victims”. Immigration officials accept bribes from traffickers to expedite trafficking along Thai borders. There is credible evidence of corruption from officials protecting various commercial sex venues, “factory owners, and fishing vessel owners from raids, inspections, and prosecutions and collude with traffickers”. Moreover, there are reports that Thai police officers withhold information about human trafficking crimes to protect traffickers from prosecution. Finally, government officials benefit from bribery and “direct involvement in extortion from and exploitation of migrants”.⁶²⁸

The 2020 TiPR remarks that the Thai government maintained its **law enforcement efforts**. Regarding Thai legislation efforts, section 6 of the 2008 anti-trafficking law, as amended, criminalized sex trafficking and labor trafficking and punished with four up to 12 years of imprisonment and with a fine of 400,000 to 1.2 million baht (\$13,440 to \$40,310) for crimes against adult victims, and with six to 20 years of imprisonment and a fine of 600,000 to two million baht (\$20,150 to \$67,180) crimes against child victims. The US Department of the State affirmed these penalties as sufficiently severe and, concerning sex trafficking, “commensurate with penalties prescribed for other serious crimes, such as rape”⁶²⁹. Nevertheless, in April 2019, the Thai government:⁶³⁰

“amended the 2008 anti-trafficking law to include a separate provision under Section 6/1, specifically addressing ‘forced labor or services’, which prescribed penalties of six months’ to four years’ imprisonment, a fine of 50,000 to 400,000 baht (\$1,680 to \$13,440) per victim, or both.”⁶³¹

⁶²⁸ Ibid.

⁶²⁹ Ibid., 483.

⁶³⁰ Ibid.

⁶³¹ Ibid.

This amendment prescribed much less severe penalties for labor trafficking violations than the previous provisions. In 2019, the Thai government proclaimed the investigation of 288 potential trafficking cases (304 in 2018), prosecuting 386 suspected traffickers (438 in 2018), and convicting 304 traffickers (316 in 2018). In addition, governmental reports indicated 76 investigations of potential cases of labor trafficking compared to 43 in 2018. Seventy-four percent of convicted traffickers were sentenced to five or more years of imprisonment. TIP notes there was an increasing conflation of trafficking and smuggling crimes by law enforcement. Thai observers reported that the Royal Thai Police (RTP) leadership pressured provincial police to increase the number of trafficking cases which “resulted in police, sometimes knowingly, identifying cases of migrant smuggling as trafficking”.⁶³²

The TiPR records uneven governmental progress to victims’ **identification** and **protection**. The Thai government identified 868 sex and labor trafficking victims in 2019, compared to roughly 631 victims identified in 2018. The government further detailed the identification of an “additional 950 individuals as trafficking victims subjected to ‘extortion,’”⁶³³. Many were possible “irregular Burmese or Rohingya migrants transiting Thailand seeking employment in third countries, particularly Malaysia”⁶³⁴. Such conflation of trafficking with smuggling violations caused overcrowding at government-operated trafficking shelters and a possible reduction in the quality of services provided to sex and labor trafficking victims. The report also records that of the 868 sex and labor trafficking victims identified by Thai officials, 258 elected not to reside in government shelters. At the same time, 28 did so in NGO government-registered shelters. The remaining 610 victims, reportedly assisted by the Ministry of Social Development and Human Security (MSDHS), resided in government and NGO shelters (401 in 2018), which included 134 Thai and 476 foreign victims, of which 170 were victims of sex trafficking, and 440 victims of labor trafficking. Considering the Thai immigration authorities, they did not identify “any migrant victims from a screened group of 7,156 migrants screened in immigration detention centers, compared to 15

⁶³² Ibid., 483.

⁶³³ Ibid., 484

⁶³⁴ Ibid.

identified in 2018”⁶³⁵. For that matter, NGOs reported that authorities decreased their efforts to cooperate with NGOs “to screen for trafficking victims among this population during the reporting period”.⁶³⁶

Thai government efforts in human trafficking **prevention** demonstrated an increase. The prime minister supervised the governmental anti-trafficking actions via the Supervisory Policy Committee on Addressing Trafficking in Persons. The government continued monitoring its progress with data collection and annual reports to the prime minister and the Cabinet. In 2019, the government designated roughly 3.8 billion baht (\$127.9 million) to prevent and suppress trafficking, compared to nearly 3.64 billion (\$122.3 million) designated in 2018. The anti-trafficking budget backed campaigns through newspapers, television, radio, social media, billboards, and handouts for raising public awareness on the issue in the country. Officials also engaged in raising awareness about human trafficking in school children, teachers, and community leaders. The foreign affairs ministry produced and shared a video clip on television and social media that included indicators of trafficking among Thai nationals abroad and methods to report suspected cases. The Thai government published in 2019 “the first nationally representative survey of children in the workplace”,⁶³⁷ which approximated that 177,000 children were involved in child labor, including 133,000 in hazardous working conditions.⁶³⁸ Furthermore, there were governmental efforts to decrease the demand for commercial sex acts, “including a video in four languages discouraging child sex tourism in Thai airports and on Thai airline flights”,⁶³⁹ and also to deny entry to known sex offenders in coordination with foreign governments.⁶⁴⁰

Historical Development of the Sex Sector in Thailand

Sex work and sex trafficking date back centuries in Thailand, enduring up to the pro-modern era.⁶⁴¹ In the Ayutthaya period from 1351 to 1767, militaries often received

⁶³⁵ Ibid.

⁶³⁶ Ibid.

⁶³⁷ Ibid., 486.

⁶³⁸ Ibid.

⁶³⁹ Ibid., 488.

⁶⁴⁰ Ibid. 486-488.

⁶⁴¹ Leslie Ann Jeffrey, *Sex and Borders: Gender, National Identity, and Prostitution Policy in Thailand* (Vancouver, B.C: UBC Press, 2002), xi.

women as rewards for their accomplishments while the elite customarily maintained harems of female concubines.⁶⁴² In addition, the Sakdina system of the same era had women servicing Thai peasant men recruited for corvee labor to the aristocracy.⁶⁴³ Members of the nobility who could afford it could opt to have a principal wife, a secondary one, and slave wives acquired through purchase and indebtedness and could be sold and punished at her husbands' will.⁶⁴⁴

Thailand's history already records brothels during the Ayutthaya period.⁶⁴⁵ Until the 1680s, prostitution in urban areas of Southeast Asia was a pretty rare phenomenon compared to concubinage. During this decade, a Thai official under the royal authorization established a prostitution monopoly in Siam's capital, Ayutthaya, by "employing" six hundred women either bought or enslaved due to various offenses, constituting the possible origins of prostitution and sex trade in becoming a significant contributor to Thai state revenues.⁶⁴⁶

During the Ayutthaya period, the legalized and regularly taxed prostitution was located in the Chinese community and available to foreigners and locals. In the nineteenth through the beginning of the twentieth century, the increased demand in laborers mainly for tin mining and railroad building drew flows of Chinese male immigrants. They were arriving in Thailand without their wives, and subsequently, domestic prostitution oriented its services primarily to these men. Traffickers satisfied the demand for female prostitutes by capturing or buying young girls from southern Chinese villages and transporting them to Bangkok and other Southeast Asian ports to serve as prostitutes in brothels or individual Chinese men.⁶⁴⁷ Thai prostitution also thrived during the nineteenth century with the amplification of rice exports that also facilitated the immigration of Chinese men to the urban centers.⁶⁴⁸ The

⁶⁴² Jeremy Seabrook, *Travels In The Skin Trade: Tourism and the Sex Industry* (London: Pluto Press, 1996), 81.

⁶⁴³ *Ibid.*

⁶⁴⁴ *Ibid.*, 82.

⁶⁴⁵ Siriporn Skrobaneck, "The Transnational Sex-Exploitation of Thai Women", (master's thesis, Development Studies, The Hague, 1983), quoted in Esterik, *Materializing Thailand*, 172.

⁶⁴⁶ Esterik, *Materializing Thailand*, 172; Anthony Reid *Southeast Asia in the Age of Commerce, 1450-1680: The lands below the winds*, vol. 1 (New Haven: Yale University Press, 1988), 156.

⁶⁴⁷ Ah E. Lai, *Peasants, Proletarians, and Prostitutes: A Preliminary Investigation Into the Work of Chinese Women in Colonial Malaya*, Research Notes and Discussion Paper No. 59, (Singapore: Institute of Southeast Asian Studies, 1986), quoted in Esterik, *Materializing Thailand*, 173.

⁶⁴⁸ Seabrook, *Travels*, 81.

1855 Bowring Treaty and the expansion of Thailand's international trading efforts increased the influx of women and children to Thailand to marry or serve as sex workers for Chinese migrant workers.⁶⁴⁹ Chinese women were either forced into prostitution or were trafficked for the purpose of domestic service.⁶⁵⁰ In the reign of Kings Rama IV and V (1851–1910), prostitution proliferated in the form of well-organized and managed private brothels.⁶⁵¹

In 1930, Bangkok hosted 151 authorized brothels, of which 126 were Chinese, 22 Siamese, and 3 Vietnamese.⁶⁵² In Bangkok's Chinatown, Yaowarat is still a significant "teahouse" center where child prostitutes are trafficked to numerous brothels owned by the Chinese. Prostitutes until the 1950s were predominantly Chinese, accounting for 80 percent of the total sex workers in Thailand; subsequently, Thai prostitutes opted to take Chinese names.⁶⁵³ Bangkok's night entertainment venues—like tea houses and hotels—oriented toward the higher class where sex work took place were regularly controlled by Chinese men, while the brothels belonged to Thai women.⁶⁵⁴

The growth of prostitution in Thailand is also attributed to the abolition of slavery in 1905, which led to many newly freed slave women deciding to become prostitutes in brothels that paid taxes.⁶⁵⁵ In an attempt to modernize its society and harmonize with the western world, Thailand started Westernizing its legislation regarding slavery, polygamy, and prostitution.⁶⁵⁶ Uneducated and socially alienated, many ex-slave-wives or sex slaves resorted to prostitution to sustain themselves.⁶⁵⁷

Moreover, the 1908 Contagious Disease Prevention Act facilitated the registration of Bangkok's brothels that kept them regulated, controlled sexually transmitted

⁶⁴⁹ Ibid., 130.

⁶⁵⁰ Jeffrey, *Sex and Borders*, 14.

⁶⁵¹ Boonchalaksi and Guest, *Prostitution*, 3; Esterik, *Materializing Thailand*, 173.

⁶⁵² Siriporn Skrobaneck, "The Transnational Sex-Exploitation", 29–31, quoted in Esterik, *Materializing Thailand*, 174.

⁶⁵³ Wathinee Boonchalaksi and Philip Guest, *Prostitution in Thailand* (Nakhon Pathom, Thailand: Institute for Population and Social Research, Mahidol University, 1994), 3.

⁶⁵⁴ Laura Jackson, "Prostitution", in *Chinese Women in Southeast Asia*, ed. Joyce Lebra and Joy Paulson (Singapore: Times Books International, 1980), 46.

⁶⁵⁵ Sukanya Hantrakul, "Prostitution in Thailand", in *Development and Displacement: Women in Southeast Asia*, ed. Glen Chandler, Norma Sullivan, and Jan Branson (Clayton, Vic.: Centre of Southeast Asian Studies, Monash University, 1988), 115-136; Seabrook, *Travels*, 81.

⁶⁵⁶ Seabrook, *Travels*, 82.

⁶⁵⁷ Jeffrey, *Sex and Borders*, 11.

diseases, and ensured payment of taxes.⁶⁵⁸ Two other acts also influenced the development of the sex sector in Thailand; the Trafficking of Women and Children Act of 1928 banned trafficking of women and children for the purpose of prostitution, while the Prostitution Suppression Act of 1960 prohibited brothels. Nevertheless, the Entertainment Places Act of 1966, in turn, fostered prostitution in places like massage parlors, nightclubs, bars, coffee shops, tea houses, and even barbershops.⁶⁵⁹

The high-cost entertainment businesses demanded bank loans that only legitimate companies could obtain. Thus, prostitution and small entertainment businesses needed legitimate businesses as intermediaries for receiving loans.⁶⁶⁰ The proliferation of prostitution led banks to favor lending money to the entertainment sector due to its increased profitability compared to other sectors.⁶⁶¹

Furthermore, the Great Depression in the 1930s overwhelmed rural Thailand and drove many women to prostitution in an attempt to support themselves and their families. During World War II, the occupying Japanese forces used Thai women as prostitutes.⁶⁶² And then, the Vietnam War had the U.S. military closing profitable deals for using Thai prostitutes at the airbases in Northeast Thailand known as the Issan region, but also at rest and recuperation spots in Bangkok and the seaport of Pattaya.⁶⁶³

Between 1962 and 1976, the American military transformed the image of prostitution in Thailand. Being less modest than Thai and Chinese sex buyers, thousands of American soldiers stationed in or visiting Thailand during the Vietnam war behaved like lovers to Thai prostitutes, openly in the main streets.⁶⁶⁴ They often rented wives (*mia chao*) for entertainment during their rest days in Bangkok, Pattaya, and other Thai cities. According to Phongpaichit, approximately 70,000 soldiers spent their seven-day

⁶⁵⁸ Boonchalaksi and Guest, *Prostitution*, 4.

⁶⁵⁹ Hantrakul, "Prostitution", 119.

⁶⁶⁰ Esterik, *Materializing Thailand*, 174.

⁶⁶¹ K. Hewison and M. Thongyou, "The New Generation of Provincial Business People in Northeastern Thailand", Working Paper No. 16, Asia Research Centre, Murdoch University, 1993, 15; Esterik, *Materializing Thailand*, 174-175.

⁶⁶² Seabrook, *Travels*, 104.

⁶⁶³ Jeffrey, *Sex and Borders*, xii.

⁶⁶⁴ Pasuk Phongpaichit, *From Peasant Girls to Bangkok Masseuses* (Geneva: International Labour Office, 1982), 24; Esterik, *Materializing Thailand*, 175.

leaves entertaining in Bangkok in 1968–69.⁶⁶⁵ They were accommodated in luxury hotels at meager prices.⁶⁶⁶ The tax revenues from massage parlors, nightclubs, hotels, and restaurants, from 1967 to 1971, reached 360 million baht.⁶⁶⁷ Important to note that, while the practice of renting wives seemed like a contemporary Western addition to the Thai sex industry, similar patterns were described in 1604 in Pattani in southern Thailand between local women and foreign traders.⁶⁶⁸

Also, in the 1960s the Thai economy started transforming from local agricultural farming to a capitalistic economy. Numerous farmers from the rural provinces of Northern and Northeastern Thailand migrated to large urban centers. Many of them were unskilled and uneducated young women, who often ended up as low-skilled factory workers or prostitutes.⁶⁶⁹ In fact, this impoverishment of the rural population in the 1960s drove many young women directly into the control of sex traffickers. A decade later, in the 1970s, many of them had already returned to their communities with enough earnings that that sparked a new wave of women seeking to enter the lucrative sex work in the bars and clubs of urban Thailand.⁶⁷⁰

Moreover, with the industry- and exports-centered policies undermining rural economies and enhancing the urban sector, many rural daughters were forced to seek work in the sex industry, thriving in the cities, to fulfill their familial duty of supporting their families.⁶⁷¹ Nevertheless, these women soon found themselves being exploited and poorly paid in factories and domestic services. Taking into account that sex work offered much higher wages, one can easily understand what made the tormented female migrants turn into prostitution.⁶⁷²

After the Vietnam war, in the 1970s, government economic policies shifted to the tourism industry and the backing of prostitution, which fostered the growth of sex

⁶⁶⁵ Phongpaichit, *From Peasant*, 6.

⁶⁶⁶ Alan Dawson, *Patpong: Bangkok's Big Little Street* (Bangkok: Thai Watana Panich Press, 1988), 40.

⁶⁶⁷ W. Meyer, *Beyond the Mask: Toward a transdisciplinary approach of selected social problems related to the evolution and context of international tourism in Thailand* (Saarbrücken, Germany: Verlag Breitenbach Publishers, 1988), 71.

⁶⁶⁸ Reid, *Southeast Asia*, 155.

⁶⁶⁹ Crawford, "Trafficking in Thailand".

⁶⁷⁰ Seabrook, *Travels*, 131-132.

⁶⁷¹ Jeffrey, *Sex and Borders*, xii.

⁶⁷² *Ibid.*, xiii (2000).

tourism in Thailand.⁶⁷³ Finally, in the 1980s, voluntary economic migration to urban areas gave its place to the trafficking of women and children for the purpose of sexual exploitation in Thailand and abroad.⁶⁷⁴ The Thai sex industry differentiated itself from other variants by playing a vital role in Thailand's economic miracle and becoming one of the pillars for economic growth.⁶⁷⁵

3.2.2 The Situation of Sex Trafficking in Thailand

Classification of countries throughout the world can be done depending on the challenges that each of them faces as a result of human trafficking. Therefore, a state can be classified as a sending nation or a nation of origin. Another classification can be as a receiving or destination country or as a transit nation. A significant number of countries belong to a single grouping while a handful of them portray features of two statuses, and it is not easy to get a country, which can fit in all the three classifications: “country of origin”, “destination” and “transit for trafficking”. Thailand is one of the different nations that face features of human trafficking that make it qualify to be in all the three groupings of countries involved in human trafficking.⁶⁷⁶

In the context of human trafficking, the countries can be categorized as follows:

1. Countries of Origin (or Sending Countries) are the countries of **origin** of the trafficked person.
2. Transit Countries are used as hubs for the trafficked persons passing through or staying in temporarily before being transported to the final destination.
3. Destination Countries (or Receiving Countries) are the prearranged final destination of the victims. Transit countries can also end up being destination countries.⁶⁷⁷

⁶⁷³ Ibid.

⁶⁷⁴ Seabrook, *Travels*, 131-132.

Boonchalaksi and Guest, *Prostitution*, 1; Esterik, *Materializing Thailand*, 175-176.

⁶⁷⁶ Roujanavong, “Human Trafficking”, 138; Patcharawalai Wongboonsin, ed., *Trafficking For Sexual Exploitation Into Southern Thailand* (Bangkok: Institute de Recherche sur l'Asie du Sud-Est Contemporaine, 2007), 1. <https://doi.org/10.4000/books.irasec.420>; Opanovych, “Human trafficking”, 107.

⁶⁷⁷ “Geographies of Human Trafficking – HopeNow”, HopeNow – Empowering Trafficked People, accessed October 20, 2020, <https://hopenow.dk/geographies-of-human-trafficking/?lang=en>.

Thailand as a Country of Origin

Traffickers' objective is to profit from exploiting individuals by employing various means of coercion. Most victims feel unable to avoid complying with their traffickers' demands mainly due to illogical and unfair indebtedness induced by their exploiters upon they depart from their home countries. HopeNow describes how fictitious debts increase exponentially and ensnare individuals into the human trafficking cycle. People attempting to repay debts in their countries of residence often choose to migrate abroad by asking for assistance from smugglers and traffickers. Debts multiply during victims' transit and upon arrival at the destination country due to fictitious amounts accumulating from the expenses made by them or on their behalf. These debts often take years to pay off, and even victims' families are “at risk of being harmed by the gangs in the trafficking networks if the debt is not paid”.⁶⁷⁸

In 2018 and one of Switzerland's biggest ever human trafficking cases, a Swiss court sentenced a Thai woman to ten and a half years imprisonment for her role in a forced prostitution ring. The 58-year-old Thai woman had trafficked 75 women and transgender people from Thailand to Switzerland for the purpose of sexual exploitation between 2010-2014. Most of the victims could not speak English and came from impoverished regions in Thailand. They were given false promises by the trafficker of work in Switzerland, who also arranged the issuing of their visas, and covered their travel costs. Upon their arrival in Switzerland, “they were forced into prostitution to pay off their ‘travel debt’, which in some cases was as high as 30,000 Swiss francs”⁶⁷⁹. Their debt and illegal status in Switzerland trapped the victims since none of them consented to participate in commercial sex work. Several of the victims suffered post-traumatic stress and suicidal ideation.⁶⁸⁰

In 2016 another female Thai national was sentenced to four years imprisonment for trafficking a young Thai woman into the UK for the purpose of sexual exploitation, among other offenses. After she spent her sentence, she would be deported to Thailand.

⁶⁷⁸ “Geographies of Human Trafficking”.

⁶⁷⁹ “Swiss court jails Thai woman in human trafficking case: report”, The Local, last modified July 11, 2018, <https://www.thelocal.ch/20180711/swiss-court-jails-thai-woman-in-human-trafficking-case-report/>.

⁶⁸⁰ Ibid.

The offender, “Pimnapat Rukkhaseranee, 37, met her 28-year-old victim at a UK airport on June 23, 2013, accompanied by her associate Lucas Skarbonkiewicz”⁶⁸¹. They confined the young lady to an apartment and forced her into prostitution to pay off the £33,000 “debt”, for her travel, documents, and passport, for her transportation to the UK. In addition, she was forced into drugs and charged £400 in renting costs and meal expenses per week. The victim had to endure unprotected sex with her “clients”. When “she eventually became pregnant, Rukkhaseranee gave her drugs to terminate the pregnancy”⁶⁸². The offender had also confiscated the victim's passport. When the victim asked for it, Rukkhaseranee told her that it had been lost or kept by the police. Rukkhaseranee also withheld any tips given to the victim by the sex buyers.⁶⁸³

In 2017 38 people were involved in a well-organized sex trafficking ring, with half of the offenders being Thais. Their illicit activities originated in late 2009. Around 1000 Thai women have been sexually exploited by means of debt bondage and threats to their family members. Most of them spoke limited English, and although some knew they would participate in commercial sex work, they were oblivious that they would be forced to work in seemingly legitimate massage parlors as sex slaves.⁶⁸⁴ In 2018, in Minnesota, five people involved in this case were convicted for trafficking hundreds of Thai women for sexual exploitation. The victims came from poverty-stricken Thai regions and were deceived through false promises of a better life in the United States. The victims were confined in houses of prostitution and forced to have sex every day for up to 12 hours, sometimes with ten men a day. The offenders issued fraudulent visas and travel documents on behalf of the victims “and lied to them about the size of their

⁶⁸¹ Hannah Al-Othman, “Thai People Trafficker Forced Young Woman into Drugs and Prostitution”, London News | London Evening Standard, last modified May 20, 2016, <https://www.standard.co.uk/news/crime/thai-people-trafficker-brought-young-woman-to-the-uk-and-forced-her-into-life-of-drugs-and-prostitution-a3253646.html>

⁶⁸² Ibid.

⁶⁸³ Ibid.

⁶⁸⁴ Wasamon Audjarint, “Thai Victims Exposed in US Human Trafficking”, Nationthailand, last modified April 22, 2021, <https://www.nationthailand.com/news/30339169>; “Thai Victims Exposed in US Human Trafficking”, The Star, last modified July 29, 2019, <https://www.thestar.com.my/news/regional/2018/02/19/thai-victims-exposed-in-us-human-trafficking>.

debts, often more than \$40,000”⁶⁸⁵. They also used “fictitious backgrounds and occupations for the victims and instructed them to enter into fraudulent marriages to increase the likelihood that the women’s visa applications would be approved”. The five offenders were convicted “after being accused of running a sex trafficking operation that lasted more than a decade ... adding that 31 defendants had previously pleaded guilty for their roles in the sex trafficking operation”.⁶⁸⁶

As a country of origin of sex trafficking, many Thai women get transported without their consent to work abroad. False allegations lure most of the women that fall victims of being carried to work overseas. For example, in most instances, the recruiter or the broker will be engaged in procuring and helping women obtain fake visas and travel documents. Women were told that they had high debt, often more than \$40,000⁶⁸⁷ and, likewise, they were kept under control via debt bondage.⁶⁸⁸ More so, the women that had been held captive had to settle some interest together with all the expenditures incurred while they worked overseas. That is, they had to take care of expenses such as food, cosmetics, clothes, rent, among other costs. Some spending would continue to accumulate to their original debt.⁶⁸⁹ In the end, they would have no choice apart from sleeping with many clients to enable them to settle the ever-increasing debt. The standard procedure that the women followed is that they would have to provide services to more than 500 clients in a specified interval before getting paid their share for their services. However, if a woman does not provide services to more than 500 men within the period that has been set, then there is a higher chance that the number of customers to serve at the minimum is likely to increase. If they decline the job of being a prostitute, then they would be enclosed without being given any food up to the time that she agrees to the requirements of their traffickers. In other cases, a victim may face assault or repeated rape to the extent that she gives in to the demands of the master.⁶⁹⁰

⁶⁸⁵ “Hundreds of Thai Women Sold for Sex, US Prosecutors Say”, Benar News, last modified December 14, 2018, <https://www.benarnews.org/english/news/thai/thailand-rights-12142018165230.html>.

⁶⁸⁶ Ibid.

⁶⁸⁷ Ibid.

⁶⁸⁸ Opanovych, “Human trafficking”, 106.

⁶⁸⁹ Ibid., 106.

⁶⁹⁰ Roujanavong, “Human Trafficking”, 138.

The people that are trafficked from Thailand find themselves in overseas countries such as Germany, The United States of America, Australia, The United Kingdom, and South Africa, among other countries. However, there is one country where a significant percentage of the people that are transported to Thailand are taken; it is Japan.⁶⁹¹ Based on Japanese authorities data of 1 January 2016, up to 5,959 Thai citizens had overstayed their visa, making Thailand the third-highest overstaying visa among illegal foreigners in Japan.⁶⁹² According to the Immigration Bureau Chief General Lt Gen Nattorn Prohsunthorn, from January 1 to December 25 of 2016, 1,138 Thais were deported from Japan.⁶⁹³ In 1997 it is approximated that 22,574 Thailand citizens make deliberate efforts to make their visa of tourist to overstay in Japan.⁶⁹⁴ About 90 percent of the tourists turn out to be women. They fall victims to human trafficking because they are not well-educated, uninformed and subsequently gullible. For example, in one circumstance, a woman was enticed by being given a promise of a well-paying restaurant job in the United States of America. However, upon checking in at the airport to travel, she realized that the ticket was indicating that she was going to South Africa.⁶⁹⁵ She became suspicious and decided to find out from the trafficker why she was traveling to South Africa and not the United States of America. The trafficker told her that South Africa had a universal border with the United States of America which was necessary for them to fly to South Africa in the first place and, after that, take a bus that would take them to America. As a result, the woman believed in what the trafficker told her and found herself in a place where men pay to engage in sexual relations with prostitutes in Johannesburg.⁶⁹⁶

Some of the women who fall victim to human trafficking are cheated to incur all the travel and other expenses early. For instance, one victim in Thailand was lured by being told that she would work in a South African hotel and mortgaged the land that

⁶⁹¹ Jones et al., "Human Trafficking", 204.

⁶⁹² Prangthong Jitcharoenkul and Wassayos Ngamkham, "Japan Envoys Issue Overstay Ban Threat", Bangkok Post Public Company Limited, last modified December 27, 2016, <https://www.bangkokpost.com/thailand/general/1169005/japan-envoys-issue-overstay-ban-threat>.

⁶⁹³ Ibid.

⁶⁹⁴ Pattaya Ruenkaew, *Female Thai Migrants in Japan* (Tokyo: Institute for Gender Studies Ochanomizu University, 1998): 68, http://www.igs.ocha.ac.jp/igs/IGS_publication/journal/5/journal05047.pdf.

⁶⁹⁵ Roujanavong, "Human Trafficking", 138.

⁶⁹⁶ Ibid.

belonged to her father for about \$1,300 to pay the trafficker. When she touched base in South Africa, she was given to a Thai ‘mama-san’ and was compelled to sleep with men by the ‘mama-san’ so that she could repay the money that the Thai ‘mama-san’ paid the traffickers. She was doing prostitution at an average rate of about \$25 for a session that lasted under 45 minutes. Luckily, later the woman was rescued by the Thai consulate in cooperation with the police of South Africa that had formed a specialized task force. She narrated that she did not have any freedom throughout the time as she was under the strict control of ‘mama-san’ and was not allowed to talk to other people apart from her clients. Also, she provided a narration of how she used the mobile phone of one of the clients to contact the embassy of Thailand in Pretoria.⁶⁹⁷

The trafficking of Thai women has turned out to be complicated because traffickers have to develop strategic ways of diluting some prevention measures that have been put up by most destination nations and are deemed to be strict. Some of the actions that destination nations have employed to limit human trafficking entail stringent immigration laws and regulations. There is one specific case in which traffickers came along with a significant number of women from Thailand, and they aimed to sell the women to various places of prostitution in Japan in many instances.⁶⁹⁸

In a case involving multiple female victims, the traffickers started to operate a transport firm with few employees. They ran ads on making arrangements for women to be employed in karaoke bars and restaurants in Japan. They added that once a person is hired, she would receive high remuneration. As a result, a considerable number of women trusted their ad and fell victim to the lies. The trafficking “company” staff prepared the traveling passports, air tickets, and accommodation for the victims to move comfortably, who remained oblivious to what could be waiting for them. The principal male trafficker and a female counterpart transported the victims to Japan in turns a significant number of times. They traveled in shifts because they were aware that flying directly to Japan would likely make them not enter Japan. Also, the Japanese immigration department might deport them. The only possibility of entering Japan was by acting as real tourists because they took the victims through a round trip from Malaysia to

⁶⁹⁷ Ibid.

⁶⁹⁸ Ibid., 139.

Singapore. After that, they could book another journey from Malaysia heading to Europe but passing through Japan. Then, while they were in Europe, they could visit many countries such as France, Switzerland, and Germany. They could then plan for a journey back to Malaysia through Japan. While they wait for a connecting plane in Japan, the traffickers could tell the victims that they should not board the plane to Malaysia. As a result, the plane takes off without them. Then, they could send a notification to the immigration officers of Japan about them missing the connecting flight. Therefore, they could be allowed to apply for a temporary permit to go out of the airport so that they can stay in a hotel in Japan. At the same time, they make arrangements for the next possible plane. As soon as they get temporary permits, the victims could be sold to many brothels located in Japan. The traffickers could sell the victims for a large amount of money, and only the traffickers would go back to Thailand. All the victims were kept in captivity in the brothels and were told that they had no option apart from working as prostitutes so that they could repay an accumulated debt of about 5,00,000 Japanese yen before they could be set free, get a portion of the income and then go back to their country of residence. The two principal traffickers and their staff members were charged and convicted in the criminal court of Bangkok. The mastermind of the trafficking incident was charged and given a sentence of 39 years in prison. Conversely, the female trafficker was charged and given a sentence of 28 years in prison. One of the staff was charged and given a sentence of six years in jail, while another was charged and given a sentence of 14 years in jail. Similarly, the Attorney General's Office in Thailand requested the Japanese administration extradite one Taiwanese owner of a brothel to face charges and possible prosecution in Thailand.⁶⁹⁹

In many cases, many women voluntarily go to work abroad, even though they will end up working in the sex industry. They take a risk trading their danger with the hope they will earn better money. According to Matthana Chetamee, coordinator of the Direct Assistance Program, Foundation for Women in Thailand (FFW) “most Thai women that the foundation serves work in destination countries in the Middle East (particularly Bahrain), Asia (Malaysia, Singapore, Taiwan, and Japan), and Europe”⁷⁰⁰.

⁶⁹⁹ Ibid.

⁷⁰⁰ Sroj Sorajjakool, *Human Trafficking in Thailand: Current Issues, Trends, and the Role of the Thai Government* (Silkworm Books, 2013), chap. 6, Apple Books ePub.

Most of the cases came from Bahrain, followed by Asian and European countries, and mainly involved women from northeastern provinces who were aware that they would be commercial sex workers. Nevertheless, they signed contracts without fully comprehending their context. Arriving at the destination countries, they encountered a situation they had not consented to. Their passports were confiscated, and they were not allowed to contact their families or friends. Debt was accrued by traffickers charging arbitrarily various fictitious expenses. Additionally, competition from sex workers from China and Middle Eastern countries made it even more difficult to find clients. This reality was also withheld during the recruiting stage. Reporting such cases can often go on for years, and many victims lack the monetary budget to pursue them.⁷⁰¹

Major Jareewan Puttanurak of Hang Dong Police Department, Chiang Mai pointed to cases comparable to those of FFW. Slavery cases constituted the minority, and most concerned women who had voluntarily decided to be sex workers abroad and fell victims to “oppressive situations” that might “not have completely met the criteria for trafficking”.⁷⁰² Furthermore, project manager for the Anti-Trafficking Coordination Unit Northern Thailand (TRAFCORD) Duen Wongsas remarked that 80 percent of her cases were linked to sex trafficking and 50 percent involved child trafficking. From 2003 to 2006, she confirmed that TRAFCORD participated in nine criminal cases involving nineteen victims of sex trafficking, and most cases did not involve abduction, slavery, or forced prostitution. Usually, it was after their arrival to the destination country that their situation changed to being victims of human trafficking for sexual exploitation. For Duen Wongsas, the sex industry in Thailand is generally not characterized by extreme violence. The predominant tragedy is how debt bondage traps the “victims in a perpetual cycle of attempting to repay escalating loans”. Victims who are sent overseas for sexual exploitation are more vulnerable to brutality and coercion.⁷⁰³

⁷⁰¹ Ibid.

⁷⁰² Ibid.

⁷⁰³ Ibid., 6.

Thailand as a Destination Country

Thailand has been recognized as a well-known destination for human trafficking in the Mekong region. One of the reasons for instigating migration is that an inefficient government system is a significant push factor for migrants. Thailand is often the destination country that migrant workers choose to come.⁷⁰⁴ In fact, while Thailand is classified as a developing country,⁷⁰⁵ it is quite developed economically compared to its neighboring states. Thailand's daily minimum wage is 9.31-9.98 USD, while Myanmar is 2.56 USD, Laos 3.60 USD, and Cambodia 5.67 USD.⁷⁰⁶ Therefore, Thailand has become a country where many people look to migrate to seek work opportunities. With the faith that they will be able to seek "greener pastures" in the name of a better-paying job and drive them to a better life. As migrants naturally anticipate that moving abroad will improve the quality of their lives and families.⁷⁰⁷ A large number of sex workers in Thailand come from poverty-stricken homes in neighboring countries.⁷⁰⁸ According to the Walk Free Foundation's Global Slavery Index 2016, Thailand is the leading destination among Southeast Asia for trafficking victims from countries of origin: Cambodia, Lao P.D.R., and Myanmar.⁷⁰⁹

In March 2018, about 3,800,000 foreign workers were working in Thailand. More than two million people come to work legally. In this amount, approximately 1,600,000 immigrants are not yet correctly registered to live in Thailand.⁷¹⁰ According

⁷⁰⁴ Benny T. Guan, ed., *Human Security: Securing East Asia's Future* (New York: Springer Science & Business Media, 2012), 82, <https://doi.org/10.1007/978-94-007-1799-2>.

⁷⁰⁵ "Developing Countries: The list of developing countries shown below is adhered to by the ISI, effective from 1 January until 31 December 2021", International Statistical Institute (ISI) -, accessed July 24, 2021, <https://www.isi-web.org/index.php/resources/developing-countries>.

⁷⁰⁶ Saovanee Chantapong, Prangprao Singhapong, and Kanchanit Lertpienthum, "กระแสการเคลื่อนย้ายแรงงานข้ามชาติ: เข้าใจ เข้าถึง และเป็นธรรม / Migration Flows: Understanding, Accessing and Justice", *MPG Economic Review*, August 2018, 2,

https://www.bot.or.th/Thai/ResearchAndPublications/DocLib_/Article_7Aug2018.pdf. [My translation]

⁷⁰⁷ Martijn Hendriks and David Bartram, "Bringing Happiness Into the Study of Migration and Its Consequences: What, Why, and How?," *Journal of Immigrant & Refugee Studies* 17, no. 3 (May 2018): 279-280, <https://doi.org/10.1080/15562948.2018.1458169>.

⁷⁰⁸ Guan, *Human Security*, 82.

⁷⁰⁹ Mely Caballero-Anthoy, "A Hidden Scourge: Southeast Asia's refugees and displaced people are victimized by human traffickers, but the crime usually goes unreported", *Finance & Development*, September 2018, 19, <https://www.imf.org/external/pubs/ft/fandd/2018/09/pdf/human-trafficking-in-southeast-asia-caballero.pdf>.

⁷¹⁰ Olivier Languépin, "Thailand Rushes to Register 1.6 Million Undocumented Migrants", *Thailand Business News*, last modified December 31, 2020, <https://www.thailand-business-news.com/visa/68498-thailand-rushes-to-register-1-6-million-Undocumented-migrants.html>.

to the Ministry of Labor report, about over 300,000 Cambodian workers are working illegally in Thailand.⁷¹¹

The Global Report on Trafficking in Person 2016 notes that Thailand is a destination from neighboring countries such as Cambodia, the Lao People’s Democratic Republic, and Myanmar.⁷¹² Numerous migrant workers from these neighboring countries are low-skilled workers entering the country illegally, often through the help of smugglers and brokers. They work in “unskilled labor” industries that Thai people usually do not want to do because they are the jobs that are generally the lowest-earning jobs. Including factories, agriculture, the construction industry, the seafood and fishing sector, manufacturing sites, hotels, and domestic helpers in a significant number of households. The workers usually are diligent and patient since they are determined to earn a lot of money to support their families back in their home countries.

Another reason for moving is to move from terrorist activities and much unrest that is facing their countries. From August 2017 until November 2018, Myanmar’s army has used force to suppress the Rohingya after armed Rohingya groups attacked police stations in Rakhine State. Army operations caused a major humanitarian crisis. More than 700,000 Rohingya men, women, and children had to flee the use of force, and the violent suppression of Myanmar soldiers into Bangladesh resulted in the death of 25,000 people.⁷¹³ More than 100,000 Rohingya fled in refugee camps in Thailand.⁷¹⁴ Over five hundred thousand of the Rohingya crossed the border to neighboring Bangladesh. The UN called it the “fastest-growing refugee emergency” in the world.⁷¹⁵

A substantial number of the immigrant workers in Thailand are the Burmese

⁷¹¹ Sen David, “80,000 Cambodian Workers Are Working Illegally in Thailand”, Khmer Times - Insight into Cambodia, last modified May 22, 2018, <https://www.khmertimeskh.com/492275/80000-cambodian-workers-are-working-illegally-in-thailand/>.

⁷¹² UNODC, Global Report on Trafficking in Persons 2016, 105-106.

⁷¹³ “วิกฤตโรฮิงญา: ชะตากรรมที่ไม่แน่นอนของเด็กหญิงในค่ายผู้ลี้ภัย”, BBC News ไทย, last modified November 19, 2018, <https://www.bbc.com/thai/international-46259280>. [My translation]

⁷¹⁴ Audrey Gaughran, “Rohingya Fleeing Myanmar Face Difficulties in Thailand”, The Diplomat, last modified September 29, 2017, <https://thediplomat.com/2017/09/rohingya-fleeing-myanmar-face-difficulties-in-thailand/>.

⁷¹⁵ Olivia Giovetti, “Forced Migration: 6 Causes and Examples | Concern Worldwide, US”, Concern Worldwide, last modified June 28, 2019, <https://www.concernusa.org/story/forced-migration-causes/>; Michael Sullivan, “Rohingya Exodus: Refugees Struggle To Get Survival Basics”, NPR.org, last modified October 5, 2017, <https://www.npr.org/2017/10/05/555949733/rohingya-exodus-refugees-struggle-to-get-survival-basics?t=1553644367765>.

and other minorities from Myanmar. Some techniques that are applied to moving prohibited immigrants through the border and making entry into Thailand may be threatening at times. For example, most instances entail hiring illegal immigrants in a car to evade being inspected by the police at the border points or along the various travel routes. Consequently, many victims have lost their lives due to suffocation after being crowded in tiny spaces, being put beneath weighty loads of luggage, or placed in an airtight container with an air conditioner that is not functioning.⁷¹⁶

Many women who are illegal immigrants have been transported to engage in sex work businesses such as brothels, massage centers, and all types of bars. The victims get threatened by being told that they should not report their challenges to the security forces because they will be arrested if they do. Their arrest will result from them being illegal immigrants, and they could be put into prison and possibly deported. As a result, they avoid reporting their abuse to the police.

One case of transporting foreign ladies into Thailand to be exploited sexually are surrogate moms who gave birth to children for clients. A human trafficking group from Taiwan, in 2011, was tracked down and arrested for using Bangkok as the reference point for coordinating their operations. The gang registered an illegal firm, leased two apartments, and put ads of the services they offered on an online site. The primary service that they provided was the production of a child for a couple that was willing. They could also produce a child for any person that had the urge of having an infant but had challenges with their fertility. The medical procedure of making a baby started after a client sent sperm, ova, or both to the group. The gang found surrogate mothers through cooperating with Vietnam traffickers who convinced young ladies to enter Bangkok after being promised career opportunities that were decent and paid very well. On arrival in Bangkok, confiscating their travel documents took place and then made to know that there were no jobs that they were promised apart from being surrogate mothers for hire. As a result, the women are left with limited choices, and they have no option apart from accepting the offer on the table. Then, they were taken to private health centers to be involved in the medical procedure of implanting a fertilized ovum into their uteruses. They carry the fetuses throughout the gestation period until they give birth. The women

⁷¹⁶ Roujanavong, "Human Trafficking", 139.

were put in seclusion in the two houses that the gang leased throughout the gestation period, and they did not have any freedom. The traffickers gave the surrogate mothers computers that were connected to the Internet to assist them in going through the period that they are pregnant successfully. A victim used one of the laptops to get in touch with the Embassy of Vietnam in the city of Bangkok to get assistance for them. Consequently, the Ministry of Social Development and Human Security (MSDHS), together with security forces from Thailand, rescued all the surrogate mothers. A significant number of traffickers were arrested in that operation. Additionally, the administrations in Vietnam arrested their handlers via the collaboration of Thailand and Vietnam. The case was solved at the Bangkok criminal court. The victims were brought to give their testimony in court and then taken to their native countries together with the children that were born as a result of the surrogate procedure.⁷¹⁷

In Thailand, two types of bars predominate in sex work. Open-fronted bars are bars with their main entrance open and facing the street and are preferred by foreign tourists the most. Girls employed in these bars usually come from impoverished rural regions of the north or northeastern Thailand and enjoy relative freedom in choosing their clients—many of Thailand’s sex workers originate from Isan province⁷¹⁸. While not earning a monthly salary, they receive around 30 percent of the drinks the clients buy for them and an additional 30 percent (200-300 baht) of offering their sexual services, which constitutes their primary income (1,000-2,000 baht). Go-go bars are the other type of bars. They do not have open fronts and involve mainly pole dancing and strip shows. Girls are tagged with numbers for identification and usually perform for three songs. They earn monthly salaries as high as 7,000-10,000 baht, 30 percent of every drink the clients buy for them, and another 30 percent for leaving the bar with clients. Once the clients pay, the girls are free to follow them. Go-go bar girls earn on average 1,500-2,500 baht for sexual services per client, “[p]art of the agreement is for each girl to make ten to twelve off to meet the monthly quota, otherwise she must pay a fine of up to 600 baht per month”.⁷¹⁹

⁷¹⁷ Roujanavong, “Human Trafficking”, 139-140.

⁷¹⁸ Guan, Human Security, 82.

⁷¹⁹ Emmanuel Perve and Christopher Robinson, *Love in the Land of Smiles: Prostitution in Thailand Today* (Chiang Mai: Alligator Service, 2007), 36-43.

The Thai sex industry also involves numerous massage parlors. There, sex buyers can choose behind big glass windows masseuses who are also tagged with numbers for identification.⁷²⁰ After the selection girls offer massage and sexual services according to customers preferences in specially prepared rooms. Massage parlors oblige their sex workers to offer sexual services to the sex buyers. Girls earn around 30-50 percent of the sex buyer's payment to the “business” (1,000-2,000 baht), and they also receive generous tips. Since they do not receive monthly salaries, their earnings depend on the number of sex buyers they serve, ranging between two and seven per night.⁷²¹

Additionally, karaoke bars are also thriving in the sex industry and are the preference of locals. Sex workers in karaoke bars sing and accompany clients, entertaining and conversing with them to earn favor. Customers regularly offer currency garlands to the singers. Usually, the quality of the performance and the entertainment influences the number of garlands made. Additionally, sex workers receive 20-30 percent of the cost of the drinks that customers buy for them and are not required to follow clients that wish to take them out. Nevertheless, when they agree to do so, the bar owner receives the payment, and if sexual services are involved—which is not always the case—the price is arranged between the sex buyer and the sex worker, usually around 2,000 baht or more.⁷²²

The sex industry in Thailand offers an array of choices and prices that, according to Siraj Sorajjakool, act as a buffering factor to the tide of sex trafficking in Thailand,⁷²³ since trafficking for the purpose of sexual exploitation increases as concealment of the illicit activities rises—the greater the availability, the less the need for concealment.⁷²⁴ The most vulnerable population in sex trafficking are children, unemployed migrants, and stateless tribe members who lack legal documents. Moreover, during the 2000s, there were increasing reports of sex trafficking victims from Russia and Uzbekistan in Pattaya and Soi Nana in Bangkok. Furthermore, the fact that in 2004 193 Uzbek women were deported from Thailand denotes the vulnerability of Uzbek female sex trafficking

⁷²⁰ Sorajjakool, *Human Trafficking*, chap. 6.

⁷²¹ Perve and Robinson, *Love*, 43-44.

⁷²² *Ibid.*, 127-135.

⁷²³ Sorajjakool, *Human Trafficking*, chap. 6.

⁷²⁴ Pasuk Phongpaichit, Sangsit Phiriyarangsarn, and Nualnoi Treerat, *Guns, Girls, Gambling, Ganja: Thailand's Illegal Economy and Public Policy* (Chiang Mai: Silkworm Books, 1998), 179.

victims. Those women are usually deceived by traffickers who exploit their need to escape poverty in their home countries.⁷²⁵ While Central Asian women display increased vulnerability to sexual exploitation, not all fall victims to sex trafficking. Some of them visited Thailand voluntarily as prostitutes and exploited existing networks of the sex industry to locate sex buyers.⁷²⁶

Siroj Sorajjakool remarks on a 2009 UNIAP study about women entering the sex trade in Cambodia, that “[a]lthough the study was conducted just among Cambodians entering the sex trade, it does offer a glimpse into some of the issues involved in sex trafficking that could also”⁷²⁷ apply to the Thai reality. The survey concerned “357 women and girls aged fifteen to forty-nine working in brothels, karaoke bars, and massage parlors”⁷²⁸. Replying to why “they entered the industry, 12 percent indicated that they were lured, cheated, or sold into sex work, and most indicated difficult family circumstances”⁷²⁹. Seventy-nine percent of direct sex workers found their jobs independently. Only 3 percent in the massage sector, and only 2 percent of Karaoke workers used brokers. In addition, 16.5 percent reported restriction of freedom, and 6.4 percent had experienced extreme violence, which mainly manifested in the direct sex work.⁷³⁰ Sorajjakool notes that while violence in sex trafficking is a reality in Thailand that needs to be addressed, it seems to be in decline compared with the brutal practices employed in the 1980s and early 1990s.⁷³¹

Some scholars, like Kevin Bales, maintain that there is a weak direct link between sex tourism and slavery. While female sex workers endure severe debasement and exploitation in the reality of sex tourism, except for the sexual exploitation of children, most commercial sex services offered to tourists do not involve sex slaves. For Bales, sex trafficking in Thailand correlates mostly with girls falling victims to debt bondage and being exploited in brothels visited chiefly by impoverished Thai male

⁷²⁵ Erika Frye, “Dancing to a Trafficker’s Tune”, *Bangkok Post*, August 5, 2007, quoted in Sorajjakool, *Human Trafficking*, chap. 6.

⁷²⁶ Sorajjakool, *Human Trafficking*, chap. 6.

⁷²⁷ Sorajjakool, *Human Trafficking*, chap. 6.

⁷²⁸ Ibid.

⁷²⁹ Ibid.

⁷³⁰ Strategic Information Response Network (SIREN), “Cambodia: Exodus to the Sex Trade?”, *United Nations Inter-Agency Project on Human Trafficking (UNIAP): Phase III*, July 20, 2009, quoted in Sorajjakool, *Human Trafficking*, chap. 6.

⁷³¹ Ibid.

members of the working class.⁷³²

Child sex trafficking in Thailand was brutal between 1985 and 1996. Girls were chained, raped, and kept under inhumane conditions. They were often sold and locked up in the brothels, deprived of sunlight for up to two years, and they were forced to be available for sex 24 hours per day.⁷³³

Parents were selling their children, and, in some cases, if they returned with AIDS, they rejected and isolated them in small huts. The good-looking girls were forced to have sex with twenty to twenty-six clients per night.⁷³⁴

In June 1991, seventeen underage tribal girls were rescued from a brothel in Phuket. One of them was sexually exploited while being seven months pregnant. In November 2001, twelve girls were rescued from a brothel in Rayong Province. Most had undergone severe physical and sexual abuse and were forced into prostitution, and eleven out of twelve were HIV positive.⁷³⁵ As an example of the brutality of torture experienced by the victims, one pimp used a wire hanger for clothes to whip the bare backs of the girls and pull off their skin to force them to cooperate.⁷³⁶

In 2000, Sorajjakool remarks from the prostitutes he interviewed, in the context of research on child prostitution in Thailand, four passed away from AIDS not long after. He also records that, as a social worker informed him, at the main shelters for women and children in Bangkok, Kret Trakan Welfare Protection and Vocational Development Center that of the two hundred female victims, only twenty-five underage girls had engaged in prostitution and only five had been forced into prostitution. According to the Center for the Protection of Children's Rights (CPCR) annual report, the number of rescued victims of child sex trafficking by the center peaked between 1988 and 1991 and then started to decline. The study showed that violence, coercion, and forced child prostitution were declining following the 1980s and early 1990s. In addition, the numbers of poor rural girls engaging in prostitution were decreasing while

⁷³² Bales, *Disposable People*, 76.

⁷³³ Siroj Sorajjakool, "Theological and Psychological Reflection on the Functions of Pastoral Care in the Context of Child Prostitution in Thailand", *Journal of Pastoral Care* 54, no. 4 (Winter 2001): 430, <https://doi.org/10.1177/002234090005400406>.

⁷³⁴ Orasom Sutisakorn, *Dokmai ratri: Sinkha mi chiwit* (Bangkok: Sarakadee Press, 2004), 97.

⁷³⁵ Sorajjakool, "Theological", 431; Sorajjakool, *Human Trafficking*, chap. 7.

⁷³⁶ Sutisakorn, *Dokmai ratri*, 100.

those of poor urban girls were increasing. Moreover, the amount of brothels has reduced significantly, while massage parlors, cafes, karaoke bars, and other types of bars and venues of the sex trade have grown considerably. Nevertheless, the study didn't indicate a notable decrease in child prostitution. Despite the fact that brothels had diminished, more deprived urban girls were driven into the sex industry, "working in businesses used as a front for sex work, rather than working in brothels".⁷³⁷

Sorajjakool maintains that the factors contributing to these changes were NGOs promoting education and prevention among rural girls in northern Thailand, the HIV-AIDS prevalence discouraging rural children from prostitution, and the Prevention and Suppression of Prostitution Act of 1996 that introduced severe punishments—life imprisonment and death sentences—for the perpetrators of sex trafficking, especially of minors.⁷³⁸ With this act, for the first time, prostitutes were treated as victims and not perpetrators, as in the suppression act of 1960, which prescribed more severe penalties for prostitutes than the procurers.⁷³⁹

A 2001 study on child prostitution involved surveying fifty-seven villages and interviewing sixteen child sex workers as well as community and village leaders, school staff, law enforcement officers, and public health volunteers. The findings showed a decline in the number of brothels and prostitutes. Eleven out of the sixteen girls had engaged in prostitution for more than three months, five beyond three years, while all worked independently. The study also pinpointed addiction to amphetamines, consumerism, lack of affection in family, and poverty as factors driving these girls to commercial sex work. In addition, some families encouraged their daughters to become prostitutes to provide financial support.⁷⁴⁰ A comparable 2001 study concerning Lampang Province indicated that child prostitution involving trafficking, coercion, and slavery was replaced by the voluntary entrance to the sex industry due to limited economic opportunities, low education and inadequate skills, consumerism, and influence from

⁷³⁷ Center for the Protection of Children's Rights CPCRC, *The Center for the Protection of Children's Rights, Annual Report for the Year 1998-1999* (Bangkok: CPCRC, 1999), quoted in Sorajjakool, *Human Trafficking*, chap. 7.

⁷³⁸ Siroj Sorajjakool, *Child Prostitution in Thailand: Listening to Rahab* (New York: Haworth Press, 2003), 15-22.

⁷³⁹ Sorajjakool, *Human Trafficking*, chap. 7.

⁷⁴⁰ Nan Education Office, "Study on the Situation of Child Prostitution: Nan Province", *ECPAT*, 2001, quoted in Sorajjakool, *Human Trafficking*, chap. 7.

family and friend environment.⁷⁴¹

Sorajakool, in interviewing Thai police officers, got affirmations that many underage girls had not been forced into prostitution. Female freelance sex workers as young as twelve to fifteen were active around Lumpini Park in Bangkok very late at night in order to elude detection from the police. In Chiang Mai, Major Puttanurak, investigator of human trafficking cases, verified most cases in Chiang Mai linked to the sex trade. Nevertheless, in child prostitution cases, many children were not directly forced or coerced into prostitution. They either entered voluntarily while their exploitation followed shortly after or realized later that the law forbids sexual engagement between adults and individuals below 18.⁷⁴²

Boys, too, do not escape the menace of sex trafficking unharmed. Supphakorn Noja, head of Pattaya's Child Protection and Development Center, reported that owners of internet cafes in Chonburi and Pattaya encourage boys to use their internet services for several hours and lend them money for the purpose of ensnaring them in debt bondage. When the loan becomes unbearable, the cafe owners prompt the children to become prostitutes as a way to pay off their debt. Approximately forty Thai boys entered the sex industry either voluntarily or reluctantly due to this situation.⁷⁴³

Another issue closely connected with the Thai sex industry is marriages between Thai women and foreigners from Western cultures. These ladies are often ex-prostitutes who enter the sex industry hoping to locate wealthy tourists in the numerous commercial sex venues in Thailand's urban centers and persuade them to marry them. In fact, many destitute Thai women, often coming from the Northeastern provinces of Isan and other impoverished Thai regions, greatly aspire to marry foreigners to escape poverty.⁷⁴⁴ It is common to end up marrying foreigners from wealthy countries like Germany, Switzerland, or the USA who can be 20 to 40 years older than their Thai wives.

⁷⁴¹ Adul Duangdeetaweerat, "Study on the situation of child prostitution: Lampang Province", *ECPAT*, 2001, quoted in Sorajakool, *Human Trafficking*, chap. 7.

⁷⁴² Sorajakool, *Human Trafficking*, chap. 7.

⁷⁴³ *Ibid.*

⁷⁴⁴ Richard Bernstein, "Variations on a Theme: Thai Women and Foreign Husbands (Published 2007)", *The New York Times*, last modified August 12, 2007, <https://www.nytimes.com/2007/08/12/world/asia/12iht-letter.1.7087394.html>; Lapanun Patcharin, "It's Not Just About Money: Transnational Marriages of Isan Women", *Journal of Mekong Societies* 8, no. 3 (2012), 1-28, <https://so03.tci-thaijo.org/index.php/mekongjournal/article/view/6032>; Jongrak Hongngam et al., "Factors Affecting Marriages between Thai Women and Foreign Men: A Case Study of

The main incentives of these women are economic benefits and the prospect of an extraordinary life. Even parents from the Northeast regularly express their preference for their daughters to marry foreigners. Nevertheless, lack of love does not make these women immoral or unethical since most are simply victims of harsh circumstances. In many cases, foreigners' wives, also known as "mia farang", had previously experienced bitter divorces or abandonment by their Thai husbands or boyfriends despite being mothers to their children. These abandonment pressures, lack of income, and inability to raise their children made them susceptible to seeking foreign husbands. And in fact, many foreigners took them as their wives and provided for them and their families. Likewise, many Thai ladies come out of the menace of prostitution and sex trafficking.

Considering how much consumerism and materialism have permeated modern Thai values,⁷⁴⁵ many mia farangs evaluate their status and success in life in terms of wealth and luxury. Those that "accomplish" extravagant lifestyles and luxurious marital statuses often feel eager to advocate for younger generations their "achievements" via the use of social media and the internet. They describe in detail the path they followed, while most omit their past in prostitution and provide advice enthusiastically to their numerous followers, in addition to gaining attention and gathering followers to sell their products and increase their views, which has a direct positive impact on their advertising revenues. Thus, prostitution is indirectly promoted as the most effective and swiftest means of locating and persuading wealthy westerners, but at the same time, references to the pitfalls of sex trafficking are overlooked. Subsequently, many young Thais, already intrigued by the exceeding consumeristic and materialistic trends of their society, develop irresistible expectations about the easy riches and comfort that the life of a prostitute can offer. Unfortunately, such expectations drive many young girls to the sex industry totally unprepared for the grim realities of sex trafficking that lurk in the world of commercial sex work. Apart from this, plenty of examples of promoting glamorous

Thailand", *วารสารเศรษฐศาสตร์และกลยุทธ์การจัดการ (Journal of Economics and Management Strategy)* [Online] 8, no. 1 (June 2021): 72-82, accessed July 17, 2021, <https://kuojs.lib.ku.ac.th/index.php/jems/article/view/3184/2027>.

⁷⁴⁵ Phra Somsak Duangsisen, "Consumerism, Prostitution, And Buddhist Ethics", *Chulalongkorn Journal of Buddhist Studies* 2, no. 1 (2003): 1-11, accessed July 14, 2021, <https://so06.tci-thaijo.org/index.php/cjbs/article/view/244851>.

life from people who have never engaged in prostitution incidentally provide an additional urge for the youth to find meaning in their lives through status and wealth.

Final example that illustrates how the Thai sex industry has permeated deeply to even to the political circles of Thailand is the case of Chuwit Kamolvisit. Kamolvisit is a controversial Thai politician who was once the country's biggest massage parlor owner, with a considerable number of massage parlors in Bangkok and was considered by many as a crucial person in prostitution in Thailand. He even revealed in 2003 that his primary clients were top government officials and policemen of high rank.⁷⁴⁶ The fact that politicians appeared to be supporting prostitution challenged, even more, the effort to curb prostitution. According to BBC news, in 2003, M.P.s from Thailand were against a political party that banned them from having mistresses or visiting brothels. Thirachai Sirikhan, a former M.P. in Thaksin Shinawatra's Thai Rak Thai, told *The Nation* in 2003: "To have a mia noi is an individual's right. There should be no problem as long as the politician causes no trouble to his family or society".⁷⁴⁷ In addition to that, when the police raided Bangkok parlors in 2007, the police chief colonel Varanvas Karunyathat defended the police saying that the officers involved needed to have sex with masseuses to gain evidence for the arrest.⁷⁴⁸

Thailand as a Transit Country

Thailand is often used as transit country for human trafficking. According to the 2018 Trafficking in Person Report, Thailand is a transit country for victims from China, North Korea, Vietnam, Bangladesh, India, and Burma for human trafficking, sex, and forced labor in countries such as Malaysia, Indonesia, Singapore, Russia, South Korea, the United States, and countries in Western Europe.⁷⁴⁹

⁷⁴⁶ Cathy Scott-Clark and Adrian Levy, "Thai Brothel King's Revenge", *The Guardian*, last modified December 1, 2017, <https://www.theguardian.com/lifeandstyle/2004/feb/21/weekend.adrianlevy>.

⁷⁴⁷ "BBC NEWS | Asia-Pacific | Thai MPs Protest Mistress Ban", *BBC News*, last modified December 2, 2003, <https://news.bbc.co.uk/2/hi/asia-pacific/3255350.stm>.

⁷⁴⁸ "Chuwit Kamolvisit News", *2Bangkok.com* | Almost Like Being There, accessed March 30, 2020, <https://2bangkok.com/chuwit.shtml>.

⁷⁴⁹ Department of State United States of America, *Trafficking in Persons Report June 2018* (Washington, DC: U.S. Department of State Publication / Office of the Under secretary for Civilian Security, Democracy, and Human Rights, 2018), 414-418, <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>.

The location of Thailand is strategic as it is located in the middle of the South-east Asian region and, therefore, it turns out to be a traveling destination. It gives way for international flights to almost every place throughout the world. Thus, its features facilitate the activities of traffickers, and Bangkok is used by many traffickers to transport victims to other nations worldwide. For instance, the traffickers of human beings from China and those people that smuggle illegal migrants utilize Thailand as a central place for the shipment of trafficking victims and illegal immigrants coming from southern regions of China. The migrants from China and the trafficking victims are taken through Myanmar, enter the regions to the north of Thailand, and then proceed to Bangkok. It is deemed this route is easier than going via the extensive land of China to the Northeastern region of China. The area has a significant number of traveling challenges from one city to another. Therefore, as soon as the victims or illegal immigrants arrive in China Town, it is not challenging for them to mix with the native people in that area. The victims are made to stay in temporary shelters as they wait to be given fake passports by the traffickers to enable them to take a plane out of Bangkok to tour other areas throughout the world. For example, they could travel to destinations such as the United States of America, the United Kingdom, Europe, Australia, and Canada among other destinations. However, the number of Chinese people who fall victim to trafficking has decreased tremendously in an effective manner by enhancing the security features of passports. It was possible due to the advanced new technology. Also, the improvement in the features of the passports has reduced the number of migrants that are illegal and that are transported via Bangkok.⁷⁵⁰

Thailand has a long history as a transit country for trafficking Rohingya refugees and Bangladeshi migrants to Malaysia, among other destination countries. In 2015, trafficking camps and mass graves were discovered in southern Thailand, which led to a crackdown by Thai and Malaysian authorities and forced traffickers to abandon boats full of “refugees and migrants at sea, often without adequate water, food or fuel”.⁷⁵¹

⁷⁵⁰ Roujanavong, “Human Trafficking”, 141.

⁷⁵¹ Audrey Gaughran, “Rohingya Fleeing”.

Conclusion

Chapter three explored human trafficking from a global perspective and revealed the grim realities endured by millions of victims. Various actors use multiple methods to exploit human beings and secure variable amounts of profit. The agents of human trafficking range from ordinary people, like local business owners and even intimate partners and family members, to well-organized crime syndicates. Irrespective of the analysis perspective and despite its noted decline, sexual exploitation remains one of the most prevalent forms of human trafficking exploitation. Women and girls display the highest vulnerability to trafficking in persons, especially sex trafficking and forced marriage practices. Asia is estimated to have the highest number of victims of modern slavery and sex trafficking. Human trafficking and forced labor have a negative impact on the economies of destination countries and those of origin in the form of significant loss of revenues for the former and declining salary levels that negatively affect investments rates and worsen income inequalities for the latter.

In examining the international antitrafficking efforts, the UNODC's framework of action is based on disseminating guidelines for the facilitation of prevention of the phenomenon, protection of the victims, prosecution of the offenders, and national and international cooperation and coordination for combating human trafficking as an attempt to support the effective implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons by domestic and international legislative and legal instruments. On the other hand, The U.S. Department of State ranks each country in one of four TIERS, following the 2000 Trafficking Victims Protection Act (TVPA). The ranking is based on the extent of a country's governmental endeavors to combat human trafficking.

Human trafficking victims endure multiple and varied harms and risks depending on the stage of the human trafficking cycle and the type of exploitation induced upon them. Their exploiters employ numerous threats and coercion so victims submit to the will of the traffickers. For instance, they threaten them or their families, withhold their identification documents and wages, trap them in debt bondage, isolate and alienate them from their communities, or even force them to use drugs and alcohol. In gen-

eral, while the level of physical and psychological abuse varies, in most cases predominates. Women and girls are particularly vulnerable to sexual exploitation and sexual abuse. Children encounter more enduring mental and physical health consequences than adults, primarily due to their developmental immaturity.

The harms and risks that human trafficking victims face pertain to their mental and physical health and their social life and interpersonal relationships. Among trafficking survivors, there is a notably high prevalence of PTSD, depression, various personality and mood disorders that involve suicidal ideation and self-harm, and substance abuse and addictions. In many cases, survivors adopt maladaptive coping strategies that fuel their marginalization and alienation from society and bring havoc to their lives.

Thailand is of particular importance in human trafficking research and specifically sex trafficking, as it remains one of the few countries that is simultaneously a destination, origin, and transit region for trafficking in persons. While the Thai government invests significant effort to curb the phenomenon, it remains on TIER 2 ranking by failing to meet the minimum standards in several areas of critical significance as prescribed by the 2000 Trafficking Victims Protection Act. Human beings are exploited in various sectors in Thailand, such as the fishing industry, agriculture, and the sex industry. Many victims are migrants from the Mekong region that spans China, Myanmar, Lao PDR, Thailand, Cambodia, and Vietnam. Nevertheless, research estimates that the majority of victims and offenders involved are Thais. Thai nationals also fall victims to sex trafficking abroad, but they happen to become agents of sexual exploitation themselves too.

In Thailand, the commercial sex industry is deeply intertwined with sex trafficking and sex tourism. Forced prostitution and voluntary sex work are easily conflated and often challenging to discern. Although research from the last two decades indicates that violence and coercion in the Thai sex industry have declined, it is becoming increasingly difficult to delineate the boundaries between prostitutes and sex slaves. While poverty and low education remain some of the primary contributing factors to prostitution and sex trafficking, gradually, globalization, consumerism, and materialism combined with local social mores and values, strongly influenced by domestic interpretations of Theravāda moral teachings, drive young Thais to the commercial sex work and its temptations of easy monetary gains. Apparently, the close connection between prostitution and sex trafficking alongside the naivete of the young prostitutes increases the risks of falling victims to sexual exploitation.

A similar interplay, to the one described above, of socio-cultural and religious forces drive the offenders to exploit their victims, the corruption of officials, discrimination against women, passivity, and tolerance towards the phenomenon that altogether sustains sex trafficking and the Thai sex industry. The fact that deep-rooted Thai social norms and values fuel practices that solidify human trafficking in Thailand necessitate multidisciplinary research and intervention with a focus on the gradual and foundational recalibration of the Thai attitudes towards the value of human life, equality, gender discrimination, structural violence against disadvantaged populations and women. In addition, such an approach will facilitate a compelling reinterpretation of the core Theravāda ethical and moral system that permeates Thai culture, intending to raise Thai society's sensitivity to slavery, exploitation, and human suffering.

CHAPTER FOUR

WESTERN ETHICAL TRADITIONS AND SEX TRAFFICKING

PART ONE

4.1 An Introduction to Western Ethical Traditions

4.1.1 Introduction

Ethics is often described as the science of morality,⁷⁵² and deals with how humans ought to live pertaining to notions such as right and wrong, good will, and respect for others.⁷⁵³ Western ethics consists of theories explaining how people should act, what is a right or wrong action, how we know whether an action is right or wrong, and how we assign a value to operations, which is to say if an action is right or wrong. These questions are in the field of ethics. When ethics focuses on a person's morality, it is known as normative ethics, which examines standards for the rightness and wrongness of actions and behaviors. Therefore, Western ethics enables people to understand themselves and to know how to behave and act appropriately under different circumstances.

When we talk of Western ethics, we mostly mean the theory of utilitarianism and the theory of Kant. Nevertheless, several other ethics exist, for instance, biblical ethics, which comes from the bible like the ethics of Jesus and Paul. Also, different ethics include prophetic ethics, Roman ethics, and many more. Most of these ethics teach about moral life in a society. They determine when a person is morally right and when a person is morally wrong. This chapter will be covering Kantian (deontology) ethics, utilitarian ethics, and virtue ethics. To start with, the section at its initial stage focuses on the theory of Kant and Kantian ethics. It goes further into the moral worthiness of a person in society. We will discover that Kant considered a person morally worthy depending on his actions. It shows that the author is focusing on whether the actions are good or bad. The goodness or badness of actions is not readily determined

⁷⁵² Rene Pellissier, *Number Crunching for Business People* (Cape Town: Juta & Co., 2007), 117.

⁷⁵³ Louis P. Pojman and James Fieser, *Ethics: Discovering Right and Wrong* (Wadsworth, Inc, 2009), 2.

when it comes to Kant's theory.⁷⁵⁴ The goodness or the badness of a person's actions has to be determined by the motivation that made the person act and not its consequences. For the results of the action will not depict the full, actual picture.⁷⁵⁵ Deontological theories prioritize what is a 'right' action even if it fails to maximize the 'good', or, more generally, to prohibit what is a 'wrong' action even if it may promote more good.⁷⁵⁶ Hence, according to Kant in the first part, the moral goodness of a person will be determined by his actions and the motive causing him to do activities. According to the section, we will also learn that Kant requires people to act not out of pleasure but because they have to. Having an obligation to do them means that morally worthy persons should do actions even if they do not enjoy doing them.⁷⁵⁷

This part also discusses in detail the applications of Kantian ethics. There is a discussion on medical ethics, animal ethics, lying ethics, and even sexual ethics. Next, there is a discussion of Utilitarianism. In the section, several examples show the applications of utilitarianism in real-life situations and their detailed explanation. According to the definition of Utilitarianism in the chapter, an action is considered good once a professional has finished looking at its consequences. If the results of the operations bring happiness to the majority of people, then the action is considered morally right.

4.1.2 Kantian Ethics: Deontology

The word deontology derives from the Greek words δέον (deon),⁷⁵⁸ described as "duty" or "obligation"⁷⁵⁹ and λόγος (logos) which means "study". Deontology can be viewed as rule-based ethics, since the spirit of its theories pertains to the examination of rules that bind one to one's duty.⁷⁶⁰ It is also a normative ethical system that theorizes

⁷⁵⁴ Robert Johnson and Adam Cureton, "Kant's Moral Philosophy", in *The Stanford Encyclopedia of Philosophy (Spring 2018 Edition)*, ed. Edward N. Zalta, accessed September 17, 2021, <https://plato.stanford.edu/archives/spr2018/entries/kant-moral/>.

⁷⁵⁵ Wilfred Beckerman, *Economics as Applied Ethics: Fact and Value in Economic Policy*, (Cham: Palgrave Macmillan, 2017) 95. <https://doi.org/10.1007/978-3-319-50319-6>.

⁷⁵⁶ Ibid., 94.

⁷⁵⁷ Warren Ashby, "A Comprehensive History of Western Ethics: What Do We Believe?", *Cgjungpage.org*, last modified October 27, 2013, <http://www.cgjungpage.org/learn/articles/analytical-psychology/840-chapter-2-the-biblical-ethic>.

⁷⁵⁸ Eugen Constantin, "Deontology In Public Administration", *Contemporary Readings in Law and Social Justice* 6, no.1 (January 2014): 432.

⁷⁵⁹ From the verb δέω "bind, tie, fetter", via the present participle stem deont- + the suffix -logia.

⁷⁶⁰ Bruce N. Waller, *Consider Ethics: Theory, Readings, and Contemporary Issues* (New York: Pearson Longman, 2005), 23.

that the morality of actions and behaviors should be determined on the grounds of a system of laws and not on their consequences.⁷⁶¹ Kantian Deontology, Kantianism, or Kantian ethics is a deontological theoretical system of ethics formulated by Immanuel Kant in the 18th century. Kant's ethical theory is assumed to have a deontological basis and represent the antithesis of utilitarian ethical systems that valued morality based on consequences of actions. This assumption can be affirmed for no less than four reasons:⁷⁶²

- The first is the central role that duty (deon) bears in Kantianism since all rational agents must follow their duty for its own sake.⁷⁶³
- The second reason is that human beings are almost obligated not to maximize the best consequences through their actions or even intentions.⁷⁶⁴
- As a third reason, Kant conceptualizes a world where duty is applied in a way that rational agents possess more value and dignity than just being mere means for maximizing best consequences;⁷⁶⁵ and
- Finally, “Kant is a deontologist because he stipulates firm limits, or side constraints, on the promotion of ends, such as maximizing overall best consequences”.⁷⁶⁶

According to Kant, a person has to qualify to conceive something taken to be right in the world or out of the world, except good will; an action can only be good if it is a maxim.⁷⁶⁷ As Kant says:

⁷⁶¹ Larry Alexander and Michael Moore, “Deontological Ethics”, in *The Stanford Encyclopedia of Philosophy (Summer 2021 Edition)*, ed. Edward N. Zalta, accessed September 14, 2021, <https://plato.stanford.edu/archives/win2021/entries/ethics-deontological/>; Waller, *Consider Ethics*, 23.

⁷⁶² Brian Orend, *War and International Justice: A Kantian Perspective* (Ontario: Wilfrid Laurier University Press, 2000), 19; Eugene Kelly, *The Basics of Western Philosophy* (New York: Greenwood Press, 2006), 160.

⁷⁶³ Orend, *War and International Justice*, 19.

⁷⁶⁴ Ibid.

⁷⁶⁵ Ibid.

⁷⁶⁶ Ibid., 20.

⁷⁶⁷ Mark Timmons, *Moral Theory: An Introduction*, (Rowman & Littlefield Publisher, Inc., 2013), 222.

“There is nothing it is possible to think of anywhere in the world, or indeed anything at all outside it, that can be held to be good without limitation, excepting only a *good will*.”⁷⁶⁸

The question to be answered by his ethics is, what is it for a will to be good? Kant states that a good will is a will that selects a particular action because it is commanded by duty. For us to understand his view, we have to understand first what duty means. He theorized that there are imperatives which have to be obeyed—“by an ‘imperative’ Kant understands the linguistic expression of a ‘command’”.⁷⁶⁹ These imperatives ought to be done if one is interested in reaching some end. Like many other deontological theories, Kantianism judges the rightness or wrongfulness of action not on its consequences but on whether it accords with one’s duties⁷⁷⁰. Kant said that the supreme principle of morality is the categorical imperative that determines our moral values.

There are two types of imperatives, namely the Hypothetical Imperative and the Categorical Imperative.⁷⁷¹ The first type, the Hypothetical Imperative prescribes actions as a means to achieve an already given end, something we already want. These commands have conditions on relevant desire. For instance, “if you want to go to an engineering college, study physics in high school” or “if you want to arrive early, then use a car instead of walking”. If you are not willing to arrive early, you can ignore the command. The second type of imperative is the *Categorical Imperative*. This command is unconditional. An example of the Categorical Imperative is “do not come late”, “if you come late, you will be punished”. There is a connection between morality and the Categorical Imperative. The relationship is morality must be based on the categorical imperative because one receives a command from it and cannot claim that it does not apply to oneself.

In the *Groundwork of the Metaphysics of Morals*, Kant talks about the formulae of the Categorical Imperative. The working mechanism of the Categorical Imperative

⁷⁶⁸ Immanuel Kant, *Groundwork for the Metaphysics of Morals*, ed. and trans. Allen W. Wood (New Haven and London: Yale University Press, 2002), 9 [Ak 4:393].

⁷⁶⁹ Hans Kelsen, *General Theory of Norms*, trans. Michael Hartney (Oxford: Clarendon Press, 1991), 13.

⁷⁷⁰ Beckerman, *Economics as Applied Ethics*, 94.

⁷⁷¹ Kant, *Groundwork*, 31 [Ak4:414]

has five different formulations organized in three principal ways, while the first and third principles have one variant each.⁷⁷² “*The Formula of Universal Law*” is the **first formulation**. It conveys the principle of universalizability, which contains the notion that legitimate actions ought to be applicable without contrariedades to all human beings. If a conflict occurs, action violates the concept. This formula acts on that maxim or rule that can simultaneously be a universal law of nature, which constitutes the **variation** of the first formula, “*The Formula of the Law of Nature*”. The **second formulation** of the Categorical Imperative is the “*The Formula of Humanity as End in Itself*”, which can be briefly explained that as: “for as an end in themselves humans ought not to treat others merely as a means to an end, but always treat others, as ends in themselves”. The **third** formulation is the “*Formula of Autonomy*”. It denotes that rational human beings ought to obey categorical imperatives out of a will that is based solely on reason.⁷⁷³ While Kant speaks like there are only three principles, one additional formulation, a variation of the third formula, appears to introduce a social dimension into Kant’s view. This variant is “*The Formula of the Realm of Ends*”. Kant did not strive to prescribe specific moral actions but centered his ethical theory on the notion that reason should be applied when determining how people ought to behave.⁷⁷⁴

Categorical Imperatives

As already mentioned, Kant distinguished between Categorical and Hypothetical Imperatives.⁷⁷⁵ We follow hypothetical imperatives when we set “an end Z, perform whatever actions are indispensably necessary means to the attainment of Z which lie in their power”.⁷⁷⁶ A hypothetical imperative forces an obligation upon people only if they want to meet their goals or desires. For example, “Enroll at university” is a hypothetical imperative because one chooses to follow it only if one aspires to attain higher levels of education.

⁷⁷² Ibid., xviii.

⁷⁷³ Immanuel Kant and H. J. Paton, *Groundwork of the Metaphysic of Morals*, trans. H. J. Paton (New York: Harper & Row, 1964), 34.

⁷⁷⁴ Crane Brinton, s.v. “Enlightenment”, in *The Encyclopedia of Philosophy*, ed. Paul Edwards (New York: The Macmillan Company & the Free Press, 1967); Peter Singer, *Hegel: A Very Short Introduction* (Oxford: Oxford University Press, 1983), 42.

⁷⁷⁵ Allen W. Wood, *Kant's Ethical Thought* (Cambridge NY,: Cambridge University Press, 1999), 61.

⁷⁷⁶ Ibid., xxii.

On the other hand, the Categorical Imperative, presented in Kant's *Groundwork of the Metaphysics of Morals*, governs the Kantian moral theory. It compels people to obey it irrespective of their inclinations or desires. The Categorical Imperative could be defined in many ways, but on its basis, it states that an action is wrong if the rules that govern it cannot become an accepted and practiced norm for all human societies.⁷⁷⁷ Alternatively, it can be regarded as representing "an action as objectively necessary of itself, without reference to another end".⁷⁷⁸ While hypothetical imperatives' obligatory power depends on social conventions and contracts, categorical imperatives derive the same power from rationality that exists in every rational human being. Humans cannot relinquish their rationality. Thus, a categorical imperative is a rational moral law⁷⁷⁹ that applies unconditionally to all sensible agents without exceptions.⁷⁸⁰ Following Paton's analysis of Kant's *Groundwork of the Metaphysics of Morals*, we identify five formulae of the Categorical Imperative.⁷⁸¹ Kant formulates them in three principal ways with the "first and third" of these having variants which "are intended to bring the law closer to intuition and make it more applicable".⁷⁸² For convenience, the following list will present the formulae of Kant's Categorical Imperative based on Paton's enumeration⁷⁸³ and Allen Wood's translation⁷⁸⁴:

Formula I - *The Formula of Universal Law*: "Act only in accordance with that maxim through which you can at the same time will that it become a universal law".⁷⁸⁵

Formula Ia - *The Formula of the Law of Nature*: "So act as if the maxim of your action were to become through your will a universal law of nature".⁷⁸⁶

Formula II - *The Formula of Humanity as End in Itself*: "Act so that you use

⁷⁷⁷ Paul W. Taylor, *Problems of Moral Philosophy: An Introduction to Ethics* (Encino, Calif.: Dickenson Pub. Co., 1972), 219.

⁷⁷⁸ Immanuel Kant, *Practical Philosophy*, ed. and trans. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 67.

⁷⁷⁹ See Theodosios N. Pelegrinis, *Kant's Conception of the Categorical Imperative and the Will* (London: Zeno, 1980).

⁷⁸⁰ Johnson and Cureton, "Kant's Moral Philosophy".

⁷⁸¹ H. J. Paton, *The Categorical Imperative: A Study in Kant's Moral Philosophy* (Chicago: University of Chicago Press, 1948), 129.

⁷⁸² Kant, *Groundwork*, xviii.

⁷⁸³ Paton, *The Categorical Imperative*, 129.

⁷⁸⁴ Kant, *Groundwork*, xviii.

⁷⁸⁵ *Ibid.*, xviii, 37 [Ak 4:421].

⁷⁸⁶ *Ibid.*, xviii, 38 [Ak 4:421].

humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means”.⁷⁸⁷

Formula III - Formula of Autonomy: “the idea of the will of every rational being as a will giving universal law”⁷⁸⁸ or “Not to choose otherwise than so that the maxims of one’s choice are at the same time comprehended with it in the same volition as universal law”.⁷⁸⁹

Formula IIIa - The Formula of the Realm of Ends: “Act in accordance with maxims of a universally legislative member for a merely possible realm of ends”.⁷⁹⁰

By studying the interconnections and the specific arguments that Kant uses as he presents the formulae, certain relations between them start to unveil: We can immediately recognize deeper dyadic associations between Formula I and Formula Ia, and likewise in Formula III and Formula IIIa, while Formula IIIa is also relating to Formula II.⁷⁹¹ Furthermore, the close affinity of Formula I and III often leads to the assumption that the importance of Formula I lies above all other formulae, and consequently utilize Formula Ia, Formula II, and Formula IIIa⁷⁹² “in the application of Formula I by bringing the general and supreme principle of morality (Formula I) nearer to intuition and so to feeling”⁷⁹³.

Next, I will briefly analyze the formulae along with their variation and denote their interconnections.

Formula I and Ia - The Formula of Universal Law AND The Formula of the Law of Nature

The formula of universal law, sometimes referred as “universalizability principle”⁷⁹⁴ is Kant’s first formulation of the Categorical Imperative. We find it in, another,

⁷⁸⁷ Ibid., xviii, 46-47 [Ak 4:429]

⁷⁸⁸ Ibid., xviii, 49 [Ak 4:431]

⁷⁸⁹ Ibid., xviii, 58 [Ak 4:440]

⁷⁹⁰ Ibid., xviii, 56 [Ak 4:439]

⁷⁹¹ Paton, *The Categorical Imperative*, 130.

⁷⁹² Ibid.

⁷⁹³ Ibid.

⁷⁹⁴ Nelson T. Potter and Mark Timmons, eds., *Morality and Universality: Essays on Ethical Universalizability* (Dordrecht, Holland: D. Reidel Publishing Company, 1985), x.

negative form while “analyzing the implications of ordinary moral judgments”,⁷⁹⁵ stating that “ought never to act except in such a way that I can also will the maxim of my action to be a universal law”.⁷⁹⁶ Immanuel Kant in his *Groundwork of the metaphysics of morals* writes:

“Act only in accordance with that maxim through which you can at the same time will that it become a universal law”.⁷⁹⁷

The formula of the law of nature is intimately related to universal law. Since laws of nature are by definition universal, everything in nature works according to laws.⁷⁹⁸ Only a rational being can act following the representation of laws, that is, following “principles, or has a will. Since reason is essential for acting in accordance with laws, the will equates to practical reason”.⁷⁹⁹ Kant affirms we may likewise express the Categorical Imperative as:

“So act as if the maxim of your action were to become through your will a universal law of nature”.⁸⁰⁰

The obligations or duties imposed by this formulation are divided by Kant into two arrangements of two subsets.⁸⁰¹ While the primary discrimination of duties is between those concerning ourselves and duties we have to others⁸⁰²—for instance, we ought not to kill ourselves or others—, Kant discriminates between “perfect” and “imperfect” duties.⁸⁰³ In a typical analysis, perfect duties are deemed enforceable, while imperfect duties are not. Locke described this peculiarity of imperfect duties of non-

⁷⁹⁵ Paton, *The Categorical Imperative*, 133.

⁷⁹⁶ Paton, *The Categorical Imperative*, 73; See also, Henry E. Allison, *Kant's Groundwork for the Metaphysics of Morals: A Commentary* (New York: Oxford University Press, 2011), 170.

⁷⁹⁷ Kant, *Groundwork*, xviii, 37 [Ak 4:421].

⁷⁹⁸ Christine Korsgaard, “Kant”, in *Ethics in the History of Western Philosophy*, ed. Robert J. Cavalier, James Gouinlock, and James P. Sterba (London: The Macmillan Press Ltd, 1989), 212.

⁷⁹⁹ John McCumber, *Understanding Hegel's Mature Critique of Kant* (Stanford, California: Stanford University Press, 2013), 149.

⁸⁰⁰ Kant, *Groundwork*, xviii, 38 [Ak 4:421].

⁸⁰¹ Robert R. Clewis, *The Kantian Sublime and the Revelation of Freedom* (New York: Cambridge University Press, 2009), 64.

⁸⁰² Immanuel Kant, *Grounding for the Metaphysics of Morals; with, On a Supposed Right to Lie Because of Philanthropic Concerns*, trans. James W. Ellington (Indianapolis: Hackett Publishing Company, 1993), 30 [421].

⁸⁰³ *Ibid.*

enforcement as incongruous to freedom.⁸⁰⁴ Supposing human beings are enforced upon to act on imperfect duties, for instance, duties of beneficence or generosity, then they are deprived of their right to voluntarily set the “ends of one’s own with one’s means”.⁸⁰⁵

According to Kant, an action is allowed to be acted if one is willing to perform it on the condition that enables the act to be a universal law by which everyone operates. Maxims or conditions fail this test when they produce either a contradiction in conception or an inconsistency in the will when universalized. Also, according to Kant, a perfectly rational person is a perfectly moral person; thus, rational morality is universal and cannot change depending on the circumstances.⁸⁰⁶

The Categorical Imperative Procedure on assessing what constitutes a violation of the Categorical Imperative and the Universal Law

Guidelines for deciding whether a proposed action is a violation of the Categorical Imperative and Universal Law or not are worked out by Rawls. The procedure expects us to take a maxim we consider following up on and process it through four stages which he labels as “categorical imperative procedure”⁸⁰⁷ (CI-procedure, from now on). This procedure helps determine the moral law’s content. It applies to rational human beings “endowed with conscience and moral sensibility”⁸⁰⁸ and, as finite beings, influenced and not delimited by desires and inclinations.⁸⁰⁹

There should be a clear distinction between the moral law, the categorical imperative, and the CI-procedure. The moral law “is an idea of reason”⁸¹⁰ and designates a principle that pertains to all reasonable and rational beings irrespective of whether

⁸⁰⁴ John Locke, “Two Treatises of Government”, in *Two Treatises of Government and A Letter Concerning Toleration*, ed. Ian Shapiro (New Haven: Yale University Press, 2008), 1-6, <https://doi.org/10.12987/9780300129182-003>.

⁸⁰⁵ Helga Valden, s.v. “Duties, Perfect and Imperfect”, in *Encyclopedia of Global Justice*, ed. Deen K. Chatterjee (Dordrecht: Springer, 2011), accessed August 15, 2021, https://doi.org/10.1007/978-1-4020-9160-5_38.

⁸⁰⁶ Immanuel Kant, *Fundamental Principles of the Metaphysics of Morals*, trans. Thomas Kingsmill Abbott (Mineola, NY: Dover Publications, 2005), 41.

⁸⁰⁷ John Rawls, “Themes in Kant’s Moral Philosophy”, in *Kant’s Transcendental Deductions: The Three Critiques and the Opus Postumum*, ed. Eckart Förster (Stanford, California: Stanford university Press, 1989), 82.

⁸⁰⁸ Ibid.

⁸⁰⁹ Ibid.

⁸¹⁰ Ibid.

they are finite beings with desires. The categorical imperative is addressed only to rational and finite beings—like humans—that encounter “the moral law as a constraint”⁸¹¹. The CI-procedure adjusts the categorical imperative to the ordinary conditions of human life.⁸¹²

Rawls cautions that Kant focuses exclusively on the examination of entirely reasonable, rational, and honest agents. The CI-procedure portrays the implicit “deliberation that such agents”⁸¹³ deploy in their moral thinking and behavior. It is not “an algorithm that yields more or less mechanically a correct judgment”⁸¹⁴ or “a set of debating rules” that expose deceivers of any kind.⁸¹⁵

The CI-procedure consists of four steps. In the first step, there is the agent’s maxim, which is rational and honest from the agent’s perspective. The CI-procedure applies to maxims of rational agents they have formed after reflecting on their circumstances. Such maxims constitute specific hypothetical imperatives that have the following form:⁸¹⁶

1. *“I am to do X in the circumstances C to bring about Y. (Here X is an action and Y a state of affairs.)”*
2. *In the second step, the maxim is generalized: Everyone is to do X in the circumstances C to bring about Y.*
3. *The third step reconstructs the last rule into a law of nature: Everyone always does X in circumstances C to bring about Y.*
4. *In the fourth step: We are to estimate in the best possible way, how the law of nature at step three would operate in unison with the present laws of nature—as we understand these—and how it will influence the course of the order of nature in time”.*⁸¹⁷

⁸¹¹ Ibid.

⁸¹² Ibid.

⁸¹³ Ibid., 82-83.

⁸¹⁴ Ibid.

⁸¹⁵ Ibid.

⁸¹⁶ Ibid., 83.

⁸¹⁷ Ibid.

In the above process, it is assumed that the newly formed order of nature “has a settled equilibrium state, the relevant features of which we are able to figure out”.⁸¹⁸ This social world is named the “perturbed social world” and correlated with the maxim at the first step.⁸¹⁹ At the initial step, the maxim ought to be one that rational beings earnestly will to act on and one they truly think may give a legitimate motivation to act. The maxim ought also to be sound in the hypothetical-imperative sense which means action ought to be a powerful method for advancing an end in the respective conditions.⁸²⁰

Following the preceding, Rawls reformulates the categorical imperative: Human beings are entitled to act according to the maxim at the first step only on two conditions. First, “[they] must be able to intend, as a sincere reasonable, and rational agent, to act from this maxim when [they] regard [themselves] as members of the perturbed social world associated with it”⁸²¹ and act within that world’s conditions. Second, “[they] must be able to will this perturbed social world itself and affirm it should [they] belong to it”.⁸²²

Therefore, if humans cannot will simultaneously the perturbed social world and aim to operate as members of it in accordance with this maxim, they cannot act from the maxim even though it is rational and genuine in their present circumstances. This principle applies to any human irrespective of the consequences of one’s rational interests as currently perceived.⁸²³

The CI-procedure could be further illuminated using the maxim from the fourth example in Kant’s *Groundwork*⁸²⁴. In particular, an individual displays disregard for the well-being of human beings who need relief and support. The dilemma is whether individuals could or not will the perturbed social world associated with the following maxim: “I am not to help others or support them in suffering unless it is rational to do so, given my interests”.⁸²⁵ The perturbed social world correlated with this maxim is a

⁸¹⁸ Ibid. 483.

⁸¹⁹ Ibid., 83-84.

⁸²⁰ Ibid., 84.

⁸²¹ Ibid.

⁸²² Ibid.

⁸²³ Ibid.

⁸²⁴ Kant, *Groundwork*, 40 [AK 4:423].

⁸²⁵ Rawls, “Themes in Kant’s Moral Philosophy”, 84.

world in which no one assists others to promote their well-being. This is a reality that pertains to the past, present, and future and comprises the relevant equilibrium state. Kant regards that everyone in the perturbed social world comprehends the “laws of human conduct that arise from generalized maxims”⁸²⁶ and can effectively construe the relevant equilibrium state. Since everyone can do this, it becomes public knowledge. Hence, step three converts a general law deriving from step two into a universalized law of nature. Kant demonstrates his recognition of the ubiquity of the above human qualities even more explicitly in his second example in *Groundwork*, the “deceitful promise”.⁸²⁷

For Kant, people cannot will a perturbed social world governed by a maxim of indifference. Many occasions occur in life when human beings need the love and compassion of others. It would be irrational for people to will a society that lacks reciprocity in love and kindness. The way Kant tests the maxim of indifference begets a very potent outcome. It ends up rejecting those maxims that lead to any form of the law of reciprocal love and support as such rules urge humans to help others in need. On the other hand, in a perturbed social world associated with the maxim of helping others in need, “situations may arise in which we very much want not to help them”⁸²⁸. Assisting others might conflict with the personal interests of the helper. Thus, following a maxim arising from people’s own will, hinders them from realizing their objectives or satisfying their own needs. In fact, every moral law would occasionally oppose human desires and intentions. Obviously, the test of the CI-procedure, applied in Kant’s terms, is very potent for it discards all maxims that organize moral laws and duties.⁸²⁹

By reflecting on Kant’s concept of “true human needs”, the paradox appearing in the will test of Kant’s fourth example can be re-expressed:⁸³⁰

“Can we will the perturbed social world associate with the maxim of indifference instead of associating with the maxim of reciprocal help, urging us to help others in need? Answering the question presupposes

⁸²⁶ *Ibid.*, 84.

⁸²⁷ *Ibid.*, 84-85.

⁸²⁸ *Ibid.*, 85.

⁸²⁹ *Ibid.*

⁸³⁰ *Ibid.*

us referring solely to the true human needs and regard them as the same for everyone”.⁸³¹

Considering the amended procedure, it is inevitable that any general rule would occasionally constrain individual action incited by desires and inclinations. Thus, it is imperative to compare alternative social worlds and assess the consequences of preferring one over another. Succeeding in this demands considering the equilibrium of possible effects for the true human needs, which might be discerned by “the moral conceptions rooted in humanity’s shared moral sensibility”.⁸³²

In addition, Rawls also argues that appraising the perturbed social worlds at step four involves at least two informational limits, on Kant’s premises. Firstly, rational agents have to disregard any peculiar characteristics that describe and identify people, including themselves, along with any specificities about their final ends and desires. Secondly, when rational agents examine whether they can will the perturbed social world that organizes on their maxim, they ought to do so without knowing their position in the social strata and their particular living conditions in that world. Assessing the perturbed social world by including our personal ends or our present and possible future circumstances renders the CI-procedure inefficient and ineffective.⁸³³ And he adds:

“We must reason at step four not only on the basis of true human needs but also from a suitably general point of view that satisfies these two limits on particular (as opposed to general) Information. We must see ourselves as proposing the public moral law for an on-going social world enduring over time”.⁸³⁴

Formula II - The Formula of Humanity as End in Itself

Treating humanity as an end in itself is the second formulation of a Categorical Imperative.⁸³⁵ Kant states the Formula of Humanity as an End in Itself (also known as the Formula of the End in Itself) as follows.

⁸³¹ Ibid.

⁸³² Ibid., 85-86.

⁸³³ Ibid., 86.

⁸³⁴ Ibid.

⁸³⁵ James Fieser, “The Categorical Imperative”, The University of Tennessee at Martin, accessed November 19, 2019, <https://www.utm.edu/staff/jfieser/class/300/categorical.htm>.

“Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means”.⁸³⁶

Kant contended that rational beings can never be treated just as means to ends, or at least not only as a means to an end.⁸³⁷ They must always also be treated as ends themselves, requiring that their rational motives must be equally respected.⁸³⁸ Rational agents have the ability to plan and endeavor to accomplish their own goals, autonomous and rational, and they are not mere objects to be used by others. Agents have reason, and this quality lays the foundations for and motivates one to cultivate morality.⁸³⁹ This formula forbids us to use rational beings as mere tools to our ends, as we have to respect the fact that they too have ends.⁸⁴⁰ Rational beings cannot rationally agree to be used as a means to an end, so they have always to be treated as an end.⁸⁴¹ Kant justified this by arguing that moral obligations are a rational necessity.

To comprehend the formula, Oneil stresses that one needs to understand the meaning of treating a person as “a means” or as “an end”. For Kant, rational agents’ actions correspond to one or more maxims. The maxims of the acts constitute principles according to which people designate themselves to act and signify policies or principles that delineate the “intentions or decisions on which” people act.⁸⁴²

Acting intentionally means that agents hold at least one maxim, which they can identify if they reflect on it. According to Kant, when one wants to determine the morality of a potential act, one should examine and confirm that the maxim of the act does not dictate using anyone as a mere means and, if possible, does treat others as ends in themselves.⁸⁴³

⁸³⁶ Kant, *Groundwork*, xviii, 46-47 [Ak 4:429].

⁸³⁷ Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics* (New York: Oxford University Press, 2013), 107.

⁸³⁸ Paul Hurley, s.v. “Deontology”, in *In International Encyclopedia of Ethics*, ed. Hugh LaFollette (John Wiley & Sons Ltd, 2013), 11-12, accessed May 11, 2021, <https://doi.org/10.1002/9781444367072.wbiee681>.

⁸³⁹ Kant, *Fundamental Principles*, 29.

⁸⁴⁰ Piers Benn, *Ethics* (London: UCL Press, 1998), 95.

⁸⁴¹ *Ibid.*

⁸⁴² Onora O’Neill, “A Kantian Approach to Famine Relief”, in *Ethics: Contemporary Readings*, ed. Harry J. Gensler, Earl W. Spurgin, and James Swindal (London: Routledge, 2004), 294.

⁸⁴³ O’Neill, “A Kantian Approach”, 295.

Using rational agents as “a mere means” denotes involving “them in a scheme of action to which they could not in principle consent”.⁸⁴⁴ Using someone as a means is not always wrong. Any act or plan of cooperation involves doing so. If each party consents reciprocally to be used as a “means” but never as “mere means”, there is nothing wrong with the action. Although they use one another as means, Kant would say that they do not use one another as mere means. In other words, “Each person assumes that the other has maxims of his or her own and is not just a thing or a prop to be manipulated”.⁸⁴⁵

Nevertheless, “in situations where one person uses another in a way to which the other could not in principle consent”⁸⁴⁶, like promising to someone with a clear intention to break it, the person is deceived. Such an act or scheme of deception entails withholding the true maxim, which renders the victim unable to “in principle consent to their part in the proposed scheme of action”⁸⁴⁷ and gets them used as a mere means. Acts based on maxims that negate others’ ability to consent by the use of deception or coercion are morally wrong and unjust.⁸⁴⁸

On the other hand, to treat others as an end in themselves obligates one to at least not use them as mere means and to respect them as rational agents with their own maxims. Furthermore, one may elect to advance the plans and maxims of others by sharing some of their ends. By acting in that manner, one exhibits beneficence, meaning that one tries to achieve what others want. Sensibly, beneficent acts or motives to have practical value should be selective. Thus, by not acting on maxims that use others as mere means, one displays justice, and by acting judiciously on maxims that further others’ ends, one signifies beneficence.⁸⁴⁹

Formula III - The Formula of Autonomy

The Formula of Autonomy is arguably the richest and the most mystifying

⁸⁴⁴ Ibid.

⁸⁴⁵ Ibid.

⁸⁴⁶ Ibid.

⁸⁴⁷ Ibid.

⁸⁴⁸ Ibid.

⁸⁴⁹ O’Neill, “A Kantian Approach”, 295-296.

among Kant's formulations of the Categorical Imperative.⁸⁵⁰ Kant's discussion of the formula of Autonomy offers us two statements of it, or more accurately of the similar practical principle:

“the idea of the will of every rational being as a will giving universal law”⁸⁵¹

“Not to choose otherwise than so that the maxims of one's choice are at the same time comprehended with it in the same volition as universal law”⁸⁵²

Autonomy is the source of the unconditional or absolute worth, which refers to moral persons as creating laws and not merely obeying them.⁸⁵³ Autonomy is frequently deemed to be a paradigmatic value in individual ethics. To be autonomous means being faithful to our beliefs and behaving in a means that we have chosen. Autonomy is connected closely to respect of oneself, and it is for those who are genuine to their principles. Autonomy also has a social ethics dimension.⁸⁵⁴

Although the argument is ambiguous, it combines the Formula of Universal Law and the Formula of the End in Itself.⁸⁵⁵ Furthermore, the Formula of Autonomy can be obtained undeviatingly from the Formula of Universal Law, and over that, it can come out of the Formula of the End in Itself.⁸⁵⁶ Kant's Formula of Autonomy denotes that an agent has a legal obligation to follow the Categorical Imperative due to rational will and not from any outside influence. Any moral law prompted by the willingness to realize any alternative objective or desire repudiates the Categorical Imperative. Rational will is the sole motivator of moral laws.⁸⁵⁷ This principle obliges people to legitimize the right of others to act autonomously. Hence moral laws must be able to become

⁸⁵⁰ Sarah Holtman, “Autonomy and the Kingdom of End”, in *The Blackwell Guide to Kant's Ethics*, ed. Jr. Thomas E. Hill (Chichester, U.K. Malden, MA: John Wiley & Sons, 2009), 102.

⁸⁵¹ Kant, *Groundwork*, xviii and 49 [Ak 4:431].

⁸⁵² *Ibid.*, xviii and 50 [Ak 4:432].

⁸⁵³ Paton, *The Categorical Imperative*, 180.

⁸⁵⁴ Larry May and Jill B. Delston, eds., *Applied Ethics: A Multicultural Approach* (New York: Routledge, 2015), 5.

⁸⁵⁵ Paton, *The Categorical Imperative*, 181.

⁸⁵⁶ *Ibid.*

⁸⁵⁷ *Ibid.*

universalized, meaning that they are applicable to all people.⁸⁵⁸ In contrast, Pinckaers suggested that the Kantian thought of ethics rooted in autonomy is inconsistent in its dual contention that humans are members of the moral legislature and morality is a priori.⁸⁵⁹ In general, it is safe to claim autonomy leads to the dignity of rational persons.

Formula IIIa – The Formula of the Realm (or Kingdom) of Ends

The Kingdom of Ends (or Realm of Ends since the German word “reich” is more accurately translated as “realm”) constitutes an ideal; “it is ‘a systematic union of different rational beings through common laws’ a republic of all rational beings”⁸⁶⁰. This societal connection via common laws is established as follows:

“Act in accordance with maxims of a universally legislative member
for a merely possible realm of ends”⁸⁶¹

Being the simplest of the various forms of Formula IIIa and lacking in any reference to the “kingdom of nature” needs to be enriched:⁸⁶² “All maxims which spring from your own making of laws ought to accord with a possible kingdom of ends as a kingdom of nature”.⁸⁶³ Like this, “the kingdom of ends is parallel to the ‘universal law’” Paton says, “while the kingdom of nature is parallel to the ‘universal law of nature’” and continues, “The use of the word ‘kingdom’ makes it clear that the laws in question are not to be considered in isolation but as part of a system of laws in both cases”.⁸⁶⁴

This formulation ought to be regarded based on actions taken as if their maxim proffer law for a hypothetical kingdom of ends. People have to act by means of principles that a society of rational beings would not deny any such law.⁸⁶⁵ In a society like that, each member would only accept maxims that can govern every member of the population without treating any member merely as a means to an end.⁸⁶⁶ Nevertheless,

⁸⁵⁸ Johnson and Cureton, “Kant's Moral Philosophy”.

⁸⁵⁹ Servais Pinckaers, *Morality: The Catholic View* (Indiana: St. Augustine Press, 2003), 48.

⁸⁶⁰ Christine M. Korsgaard, *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996), 23.

⁸⁶¹ Kant, *Groundwork*, xviii.

⁸⁶² Paton, *The Categorical Imperative*, 185.

⁸⁶³ Ibid.

⁸⁶⁴ Ibid.

⁸⁶⁵ Johnson and Cureton, “Kant's Moral Philosophy”.

⁸⁶⁶ John E. Atwell, *Ends and Principles in Kant's Moral Thought* (Dordrecht: Martinus Nijhoff Publishers, 1986), 152.

as Korsgaard states:

“this ideal is not actually brought about by the individual’s living up to it. The accidents of nature, and the actions of other people, may distort the results of morally good conduct, and lead to the unhappiness of the moral agent or others. But since the moral law commands categorically, we must nevertheless act as legislators in the Kingdom of End”.⁸⁶⁷

Moral Worth and Good Will

Kant, commencing his first section of the *Groundwork*, offers a first glimpse of how much value the concept of good will bears concerning his whole theoretical method, with the already mentioned statement:⁸⁶⁸

“There is nothing it is possible to think of anywhere in the world, or indeed anything at all outside it, that can be held to be good without limitation, excepting only a good will”.⁸⁶⁹

In his study of good will and any other analysis, Kant affirms that he does not teach something new. He simply selects to adopt the Socratic method—which he regards as the ultimate method of conquering rational knowledge—in directing peoples’ common reason to the principle of their moral knowledge.⁸⁷⁰

The Kantian concept of good will defines human beings’ inner moral worth but does not equal it with being “moderate, temperate or master of oneself”. The good will does not pertain solely to benevolent actions but also to “preserving one’s life, keeping one’s promises”, or even securing one’s own happiness.⁸⁷¹

For Kant, the notion of a good character gives content for the concept of good will, and particularly concerns the worth of character that acts from duty and not from inclinations.⁸⁷²

⁸⁶⁷ Korsgaard, *Creating the Kingdom of Ends*, 24.

⁸⁶⁸ Warren G. Harbison, “The Good Will”, *Kant-Studien* 71, no. 1-4 (1980): 47, <https://doi.org/10.1515/kant.1980.71.1-4.47>.

⁸⁶⁹ Kant, *Groundwork*, 9 [Ak 4:393].

⁸⁷⁰ Harbison, “The Good Will”, 47-48.

⁸⁷¹ *Ibid.*, 48.

⁸⁷² *Ibid.*, 48-49.

Kant distinguishes good will as the highest good, without comparison. Besides, he infers that a good will is a good character by focusing his study of good will on a concept of duty that encompasses good will overwhelmed by subjective hindrances and restrictions that nevertheless “allow it to stand out and shine forth so much the brighter”.⁸⁷³

According to Kant’s initial premise on good will, a good character is the only thing that is undeniably good; good human beings would preserve goodness against any hindrance or misfortune.⁸⁷⁴ Nevertheless, not all benevolent people possess good will, as having a good will is more than being benevolent.⁸⁷⁵ Continuing his analysis on the good will, he states:

“The good will is good not through what it effects or accomplishes, not through its efficacy for attaining any intended end, but only through its willing, i.e., good in itself, and considered for itself, without comparison, it is to be estimated far higher than anything that could be brought about by it in favor of any inclination, or indeed, if you prefer, of the sum of all inclinations”.⁸⁷⁶

In other words, good will is good in itself and cannot be good due to its effects or its appropriateness for achieving a purpose. Otherwise, it would be good not in itself but solely “in relation to that purpose or as a means to it”.⁸⁷⁷ Kant goes on to portray what exemplifies a good will in defiance of adversity:

“Even if through the peculiar disfavor of fate, or through the meager endowment of a stepmotherly nature, this will were entirely lacking in the resources to carry out its aim, if with its greatest effort nothing of it were accomplished, and only the good will were left over (to be sure, not a mere wish, but as the summoning up of all the means insofar as they are in our control): then it would shine like a jewel for

⁸⁷³ Ibid., 49.

⁸⁷⁴ Ibid., 49-50.

⁸⁷⁵ Ibid., 50.

⁸⁷⁶ Kant, *Groundwork*, 10 [Ak 4:394].

⁸⁷⁷ Harbison, “The Good Will”, 50.

itself, as something that has its full worth in itself. Utility or fruitlessness can neither add to nor subtract anything from this worth...”⁸⁷⁸

In the face of misfortunes and adversities, it is the striving, by summoning all available means, that matters and makes a good will to retain its worth in itself, even when it fails to accomplish anything, despite the most outstanding determination, still maintains this inherent worth.⁸⁷⁹ Kant also identifies good will with what comprises a good character by stating “...gifts of nature, and whose peculiar constitution is therefore called character”⁸⁸⁰. And this intrinsic worth of the good character is, above anything else, revealed in the “why and how” one strives “in the face of adversity”.⁸⁸¹

Consequently, Kant’s view on good will and human morality is not merely a thesis on the agent’s intentions, since he principally identifies moral worth in “good will’s striving or exertion”. It is good will’s willing the essential element for ascribing the greatest moral worth to an agent.⁸⁸²

Kant also associates good will with practical reason⁸⁸³ in his support of his statement that good will is the “unconditioned condition” for the goodness of gifts of nature like “Understanding, wit, the power of judgment, and like talents of the mind, whatever they might be called, or courage, resoluteness, persistence in an intention, as qualities of temperament”,⁸⁸⁴ and also for the worthiness of happiness—as a “gift of fortune”⁸⁸⁵. On that basis, he argues, “not to mention that a rational impartial spectator can never take satisfaction even in the sight of the uninterrupted welfare of a being, if it is adorned with no trait of a pure and good will;”⁸⁸⁶ An agent with practical reason assesses worth by employing good will or good character as the ultimate evaluation standards.⁸⁸⁷ The true function of practical reason is “not to produce volition as a means to some other aim, but rather to produce a will good in itself, for which reason was

⁸⁷⁸ Kant, *Groundwork*, 10 [Ak 4:394].

⁸⁷⁹ Harbison, “The Good Will”, 51.

⁸⁸⁰ Kant, *Groundwork*, 10 [Ak 4:394].

⁸⁸¹ Harbison, “The Good Will”, 52.

⁸⁸² *Ibid.*, 53.

⁸⁸³ *Ibid.*, 54.

⁸⁸⁴ Kant, *Groundwork*, 10 [Ak 4:394].

⁸⁸⁵ *Ibid.*

⁸⁸⁶ Kant, *Groundwork*, 10 [Ak 4:394]; Harbison, “The Good Will”, 54.

⁸⁸⁷ Harbison, “The Good Will”, 55.

absolutely necessary, since everywhere else nature goes to work purposively in distributing its predispositions”.⁸⁸⁸ A human being that employs practical reason abstains from inquiring unconditioned good in any end or purpose only by realizing “good will or character as good in itself and without limitation”⁸⁸⁹. In doing so, an agent declares good will as the supreme good and the condition—which is in subordinate to anything— “of the worth of everything else”.⁸⁹⁰

On the basis that a will cannot be good merely as a means to the production of effects or ends, Kant also affirms that such a will could not be good only if it acted following moral laws or maxims that “can be willed to become universal laws”⁸⁹¹. In that case, it would be good only concerning those laws or maxims, confined in them, and not in itself and without qualification. Thus, Kant applies the reasons for rejecting ends or purposes as justifications for a good will to moral laws and the categorical imperative correspondingly.⁸⁹²

On his account of Kant’s concept of good will, Harbison concludes that good will is the utmost condition “of the worth of anything other than itself” and “Consequently, it seems reasonable to maintain that it is the compass or standard of moral judgment”. And he continues:⁸⁹³

“...it is the knowledge of what a good will is that enables one to tell which laws are moral laws or which enables one to discern the morality of moral laws: a law is a moral law just in case it is a law according to which a person of good character would. Similarly, one could go on to argue that it is this knowledge that enables one to tell which universalizations are morally possible and which are not, i. e., one could argue that it is only insofar as one either already has a good will or can at least think that one does that one is entitled to employ

⁸⁸⁸ Kant, *Groundwork*, 12 [Ak 4:396].

⁸⁸⁹ Harbison, “The Good Will”, 55.

⁸⁹⁰ Harbison, “The Good Will”, 55; See also, Kant, *Groundwork*, 13 [Ak 4:397].

⁸⁹¹ Harbison, “The Good Will”, 57.

⁸⁹² *Ibid.*

⁸⁹³ *Ibid.*, 58.

the universalization procedure formulated in Kant's categorical imperative".⁸⁹⁴

Kant replies in the inquiry, "What pertains to morally worthy action?", as follows.⁸⁹⁵

"An action from duty has its moral worth not in the aim that is supposed to be attained by it, but rather in the maxim in accordance with which it is resolved upon; thus, that worth depends not on the actuality of the object of the action, but merely on the principle of the volition, in accordance with which the action is done, without regard to any object of the faculty of desire".⁸⁹⁶

Kant describes a maxim as "the subjective principle of a volition", a principle that determines a *subject's* actions and, concurrently, is confined to the same subject.⁸⁹⁷ This subjective principle correlates with a practical law or an objective principle, which, in turn, constitutes a "practical principle for all rational beings"⁸⁹⁸ given reason dominates desires. Will is delimited objectively by a practical law and subjectively by a maxim once someone acts from duty. Hence, inclinations are negated.⁸⁹⁹

One acts morally worthy when acts out of respect for laws "that all entirely rational beings would freely legislate for themselves"⁹⁰⁰. People who act from duty demonstrate their "good will, the highest good"⁹⁰¹. Morally worthy actions come from deliberately engaged rational agents, freed from nonmoral inclinations, "at least on the occasion of the given action".⁹⁰² But it is not sufficient for an action to adhere to the moral law to be judged morally worthy. Its moral worth "depends on how the action was *willed*".⁹⁰³

⁸⁹⁴ Ibid.

⁸⁹⁵ Keith Simmons, "Kant on Moral Worth", *History of Philosophy Quarterly* 6, no. 1 (1989): 85, <http://www.jstor.org/stable/27743882>.

⁸⁹⁶ Kant, *Groundwork*, 15 [Ak 4:399-400].

⁸⁹⁷ Simmons, "Kant on Moral Worth", 85-86.

⁸⁹⁸ Ibid., 86

⁸⁹⁹ Ibid., 85-86.

⁹⁰⁰ Ibid., 86.

⁹⁰¹ Ibid.

⁹⁰² Ibid.

⁹⁰³ Ibid., 86-87.

Only actions deriving from good will are morally worthy. According to Kant's *genesis model*—which is the model that attributes moral worth to actions—*actions* are morally worthy “if and only if [are] done from duty”⁹⁰⁴. In addition, Kant examines the moral worth of a person's character in his study of good will. There he states morally worthy actions indicate the moral worth of character originating from the moral law. And he adds that morally worthy human beings encompass “the moral law for which we are to feel reverence”.⁹⁰⁵

Further, in addressing virtue in terms of a person's worth and one's worthiness to be happy, Kant argues this virtue constitutes the *supreme* good, which is “a synthesis of virtue (or morality) and happiness”.⁹⁰⁶ But while the virtuous person must perceive one's own virtuousness to be happy, “the incentive that consciousness of being virtuous will produce happiness”⁹⁰⁷ would not operate on a non-virtuous person. An upright person “does not merely *conform* to the moral law”.⁹⁰⁸

Following his reference to the fitness model, which attributes moral worth to people on an occasion, persons are morally worthy on an occasion, if and only if they adopt the relevant moral maxim. Thus, they demonstrate “a fit between the will of the morally worthy agent and the moral law”.⁹⁰⁹

Considering the models of genesis and fitness, Simmons cautions that, on occasions, they do not coincide. In other words, it is not always true when a person on event X is morally worthy according to the fitness model if and only if the action performed on event X is morally worthy according to the genesis model.⁹¹⁰

⁹⁰⁴ Ibid., 87.

⁹⁰⁵ Ibid.

⁹⁰⁶ Ibid., 87-88.

⁹⁰⁷ Ibid., 88.

⁹⁰⁸ Ibid.

⁹⁰⁹ Ibid.

⁹¹⁰ Ibid.

While actions done from duty are indications of good will, a good will could exist in the absence of actions done from duty. An agent could embrace the proper moral maxim and find it difficult to act according to it. Additionally, while there are also times where no dutiful action is required, people may still be morally worthy because they are disposed to act from duty.⁹¹¹ For Kant, an autonomous person is disposed to observe the moral law and bear conscious independence from inclinations while doing so. Our universal duty is to advance ourselves to the ideal of moral perfection. From God's perspective, moral worth is independent of one's actions and is ascribed only according to one's disposition.⁹¹²

Human beings ought to cultivate in themselves the moral disposition of respect toward the moral law, which would form the "measure of moral fitness on an occasion". The genesis model fails to apply in such "disposition and its associated intentions".⁹¹³

The worthy characters on an occasion are the ones who stand ready to act from duty. On occasions, no dutiful action may be required, but this does not reduce their moral worth. On that matter, even if non-dutiful actions cannot be performed from duty, the motive of duty confines the incentive of the action itself. This incentive must still pass the Categorical Imperative test. Despite, "the action is done from a nonmoral motive"⁹¹⁴ and holds no moral worth, yet the agent remains morally disposed of, which leads the fitness and genesis models to diverge.⁹¹⁵

Another instance of deviation between the two models is when a morally disposed and worthy person fails to act from duty out of weakness of one's human nature, particularly a weak will. In this case, the upright characters self-condemn themselves for the "gap between the moral disposition and the dutiful action".⁹¹⁶

The fourth occasion of deviation derives from Kant's examination of the distinction between perfect and imperfect duties. The critical disparity lies in that a person is obliged to act when, on some occasion, an opportunity for perfect duty arises. On the contrary, one has the alternative of not performing an imperfect duty. So, the principles

⁹¹¹ Ibid., 89.

⁹¹² Ibid., 89-90.

⁹¹³ Ibid., 90.

⁹¹⁴ Ibid.

⁹¹⁵ Ibid.

⁹¹⁶ Ibid., 90-91.

about duties are “Always” for a perfect one and “Sometimes” for an imperfect one. Perfect duties compel us to act in a certain way. In contrast, imperfect duties urge us to adopt maxims like, “Sometimes I shall promote others’ happiness”, or “Sometimes I shall develop my talents”.⁹¹⁷ One can fulfill a perfect duty by acting appropriately without adopting a moral maxim. On the other hand, one can realize an imperfect duty only by adopting a maxim.⁹¹⁸

Thus, the moral worth of someone who acts on an imperfect duty derives from one’s predisposition to act in specific ways based on the adoption of the relevant maxim and not from the moral worth of one’s actions. According to the fitness model, a person earns moral value on the basis of one’s commitment to obey the relevant maxim. Nevertheless, people may also stand ready to follow their duty but, instead, it is the non-moral motive that makes them act. That’s how an imperfect duty deviates from perfect duty, concerning the case, a dutiful action is performed or not.⁹¹⁹

Kant distinguishes between a person’s moral worth and the moral worth of an action and associates an ascription model for each type of moral worth. We have seen, though, an apparent asymmetry between the two models. Accordingly, if an action is found morally worthy by the genesis model, “then the agent is morally worthy according to the fitness model”⁹²⁰. However, the reverse “does not hold”. Simmons elucidates further:⁹²¹

“The fitness model has a certain priority, which we may overlook if we attend solely to the moral worth of actions. The morally worthy agent is a rational agent, committed to laws which free rational agents would legislate for themselves. When this agent acts in a morally worthy way, she gives expression to her rational nature; she manifests her good will. The moral worth of the action derives from the moral worth of the agent”.⁹²²

⁹¹⁷ Ibid., 91.

⁹¹⁸ Ibid.

⁹¹⁹ Ibid.

⁹²⁰ Ibid., 92.

⁹²¹ Ibid.

⁹²² Ibid.

Adopting a moral maxim on an occasion constitutes “a measure of the worthiness of the agent’s character and not a transitory state dependent on circumstances”⁹²³. Yet, demonstrating a solid disposition to follow a moral law is not always a constant trait of an agent since the agent may not be virtuous or may simply abolish morality.⁹²⁴

According to Kant’s approach on moral worth, there is a contrast between the morally fit agent on an occasion and the agent who is virtuous. Furthermore, there should also be a distinction between the agent who is morally fit on an occasion and the one who merely bears a moral incentive.⁹²⁵

Therefore, there should be a distinction between “an agent who has a moral incentive, and an agent who adopts a moral maxim”. Agents who adopt moral maxims and subordinate their will to moral law are not diverted by any counter-inclinations.⁹²⁶

It is wrong to reduce Kant’s views on moral worth to a simple comparison of what bestows moral worth with a “sufficiently strong ‘tug’ or ‘pull’”⁹²⁷. Moral fitness “on an occasion is grounded in the agent’s adoption of a maxim”⁹²⁸ that signifies one’s rationality unfettered by nonmoral inclinations. A morally worthy action cannot compare to a stronger moral pull winning against a nonmoral one. Indeed, the person who performs an ethical action has made a rational choice to adopt the moral maxim and renounce nonmoral inclinations.⁹²⁹

In Kantian ethics, a person’s moral worth is based on the motive of one’s actions⁹³⁰ and not the goodness or the repercussions of those actions. Motivation is what makes the person act. For example, a young man inherits a moderate amount of money from an unknown distant relative unexpectedly. Recovering from the surprise, he starts considering what he should do with the money. He ends up with two options: either he goes on a tour to refresh and enjoy or donate the money to charity, maybe to the old and miserable, because it will make him feel good in helping them. In the end, he chooses to give the money to charity. In this case, he is not a morally worthy person

⁹²³ Ibid., 93.

⁹²⁴ Ibid.

⁹²⁵ Ibid., 93-94.

⁹²⁶ Ibid., 95.

⁹²⁷ Ibid., 96.

⁹²⁸ Ibid.

⁹²⁹ Ibid.

⁹³⁰ Ibid., 85.

because he desires to do it to serve his personal, intimate feeling but not because it was his duty to do it.⁹³¹ Human beings have moral worth when they do something, knowing it is their duty and will still do it even if they do not feel like it. The consequences of an action are irrelevant.⁹³² For example, suppose two people decided to have sex outside of marriage, and one person by lousy luck contracts HIV and the other is lucky not to contract any disease. In that case, no one is better than the other. The same applies to those who act for the right reasons. If the intention of the act is for rightness, then they are morally correct even if the actions lead to severe consequences.

In Kant's account on morality, wrong interpretation is another challenge in determining whether a person's reaction is ethical. For example, a person wins the lottery and decides to feed some starving families in a poor village. Other families find out and demand to share; in the following moments, a conflict ensues between the villagers, leading to a massacre. The only intention of the lottery winner was to help, but the outcome turned out that villagers were harmed and led to tragedies.

Kant states that regardless of the intended consequences, moral worth is examined accurately by having a keen look at the motivation of the selfish acts, even if the awaited results might turn out good. Kant did not prohibit happiness either. Regarding the previous example, a self-centered individual might aim to bring joy to oneself, which implies consequentialist reasoning. In deontological regard, one can claim that if a person's plan of doing an action is making him or her happy, that action is not morally worthy. That notion is a misconception. The outgrowth of making happiness is a functional consequence even in Kant's deontology. Attempting to achieve results that will cause satisfaction is not wrong and does not constitute narcissistic behavior. Even if people do things because they enjoy doing them, they still can get moral worth, not because of their joy, but only because they act from duty and on the basis, they do not act contrary to moral ethics or their duty.

The moral person is the person who always performs one's responsibility because it is a duty. It is acceptable if one is enjoying it, but it must be that one would

⁹³¹ Dan Gaskill, "A Philosophical Introduction to Ethics (Philosophy 002) - Notes on Kantian ethics", California State University, Sacramento | Sacramento State, last modified May 11, 2008, <https://www.csus.edu/indiv/g/gaskilld/ethics/kantian%20ethics.htm>.

⁹³² Simmons, "Kant on Moral Worth", 85.

have done it even if one did not enjoy doing it. Morally worthy people ought to do good acts for sake of goodness.

Kantian ethics does not dictate we act with good will exceeding with kindness and other similar values. Instead, we ought to act from duty. Sometimes this duty necessitates compassion, empathy, or gratitude, and any laudability deriving from any added motives, “whether it is moral worth or some other form of praiseworthiness is a ‘moral ornament’”.⁹³³

Kant elaborates on the association of moral worth with duties and that “moral worth is not in the end” by the use of three propositions. He asserts the first implicitly as follows:⁹³⁴

1. “An action has moral worth only when it is done from duty”.⁹³⁵

And follows by explicitly declaring the second one:⁹³⁶

2. “An action from duty has its moral worth not in the end to be attained by it but in the maxim in accordance with which it is decided upon, and therefore does not depend upon the realization of the object of the action but merely upon the principle of volition in accordance with which the action is done without regard for any object of the faculty of desire”.⁹³⁷

With the first two propositions, Kant connotes that moral worth has a downright and unconditioned value that does not stem from what it accomplishes but, instead, from the “principle of volition”.⁹³⁸ For example, Kathrine loans a book to George on the condition that George promises to return it by noon the following Monday. On Monday morning, George, thinking of his duty to keep the promise, despite any inconvenience, returns the book. This particular action sequence that meets one’s duty to

⁹³³ Richard McCarty, “Duty and Moral Worth”, PiratePanel, last modified April 25, 2015, <https://myweb.ecu.edu/mccartyr/GW/DutyAndMoralWorth.asp>.

⁹³⁴ Wood, Kant’s ethical thought, 40.

⁹³⁵ Ibid., 40.

⁹³⁶ Ibid.

⁹³⁷ Ibid., 40 [Ak 4: 399—400].

⁹³⁸ Ibid., 40.

keep a promise is performed from duty.⁹³⁹ Actions hold moral worth when “they constitute the keeping of a promise (the fulfillment of a duty)”,⁹⁴⁰ and the promise is kept even when it is problematic to oneself. Thus, his “maxim” or “principle of volition” was to keep his promise, and his action is to be esteemed because he “chose to follow this maxim from the motive of duty, even in the face of contrary (nonmoral) incentives”.⁹⁴¹

In addition, with the second proposition, Kant actually abolishes any consequentialist efforts on leveling the proposition that states, “The good will or virtuous action is valued for its own sake” with the one that states, “The criterion for a good will or virtuous action (what makes a will good and an action virtuous) is its good consequences”.⁹⁴² In Deontological accord, it is nonsensical and illegitimate to use good consequences to judge the presence or absence of good will. One should assert the virtue of the will independently of the integrity and worth of its effects. Kant further elaborates that:

“no material principle, presupposing an object of practical reason, can ever serve as a practical law; the very concept of the good, as an object of practical reason, must be derived from the moral law; the concept of the good, an object, can never serve as the ground of the law”.⁹⁴³

Furthermore, Kant attempts to denote what constitutes the absolute value attributed to good will, or deeds performed from duty, and formulates the third proposition:⁹⁴⁴

3. “Duty is the necessity of an action from respect for law”.⁹⁴⁵

This proposition integrates the “subjective side of the good will”⁹⁴⁶, which de-

⁹³⁹ Ibid.

⁹⁴⁰ Ibid., 41.

⁹⁴¹ Ibid.

⁹⁴² Ibid.

⁹⁴³ Ibid., 42.

⁹⁴⁴ Ibid., 43.

⁹⁴⁵ Ibid., 43 [Ak 4: 400].

⁹⁴⁶ Ibid.

rives from the first proposition—acting from duty—and the “objective side” of the second proposition,⁹⁴⁷ suggesting a form of will independent of all material incentives. Necessity permeates “action from duty”. Duty is something we feel we must do and not something we do based on desire.⁹⁴⁸

Nevertheless, Kant does not affirm that rigid moral rules dictate duties, and neither should the individual entirely avoid consulting personal inclinations. For that matter, he differentiates duties into perfect duties which “admit no exception in favor of inclination”⁹⁴⁹ and imperfect duties which “allow us to take inclinations into account”⁹⁵⁰. Both types of duty entail “rational constraint on actions”, and thus, both include necessity. The “necessity” of duty, which applies equally to perfect and imperfect duties, “consists solely in the fact that duty involves rational constraints on our actions”.⁹⁵¹

Perfect duties, or duties of justice, necessitate one to refrain from specific actions and follow a specific mode of action. For that reason, they are also labeled as negative duties. Imperfect duties or duties of virtue occasionally urge us to perform particular types of actions, which is why they are also called positive duties.⁹⁵² Additionally, Hill comments that imperfect duties “allow a latitude for choice not permitted by perfect duties”⁹⁵³. In general, Kant defines perfect and imperfect duties as duties that “do not”, and duties that “do”. Hill argues that perfect duties “have the strict form 'Always one ought...,' or 'One must never...,'”.⁹⁵⁴ On the other hand, imperfect “duties have the vaguer form 'Sometimes, to some extent, one ought...’”.⁹⁵⁵ Perfect duties surpass in significance imperfect duties and should always “prevail” in dilemmas between

⁹⁴⁷ Ibid.

⁹⁴⁸ Ibid.

⁹⁴⁹ Ibid., 44.

⁹⁵⁰ Ibid.

⁹⁵¹ Ibid.

⁹⁵² Pablo Gilabert, “Kant and the Claims of the Poor”, *Philosophy and Phenomenological Research* 81, no. 2 (2010): 391, <https://doi.org/10.1111/j.1933-1592.2010.00374.x>. Read also on the same Gilabert’s attempt to “challenge the common assumption that positive duties cannot yield perfect duties”.

⁹⁵³ Thomas E. Hill, “Kant on Imperfect Duty and Supererogation”, *Kant-Studien* 62, no. 1-4 (1971): 56, <https://doi.org/10.1515/kant.1971.62.1-4.55>

⁹⁵⁴ Gilabert, “Kant”, 391.

⁹⁵⁵ Gilabert, “Kant”, 391; See also in the same Gilabert’s attempt to “challenge the common assumption that positive duties cannot yield perfect duties”.

perfect and imperfect duties.⁹⁵⁶ Kant argued that rational human beings must act according to the moral law, following their duty on the basis of what is right and not only for becoming morally praiseworthy.⁹⁵⁷

Applications of Deontology

Medical ethics

Concerning Kant, the object of moral thought and moral awareness is the individual person, whose humanity is defined by the capability to choose what to do. Humans are different from animals as human beings have wills, and human nature can decide on the basis of principles, including ethical principles, rather than being entirely motivated by natural desires and impulses.⁹⁵⁸ This principle gives human beings inherent dignity, intrinsic value, and incomparability. Thus, we have to treat them as autonomous rather than as things.

From Kant's ethical perspective, individuals must be treated as an end in themselves and not only as a means to an end, such as the advancement of scientific sentience. Medical ethics is more or less equivalent to bioethics.⁹⁵⁹ Bioethics is the application of ethical principles and processes to health, including, however not limited to, health services, systems, policies, and technologies.⁹⁶⁰ Four commonly accepted principles of health care ethics include the principle of respect for autonomy, the principle of nonmaleficence, the principle of beneficence, and the principle of justice.⁹⁶¹

According to Kant, the ability of a human being to reason is what is known as morality. Hence, every human being should have the right to basic dignity and respect.

Considering Kant's ethics, medical professionals ought to happily let their practices be employed by and on anyone, even if they were the patients themselves.⁹⁶² As a

⁹⁵⁶ Julia Driver, *Ethics: The Fundamentals* (Malden, MA: Blackwell Publishing, 2007), 93.

⁹⁵⁷ Benn, *Ethics*, 94.

⁹⁵⁸ Kant, *Practical Philosophy*, 65 [4:411-412].

⁹⁵⁹ Ruth Felicity Chadwick, s.v. "Bioethics – Overview", in *Encyclopedia of the Life Sciences eLS* (John Wiley & Sons, 2015), 1-5, accessed August 27, 2021, <https://doi.org/10.1002/9780470015902.a0003473.pub2>.

⁹⁶⁰ Dean M. Harris, *Ethics in Health Services and Policy: A Global Approach* (San Francisco: John Wiley & Son, 2011), 2.

⁹⁶¹ Beauchamp and Childress, *Principles of Biomedical Ethics*; Raanan Gillon and Ann Lloyd, *Principles of Health Care Ethics* (Chichester: John Wiley & Sons, 1994), 322.

⁹⁶² Margaret L. Eaton, *Ethics and the Business of Bioscience* (Stanford, CA: Stanford University Press, 2004), 40.

case in point, researchers who plan to experiment on individuals without their full consent ought to accept that all researchers could act the same.⁹⁶³ Patients must always be able to give informed consent about treatments; otherwise, performing tests on them is outright immoral.⁹⁶⁴ In addition, Kant's concept of autonomy designates that patients should never be treated merely as a means to society's ends but only and always as rational beings with their own ends.⁹⁶⁵ Nevertheless, some authority could be allowed to doctors for selectively withholding information from patients to protect them from severe psychological responses.⁹⁶⁶ Substantive disagreements occur in abortion, euthanasia, health care reform, cloning, the use of human embryonic stem cells, and depend on the nature of the disease, for example, homosexuality-related issues.⁹⁶⁷

There is plenty of debate on abortion considering the Kantian perspective.⁹⁶⁸ On the one hand, some scholars argue in defense of the right of women to decide to have an abortion or not.⁹⁶⁹ Since they are autonomous beings with dignity, they have the right to determine treatments for their health;⁹⁷⁰ therefore, abortion should be their decision.⁹⁷¹ On the other hand, other scholars contended that before any deontological analysis on abortion, it should be asked if a fetus has autonomy and consequently the right to be treated solely as an end in itself.⁹⁷² Feminist ethicist Susan Sherwin argues that the morality of abortion does not depend on the status of the fetus as a human being. In her opinion, abortion may be ethical even if the fetus is a human being.⁹⁷³ According to Sherwin, feminist discussion in favor of the freedom of abortion usually is based on

⁹⁶³ Ibid.

⁹⁶⁴ Johnson and Cureton, "Kant's Moral Philosophy".

⁹⁶⁵ Jeremy Sugarman and Daniel P. Sulmasy, *Methods in Medical Ethics* (Washington, D.C.: Georgetown University Press, 2010), 12.

⁹⁶⁶ H. Tristram Engelhardt, JR, ed., *Bioethics Critically Reconsidered: Having Second Thoughts* (Dordrecht and New York: Springer, 2012), 12-13.

⁹⁶⁷ Ibid., 164.

⁹⁶⁸ See Evangelos D. Protopapadakis, *From Dawn till Dusk: Bioethical Insights into the Beginning and the End of Life* (Berlin: Logos Verlag, 2019), 49-74.

⁹⁶⁹ Susan Feldman, "From Occupied Bodies to Pregnant Persons: How Kantian Ethics Should Treat Pregnancy and Abortion", in *Autonomy and Community: Readings in Contemporary Kantian Social Philosophy*, ed. Jane Kneller and Sidney Axinn (New York: State University of New York Press, 1998), 265-282.

⁹⁷⁰ Ibid., 279.

⁹⁷¹ Ibid., 265-266.

⁹⁷² Harris, *Ethics in Health Services*, 15.

⁹⁷³ Susan Sherwin, *No Longer Patient: Feminist Ethics and Health Care* (Philadelphia: Temple University Press, 1992), 104.

values such as privacy and autonomy of choice, which she names as “masculinist” thoughts that might not meet the needs of females in numerous cases.⁹⁷⁴ Judith Jarvis Thomson argues that even if the fetus were found to be a human being, it could be ethical.⁹⁷⁵

Meanwhile, estimating the ethics of introduced policies on abortion matters, the most critical aspect is the practical approach to knowing the policies' outcomes for humans' lives and health. It is vital to understand the danger that occurs with unsafe abortions.

One of the most important aspects of medical ethics is euthanasia. Kant never referred to it. His only relevant arguments on the subject were on suicide which might differ to some extent. Still, contemporary Kantian philosophers find them useful in their search of Kant's probable answer to the morality of euthanasia. For Kant, a person who commits suicide violates the moral law; suicide and even assisted suicide are immoral.⁹⁷⁶ Some modern Kantian interpreters do not see Kant as an outright enemy of suicide and argue that persons with mind debilitating conditions have the moral duty to end their lives and even be subjected to involuntary euthanasia. Others counter that the duty of self-preservation of rational agents does not entail a duty of self-destruction when they become non-rational. We should not neglect Kant's distinction between duties to self and duties to others by assuming that persons can own these duties only while they are rational.⁹⁷⁷

*Sexual ethics*⁹⁷⁸

Kant's approach to sexual ethics developed from his belief that humans should never be used merely as a means to an end.⁹⁷⁹ Kant argued that humans have to be

⁹⁷⁴ Ibid., 99-100.

⁹⁷⁵ Judith Jarvis Thomson, “A Defense of Abortion”, *Philosophy & Public Affairs* 1, no. 1 (Fall 1971): 65-66, <http://www.jstor.org/stable/2265091>.

⁹⁷⁶ I. Brassington, “Killing people: what Kant could have said about suicide and euthanasia but did not”, *Journal of Medical Ethics* 32, no. 10 (2006): 571-574, <https://doi.org/10.1136/jme.2005.015420>.

⁹⁷⁷ Michael Cholbi, “Kant on euthanasia and the duty to die: clearing the air”, *Journal of Medical Ethics* 41, no. 8 (2015): 607-610, <https://doi.org/10.1136/medethics-2013-101781>.

⁹⁷⁸ See also Part Two of this Chapter, 4.2.2, Respect and Self-Respect, on Kant's views on sexual activities and masturbation.

⁹⁷⁹ Alan Soble, “Kant and Sexual Perversion”, *Monist* 86, no. 1 (2003): 57, <https://doi.org/10.5840/monist20038614>.

against conditions or maxims that harm or degrade themselves, including sexual degradation.⁹⁸⁰ According to Kant, sexual intercourse is a degrading factor because it reduces humans, especially women, into objects of pleasure. He recognized morality in sex only in married people. According to Thomas Laqueur, Kant considered that masturbation is worse than suicide⁹⁸¹ because it lowered people's status below animals. While the latter destroys the life of one person, the previous despises the survival of the species.⁹⁸² He also said that the punishment for rape should be castration, and the person who rapes should be expelled from society⁹⁸³ after being castrated.⁹⁸⁴ According to feminist philosopher Catherine Mackinnon, some practices like sexual harassment, prostitution, and pornography make women objects of use; hence they are immoral considering Kant's standards.⁹⁸⁵ The commercial sex industry also has been criticized by Kant for turning both parties into objects.

The conventional notion of what is sexually ethical is historically attached to religious values.⁹⁸⁶ Sexual ethics involves gender identification, sexual orientation, consent, sexual relations, and procreation. Female masturbation may draw less criticism than male masturbation because male masturbation is more prevalent and is often associated with distortion.⁹⁸⁷ Kant states, that masturbation makes man a thing that is in opposition to nature, "a loathsome object, and so deprives him of all respect for himself"⁹⁸⁸, and even makes a further step to compare it with suicide by stating that "someone who defiantly casts off life as a burden is at least not making a feeble surrender to animal impulse in throwing himself away; murdering oneself requires courage"⁹⁸⁹ and

⁹⁸⁰ Lara Denis, "Kant on the Wrongness of 'Unnatural' Sex", *History of Philosophy Quarterly* 16, no. 2 (2013): 225, <http://www.jstor.org/stable/27744817>.

⁹⁸¹ Diana Solomon, *Prologues and Epilogues of Restoration Theater: Gender and Comedy, Performance and Print* (Newark: University of Delaware Press, 2013), 176.

⁹⁸² Thomas W. Laqueur, *Solitary Sex: A Cultural History of Masturbation* (New York: Zone Books, 2003), 58-60.

⁹⁸³ Wood, Kant's ethical thought, 2.

⁹⁸⁴ Hurley, "Deontology".

⁹⁸⁵ Catharine A. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* (New Haven: Yale University Press, 1979).

⁹⁸⁶ Margaret A. Farley, s.v. "Sexual Ethics", in *Encyclopedia of Bioethics* (Encyclopedia.com), accessed June 23, 2021, <https://www.encyclopedia.com/science/encyclopedias-almanacs-transcripts-and-maps/sexual-ethics>.

⁹⁸⁷ Dolf Zillmann, *Connections Between Sex and Aggression* (Hillsdale, N.J: Lawrence Erlbaum Associates, 1984), 182.

⁹⁸⁸ Kant, *Practical Philosophy*, 550 [6:425]

⁹⁸⁹ *Ibid.*, 549 [6:425].

apparently concluding that masturbation exceeds suicide in the “degree of violation of the humanity in one’s own person”.⁹⁹⁰

*Animal ethics*⁹⁹¹

The second formula of the Categorical Imperative, the formula of humanity, makes explicit that we do not have duties to or toward animals.⁹⁹² According to Kant, we, human beings, are finite rational beings⁹⁹³ who still have natural impulses.⁹⁹⁴ While Kant argued that humans bear direct duties solely to rational beings, he also declared that they hold several indirect duties. Thus, Kant delimits human behavior in a “non-anthropocentric” way consistent, in a sense, with environmental ethics.⁹⁹⁵ Even though he considered animals to have no moral rights, he asserted no one could behave immorally to them.⁹⁹⁶ Kant argued that being cruel to animals was not right as our behavior may possibly impact our attitudes towards human beings, even if we didn’t have any duties to animals.⁹⁹⁷ On the other hand, ethicist Tom Regan was against Kant’s assessment of the moral worthiness of animals based on the following three main points. First, he rejected Kant’s argument that creatures are not self-conscious.⁹⁹⁸ He then challenged Kant’s case of no intrinsic moral worth since they cannot make a moral judgment.⁹⁹⁹ Regan also claimed that if its ability to make a moral judgment determines a being’s moral quality, then human beings who are not able to make moral sense also do not have moral worth. Regan concluded that Kant’s conclusion that animals exist as merely a means to an end is unsupported since animals have a life that can go well or poorly

⁹⁹⁰ Ibid., 549 [6:425].

⁹⁹¹ The Kantian approach in animal ethics is closely linked in comparing the moral status of animals with the moral status of sex workers and sex trafficking victims as far as sex trafficking is explicitly concerned in Thailand, where they are often regarded and treated like animals by their exploiters and even the sex buyers.

⁹⁹² Lara Denis, “Kant’s Conception of Duties Regarding Animals: Reconstruction and Reconsideration”, *History of Philosophy Quarterly* 17, no. 4 (2000): 406, <http://www.jstor.org/stable/27744866>.

⁹⁹³ Nelson T. Potter Jr., “Kant on Duties to Animals”, *Jahrbuch Für Recht Und Ethik / Annual Review of Law and Ethics* 13 (2005): 299, <http://www.jstor.org/stable/43593706>.

⁹⁹⁴ Denis, “Kant’s Conception of Duties”, 407.

⁹⁹⁵ Matthew C. Altman, *Kant and Applied Ethics: The Uses and Limits of Kant's Practical Philosophy* (Malden, MA: John Wiley & Sons, 2011), 16.

⁹⁹⁶ Potter Jr., “Kant on Duties to Animals”, 299-311.

⁹⁹⁷ Driver, *Ethics*, 98.

⁹⁹⁸ Tom Regan, *The Case for Animal Rights* (Oakland, CA: University of California Press, 2004), 178.

⁹⁹⁹ Ibid.

and suggests that they have their purposes like human beings.¹⁰⁰⁰ The British philosopher Peter Carruthers in *The Animals Issue: Moral Theory in Practice* (1992) stated that human beings have a moral obligation to creatures that can participate in a hypothetical social contract.¹⁰⁰¹

Kant seems eager to condemn animal cruelty, but he acknowledges that animals cannot be moral agents since they lack self-consciousness; therefore, they cannot possess any rights, since they do not count as moral agents.¹⁰⁰² Consequently, human beings don't owe any duty to them. Animals can only be a means to an end. Therefore, Kant has to convert somehow any notion of direct duties towards animals to either indirect duties towards humanity or direct duties towards oneself.¹⁰⁰³

In his views on indirect duties, Kant supports that cruelty towards animals gravely diminishes the humanity in oneself, which he owes, as his duty, to show to humankind, whilst caring for animals develops benevolence and kindness towards human beings.¹⁰⁰⁴ In reality, though, many cases contradict that notion: Hitler loved animals, especially his German shepherd. On the contrary, he brought devastation to humanity during his reign in World War II. In another case, Johannes Brahms was rumored to hate cats, but he was harmless to humans and even bought candy for kids in his neighborhood. It might seem weird, but it is not rare to find a person who loves animals but hates people and vice versa.¹⁰⁰⁵

¹⁰⁰⁰ Ibid., 181.

¹⁰⁰¹ Peter Carruthers, *The Animals Issue: Moral Theory in Practice* (Cambridge: Cambridge University Press, 1992), 143.

¹⁰⁰² See Evangelos D. Protopapadakis, "Animal Rights or Just Human Wrongs?" in *Animal Ethics: Past and Present Perspectives*, ed. Evangelos D. Protopapadakis, 179-191 (Berlin: Logos Verlag, 2012).

¹⁰⁰³ Evangelos D. Protopapadakis, ed., *Animal Ethics: Past and Present Perspectives* (Berlin: Logos Verlag, 2012), 19.

¹⁰⁰⁴ Immanuel Kant, *Lectures on Ethics*, ed. Peter Heath and J. B. Schneewind, trans. Peter Heath (Cambridge: Cambridge University Press, 1997), 212-213.

¹⁰⁰⁵ Protopapadakis, *Animal Ethics*, 19.

In his views *on duties towards one's self*, Kant proposes that “with regard to the animate but nonrational part of creation, violent and cruel treatment of animals is far more intimately opposed to man’s duties to himself, and he has a duty to refrain from this...”¹⁰⁰⁶ because “it dulls his shared feeling of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality...”¹⁰⁰⁷ Despite this slight deviation in Kant’s view, he still “cannot see how men can be said to have a duty to animals as distinct from a duty *relating to or concerning* animals”¹⁰⁰⁸ while focusing primarily on humans. Kant also refers to Hogarth’s engravings and the four stages of cruelty, stating that cruelty towards animals impairs¹⁰⁰⁹ “the kindly and humane qualities in himself, which he ought to exercise in virtue to his duties to mankind”¹⁰¹⁰. Interpreting Hogarth’s engravings, cruelty towards humans begins gradually by “pulling the tail of a dog or a cat” then by “running over a child” and “finally the culmination of cruelty in a murder, at which point the rewards of it appear horrifying”.¹⁰¹¹ Habituating in animals’ death corrupts our morality, and that’s why¹⁰¹² “in England no butcher, surgeon or doctor serves on the twelve men jury because they are already inured to death”.¹⁰¹³

Schopenhauer summarized Kant’s views contemptuously: “we are to have sympathy for animals only for practice”, which he finds “revolting and abominable”¹⁰¹⁴ and which he attributes to Christian theology’s influence on Kant’s thought.¹⁰¹⁵

Lying ethics

According to Sissella Bok, lying is “an intentionally deceptive message in the

¹⁰⁰⁶ Kant, *Practical Philosophy*, 564 [6:443].

¹⁰⁰⁷ *Ibid.*, 564 [6:443].

¹⁰⁰⁸ John Passmore, “The Treatment of Animals”, *Journal of the History of Ideas* 36, no. 2 (1975): 202, <https://doi.org/10.2307/2708924>.

¹⁰⁰⁹ Protopapadakis, *Animal Ethics*, 20.

¹⁰¹⁰ Kant, *Lectures*, 212.

¹⁰¹¹ *Ibid.*

¹⁰¹² Protopapadakis, *Animal Ethics*, 20.

¹⁰¹³ Kant, *Lectures*, 213.

¹⁰¹⁴ Arthur Schopenhauer, *On the basis of morality*, trans. E F J Payne (Indianapolis: Bobbs-Merrill, 1965), 96 quoted in Passmore, “The Treatment of Animals”, 214.

¹⁰¹⁵ Protopapadakis, *Animal Ethics*, 20.

form of a statement”.¹⁰¹⁶ A lie is defined as a “piece of information deliberately presented as being true, anything meant to deceive or give a wrong impression”.¹⁰¹⁷ Lying also causes distrust, dissatisfaction, disappointment, and suspicion of deception.¹⁰¹⁸

Immanuel Kant believed that lying is always wrong, no matter what the circumstances.¹⁰¹⁹ Based on this principle, we should never treat others as mere means but only as an end in themselves. Kant argues that a person lies to human beings in order to use them as mere means to accomplish his needs and desires. He defended the idea of prohibiting lying like no other western philosopher.¹⁰²⁰ For him, “lying cannot be made into a maxim for all humanity without being inconsistent”.¹⁰²¹ He carried that reason constantly forbids lying without appeal to theological considerations.¹⁰²² According to the Categorical Imperative, Kant stated that it is provided in the maxim that a human being ought not to lie in any circumstances, even if one intends to bring good consequences. A famous example from Kant is about lying to a murderer to prevent him from finding an intended victim “has been a cherished source of scorn for thinkers with little sympathy for Kant’s philosophy”.¹⁰²³ With this example, Kant emphasizes that lying is always wrong. In case a lie, notwithstanding any good intentions, leads to the murder of the victim, the liar becomes partly responsible. Following that, Kant seems to “require us to respect the murderer more than the victim and that somehow we can be responsible for the consequences of another’s wrongdoing”.¹⁰²⁴ Blackburn mentions the classic example of “lying to the mad axeman who asks you where your children are sleeping”¹⁰²⁵ in an attempt to stress how undue and absurd would such

¹⁰¹⁶ Sissella Bok, *Lying: Moral Choice in Public and Private Life* (New York: Vintage, 1979), 16.

¹⁰¹⁷ William Morris, ed., *The American Heritage Dictionary of the English Language* (Boston: Houghton Mifflin, 1978), 754.

¹⁰¹⁸ Jacques Thiroux, *Ethics: Theory and Practice* (New Jersey: Prentice-Hall, 1998), 295.

¹⁰¹⁹ Beckerman, *Economics as Applied Ethics*, 235.

¹⁰²⁰ Thomas L. Carson, *Lying and Deception: Theory and Practice* (New York: Oxford University Press, 2010), 67.

¹⁰²¹ Thiroux, *Ethics*, 167.

¹⁰²² James Rachels and Stuart Rachels, *The Elements of Moral Philosophy* (New York: McGraw-Hill, 2012), 128.

¹⁰²³ Helga Varden, “Kant and Lying to the Murderer at the Door ... One More Time: Kant's Legal Philosophy and Lies to Murderers and Nazis”, *Journal of Social Philosophy* 41, no. 4 (2010): 403, <https://doi.org/10.1111/j.1467-9833.2010.01507.x>.

¹⁰²⁴ Varden, “Kant and Lying” 403.

¹⁰²⁵ Simon Blackburn, *Ethics: A Very Short Introduction* (New York: Oxford University Press, 2003), 42.

directive reflect on common sense, according to which a typical reaction would be “To heck with that. If that’s what morality demands then, I’m opting out”.¹⁰²⁶

Kant further claims that we ought to know the consequence of lying before doing so, to avoid wrong lying, which can bring about harmful effects. In the event that there are unsafe outcomes, we would be blameless because we acted according to our duty.¹⁰²⁷ Julia Driver contends this probably will not be an issue if we choose to redefine or reformulate our maxims differently: the maxim “I will lie to save an innocent life”¹⁰²⁸ can be universalized. Nonetheless, this new maxim may even now regard the killer as a means to an end, which we have an obligation to abstain from doing. In this way, we may at present be required to come clean to the killer in Kant's illustration.¹⁰²⁹ Kant says that “we cannot universalize lying because it would be contradictory if we did”.¹⁰³⁰ By accepting the fact that anyone can lie under any circumstance, we negate the meaning of telling the truth; similarly, the act of breaking a promise belies any meaning and reason in that promise.¹⁰³¹

Despite Kant’s wish to abolish lying completely, Thomas Carson claims that “Kant’s basic moral theory does not commit him to the view that there is an absolute moral prohibition against lying”.¹⁰³² Regarding Carson, he considered not a sensible view of the morals of lying/deception from Kant's absolutism theory.¹⁰³³ Sir William David Ross (1877-1940) had a disagreement with the inflexible absolutism of Kant's theories.¹⁰³⁴ He continues that “we might allow lying if serious matters warranted it, however, his basic position, like Kant's, is that usually, we should not lie”.¹⁰³⁵ The same approach is followed by John Wesley (1703-1791), the founder of Methodism.¹⁰³⁶ St. Augustine (a.d. 354-430) followed Kant’s thought “that lying was always wrong, but admitted that this would be not easy to live and that, in real life, people need a get-out

¹⁰²⁶ Ibid.

¹⁰²⁷ Rachels, *The Elements of Moral Philosophy*, 128.

¹⁰²⁸ Driver, *Ethics*, 96.

¹⁰²⁹ Ibid.

¹⁰³⁰ Thiroux, *Ethics*, 293.

¹⁰³¹ Carson, *Lying and Deception*, 1.

¹⁰³² Ibid., 1.

¹⁰³³ Ibid., 2.

¹⁰³⁴ Thiroux, *Ethics*, 64.

¹⁰³⁵ Ibid., 293.

¹⁰³⁶ Ibid.

clause”.¹⁰³⁷

Similarly, Thomas Aquinas stated that “while all the lies were wrong, there was also a hierarchy of untruths and those below could be forgiven, he distinguished between ‘malicious’ lies and ‘helpful’ lies”.¹⁰³⁸ Medical ethics and bioethics examine lying in cases where doctors have to inform their patients about the seriousness of their condition. Another form of lying is delivering false information in business, propaganda, public relations, marketing, and advertising.

Kant defending his stance on lying is always morally wrong, states that lying is “the obliteration of one’s dignity as a human being”¹⁰³⁹. On the basis that universal laws shall govern human behavior, Kant expounded on the rules about lying by offering the two arguments in supporting of his attitude against lying.¹⁰⁴⁰

In his first argument, following the Categorical Imperative rational human beings could not will a universal law that permits lies since that law would be counterproductive and maladaptive. If deceptive behavior diffuses in society, none will trust anyone. Lying would become impracticable as nobody would be interested in what others say. Thus, lying should be prohibited “under any circumstances”.¹⁰⁴¹

In case it was necessary to lie to save someone’s life, Kant would reason as follows:¹⁰⁴²

1. Humans should only act in a way that conforms to laws that they “could will to be adopted universally”¹⁰⁴³.
2. If they were to lie, they would observe the law “It is admissible to lie.”
3. No society can embrace such law universally because it would be self-defeating. No one would believe and trust anybody, and lying would become ineffective and inefficient.
4. Therefore, nobody should lie.¹⁰⁴⁴

¹⁰³⁷ Joel A. Omonigho, *The Dis-ease of Lies: Are there godly lies* (Tennessee: Holy Fire Publishing, 2018), 118.

¹⁰³⁸ Ibid.

¹⁰³⁹ Rachels, *The Elements of Moral Philosophy*, 130.

¹⁰⁴⁰ Ibid.

¹⁰⁴¹ Ibid.

¹⁰⁴² Ibid.

¹⁰⁴³ Ibid.

¹⁰⁴⁴ Ibid.

In further analysis, Kant's above argumentation could present a flaw in step two. Conceivably, the maxim could adapt to, "It is admissible to lie to save a human life"¹⁰⁴⁵ instead of the preceding, "It is admissible to lie". That law does not seem to be self-defeating and can effectively become a universal law. Accordingly, even in deontological terms, it would be acceptable to lie, and Kant's position on lying is left unsupported by or even contradicting his own moral theory.¹⁰⁴⁶

One of Kant's contemporaries doubted him by presenting a hypothetical case:

"... someone is fleeing from a murderer and tells you that he is going home to hide. Then the murderer comes by and asks you where the man is. You believe that, if you tell the truth, you will be aiding in a murder. Furthermore, the killer has already headed the right way, so if you simply remain silent, the worst result is likely. What should you do?"¹⁰⁴⁷

The critical dilemma, in this case, is "telling the truth or saving someone's life?"¹⁰⁴⁸

Kant replied with his second argument against lying in an article titled "On a Supposed Right to Lie from Altruistic Motives".¹⁰⁴⁹

"Perhaps the man on the run has actually left his home and you would lead the killer to look in the wrong place by telling the truth. However, if you lie, the murderer may wander away and discover the man leaving the area, in which case you would be responsible for his death ... Whoever lies ... must answer for the consequences, however unforeseeable they were, and pay the penalty for them ... To be truthful ... in all deliberations, therefore, is a sacred and absolutely commanding decree of reason, limited by no expediency."¹⁰⁵⁰

A more inclusive assertion of this argument could be that rational human beings

¹⁰⁴⁵ Ibid.

¹⁰⁴⁶ Ibid.

¹⁰⁴⁷ Ibid., 131.

¹⁰⁴⁸ Ibid.

¹⁰⁴⁹ Ibid.

¹⁰⁵⁰ Ibid.

are tempted to lie because, in some cases, the consequences of honesty could be dire, and the results of lying, good. Yet, there is no certainty in what the effects would be. Dishonesty can bring forth unpredictably bad outcomes. Thus, one should avoid the already acknowledged evil in lying “and let the consequences come as they may”.¹⁰⁵¹ Considering the outcomes are bad, an honest person would have nothing to fear since one would have acted from duty.¹⁰⁵²

In further analysis of this argument, Kant seems to underestimate the human ability to predict the consequences of one’s actions and avoid hesitation to act. Besides, he also appears to assume that someone would be morally responsible for any harmful consequences of deceit, but not for any dire consequences of being honest. James Rachels openly criticizes Kant’s views on lying in “The Elements of Moral Philosophy” with a rather bold statement:

“Suppose, as a result of our telling the truth, the murderer found his victim and killed him. Kant seems to assume that we would be blameless. But can we escape responsibility so easily? After all, we aided the murderer. This argument, then, is not convincing.”¹⁰⁵³

4.1.3 Utilitarianism

Utilitarianism was formulated by Jeremy Bentham (1748–1832) and refined by John Stuart Mill (1806–73).¹⁰⁵⁴ Its name derives from the word “utility” meaning “usefulness”. Utilitarians consider an act moral if its utility brings “about a desirable or good end”.¹⁰⁵⁵ Utilitarianism refers to the doctrine that actions are right if they are of use or benefit to the majority. In other words, one has a chance to say that any moves or activities that individual makes are right if they bring or promote happiness, and the greatest happiness of the most significant number of people, should be the guiding principle of conduct. According to utilitarianism, morally right action is an action that produces

¹⁰⁵¹ Ibid.

¹⁰⁵² Ibid.

¹⁰⁵³ Ibid., 132.

¹⁰⁵⁴ Brian Duignan, ed., *The History of Western Ethics* (New York: Britannica Educational Publishing, 2011), xii.

¹⁰⁵⁵ Taylor, *Problems of Moral Philosophy*, 137.

the most good when it comes to morals. John Stuart Mill held that the economic development of a society has to be maximized,¹⁰⁵⁶ which refers to bringing about the most considerable amount of good for most people. Utilitarianism is consequential in its examination of morality. It is the result of the consequences of our actions that make an action moral or immoral. Utilitarianism is also impartial, and it is agent-neutral since every person's happiness counts the same.

Utilitarian Ethical Tradition

Though not fully incorporated until the 19th century, a pro-Utilitarianism position can be seen through the history of ethical theory. Even if there are several varieties of the view discussed, Utilitarianism is the only view that generally holds those morally right actions as the actions that produce the most good.

1. Precursors to the Classical Approach

Despite these antecedents, Jeremy Bentham is viewed as the father of modern utilitarianism, "It was he who made the utilitarian principle serve as the basis for a unified and comprehensive ethical system that applies, in theory at least, to every area of life".¹⁰⁵⁷ Even if he made the first systematic account of the theory (1748-1832), the critical reason motivating the doctrine occurred much earlier. The insight was, morally appropriate behavior cannot harm other people but instead increase happiness and utility. The early precursors to Classical utilitarianism were the British Moralists, Cumberland, Hutcheson, Gay, Hume, and Shaftesbury. Of all these scholars, Francis Hutcheson (1694-1746) was crucial for practical action choice.¹⁰⁵⁸ Some people like Richard Cumberland (1631-1718) and John Gay (1699-1745) were the earliest utilitarian thinkers

¹⁰⁵⁶ S. Ambirajan, "John Stuart Mill, Writings on India, ed. John M. Robson, Martin Moir, and Zawahir Moir (The Collected Works of John Stuart Mill, vol. xxx), Toronto, University of Toronto Press, 1990, pp. lviv + 336", *Utilitas* 4, no. 1 (1992): 154-157, <https://doi.org/10.1017/s0953820800004271>.

¹⁰⁵⁷ Brian Duignan, ed., *The History of Western Ethics* (New York: Britannica Educational Publishing, 2011), 80.

¹⁰⁵⁸ Joachim Hruschka, "The Greatest Happiness Principle and Other Early German Anticipations of Utilitarian Theory", *Utilitas* 3, no. 2 (1991): 169, <https://doi.org/10.1017/s0953820800001096>.

who promoted a theological exploration of morality.¹⁰⁵⁹ They believed in fostering human happiness since God approved it. According to Gay, a person's salvation and eternal life depend mainly on God's will. This approach to utilitarianism is theoretically blurred since it is not clear what essential work God does, at least in normative ethics.

Anthony Ashley (1671-1713) is generally thought to have been one of the first utilitarian theorists.¹⁰⁶⁰ He claimed that we possess a kind of inner eye that allows us to make moral discernments.¹⁰⁶¹ The claim seems to have been the ability to sense right or wrong, or if an act is morally right or wrong. Also, the aspects of this doctrine were taken by Francis Hutcheson and David Hume (1711-1776).¹⁰⁶² According to Hume, part of our very nature is to make good judgments. Shaftesbury also has a view that the virtuous person contributes to the good of the whole system.¹⁰⁶³ He further held that in judging if someone is righteous or right in a moral sense, we need to see the person's effect on the operation of which they are part. Sometimes, though, it becomes difficult to distinguish between egoistic versus utilitarian lines of thought in Shaftesbury.¹⁰⁶⁴

Additionally, a virtuous person must possess specific mental faculties exhibited in one's personality and represent socially approved qualities. A being is called virtuous when it realizes the idea of public interest and can judge what is morally good or harmful, praiseworthy or not, and right or wrong. Therefore, animals cannot be morally appraised because they lack essential contemplative abilities like moral discrimination and moral sense.¹⁰⁶⁵ This argument also raises some critical questions when it comes to the perception of moral knowledge. It could be seen that moral philosophy is a perception that something is the case. Hence it is not just a discriminatory sense that allows us to sort impressions.¹⁰⁶⁶

¹⁰⁵⁹ Julia Driver, "The History of Utilitarianism", in *The Stanford Encyclopedia of Philosophy (Winter 2014 Edition)*, ed. Edward N. Zalta, accessed September 14, 2021, <https://plato.stanford.edu/archives/win2014/entries/utilitarianism-history/>.

¹⁰⁶⁰ Driver, "The History of Utilitarianism".

¹⁰⁶¹ Ibid.

¹⁰⁶² Ibid.

¹⁰⁶³ Michael B. Gill, "Lord Shaftesbury [Anthony Ashley Cooper, 3rd Earl of Shaftesbury]", in *The Stanford Encyclopedia of Philosophy (Fall 2021 Edition)*, ed. Edward N. Zalta, accessed September 14, 2021, <https://plato.stanford.edu/archives/fall2021/entries/shaftesbury/>.

¹⁰⁶⁴ Driver, "The History of Utilitarianism".

¹⁰⁶⁵ Ibid; See also, Susana Monsó, "Empathy and morality in behaviour readers", *Biology & Philosophy* 30, no. 5 (September 2015): 671-690, <https://doi.org/10.1007/s10539-015-9495-x>.

¹⁰⁶⁶ Driver, "The History of Utilitarianism".

According to Shaftesbury, “the virtuous person is one whose affections, motives, dispositions are of the right sort, not one whose behavior is simply of the right sort and who is able to reflect on goodness, and her own goodness”.¹⁰⁶⁷ At the same time, a person who is not virtuous is one who exemplifies the wrong sorts of mental states, affections, and many others. A person who harms others unwillingly because one cannot control oneself, maybe because of an unstable mental state, is not considered virtuous. Shaftesbury looked at moral evaluation through virtues and vices. His conception of utilitarianism is distinct regarding his understandings of the moral sense and his sentimentalism. In a sense, he moved away from the egoistic view of human nature, which was picked up by Hutcheson and Hume.¹⁰⁶⁸

While Shaftesbury and Francis Hutcheson oriented their interest in virtue evaluation and embraced the moral sense approach, Hutcheson also emphasized “action choice and the importance of moral deliberation to action choice”¹⁰⁶⁹. For him, what leads our comparison of moral qualities of actions is moral sense. In their writings, Shaftesbury and Hutcheson’s central antagonism was egoism rather than rationalism.¹⁰⁷⁰ While Bentham too represented the egoistic branch, Mill diverged to develop the “altruistic” approach to Utilitarianism and criticized the version of Bentham’s utilitarianism.¹⁰⁷¹

¹⁰⁶⁷ Michael B. Gill, “Shaftesbury’s Two Reasons to Be Virtuous: A Philosophical Fault Line”, in *The British Moralists on Human Nature and the Birth of Secular Ethics* (Cambridge: Cambridge University Press, 2006), 118-132, <https://doi.org/10.1017/CBO9780511499272.010>, quoted in Driver, “The History of Utilitarianism”.

¹⁰⁶⁸ Driver, “The History of Utilitarianism”.

¹⁰⁶⁹ Ibid.

¹⁰⁷⁰ Ibid.

¹⁰⁷¹ Ibid.

2. *The classical approach*

The classical utilitarian approach was when Mill and Bentham focused on legal society reform. If anything could be identified as the primary motivation behind the development of classical Utilitarianism, it would be the need to see ineffective, corrupt laws and social practices changed. This goal needed a normative ethical theory applied as a critical tool. What is the truth about what makes an action morally right or morally evil in society? But developing the method itself was also influenced by strong views about what was wrong in their community¹⁰⁷². They considered, for example, that some laws were terrible, and it resulted in the analysis of why the rules were awful.¹⁰⁷³ According to Jeremy Bentham, what made the laws wrong was the lack of utility and their tendency to result in unhappiness and misery without any compensating happiness. Finally, if a law or any action does not do any good, then the law is not any good.

Jeremy Bentham was influenced by Hobbes' ¹⁰⁷⁴ account of human nature¹⁰⁷⁵ and Hume's ¹⁰⁷⁶ account of social utility.¹⁰⁷⁷ Jeremy Bentham said that humans were controlled by two main masters who were pleasure and pain. He said that human beings seek pleasure and avoid pain. These two principles govern what people do, in all what they say and in what they think. Jeremy Bentham also promulgated the principle of utility as the standard of right action on the part of individuals and the government. Actions are good and approved when they promote happiness or pleasure and disapproved when they tend to cause unhappiness or pain.¹⁰⁷⁸ John Stuart Mill (1806-1873) was a prominent ally of Jeremy Bentham,¹⁰⁷⁹ and throughout his life, he significantly respected the works and claims of Bentham, particularly about happiness. According to

¹⁰⁷² Hurley, "Deontology".

¹⁰⁷³ Driver, "The History of Utilitarianism".

¹⁰⁷⁴ James E. Crimmins, "Bentham and Hobbes: An Issue of Influence", *Journal of the History of Ideas* 63, no. 4 (2002): 677, <https://doi.org/10.1353/jhi.2003.0005>.

¹⁰⁷⁵ *Ibid.*, 687.

¹⁰⁷⁶ Angela Coventry and Alexander Sager, "Hume and Contemporary Political Philosophy", *The European Legacy* 18, no. 5 (2013): 589, <https://doi.org/10.1080/10848770.2013.804709>.

¹⁰⁷⁷ Driver, "The History of Utilitarianism".

¹⁰⁷⁸ Jeremy, 1789 [PML] Bentham, *An introduction to the principles of morals and legislation* (Oxford: Calderon Press, 1907), quoted in Driver, "The History of Utilitarianism".

¹⁰⁷⁹ Christopher Macleod, "John Stuart Mill", in *The Stanford Encyclopedia of Philosophy (Fall 2018 Edition)*, ed. Edward N. Zalta, accessed September 18, 2021, <https://plato.stanford.edu/archives/fall2018/entries/mill/>.

Mill, there were no qualitative or quantitative measures of pleasures in Bentham's theory of utility. This contention enables Bentham's view to be criticized. For instance, the pleasure of drinking liquor while watching football matches cannot be compared with the pleasure of tackling scientific problems or listening to music. Second, Bentham's view is that there is no qualitative difference in satisfaction, leaving complaints open to him that human happiness is as valuable as any other creature's joy. Third, for Bentham, the ethical status of animals was equivalent to those of humans, and assaulting a little dog was equal to assaulting a human being. This is where John Mill sought changes to the theory to avoid criticism. On the same subject, Mill regarded the quality of human pleasures as unique, higher, and better than those of animals.¹⁰⁸⁰

Applications of Utilitarian Ethics

According to the definition of utilitarianism, some actions bring happiness specifically to the greatest number of people. For example, imposing **high taxes on tobacco and alcohol** is one example where utilitarianism applies. In this case, smoking tobacco and consuming alcohol can cause harm and unhappiness even to people who do not smoke tobacco¹⁰⁸¹ or those who do not drink alcohol, as in the case of passive smoking assaults caused by intoxication. Passive smokers who take in tobacco smoke unintentionally become unhappy because tobacco has associated negative consequences—for example, lung cancer. Hence the imposition of high taxes on tobacco and alcohol will, in turn, increase the prices of the commodities. An increase in tobacco and alcohol prices will, in turn, discourage people from buying the substances.¹⁰⁸² Reduction in buying the substances due to high prices reduces the purchase of the substances, drunkenness, and smoking as well as the negative impact associated with them, thus bringing happiness to the majority of the people. So, the imposition of higher taxes for tobacco and alcohol are actions of great societal utility.

The **reduction of taxes on essential commodities** like salt, maize meal, and sugar is another critical factor that can make most people very happy. High taxes on

¹⁰⁸⁰ John S. Mill, *Utilitarianism* (Auckland: The Floating Press, 2009), 16-21, ProQuest Ebook Central.

¹⁰⁸¹ Beckerman, *Economics as Applied Ethics*, 7.

¹⁰⁸² *Ibid.*, 8.

essential commodities puts a lot of pressure on low-income families and individuals. The primary reason is that an increase in taxes on the commodities will, in turn, increase their prices. Besides, it will make the majority of the people unhappy because they have to strain in getting the extra cash to purchase the commodities. Hence, a reduction of the taxes to these commodities will decrease their prices; thus, the extra cash may be shifted to other needs, making the low-income earners happier. Therefore, reducing the taxes to essential commodities conforms to the utilitarianism theory.

The provision of **free basic education** to students by the government is another example. Since utilitarianism targets happiness for the majority of the people in society, such provisions also qualify to be a moral act in terms of utilitarian ethics because they bring happiness to both the students and their parents. The parents, especially the poverty-stricken, will not strain in looking for the school fees, and the students will experience more security and fewer conflicts and anxiety in their families. The increased security will motivate students more and lead them to higher school performance.

The provision of **affordable housing** to **low-income families** is another good example of utilitarianism. Considering that many people in society are low-income families, affordable housing would be a significant financial relief. Even if owners of expensive houses will be unhappy because they will lose their clients who will move to cheaper houses provided by the government, they are not the majority of the people in the society. The majority of the people in the society are low-income families who are at the same time most of the tenants because they do not have enough money to buy land and even build houses. Hence the action done makes the majority of the people or a large number of the people happy.

Victims of drug addiction have very many negative consequences in society. Sometimes their presence in a community and their actions may cause harm to other people. Some of them can end up mentally ill after a long period of taking drugs. Acts of suicide or manslaughter are not uncommon in drug addict populations. Due to these negative consequences, people in society, mostly the parents, friends, and relatives of the victims, end up suffering. The introduction of **free rehabilitation centers** for **drug addicts** brings happiness to most people in society. Providing free rehabilitation centers for drug addicts qualifies to be a practical action because it makes the majority of the

people happy.

The provision of free vaccinations by the government or any other agency/organization also qualifies to be an act of great utility for the majority of communities. Vaccination is likely to prevent people and animals from future pandemics, reducing the agony of dealing with the consequences of disease outbreaks that often devastate whole populations.

AIDS has been a menace for decades and millions of people. Before the introduction of free medication by the government to the victims of the disease, both the victims and the nuclear or extended families of the victims suffered a lot. The expenses for medication were costly to the extent where even covering the school fees became problematic. In addition, family members spend a lot of time caring for the victims, an obligation that interferes with the caretakers' work commitments. The introduction of free medication by governments has helped a lot. It has brought happiness to patients since they do not have the agony of looking for money to pay for drugs and medical fees. Initially, it was hard for the victims even to be working since they seemed very weak. But now, several people who were victims are happily working in their professions. The government's introduction of **free HIV drugs** brought happiness to both the victims and the people initially involved in caring for the victims since they are free of the additional stress of looking for money and their health improvement. Hence, the action conforms to the theory of utilitarianism because it provides happiness to society.

Conclusion

In conclusion, the subtlety of Kant's views and the diversity of his arguments tend to decrease the power of the doctrine, which can be identified with comparative simplicity. According to Kant's theory of Deontology, as discussed in this chapter, a person's moral worthiness is not determined by the consequences of his action and the manner in which he behaves under different circumstances. A person's moral worthiness is determined by the motivation which made him act and not the results of the operation. According to the discussion in the chapter, a person may be intended to do good or may have a motivation to do good, but the consequences of the result may be harmful, or a person may have meant to do wrong actions. Nevertheless, it may turn out that the effects of the action are right. Hence, in conclusion, the moral goodness of

a person should be determined by the motivation which made him do some actions even if the consequences of the activities are bad or good.

Kant also says that it is not morally wrong to do things we enjoy doing as it may make one do things in a manner that is unique. At the same time, enjoying doing something should not be the primary reason of action. People should do things or execute their duties in the best way possible because they have to do them. Thus, it means that we should do the actions even if we do not enjoy doing them. That is what is referred to as moral worthiness also. Kant's argument on humanity as an end to itself says that a rational being cannot rationally agree to be used as a means to an end. Hence, they have always to be treated as an end. When it comes to the applications of Kant's ethics, in the case of medical ethics, Kant says that women are allowed to decide whether to abort. Kant also considers animals not to be moral beings in his argument. When it comes to sexual ethics, Kant says that sexual intercourse is only recommended in married people. He further states that masturbation is even worse because it lowers people to the status of animals. According to his argument regarding medical ethics, a patient has the right to know what kind of test is done on him or her by a doctor.

When it comes to the utilitarianism theory, its consequences are always deemed to judge a proper action in society.¹⁰⁸³ It means that utilitarianism theory and Kant's theory do not agree. Kant's philosophy states that the goodness of an act is not seen by its consequence or its result. While on the other hand, utilitarianism theory says that its repercussions know the goodness of action and if they bring happiness to the majority of the people. In conclusion, there is a contradiction between Kantian theory and Utilitarianism when deciding the moral goodness of an action. Kant looks at the motivation, while Utilitarianism looks at the results of the action.

¹⁰⁸³ For a quite highlighting discussion, see Julian Savulescu and Evangelos Protopapadakis, "Ethical Minefields and the Voice of Common Sense: A Discussion with Julian Savulescu," *Conatus – Journal of Philosophy* 4, no. 1 (2019): 125-133.

PART TWO

4.2 Kantian Ethics, Utilitarian Ethics and Virtue Ethics on Sex Trafficking

4.2.1 Introduction

Part two will examine the three major ethical perspectives concerning sex trafficking. These are Kantian ethics, Utilitarian ethics, and the relevant “greatest happiness principle”, which was first conceived by Jeremy Bentham and later advanced by John Stuart Mill (Utilitarianism). This principle is based on the argument that the merit of an action should not only be measured by the goodness of its intentions, but by the efficacy of its consequences. Finally, the Virtue Ethics perspective will be examined primarily as a response to Utilitarianism. Aristotle, allegedly the founder of Virtue ethics, contended that a virtuous individual is the one who chooses the “Golden Mean”, or “the most rational point between two behavioral extremes”.¹⁰⁸⁴ He was of the view that naturally, people have internal predispositions from which ideal personal traits arise.

“Modern Moral Philosophy” has been acclaimed for studying virtue ethics in Western academic philosophy.¹⁰⁸⁵ The philosophy of virtue ethics was further advanced by other philosophers such as Michael Slote, who came up with another account of virtue ethics called Eudaimonia, whose arguments are based on man’s use of common sense to perceive good character traits in others.¹⁰⁸⁶ Others like Philippa Foot¹⁰⁸⁷ and Alasdair Macintyre have proposed that Eudaimonia in virtue ethics is a moralized concept and that virtues contribute to good life.¹⁰⁸⁸ There is another account of virtue ethics developed by feminists such as Annette Baier based on masculine and feminine

¹⁰⁸⁴ Carl J. Richard, *Twelve Greeks and Romans who Changed the World* (Lanham: Rowman & Littlefield, 2003), 104.

¹⁰⁸⁵ Roger Crisp and Michael A. Michael, eds., *Virtue Ethics* (Oxford: Oxford University Press, 1997), 4.

¹⁰⁸⁶ Michael Slote, “Agent-Based Virtue Ethics”, in *Virtue Ethics*, ed. Roger Crisp and Michael A. Slote (Oxford: Oxford University Press, 1997), 239-62.

¹⁰⁸⁷ Philippa Foot, “Morality as a System of Hypothetical Imperatives”, in *Virtues and Vices and Other Essays in Moral Philosophy* (New York: Oxford University Press, 2002), 157-173.

¹⁰⁸⁸ Rosalind Hursthouse and Glen Pettigrove, “Virtue Ethics”, in *The Stanford Encyclopedia of Philosophy (Winter 2018 Edition)*, ed. Edward N. Zalta (), accessed September 17, 2021, <https://plato.stanford.edu/archives/win2018/entries/ethics-virtue/>.

traits of men and women and how these traits affect ethics.¹⁰⁸⁹ This perspective is called the ethics of care. These three ethical perspectives will be part of the basis that I will use to assess the problem of human trafficking globally. I will highlight the relevance of these perspectives concerning the issue of human trafficking.

4.2.2 Kantian Ethics: Deontology

Human beings as a means to an end and as ends in themselves

In the Kantian ethical tradition, principles of morality ought to have intent which implies that they must be applied to every rational being with no exclusion.¹⁰⁹⁰ This implies that moral principles must be grounded only on reason so as to satisfy this condition. This is because motive extracts from all things that do not hold entirely for rational beings like yearnings or dispositions, among other features of human character. Moral principles state that rational beings do not decide their resolve or even act since reason and preferences that might be divergent to reason influence their will.

Immanuel Kant held that in creation, human beings occupy a distinctive place compared to anything else. Kant might not be alone in thinking this since humans have always held themselves with special regard from the prehistoric period and thought themselves to be superior to other creatures. Kant regards humans as having an intrinsic worth like dignity, and this makes them valuable above animals. He contends that other animals are also valuable but only in serving people's interests and not people serving the interests of these animals. Therefore, animals are a means to an end, and that end is to serve humans.¹⁰⁹¹

For Kant, humans can use nonhuman animals as they please, including torturing them. He, however, admits that people who torture animals have the capacity to torture or hurt their fellow humans. This does not mean that animals get hurt, but humans might suffer indirectly from the act of torturing animals, taking into account that individuals who mistreat animals are also capable of mistreating and hurting their fellow humans.¹⁰⁹² It is essential to compare the moral status of animals, as far as Kantian ethics

¹⁰⁸⁹ Annette Baier, *Moral Prejudices: Essays on Ethics* (Cambridge: Harvard University Press, 1995).

¹⁰⁹⁰ Kant, *Groundwork*, 5 [Ak 4:389].

¹⁰⁹¹ Rachels, *The Elements of Moral Philosophy*, 136

¹⁰⁹² *Ibid.*

is concerned, with the moral state of sex workers in human trafficking. Besides, Kant's views on the utility of animals help us interpret more effectively the morality of the perpetrators of human trafficking, who in many cases treat their victims worse than animals and consider them not as human beings. Therefore, according to Kant, animals have limited value in their mere nature, but human beings are entirely different from that assertion. This intends that humans cannot be used only as a means to an end but must be ends in themselves. Kant goes on to proclaim this the ultimate law of morality. Like various other philosophers, Kant held that morality ought to be a sum of one principle that determines the duties and obligations of rational beings and called this principle 'The Categorical Imperative'. For convenience, the two formulations of the 'The Categorical Imperative' that are relevant to Kant's conceptualization of human nature are repeated below:

“Act only in accordance with that maxim through which you can at the same time will that it become a universal law”¹⁰⁹³

And the alternative formula of this principle (“formula of humanity”):

“Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only.”¹⁰⁹⁴

While these two formulae seemingly express dissimilar moral conceptions, Kant puts forward two views to support his assertions on why he supposed human beings to be of more value than other creatures. Humans have desires and goals; therefore, other things become important to them in fulfilling their projects.¹⁰⁹⁵ Other creatures, which Kant called mere “things”, including animals, without self-conscious desires and goals, have importance only as means to ends. What gives them worth is the role they play in meeting the desires of humans, therefore becoming a means to an end in relation to the desires and goals of humans.

The second assertion is that humans have ‘an intrinsic worth,’ for instance, dignity. Humans are considered rational beings because they have the capacity to make

¹⁰⁹³ Kant, *Groundwork*, 37 [Ak 4:421]

¹⁰⁹⁴ Driver, *Ethics*, 90

¹⁰⁹⁵ Thomas E. Hill, *Human Welfare and Moral Worth: Kantian Perspectives* (New York: Oxford University Press, 2002), 262.

their own choices, set their own goals, and even guide their behavior by motive. Since the moral decree is a decree of reason it is thought that rational beings are the epitome of the moral decree itself. Moral goodness can only exist in the world if rational beings are able to understand what they ought to do and act from a sense of duty in doing the same. Therefore, rational beings make it possible for the moral dimension to exist in the world without which it would not be there. For this reason, rational beings should not be used to satisfy the desires and fulfill the goals of other rational beings. Kant concludes by saying that the value of rational beings must be absolute and not comparable to the value of mere “things”.

Sex trafficking is divided into categories, the major ones being child trafficking and women trafficking. The trafficking of these groups of people is driven by economic mechanisms that include but are not limited to sexual exploitation and forced labor. In some extremes, people are trafficked for the “harvesting” of their body organs. There are ‘pull’ and ‘push’ factors that underlie human trafficking, including demand for the victims' services or the availability for traffickers. This illegal trade might be lucrative to those involved in the industry, but it has multi-faceted effects on the victim and society. It deprives individuals of their human rights by degrading them to a state of humiliation and dependency. Except for denying people their freedom and fundamental human rights, human trafficking also nourishes organized crime as well as increases global health concerns.¹⁰⁹⁶ The individual victims are subjected to devastating treatments such as rape, physical and emotional abuse and even death threats to themselves and their families.¹⁰⁹⁷ On the other hand, the demand side of human trafficking is only interested in trafficked persons so as to be able to meet their goals while using the victims as means in meeting these targets. Trafficked victims, in this case, are used as “mere things”, as Kant puts it, to mean their value is entangled with the services they provide to their oppressors.

Human dignity

Kant’s concept of dignity with regard to human beings comprises the notions of

¹⁰⁹⁶ Cathy Zimmerman and Ligia Kiss, “Human trafficking and exploitation: A global health concern”, *PLOS Medicine* 14, no. 11 (2017): e1002437, <https://doi.org/10.1371/journal.pmed.1002437>.

¹⁰⁹⁷ Ibid.

dignity and humanity. Dignity is defined as the state or quality of being worthy of honor or respect.¹⁰⁹⁸ The term ‘dignity’ defines a status that has no equivalent, or as he puts it in his *Groundwork of the Metaphysics of Morals*, it is a value that is ‘beyond price’. All other things that fulfill human desires and goals have a price tag attached to them. However, this assertion is only relevant to other beings such as nonhuman animals and cannot be applied to rational beings. Rational beings should not be treated as means to fulfilling the desires and achieving the goals of other rational beings but only as an end in themselves.¹⁰⁹⁹

It is important to point out that according to Kant, dignity is grounded on autonomy, which he describes as follows:

“The will is a species of causality of living beings, insofar as they are rational, and freedom would be that quality of this causality by which it can be effective independently of alien causes determining it; just as natural necessity is the quality of the causality of all beings lacking reason, of being determined to activity through the influence of alien causes.”¹¹⁰⁰

Consequently, freedom and free will seem to be either entwined with or the same as autonomy.¹¹⁰¹ Kant defined the latter as “the property of the will through which it is a law to itself”.¹¹⁰² To understand why autonomy is based on dignity, we have to

¹⁰⁹⁸ See, Albert S. Hornby and Michael Ashby, *Oxford Advanced Learner's Dictionary of Current English*, ed. Sally Wehmeier, Colin McIntosh, and Joanna Turnbull, 7th ed. (Oxford: Oxford University Press, 2005), s.v. “Dignity”.

¹⁰⁹⁹ Kant, *Groundwork*, 52-53 [Ak 435-436].

¹¹⁰⁰ Kant, *Groundwork*, 63 [Ak 4:446]

¹¹⁰¹ *Ibid.*, 63 [Ak 4:447]: “[...] what else, then, could the freedom of the will be, except autonomy, i.e., the quality of the will of being a law to itself? [...] thus, a free will and a will under moral laws are the same”; *Ibid.*, 66, [Ak 4:449]: “It therefore appears as if in the idea of freedom we really only presupposed the moral law, namely the principle of the autonomy of the will itself, and could not prove its reality and objective necessity for itself”; also *Ibid.*, 66 [Ak 4:450]: “One must freely admit it that a kind of circle shows itself here, from which, it seems, there is no way out. In the order of efficient causes we assume ourselves to be free in order to think of ourselves as under moral laws in the order of ends, and then afterward we think of ourselves as subject to these laws because we have attributed freedom of the will to ourselves, for freedom and the will giving its own laws are both autonomy, hence reciprocal concepts, of which, however, just for this reason, one cannot be used to define the other and provide the ground for it, but at most only with a logical intent to bring various apparent representations of the same object to a single concept (as different fractions with the same value are brought to the lowest common denominator)”; *Ibid.*, 69 [Ak 4:452]: “Now with the idea of freedom the concept of autonomy is inseparably bound up”.

¹¹⁰² *Ibid.*, 58 [Ak 4:440].

look into Seneca's distinction between *pretium* and *dignitas*.

Seneca claims:

“Bodily goods are good for the body; but they are not absolutely good. There will indeed be some value in them; but they will possess no genuine merit, for they will differ greatly; some will be less, others greater.”¹¹⁰³

Following Seneca's thought, Kant states that:

“In the realm of ends everything has either a price or a dignity. What has a price is such that something else can also be put in its place as its equivalent; by contrast, that which is elevated above all price, and admits of no equivalent, has dignity. That which refers to universal human inclinations and needs has a market price; that which, even without presupposing any need, is in accord with a certain taste, i.e., a satisfaction in the mere purposeless play of the powers of our mind, an affective price; but that which constitutes the condition under which alone something can be an end in itself does not have merely a relative worth, i.e., a price, but rather an inner worth, i.e., dignity. Now morality is the condition under which alone a rational being can be an end in itself, because only through morality is it possible to be a legislative member in the realm of ends. Thus, morality and humanity, insofar as it is capable of morality, is that alone which has dignity.”¹¹⁰⁴

Agency is “a special kind of causality, namely a causality that acts under normative principles, hence a capacity to choose between alternatives according to one's

¹¹⁰³ Lucius Annaeus Seneca, *Ad Lucilium Epistulae Morales*, trans. Richard M. Gummere (London: William Hainemann, 1970), vol. II, LXXI, 33-34: “Corporum autem bona corporibus quidem bona sunt, sed in totum non sunt bona. His pretium quidem erit aliquod, ceterum dignitas non erit; magnis inter se intervalis distabunt; alia minora, alia maiora erunt”; “Genuine merit” (*dignitas*) is often also translated as “true worth”: see Lucius Annaeus Seneca and A. A. Long, *Letters on Ethics: To Lucilius*, trans. Margaret Graver (Chicago: University of Chicago Press, 2015), 221.

¹¹⁰⁴ Kant, *Groundwork*, 52-53 [Ak 4:434-5].

judgment about which alternative is permitted or required by a norm”¹¹⁰⁵, and autonomy is “the ground of the dignity of the human and of every rational nature”.¹¹⁰⁶ In other words, rationality facilitates autonomy. Autonomy is a *conditio sine qua non* for morality¹¹⁰⁷, and consequently morality becomes the ground of dignity.¹¹⁰⁸

The specific understanding of dignity, which is generally referenced in the realm of human rights works, pertains to “human dignity”. This notion is often perceived from the contemporary perspective, which differs from the earlier conceptions. From the contemporary perspective, the concept of human dignity has three meanings that define it. First, human dignity has its specific application to human beings and not other things, for example, states or institutions.¹¹⁰⁹ Second, human dignity applies in equal measure to all human beings meaning that it cannot have limited applications where individuals at the top of the social order are accorded more dignity as opposed to others.¹¹¹⁰ The third conception is that human dignity, concerning a rank bestowed upon an individual due to social recognition or a person’s social status that is conditional depending on behavior, is an intrinsic feature pertaining to human nature and personality.¹¹¹¹

This contemporary notion of human dignity is considered to have emerged from an older version of this idea with which it sharply contrasts. The old idea was *honor* which defined an individual’s position in a classified social order, as can be seen in the work of Charles Taylor in *The Politics of Recognition*.¹¹¹² However, this notion has been overtaken by the contemporary notion of human dignity, which instead applies equally to all human beings.

When the worth of rational beings goes beyond just whatever the price is, it

¹¹⁰⁵ Ibid., 175.

¹¹⁰⁶ Ibid., 54 [Ak 4:436].

¹¹⁰⁷ Ibid.

¹¹⁰⁸ Ibid.

¹¹⁰⁹ David Feldman, “Human Dignity as a Legal Value: Part I”, *Public Law* 44 (1999): 683.

¹¹¹⁰ Teresa Iglesias, “Bedrock Truths and the Dignity of the Individual”, *Logos: A Journal of Catholic Thought and Culture* 4, no. 1 (2001): 120-123, <http://dx.doi.org/10.1353/log.2001.0005>; Michael Meyer, “Kant’s Concept of Dignity and Modern Political Thought”, *History of European Ideas* 8, no. 3 (1987): 320, [https://doi.org/10.1016/0191-6599\(87\)90005-2](https://doi.org/10.1016/0191-6599(87)90005-2).

¹¹¹¹ Sharon Krause, *Liberalism with Honor* (Cambridge, MA: Harvard University Press, 2002), 15; Oliver Sensen, “Human Dignity in Historical Perspective: The Contemporary and Traditional Paradigms”, *European Journal of Political Theory* 10, no. 1 (2011): 72-75, <https://doi.org/10.1177/1474885110386006>.

¹¹¹² Charles Taylor, “The Politics of Recognition”, in *Multiculturalism and “The Politics of Recognition”*, ed. Amy Gutmann (Princeton, N.J.: Princeton University Press, 1992), 27.

implies that rational beings are to be treated differently from being just means alone but also as an end. In simpler terms, this assertion denotes those human beings have an obligation to respect the rights of fellow humans, endeavor to support their welfare, avoid hurting them, and try to promote the achieving of their ends. Thus, according to Kant, manipulating people shows disrespect to their rationality. Purposes for which people are used may be important, but their importance and whatever price is attached to them should never override human dignity. Human beings should not be equated to goods or things since they encompass a unique dignity. Those ends that are founded on inclinations have comparative values implying that they are exchangeable in the prevalence of inclination. Their worth relies on how strong the preferences in the market are in the price of goods. Human dignity and price have differences that are based on the notion that people are to be treated as ends contrary to merely being used as a means to an end. Kant holds to the notion that dignity is a concept grounded on morality, a distinctive feature that can only be found in the nature of humanity that is invariable and consistent.¹¹¹³

Dignity itself seems to imply the elevation of something or someone. In other words, that something or someone has dignity as long as he or she is elevated above other things. Freedom, according to Kant, is what elevates humanity above other creations. It does not necessarily mean that the idea of elevation alone is what dignity is founded on. Human dignity is above any price since it has an absolute, inner value that is not matched by any price.¹¹¹⁴

Kant however, in his later writings, seems to imply that human beings assume both aspects of price and dignity when regarded from different points of view. That means that people have a price or external value when regarded as natural beings, but when one is regarded as a human being, their value shifts to that of having dignity or an end to themselves, which is internal worth.¹¹¹⁵

Looking at the Kingdom of ends, all things have a price or a dignity attached to them. Things with a price attached to them are expendable, while those things with

¹¹¹³ Rachel Bayefsky, "Dignity, Honour, and Human Rights", *Political Theory* 41, no. 6 (2013): 815-816, <https://doi.org/10.1177/0090591713499762>.

¹¹¹⁴ *Ibid.*, 815.

¹¹¹⁵ *Ibid.*, 816.

dignity are irreplaceable. Those things that are linked to elementary necessities have what he called a *market price*, while the ones that are further frivolous assume an *affective value*.¹¹¹⁶ Paton likewise brings up that Kant gets the qualification amongst “price” and “dignity” from the Stoics (likewise Seneca, in *Epistulae*). As John Rist has observed, no ancient scholar thought of human beings as *all* having inherent worth simply by virtue of their ontological status as human beings.¹¹¹⁷ It is only through morality that rational beings, in this case, human beings become ends in themselves because this is the only way that human beings gain jurisdictional membership to the realm of ends. Therefore, morals and humanity have dignity. For Kant, “humanity itself is a dignity”.¹¹¹⁸

Persons who have been trafficked and forced into engaging in forced prostitution either to make their own living or used to generate revenues for their oppressors are assumed to be used as a means to an end while their reasoning is also presumed to be that of means-end. Women and children are the usual targets of human trafficking as they are mainly used for sexual exploitation. They are lured into acceptance by force or forms of coercion, deception, fraud, or abuse of their position of vulnerability. They are usually poor women looking for better means to earn a living or orphaned children whose parents died due to diseases or conflicts of war. Their hope lies in securing means of survival by migrating to other countries that seemingly harbor better employment opportunities.¹¹¹⁹ Kant’s conception of dignity mandates certain forms of treatment at the hands of others, notably political authorities—for instance, as Rex Glensy puts it, that “individuals ought never to be treated instrumentally by the state”.¹¹²⁰

The issue of human trafficking, especially of women and children, has caught the attention of the international media. Sex tourism remains the major causal factor of human trafficking. There is growing pressure, especially from feminist activists and

¹¹¹⁶ Immanuel Kant, *Kant: The Metaphysics of Morals*, ed. and trans. Mary Gregor (Cambridge: Cambridge University Press, 1997) 42-43.

¹¹¹⁷ Roger J. Sullivan, *Immanuel Kant's Moral Theory* (Cambridge: Cambridge University Press, 1989), 358; See also, Paton, *The Categorical Imperative*, 189.

¹¹¹⁸ Willy Moka-Mubelo, *Reconciling Law and Morality in Human Rights Discourse: Beyond the Habermasian Account of Human Rights* (Cham, Switzerland: Springer, 2017), 97.

¹¹¹⁹ Bales, *Disposable People*

¹¹²⁰ Rex D. Glensy, “The Right to Dignity”, *Columbia Human Rights Law Review* 43, no. 1 (Fall 2011): 76.

non-governmental organizations urging national governments worldwide to curb sex tourism, especially with regards to children. As such there are increased activities from national governments including prosecution of tourists found buying for these activities as well as awareness campaigns aimed at sensitizing foreigners upon arrival in the country they are touring.¹¹²¹ Prosecution and sensitization are prevention mechanisms that governments are putting in place to curb sex tourism especially with regards to children.¹¹²² However, for fear of losing revenue from the tourism sector as a result of a drop in the number of tourists, some national governments have not put in place measures to curb sex tourism. Others have put in place policies to fight sex tourism but have left loopholes that are exploited by the actors in the industry of sex tourism.¹¹²³

We can see how Kant's views on human dignity are disregarded when looking at the business of human trafficking. Trafficked persons are not accorded their dignity as human beings since they are perceived as 'mere objects' whose market price can be easily determined. Kant believes that human dignity is above any price since it has an absolute, inner value that is not matched by a price. We can thus conclude that human trafficking for the sole purpose of using them for sexual exploitation violates their inherent human dignity. Trafficking persons are only used as a means to an end by those who operate sex tourism industries.

Respect

The term "respect" appears in three different places in Kant's writings on ethics.¹¹²⁴ It appears in the first section of the *Groundwork* where Kant argues by saying that "respect for law" is a portrayal of morally commendable conduct and that "Duty is the necessity of an action from respect for the law".¹¹²⁵ The second place "*respect*" appears is in the *Critique of Practical Reason* where Kant offers a pragmatic psychology of moral action as well as offering an account of the psychology of respect within

¹¹²¹ Sheila Jeffreys, "Globalizing sexual exploitation: sex tourism and the traffic in women", *Leisure Studies* 18, no. 3 (1999): 187, <https://doi.org/10.1080/026143699374916>.

¹¹²² "The Facts About Child Sex Tourism", U.S. Department of State Archive, accessed June 23, 2021, <https://2001-2009.state.gov/g/tip/rls/fs/08/112090.htm>.

¹¹²³ Jeffreys, "Globalizing Sexual Exploitation", 187.

¹¹²⁴ Immanuel Kant, *Groundwork for the Metaphysics of Morals*, ed. Thomas E. Hill. trans. Arnulf Zweig (Oxford: Oxford University Press on Demand, 2003)

¹¹²⁵ Kant, *Groundwork*, 16 [Ak 4:400]

it.¹¹²⁶ The third place is in *The Metaphysics of Morals*. Here, he talks about duties of respect to both oneself and others.¹¹²⁷

Kant argues that human life is valuable since humans have rational life compared to other creatures of non-human nature. Humans have autonomy and have the ability to make choices and even plan. It is this ability and its subsequent exercise that are of value that should not be forfeited for whatever of smaller worth. Consequently, since all rational creatures are autonomous, they should therefore be accorded respect and not be treated as mere means for the satisfaction or even the contentment of other rational beings. From Kant's perspective, it means that humans can even sacrifice their lives for the sake of the lives of other humans.¹¹²⁸ Doing so means that humans would be using own maxim and no other human uses the other as means to an end. Humans may thus not use either other people's lives or even bodies for arrangements that they have either coerced or misled them into joining. Doing so would simply amount to treating others not as rational beings but using them as mere means and not as ends in themselves. In a society complying with Kant's perspective, it is conceivable for all people not to be used as instruments of other people.

Self-Respect

What Kant implies about the duties of respect toward other people is based on a broad notion of what it takes to respect ourselves. To comprehend Kant's views on our duty to respect others, we need to examine his description of the perfect duties to oneself where he illustrates them as the "highest duties of all".¹¹²⁹ He describes perfect duties to oneself as a set of rational necessities about how one values oneself in a unique way, thinking of themselves as having a dignity exceeding any price, incomparable and absolute. Thus, when we harm ourselves, get overwhelmed with lust, or make ourselves desperate before others is valuing ourselves in a lesser and substandard way.¹¹³⁰

Further, he introduces the notion of the "absolute inner worth" of human beings

¹¹²⁶ Immanuel Kant and Andrews Reath, *Kant: Critique of Practical Reason*, trans. Mary Gregor (Cambridge: Cambridge University Press, 2015), 60-73 [5:71-89]

¹¹²⁷ Kant, *Practical Philosophy*, 556-559 [6:434 – 437]

¹¹²⁸ O'Neill, "A Kantian Approach", 300; Kant and Reath, *Kant: Critique*, 126 [5:158]

¹¹²⁹ Immanuel Kant, *Lectures on Ethics*, trans. Peter Heath (1997), 350.

¹¹³⁰ Immanuel Kant, *Lectures on Ethics*, trans. Peter Heath (1997), 330-331, 350-351; Kant, *Practical Philosophy*, 558-559 [6:436-437].

“exalted above any price”.¹¹³¹ Humans have no right to defile, disrespect, or disgrace themselves since they possess an intrinsic worth that they ought to be respected by fellow humans. Another way of interpreting the perfect duties to oneself is to look at the fundamental, self-absorbed requirements to all rational beings that tell humans how to value themselves without necessarily assuming that others will respect them simply because of bearing intrinsic value. From this viewpoint, these requirements only offer explanations as to why individuals choose to treat themselves in a certain way but do not necessarily mean they will be treated by others the same way merely because they are rational beings. This notion of “awesome nature of human beings” provides us with a guide on what it takes to respect oneself.¹¹³²

Kant separates duties of respect to oneself into ‘perfect’ and ‘imperfect’ duties. The ‘perfect’ duties are those that individuals ascribe themselves to forbid self-disrespecting. Kant argues that human beings have the capability to realize a sufficient sense of worth, and this should not necessarily depend on the appreciation or reverence from others.¹¹³³ According to John Rawls, people can attain appropriate self-respect by being part of a society that values them.¹¹³⁴ Kant however, does not contend with Rawls’s assertion as he does not see the need to help others in respecting themselves since there are positive duties to aid them in following their own happiness.

He stresses that when individuals put excessive value and respect on themselves, they develop a habit that undercuts the need for the respect they receive from others. People do not need the positive input of others like noble wishes to build self-respect. In contrast, what people need is for others to desist from overstepping on the respect they have on themselves merely by placing excessive value on themselves, in the process putting a corresponding low value on others.¹¹³⁵

¹¹³¹ Kant, *Practical Philosophy*, [6:434–435].

¹¹³² Wood, “Duties to Oneself”, 241.

¹¹³³ Kant, *Practical Philosophy*, 582 [6:466]

¹¹³⁴ John Rawls, *A Theory of Justice* (Cambridge: Belknap Press Of Harvard University Press, 1999), 54-55.

¹¹³⁵ Kant, *Practical Philosophy*, 576-577 [6:458-460]; *Ibid.*, 579 [6:462], “Moderation in one’s demands generally, that is, willing restriction of one’s self-love in view of the self-love of others, is called modesty. Lack of such moderation (lack of modesty) as regards one’s worthiness to be loved by others is called egotism (*philautia*). But lack of modesty in one’s claims to be respected by others is self-conceit (*arrogantia*)”.

The fundamental point that Kant tries to argue is that human beings at times inhabit an exaggerated view of themselves because of popularity, fame, physical beauty, wealth, education, among other dispositions. Valuing oneself more than others is the primary cause for devaluing others or valuing others less than they should be valued. This aspect makes people assess others in relation to themselves so as to find out the “appropriate” value to accord them. People who occupy high-ranking positions at work would demand that those occupying low-ranking positions think and even treat them as superiors. Those occupying low ranking positions are expected by superiors to feel and think of themselves as inferior compared to those in high-ranking positions.¹¹³⁶

People who are not arrogant are influenced by the opinions of self-conceited people when they encounter them. Opinions of being inferior are readily accepted when considering the low evaluations of others, especially when they perceive themselves from a superior point of view.¹¹³⁷ Natural propensity to self-conceit undermines an individual’s view of respect they accord themselves.

Kant argues that persons who engage in sexual activities for profit disrespect themselves and act as mere objects that satisfy other peoples’ desires the same way a hungry person feeds on food to satisfy hunger. He puts it this way:

“To allow one’s person for profit to be used by another for the satisfaction of sexual desire, to make of oneself an Object of demand, is to dispose over oneself as over a thing and to make of oneself a thing on which another satisfies his appetite, just as he satisfies his hunger upon a steak. But since the inclination is directed towards one’s sex and not towards one’s humanity, it is clear that one thus partially sacrifices one’s humanity and thereby runs a moral risk. Human beings are, therefore, not entitled to offer themselves, for profit, as things for the use of others in the satisfaction of their sexual propensities”.¹¹³⁸

¹¹³⁶ Kant, *Practical Philosophy*, 581-2 [6:465-466]

¹¹³⁷ *Ibid.*, 581 [6:465]

¹¹³⁸ Immanuel Kant, “The Philosophy of Law”, trans. W. Hastie, in *Morality and Moral Controversies: Readings in Moral, Social and Political Philosophy*, ed. John Arthur, 3rd ed. (Englewood Cliffs, NJ: Prentice Hall, 1993), 254.

At this point, Kant follows Thomas Aquinas in justifying sex only for the purpose of acquiring offspring.

Considering masturbation, specifically, it is condemned as a mortal sin by Thomas Aquinas¹¹³⁹ and as moral misconduct by Jean-Jacques Rousseau and Immanuel Kant¹¹⁴⁰. Aquinas distinguishes carnal sins between those contrary to nature (*crimina carnis contra naturam*) and those in accordance with nature (*crimina carnis secundum naturam*). In the first category, which is considered the most grievous one, since sins contrary to nature are sins against God, Aquinas includes masturbation, homosexuality, zoophilia and any heterosexual sexual activity that does not have the purpose of producing offspring¹¹⁴¹. In the second category, he includes incest, adultery, seduction and rape.¹¹⁴² Sins of this category are considered less grievous, because even though they might be contrary to right reason, regarding the nature of the activity in relation with the other (involved) person,¹¹⁴³ they can still lead to the production of offspring and so cannot be considered unnatural. On the contrary,

“Therefore, since by the unnatural vices man transgresses that which has been determined by nature with regard to the use of venereal actions, it follows that in this matter this sin is gravest of all.”¹¹⁴⁴

Surprisingly, according to Thomas masturbation is a more serious sin than rape, like any other sexual activity that by its nature has as a sole purpose of only pleasure and cannot lead to reproduction. Rousseau, on the other hand, says of masturbation (obviously considering only men):

“has a particular attraction for lively imaginations. It allows them to dispose, so to speak, of the whole female sex at their will, and to make

¹¹³⁹ Soble, “Kant and Sexual Perversion”, 71.

¹¹⁴⁰ For a good overview on discussion about the morality of masturbation see Alan Soble, ed., s.v. “Masturbation”, in *Sex from Plato to Paglia: A Philosophical Encyclopedia* (Westport, Conn.: Greenwood Press, 2006), 671-683.

¹¹⁴¹ Thomas Aquinas, *Summa Theologiae*, vol. 43 (Cambridge: Blackfriars, 1964), art 11, p. 245.

¹¹⁴² *Ibid.*, article 1, 207.

¹¹⁴³ *Ibid.*

¹¹⁴⁴ “St. Thomas Aquinas: *Summa Theologica* - Christian Classics Ethereal Library”, Christian Classics Ethereal Library, accessed August 18, 2021, https://www.ccel.org/ccel/aquinas/summa.SS_Q154_A12.html; see also Aquinas, *Summa Theologiae*, article 12, 247.

any beauty who tempts them serve their pleasure without the need of first obtaining her consent”¹¹⁴⁵

For Rousseau, masturbation with fantasy is equal to mental rape.¹¹⁴⁶

Immanuel Kant’s first stage of his polemic focuses on the role of imagination who considers masturbation “to be the archetype of all perversion”, Scruton points out, “precisely because it replaces the real object of desire by a fantasy that is self-created and therefore obedient to the will”¹¹⁴⁷. “If ... we give our imagination free play in sensual pleasures”, Kant says, “to the extent of even giving it reality, vices are created which are contrary to nature and involve most serious offences against the duties we owe to ourselves”¹¹⁴⁸. Masturbation, according to Kant, because is based solely on our imagination, is contrary to nature and the natural end of sexual desire¹¹⁴⁹, a fact that self-evidently¹¹⁵⁰, according to Kant, degrades anyone who indulges in it to a being lesser than animals¹¹⁵¹. In parallel at the second stage of Kant’s polemic, he states that masturbation violates the second formulation of the Categorical Imperative because “...man surrenders his personality (throwing it away), since he uses himself merely as a means to satisfy an animal impulse”¹¹⁵². He further states that it is a “...violation of the humanity in one's own person by such a vice in its unnaturalness, which seems in terms of its form ... to exceed even murdering oneself”¹¹⁵³, since according to Kant suicide, at least, requires courage which leaves

“...always room for respect for the humanity in one's own person.

But unnatural lust, which is complete abandonment of oneself to an-

¹¹⁴⁵ Jean-Jacques Rousseau, *The Confessions*, trans. J. M. Cohen (New York: Penguin Books, 1979), 108-109.

¹¹⁴⁶ Soble, “Kant and Sexual Perversion”, 61.

¹¹⁴⁷ Roger Scruton, *Sexual Desire: A Moral Philosophy of the Erotic* (New York: Free Press, 1986), 319.

¹¹⁴⁸ Immanuel Kant, *Lectures on Ethics*, trans. Louis Infield (Indianapolis: Indianapolis, 1963), 142.

¹¹⁴⁹ Kant, *Practical Philosophy*, 549 [6:424-425]

¹¹⁵⁰ *Ibid.*, 549 [6:425]

¹¹⁵¹ *Ibid.*

¹¹⁵² *Ibid.*

¹¹⁵³ *Ibid.*

imal inclination, makes the human being not only an object of enjoyment but, still further, a thing that is contrary to nature, that is, a *loathsome* object, and so deprives him of all respect for himself.”¹¹⁵⁴

Following Thomas Aquinas’s thought—to whom Kant never refers—Kant divides carnal sins into *contra* and *secundum naturam*. Both of them constitute violation of our duty to our own self, for the fact that they are countering the ends of humanity. The former ones, though, are against right reason, while the later, in which Kant, includes masturbation, are contrary to our natural instinct and our animal nature¹¹⁵⁵. Therefore, Carnal sins *contra naturam* render man inferior than beasts and thereby unworthy to be considered persons.¹¹⁵⁶

Regarding sexual morality, Kant’s views may be considered traditional and conservative in the contemporary approach. He holds onto the view that sexual intercourse ought to be between married individuals; otherwise, the act would degrade human dignity. Kant contends that sex outside marriage is demeaning and objectifying to both partners engaging in the act, even if it is consensual. He calls this casual sex and sees it as disagreeable since it is based on sexual satisfaction, just like a hungry people feed on food to satisfy their hunger. This kind of sex fails to show respect for the humanity of partners but focuses on the act of sex; therefore, the other person is treated as a mere object whose sex is the object of desire for the other partner.

Turning to the issue of prostitution, Kant contends that no human should treat the other as mere objects of desire since men are not at their own disposal; that is, people do not own themselves. The contemporary debates about sexual morality seem to invoke autonomy and rights, to suggest that individuals are at their own disposal and therefore they should choose for themselves what to do with their bodies. The kind of autonomy being referred to by these contemporary arguments contrasts with Kant’s conception of autonomy. Kant’s conception of autonomy implies that people ought to have restrictions on the way they treat themselves. Kant calls this the Categorical Im-

¹¹⁵⁴ Ibid., 549-550 [6:425]

¹¹⁵⁵ Kant, *Lectures on Ethics*, trans. Infield, 169-170.

¹¹⁵⁶ Ibid, 170-171.

perative, which is a law pertaining to how individuals should treat themselves and others. It requires that all rational beings should treat other rational beings with respect, and this includes themselves. When people use their bodies in any way they please, they contrast the Categorical Imperative law and deduct respect from themselves and others.

In the days of Kant, kidney transplants did not happen, but this is not to imply that the rich did not buy human parts from the poor. For example, purchasing teeth for implantation was a practice Kant considered a violation of human dignity:

“A person is not entitled to sell a limb, not even one of his teeth”,¹¹⁵⁷
and “To do so is to treat oneself as an object, a mere means, an instrument of profit.”¹¹⁵⁸

Kant based his objections to prostitution on the argument that a person who allows himself to be used by another for sexual satisfaction is the same as a commodity in the marketplace awaiting demand from the potential buyer.

Duties of respect to others

People are rational beings with dignity, which Kant describes as a value that is beyond any price and must be respected and not be subject to rational exchange for any item of whatever value.¹¹⁵⁹ Kant describes respect as the appropriate rational approach toward something that has objective worth. He also describes contempt as the act of treating something in a manner to demean it or as something with no or with little value than its actual worth. Thus, treating human beings with contempt is treating them as if they lacked dignity.¹¹⁶⁰ If one is a moral being, then this human being has dignity.

According to Kant, people who act in strange ways make themselves appear not worthy of their human dignity. Nonetheless, such strange actions do not make such people lose their human dignity, nor do they forfeit it. Kant argues that we ought to

¹¹⁵⁷ Kant Immanuel, “Duties towards the Body in Respect of Sexual Impulse”, in *The Philosophy of Sex: Contemporary Readings*, ed. Alan Soble (Lanham: Rowman & Littlefield Publishers, 2002), 201.

¹¹⁵⁸ Sandel, “What Matters Is the Motive”, 131.

¹¹⁵⁹ Norman E. Bowie, *Business Ethics: A Kantian Perspective* (Cambridge: Cambridge University Press, 2017), 43.

¹¹⁶⁰ Immanuel Kant, “Kant's practical philosophy: Herder's lecture notes”, in *Lectures on Ethics*, ed. Peter Heath and J. B. Schneewind, trans. Peter Heath (Cambridge: Cambridge University Press, 1997), 1-36.

show respect for others even in the rational or speculative use of motive or even when pointing out errors.¹¹⁶¹ He further contends that we have an obligation not to ensnare others into doing things that might be shameful to themselves later on. To put it another way, we have a duty to preserve other people's self-respect by not subjecting them to demeaning actions or behaviors that cause them to lose respect for themselves as rational beings.

More precisely, the rational nature of humans cannot be violated so as to uphold other people's happiness or gratification. Going by this notion, respect for the blossoming of rational nature must involve respect for fundamental rights. Simply put, humans ought to support and protect others in accessing basic goods which are necessary for all people to encourage the flourishing of rational nature. There should be a restraint on disrespecting these fundamental rights of persons so as to promote both dependent and personal preferences of others.

Kant lists three vices that violate duties of respect to others. These vices are: arrogance, defamation, and ridicule. He describes *arrogance* as treating another person with contempt—or imagining oneself as more worthy than the other—which he calls violation of duties of respect to others. This thinking of oneself as being more worthy than the other is unfeasible as the worth of all people is unique and absolute, meaning that everybody is equal. From this assertion, arrogance implies rating own existence higher than that of another.¹¹⁶² Arrogance is strongly related to our innate human need for *honor*. People seek the good opinion of others that, alongside power and affluence, is among the essential goods for which people compete. This is the psychological basis of morality itself. However, there is something inconsistent in this because if people are fighting for honor, the implication is that they might be unequal in their value when the central principle of morality states that all rational beings are of equal worth as ends in themselves. However, morality needs to establish the acceptable rational standard for self-assessment that involves valuing oneself for humanity and not with regard to anything in which one may even probably be considered superior to others.¹¹⁶³

¹¹⁶¹ Ibid.

¹¹⁶² See also Wood, *Kant's ethical thought*, 132-139, 250-265, 283-291.

¹¹⁶³ Allen Wood, "Duties to Oneself, Duties of Respect to Others", in *The Blackwell Guide to Kant's Ethics*, ed. Jr. Thomas E. Hill (Chichester, U.K. Malden, MA: John Wiley & Sons, 2009), 246.

The second vice that violates duties of respect to others is *defamation*. This could be considered the trait vice of moralists, the wish to fault others and render them to blame. Kant does not necessarily equate defamation to *vilification*¹¹⁶⁴ but instead taking pleasure in spreading information that though accurate, is meant to detract from the honor of another.¹¹⁶⁵ This violates a duty of respect to others since it does not guard other people against faults but exposes them against public reproach. The vice of defamation implies respecting other people's privacy. This vice involves:¹¹⁶⁶

“a mania for spying on the morals of others (*allogrio-episcopia*) is by itself already an offensive inquisitiveness on the part of anthropology, which everyone can resist with right as a violation of the respect due him”.¹¹⁶⁷

The third vice that violates duties of respect to others is *ridicule*. Ridicule entails finding pleasure in what makes others objects of mockery or disdain. Kant distinguishes this from joking, where people or friends familiar with one another make fun of their peculiarities that on the face seem to be kind of fault but are not a form of ridicule.¹¹⁶⁸ It is not the same as using humor to brush aside an attack that might be malicious on oneself. The fundamental question is whether one takes delight for its own sake in trying to make the other a laughing stock.¹¹⁶⁹

Kant contends that these vices of disrespecting other people demonstrate a fundamental trait regarding the nature of humanity that has close ties with their deep-seated inclination for immorality. In the social order, social relations entail competitiveness and an artificial sense of human value at their basis. If we take into account that all rational beings are of equal value, then using others only as means to our ends would be a complete violation of the universal law of the realm of ends.¹¹⁷⁰

¹¹⁶⁴ Vilify: “to say or write unpleasant things about someone or something, in order to cause other people to have a bad opinion of them”, see *Cambridge Dictionary: English Dictionary* “Vilify”, (Cambridge University Press), accessed March 22, 2020, <https://dictionary.cambridge.org/dictionary/english/vilify>.

¹¹⁶⁵ Kant, *Practical Philosophy*, 582 [6:466].

¹¹⁶⁶ Wood, “Duties to Oneself”, 246.

¹¹⁶⁷ Kant, *Practical Philosophy*, 582 [6:466].

¹¹⁶⁸ Kant, *Practical Philosophy*, 582-583 [6:467].

¹¹⁶⁹ Wood, “Duties to Oneself”, 247.

¹¹⁷⁰ Ibid.

The vices of disrespect to others are ubiquitously present in the context of sex trafficking and the sex trade in general. Traffickers disrespect their victims, voluntary prostitutes disrespect sex buyers, and clients disrespect the sex workers or the victims.

4.2.3 Utilitarian Ethics

The greatest happiness principle and the Felicific (Hedonistic)

Calculus

The greatest happiness principle was proposed by Jeremy Bentham about two centuries back, around 1789, and advanced by John Stuart Mill, a follower of Bentham. He argued that the integrity of an action should not only be measured by the goodness of its intentions but by the efficacy of its consequences. The final “utility” is what Bentham called human “happiness”. He thus concluded that people should endeavor at what he called the greatest possible happiness for the greatest number of people. Bentham did define happiness in relation to psychological experience, saying it is the computation of pleasures and pains. This viewpoint is what is known as “Utilitarianism”, for the reason that it emphasizes the efficacy of behavioral consequences. This principle does hold that acts are partly correct if their motive is to advance happiness but wrong on the other part if they generate unhappiness. Happiness implies enjoyment without pain, while unhappiness implies pain and the deprivation of joy. So, an action is considered right simply because, out of the entire actions one could have done, this action results in more happiness than any other action.¹¹⁷¹

In simpler terms, the principle holds that an action is right as long as it contributes to the greatest happiness for all those it involves, or else the action is wrong.¹¹⁷² The aim of any action should lead to the greatest happiness. In this case, our actions are not evaluated on what they are but by the consequences they produce. For instance, the action can be a person telling a lie at the expense of truth about something or someone so as to achieve their intended objective. The term “Greatest happiness” is in the relative form: great, greater, greatest. From this point of view, we get the impression that in the

¹¹⁷¹ Driver, “The History of Utilitarianism”.

¹¹⁷² Stephen Nathanson, “Utilitarianism, Act and Rule”, in *The Internet Encyclopedia of Philosophy* (ISSN 2161-0002), accessed August 13, 2021, <https://iep.utm.edu/util-a-r/>.

event an action results in the greatest happiness of the ones it influences, no supplementary action taken at that point could have resulted in greater happiness.

The theoretical and practical conclusions that can be drawn from utilitarian theory pertain to the deeds of an individual and the usefulness of the resulting outcomes. An individual is considered to be moral as long as his actions are helpful to society. On the other hand, a person's actions are thought to be immoral if they do not advance the happiness of the community. However, it does not imply an action is moral by just escalating utility, but it has to be the optimal option in advancing utility and decreasing pain.¹¹⁷³

Bentham takes from David Hume (1711–1776) the view that utility is the evaluation of virtue, implying a broader interpretation of utility than Hume's usage. This is so since Hume made a difference between pleasure that the perception of virtue produces in the observer, and the collective utility, which comprises in a trait having physical benefits for society, any occurrence of which may or may not produce pleasure in the observer.¹¹⁷⁴ But Bentham seems to have been influenced by Hume to view pleasure as a measure of morality. Bentham views the action as morally acceptable in analyzing the consequences it produces, the pleasure or utility it generates, which could be entirely independent of our reactions to the action. Hume, however, does not provide an observer test for virtue or vice, thus making it difficult for him to account for how people make mistakes in evaluations of virtue and vice. On the other hand, Bentham articulates that people may not react to the actions' good traits or do not identify the sound effects. But as long as the good results exist, on steadiness, superior compared to the impact of any other alternative course of action, then the action is taken to be the right one.¹¹⁷⁵

Bentham takes note that if pain can be established on false values, then he supposes that it can be changed, or at the very least, alleviated and diminished. This is different from the standpoint that pain or pleasure that is founded on false credence ought to be discounted. Bentham does not believe the latter. Thus, Bentham's pleasure-seeking view is simple: the inherent good is pleasure, whereas the dire one is pain.

¹¹⁷³ Driver, "The History of Utilitarianism".

¹¹⁷⁴ Ibid.

¹¹⁷⁵ Ibid.

People are to advance pleasure while acting to diminish pain. Bentham provides a rationale that one can use to measure the value of an action with regard to pleasure and pain when making moral decisions. For that reason, he created an algorithm and named it felicific (hedonistic), a calculus in order to calculate the amount of pleasure that a specific action could cause. He included seven variables or criteria of felicific calculus. The criteria are as follows:¹¹⁷⁶

1. Intensity: indicates the strength of pleasure or pain,
2. Duration: indicates the longevity of the action,
3. Certainty or uncertainty: indicates the likelihood of there being pleasure or pain due to the action,
4. Propinquity or remoteness: indicates closeness in feeling with regard to performance of the action,
5. Fecundity: indicates the likelihood of the action leading to more pleasures or pains,
6. Purity: indicates the level of intermixture there is with the other sensation.
7. Extent: the number of people affected by the action is also taken into consideration.¹¹⁷⁷

Bentham and Mill stated that the “extent” determinant is much more important than the other six criteria. Bentham took note that it could be overwhelming to follow all these factors. He does not commend that they form the outline into all acts of moral consideration due to the efficiency costs which need to be taken into account. He instead implied that experience could also guide us. For example, from experience, we generally know that one feels pain when kicked, and as such, the pleasure we take in kicking someone is outweighed by the pain and discomfort inflicted on them. Therefore, when the temptation to kick someone for whatever reason confronts us, we can rely on the knowledge and experience we have accumulated to consider it a wrong action.

¹¹⁷⁶ Jeremy Bentham, “An Introduction to the Principles of Morals and Legislation (1781) - Chapter IV: Value of a Lot of Pleasure or Pain, How to be Measured”, *Utilitarianism: Past, Present and Future*, accessed August 23, 2021, <https://www.utilitarianism.com/jeremy-bentham/index.html#four>.

¹¹⁷⁷ Adapted from Bentham, “An Introduction”.

Examples of applying the felicific calculus in prostitution

In the following tables, I will try to calculate the difference in utility between three different kinds of dilemmas that a poor, uneducated young Thai woman could face in her life. Each table consists of three columns. Columns number two and three represent the Thai woman's different choices to satisfy the same need or desire. The dilemma is always between “Choice A”, “engaging in prostitution” or “Choice B”, “working in a low salary job” in order to accomplish her goal. Below each choice are cells corresponding to the seven different variables of the felicific calculus. Each check to a cell adds one point of utility to the corresponding option. The more points, the higher the utility of the choice. In the following tables, the term prostitute refers to that of a woman who illegally offers sexual pleasure in exchange for money. Specifically, in the calculations of happiness, harms, and utilities of each choice, the following criteria are taken into consideration: (a) Prostitution is illegal and unregulated in Thailand. (b) The comparison of “engaging in prostitution” is being made with a legal and regulated job. (c) The Thai woman is young, uneducated, poor, lives in Thailand, and has no qualifications or skills to apply for a high-salary job.

Table 4.1: Young woman needs to support her child

CASE ONE	Choice A: Engaging in prostitution to support her child	Choice B: Working in a low salary job to support her child
Intensity: How strong is the pleasure?		V
Duration: How long will the pleasure last?		V
Certainty: How likely is it that the pleasure will occur?	V	
Propinquity or remoteness: How soon will the pleasure occur?	V	
Fecundity: The probability that the action will be followed by sensations of the same kind.		V
Purity: The probability that it will not be followed by sensations of the opposite kind.		V
Extent: How many people will be affected?		V

Table 4.2: Young woman desiring to acquire fashion items

CASE TWO	Choice A: Engaging in prostitution to acquire fashion items	Choice B: Working in a low salary job to acquire fashion items
Intensity: How strong is the pleasure?		V
Duration: How long will the pleasure last?		V
Certainty: How likely is it that the pleasure will occur?	V	
Propinquity or remoteness: How soon will the pleasure occur?	V	
Fecundity: The probability that the action will be followed by sensations of the same kind.		V
Purity: The probability that it will not be followed by sensations of the opposite kind.		V
Extent: How many people will be affected?		V

Table 4.3: Young woman needs to support her university studies

CASE THREE	Choice A: Engaging in prostitution to support her studies	Choice B: Working in a low salary job to support her studies
Intensity: How strong is the pleasure?		V
Duration: How long will the pleasure last?		V
Certainty: How likely is it that the pleasure will occur?	V	
Propinquity or remoteness: How soon will the pleasure occur?	V	
Fecundity: The probability that the action will be followed by sensations of the same kind.		V
Purity: The probability that it will not be followed by sensations of the opposite kind.		V
Extent: How many people will be affected?		V

Discussing the felicific calculus in Table 4.1, Table 4.2 and Table 4.3

By examining each case, we see that engaging in prostitution falls short of utility in all criteria except that of certainty and propinquity in all cases. The main reason is that the life of a prostitute is full of dangers and risks. It might offer her immediate gratification and higher chances of achieving her financial needs in comparison with a low salary (“Choice B” falls short in “Certainty” and “Propinquity”). Still, prostitution, among other considerations, is technically illegal, and she is evading taxes, may deal with dangerous people, and she risks contracting sexually transmitted infections. Even more, prostitution in Thailand is quite often connected with sex trafficking, where there is a risk of becoming a victim by being coerced, abused, and threatened by various parties. So, even though she will probably be able to acquire more money faster and easier in comparison with low salary from a regular occupation, she is less likely to feel safe and secure; nor she will be proud of the way she succeeds in her goal; her practices will never be accepted in Thai society, despite fulfilling her familial duty is an acceptable social norm in Thailand. Any pleasure will be followed by pain from risks associated with the lifestyle, and pleasant parts may not last long (“Choice A” falls short in “Duration”, “Purity” and “Fecundity”). The amount of harm inflicted on her will overshadow the strength of the pleasure that she is striving for (“Choice A” falls short in

“Intensity”). The most important criteria and most difficult to calculate is that of “Extent”. Prostitutes are not only giving sexual pleasure to many men, but they are also helping them to soothe their behavior and reduce their aggressiveness. So, someone could argue that prostitution is helping society in general to reduce incidents of aggressive behaviors.

On the contrary, by engaging in prostitution, a Thai girl gives sexual pleasure to others but rarely offers any to herself. She chooses to support the system of sex work, which in some cases involves trafficking. She evades taxation, may spread disease, and indirectly allow her clients or co-workers to act aggressively or even violently on her (under the protective umbrella of sex trafficking business), leading to an increase in aggression. Finally, engaging in prostitution seems to create more harm and pain on society than pleasure. That is why it scores lower in the “Extent” criteria of the Calculus than working in low-salary jobs. Of course, there are sex workers who are in control of their work situation and who are on occasion treated well, which does not involve trafficking.

Clearly, human trafficking cannot be considered a factor whose final “utility” is human “happiness”. The impacts of human trafficking are destructive to human nature and more so to the trafficked victims who endure harsh experiences in the hands of their oppressors. Looking at the effects of human trafficking both at macro and micro levels we can clearly make out that the effects produce negative consequences on society, which we can deduce to mean they bring pain and not pleasure to those affected. For example, women and children trafficked for sexual exploitation suffer both physical and psychological consequences. Their kins are also affected psychologically, knowing what their beloved ones are going through. Victims of sex trafficking are often stigmatized by society and even their kin when they finally return to their home countries.

It is nearly impossible to correctly measure the impacts of human trafficking due to its illicit and obscure nature. Many national governments lack adequate definitions, legal frameworks, experience, and political goodwill to deal with human trafficking. Victims of trafficking are often unwilling to cooperate with relevant anti-trafficking agencies that try to understand their plight. This makes it difficult to measure the

impacts of human trafficking both in individuals and society at large.¹¹⁷⁸ However, that is not to say that impacts on human trafficking do not exist. Human trafficking impacts both the individual and society at large. Trafficking may happen within a country or involve several countries. In both cases, there is the origin side where the victims are recruited and the destination side where trafficking victims are taken to for exploitation. Transit routes used by traffickers in transporting victims, be they countries or routes within a country, are also impacted.

Victims of human trafficking suffer from an array of both psychological and physical health conditions. These conditions stem from the treatment they receive from their traffickers as well as their employers on the demand side of human trafficking. The conditions that victims of trafficking are subjected to are usually inhumane, and where nutrition is poorly provided, sanitation is wanted, in addition to poor personal hygiene and severe emotional and physical treatment.¹¹⁷⁹ Human trafficking impacts society as a whole. Some of the sectors that are impacted by human trafficking at the macro level include the health and economic sectors. At the micro-level, the health of individuals is affected negatively; the social life of the individual is impacted as they become socially stigmatized.

Impacts of human trafficking at the macro level

Health sector

The World Health Organization (WHO) Constitution of 1946 states that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”.¹¹⁸⁰ However, the global spread of HIV/AIDS in the 1980s is what rattled the international community to draft policies that would help in the campaign

¹¹⁷⁸ Alexis A. Aronowitz, *Human Trafficking, Human Misery: The Global Trade in Human Beings* (Westport, CT: Praeger, 2009), 15-21; Shelley, *Human Trafficking*, 4.

¹¹⁷⁹ International Organization for Migration, *Caring for Trafficked Persons: Guidance for Health Providers*, ed. Cathy Zimmerman and Rosilyne Borland (International Organization for Migration (IOM), 2009), https://publications.iom.int/system/files/pdf/ct_handbook.pdf.

¹¹⁸⁰ WHO Constitution was adopted by the International Health Conference that took place in New York, starting Jun. 19 to May 22 of 1946. It was signed by the representatives of sixty-one states and it entered into force in April 1948.

against the disease. For the campaign against HIV/AIDS to succeed, all actors must be brought onboard, spanning from sex workers, human rights activists, activists of same-sex relationships, medical and health communities, religious groups, educators, and policymakers of national governments, among other actors. The issue of human trafficking and health are intricately related because human trafficking for the purpose of sex tourism presents health challenges to the final destinations of trafficked victims and their countries or regions of origin. Victims trafficked for the purposes of sexual exploitation are at the highest risk of contracting HIV/AIDS as well as other sexually transmitted infections (STIs), with a risk of spreading disease when they return to their places of origin. Current data on trafficking victims infected with HIV/AIDS and STIs is hard to find. Still, there are strong indications from victims of trafficking, especially the ones working in the sex tourism industry, showing that they have been affected. The fundamental health rights of individuals are violated when they fall victims to trafficking, where they end up being subjected to hazardous health conditions that endanger themselves and society at large.¹¹⁸¹

For children, in particular, sexual exploitation is even more damaging to their health. Children lack correct information about sexually transmitted infections on how they are contracted, and their prevention strategies. Children are likely to have little or no say when using condoms since they lack power and skills, increasing their risk of infections. In addition to the high risk of HIV/AIDS and other STIs, children are more than likely to be traumatized from such acts of behavior, feel betrayed and feel helpless. There is also stigmatization involved in sexual exploitation that can severely damage the development of an adolescent. Stigma can result in an impaired ability to form attachments and succeed in interpersonal interactions along with psychiatric illnesses of various kinds. In addition, the physiological and developmental consequences of sexual exploitation on minors are likely to last long into adulthood.

Economic impacts

The recruitment of trafficking victims directly impacts the country of origin, as it results in the loss of human capital. For development to happen, there needs to be an

¹¹⁸¹ Raymond, "Prostitution on Demand", 1181-1183.

investment in human capital. Public sectors such as education, health, and transport require the input of human capital.¹¹⁸² Human trafficking partly happens because destination countries of trafficking victims are looking for cheap labor where high productivity is not affected by the workers' wage demands. By trafficking people means that there are lost opportunities in the country of origin where future productivity is hugely impacted.¹¹⁸³ As a result of the loss of human capital, the profits generated by victims are used to help fuel the activities of the traffickers instead of being remitted to the countries of the trafficked victims. Some of the capital generated by the victims is also transferred abroad to develop the economies of the destination countries, while the economies of origin countries (mainly the economies of developing countries) suffer due to lack of human capital and a drop in annual remittances, in turn, implies development loss.¹¹⁸⁴

In cases where children are recruited and trafficked as child laborers, they experience multiple adverse effects, such as the inability to handle the situation psychologically. The children's health is severely impacted as they cannot bear the consequences that come with forced labor. Children are usually taken to be the future of any society. Therefore, when the trafficking of children happens, the country's future where children are trafficked is deprived of possible work, experience, and even knowledge that could be of the common good.¹¹⁸⁵

Impacts of human trafficking at the micro level

STIs, Drugs, and Substance Abuse

Trafficked persons have no bargaining power concerning the use of condoms when it comes to sexual exploitation, making them more vulnerable to HIV and other STIs. Trafficked persons for sex exploitation mostly lack medical attention, which in

¹¹⁸² Gergana Danailova-Trainor and Frank Laczko, "Trafficking in Persons and Development: Towards Greater Policy Coherence", *International Migration* 48, no. 4 (2010): 38-83, <https://doi.org/10.1111/j.1468-2435.2010.00625.x>.

¹¹⁸³ Department of State United State of America, *Trafficking in Person Report June 2017*, 18.

¹¹⁸⁴ *Ibid.*, 18.

¹¹⁸⁵ Judith Dixon, "The impact of trafficking in persons", in *An Introduction to Human Trafficking: Vulnerability, Impact and Action* (Vienna: United Nations Office on Drugs and Crime, 2008), 94, https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf.

most cases is not made available to trafficked individuals working in the prostitution industry. Children working in the prostitution industry are the most vulnerable to infections owing to the misconceptions that younger girls are not infected with STIs and that having intercourse with virgins cures HIV. The increased incidents of HIV infections among sex trafficking victims put them in a high-risk group because they often do not get to decide the use of condoms on many occasions.¹¹⁸⁶ Trafficked women often do not appreciate the same benefits in medical or educational services compared with non-trafficked women prostitutes. Misinformation about HIV/AIDS and myths, like that sexual intercourse with a virgin girl is an effective cure for the virus, increase the number of victimized young girls and their susceptibility to infection.¹¹⁸⁷

Trafficked victims usually have little or no room for decision-making. Decisions are made for them by their oppressors, and they are expected to follow them. Trafficking victims, especially in the prostitution industry, may be asked to engage in certain behaviors to please their clients or face the consequences of refusal, which are usually cruel. Trafficked persons working as prostitutes may also be forced to use drugs to stay awake for long hours or serve more clients. The after-effects of substance abuse have been known to have long-term impacts on victims, including organ damage and addiction. These substances are detrimental to the health and wellbeing of the affected individuals.¹¹⁸⁸

Social stigma

Domestic violence and sexual relations remain a common phenomenon throughout history; stigma surrounds these issues in modern society. Stigma is defined as a sign of shame related to a person, situation or quality, which separates an individual from others.¹¹⁸⁹ Although some people might be fortunate to escape are still having a life that is at risk since being a survivor of sexual trafficking, disgrace, humiliation, and subsequent isolation can be devastating.¹¹⁹⁰ When trafficked persons return to their

¹¹⁸⁶ Dixon, "The impact of trafficking", 83; Zimmerman, *Stolen smiles*, 9-15.

¹¹⁸⁷ Dixon, "The impact of trafficking", 83.

¹¹⁸⁸ Zimmerman, *The Health Risks*, 4; Dixon, "The impact of trafficking", 84-85.

¹¹⁸⁹ Peter Byrne, "Stigma of mental illness and ways of diminishing it", *Advances in Psychiatric Treatment* 6, no. 1 (2000): 65, <https://doi.org/10.1192/apt.6.1.65.65>. <https://doi.org/10.1192/apt.6.1.65.65>.

¹¹⁹⁰ Hanna Cody, "End Stigma, End Trafficking", UNICEF USA, accessed November 9, 2019, <https://www.unicefusa.org/stories/end-stigma-end-trafficking/33865>.

home countries or regions, they receive social disapproval, primarily when it is known that they were trafficked to other countries as prostitutes. The scenario gets worse when they come home poorer than when they left. This kind of stigmatization has a negative impact on the recovery process of the individual. It may even contribute to victims' decision to continue with prostitution or drug and substance abuse. Additionally, the recovery process of trafficked people will be affected by the responses of family members and surrounding communities.¹¹⁹¹ In some cultures, the community can shun the whole family of a trafficked victim based on the information or rumors they have about the victim's past, regardless of the cruelties that trafficked victims went through.

We can recognize the following main elements in stigma: blame, discrimination, loss of status, isolation, shame. Human trafficking victims are often being blamed for their decision to enter prostitution; they face discrimination when searching for accommodation or applying for jobs. In many cases, the disgrace of being trafficked follows them in most social interactions.¹¹⁹² Furthermore, stigma occurs even when seeking assistance from experts, family members, companions, and peers. Even then and often unexpectedly, they feel discriminated against, expelled, and denied.¹¹⁹³

4.2.4 Virtue Ethics a Response to Utilitarianism Ethics

The term Virtue Ethics is broad in its scope. The principal foundation of Virtue Ethics emphasizes the development of a virtuous character.¹¹⁹⁴ Virtue Ethics theories stem from the Greek philosopher Aristotle who contended that a virtuous individual is the one who chooses the "Golden Mean", or "the most rational point between two behavioral extremes".¹¹⁹⁵ He was of the view that people have natural internal predispositions from which ideal personal traits arise.¹¹⁹⁶ Virtues have to be developed to a point

¹¹⁹¹ Dixon, "The impact of trafficking", 86-87.

¹¹⁹² Christine Murray, "Ending the Stigma Surrounding Human Trafficking: Series Introduction", See the Triumph, accessed August 23, 2019, <https://www.seethetriumph.org/blog/ending-the-stigma-surrounding-human-trafficking-series-introduction>.

¹¹⁹³ Christine Murray, Allison Crowe, and Whitney Akers, "How Can We End the Stigma Surrounding Domestic and Sexual Violence? A Modified Delphi Study with National Advocacy Leaders", *Journal of Family Violence* 31, no. 3 (2015): 272, <https://doi.org/10.1007/s10896-015-9768-9>.

¹¹⁹⁴ Judith Andree, "Nagel, Williams, and moral luck", *Analysis* 43, no. 4 (1983): 202-207, <https://doi.org/10.1093/analys/43.4.202>.

¹¹⁹⁵ Richard, *Twelve Greeks*, 104.

¹¹⁹⁶ *Ibid.*

where they are stable. According to Aristotle, virtue does not originate in the actions of individuals, but the kind of individual one is. For example, if a person carries out activities of providing financial assistance to the needy, this activity does not make the person virtuous. Virtuousness is a trait that can only be advanced over time.

Virtue Ethics deals with a variety of moral situations¹¹⁹⁷, meaning that it has not specialized in developing principles that are universal in dealing with ethical problems. Virtue Ethics has developed along three main paths since it was first incepted around the twelfth century. These paths are Eudaimonism, agent-based theories, and care ethics.¹¹⁹⁸ Eudaimonism, which as a term denotes happiness, has its roots in the Aristotelian school of thought. Eudaimonism has a role in Virtue Ethics, especially when considered from the function argument by Aristotle, where he argues that no action is useless. All actions have intentions, and they are not merely performed for the sake of being done. Every effort has some good to aim at. Although some things serve as means to ends of others, some are ends in themselves. Aristotle argues that those things which are ends in themselves contribute to a broader end which is the highest good of all. This good is what Aristotle calls Eudaimonism.¹¹⁹⁹ This term denotes satisfaction, gratification, or happiness.

Aristotle perceives that all things that have function ought to perform their functions well. He gives an example of a knife. The function of a knife is to cut and therefore, for it to be considered to have performed its function well, it has to cut well. He attributes the same to human beings where he says that people have a function in life. A virtuous person is one who carries out one's function well. Aristotle argues that an individual has a unique function to perform and that it is this function that makes a person distinct from other beings. This function is "reason". Thus, the function of a human being is that of reason, and to be considered a virtuous man, one must reason well.¹²⁰⁰ Man demonstrates Eudaimonia by reasoning well, and this is the highest function of man.

¹¹⁹⁷ Rosalind Hursthouse, *On Virtue Ethics* (Oxford: Oxford University Press, 1999), 17.

¹¹⁹⁸ Nafsika Athanassoulis, "Virtue Ethics", in *The Internet Encyclopedia of Philosophy* (ISSN 2161-0002), accessed June 15, 2021, <https://iep.utm.edu/virtue/>.

¹¹⁹⁹ Alasdair C. MacIntyre, *After Virtue: A Study in Moral Theory* (Indiana: University of Notre Dame Press, 2007), 148.

¹²⁰⁰ Hursthouse, *On Virtue Ethics*, 19

Eudaimonia is the reverse of what Utilitarian ethics suggests. From the utilitarian point of view, the act of generosity would be accepted as bringing about consequences that maximize utility or happiness. Eudaimonia on the other hand looks at the thriving and wellbeing of man.¹²⁰¹

Eudaemonist virtue ethics was further developed in a meticulous way by Rosalind Hursthouse. Rosalind contended that the owner of eudaemonist ethics is a good man. Rosalind agrees with Aristotle that human beings are rational beings and this trait of rationality allows man to make decisions for which others hold him responsible.¹²⁰² A man acting virtuously is one who acts according to reason as an inherent trait of human beings which leads to eudaimonia.

Philippa Foot¹²⁰³ and Alasdair Macintyre have proposed that Eudaimonia in virtue ethics is a moralized concept and that virtues contribute to a good life.¹²⁰⁴ An alternative account of virtue ethics developed by feminists such as Annette Baier is based on masculine and feminine traits of men and women and how these traits affect ethics.¹²⁰⁵ This perspective is called the ethics of care.

Unlike eudaimonia, Michael Slote's account of virtue ethics is based on man's common sense to perceive good character traits. He called this agent-based virtue ethics. Agent-based virtue ethics evaluates an action based on moral judgments about the inner life of the agents who perform those actions.¹²⁰⁶ This implies that admirable traits can be observed especially in people we admire or take as our role models. This view, however, consists of two hypotheses regarding the nature of rightness and the nature of virtuousness. In the righteousness hypothesis, an act is considered right based on the virtuous drives that contributed to its production. The hypothesis about virtuousness argues that action becomes virtuous based on the virtuousness articulated by the agent in performing the action.

¹²⁰¹ Ibid., 10.

¹²⁰² Ibid.

¹²⁰³ Foot, "Morality", 157-73.

¹²⁰⁴ Hursthouse and Pettigrove, "Virtue Ethics.

¹²⁰⁵ Baier, Moral Prejudices.

¹²⁰⁶ Marcia W. Baron, Philip Pettit, and Michael Slote, *Three Methods of Ethics: A Debate* (Oxford: Blackwell Publishers, 1997), 178; Slote, "Agent-Based Virtue Ethics", 239-62.

The ideas of Alasdair MacIntyre increased the interest in virtue ethics. MacIntyre attempts to portray the notion of virtue. After looking at a large number of historical accounts of virtue that differentiate in their lists of virtues and propose incompatible theories, he concludes that these differences are due to a diverse array of practices that develop different notions of virtues.¹²⁰⁷ For someone to accurately analyze each account of virtue, one first needs to consider the social and moral elements that contain it.¹²⁰⁸ For example, understanding the virtue in Homer requires a study of Greek society and realizing the role of virtue in it. Thus, virtues are practiced through intelligible social activities, pursuing goods within these activities, and enabling us to achieve these goods.¹²⁰⁹ Further, he brings forth the virtue of integrity or constancy, which describes as an end (or telos) that goes beyond all practices and constitutes the good of a whole human life.¹²¹⁰ Similarly, Philippa Foot states that virtues benefit not only those who possess them but also their society. Virtues are not only an essential part of a good life, but they actively contribute to it.¹²¹¹

Annette Baier developed another account of virtue ethics which he named Care Ethics.¹²¹² Baier looked at virtue ethics from the feminist view, where she argues that men and women think differently.¹²¹³ Men think from a masculine point of view, while women think from a feminist point of view. Men's masculinity makes them align their thinking with traits such as integrity or sovereignty, while the feminist nature of women makes them have traits such as care and love.

The general focus of virtue ethics rests on an individual developing a virtuous character. Individuals should endeavor towards developing their own personality, and this should be the principal concern. Virtue Ethics provides answers to other ethical questions. For example, virtue ethics explains what pertains to right and wrong actions

¹²⁰⁷ MacIntyre, *After Virtue*, xi.

¹²⁰⁸ *Ibid.*, 186.

¹²⁰⁹ *Ibid.*

¹²¹⁰ *Ibid.*, 203.

¹²¹¹ Athanassoulis, "Virtue Ethics"; Philippa Foot, "Virtues and Vices", in *Virtues and Vices and Other Essays in Moral Philosophy* (New York: Oxford University Press, 2002), 1-18.

¹²¹² Annette Baier, *Postures of the Mind: Essays on Mind and Morals* (Minneapolis: University of Minnesota Press, 1985), 93.

¹²¹³ *Ibid.*, 258.

and at the same time recognizes that conclusions about character are preceding judgments about the rightness or wrongness of an action.

In general, an act would be considered to be virtuous or right if it is done by someone irrespective of the character of the person doing it. However, this notion does not establish itself well within the central point of a virtue ethics perspective, which is based on the idea that an action is right if the agent performing it has a virtuous character. An example would be someone helping a child to cross the road. Someone would do this same action with a virtuous character in the same circumstances. However, if the person doing this lacks a virtuous character, then this means that helping a child cross the road is wrong altogether. Two different people would perform this same action. Still, if one lacks the virtuous character, then only the one with a virtuous character is doing the right thing, and the one without a virtuous character is doing the wrong thing.

We can perceive that these versions of virtue ethics primarily focus on the character of an agent, which has to be virtuous rather than the action performed by the agent being right. The primary aim is for the agent to develop a virtuous character, which will determine the rightfulness of the actions performed by the agent or will enable the agent to observe features in conditions that make actions right. It is the virtuous character that renders actions moral.

Human trafficking would not exist if all human beings developed virtuous characters. From virtue ethics, we can deduce that human traffickers, the oppressors of trafficked persons, and those who allow human trafficking to take place lack virtuous characters. Human trafficking does not occur in a vacuum, but there are actors who sustain it for various reasons overlooking the fundamental rights of those they traffic. Human trafficking, therefore, happens because of the greed of the actors involved in the business. A greedy individual cannot be considered to be a virtuous agent when looking at the base on which the virtue ethics perspective is grounded. Traffickers collaborate with those in need of trafficked individuals, and this is where the demand and the supply sides of human trafficking come into being. For example, poor individuals looking for employment opportunities are taken advantage of and exploited. Usually, there is an origin and final destination of trafficked persons.

The origin or supply part refers to the individual dwelling in a particular region with limited resources to meet one's survival needs. Although almost anyone can become a victim of forced labor, certain groups are most vulnerable to labor exploitation. Smit (2011) contends that most of the victims of trafficking are the millions of people enlisted as undocumented migrants annually by the International Organization for Migration and other relevant institutions dealing with the migration of people globally.¹²¹⁴ Traffickers use different mechanisms to lure victims before transporting them to their final destinations. The mechanisms used can be online advertisements for better jobs abroad or, particularly for women, marriage proposals to individuals purporting to be rich only to realize that they have been victimized once they reach the final destinations. According to Mahadeviah et al. (2011), poverty has a massive influence on an individual being lured and falling into the trap of human traffickers.¹²¹⁵ The scarcity of employment opportunities in one's own country compels people to seek employment abroad to meet their daily needs and those of their families. Orphaned children who have nowhere to turn to help meet their daily needs are more likely to fall victims to trafficking. A person with a virtuous character would act in the circumstances to help an orphaned child access education and other basic needs. At least, this is what virtue ethics would suggest.

However, according to Feingold, for poverty to be considered a contributing factor to human trafficking, it has to interact with the demand side.¹²¹⁶ Poverty might not be blamed alone, but obvious indicators prove that it plays a significant role in human trafficking. Those individuals that lack basic human needs are likely to fall prey to the traps of human traffickers since they view migration to more industrialized countries as their hope and means of survival. On the other hand, those that are able to meet their basic needs and have some affluence are less likely to be lured into becoming victims of human trafficking.¹²¹⁷ The promises of employment for impoverished people

¹²¹⁴ Monika Smit, "Trafficking in human beings for labour exploitation. The case of the Netherlands", *Trends in Organized Crime* 14, no. 2-3 (June 2011): 184-197, <https://doi.org/10.1007/s12117-011-9123-3>.

¹²¹⁵ N. Mahadeviah V et al., "Poverty, human trafficking and social exclusion: Space for new disclosures", *International Journal of Social and Economic Research* 1, no. 1 (2001): 152-157, <http://www.indianjournals.com/ijor.aspx?target=ijor:ijser&volume=1&issue=1&article=016>.

¹²¹⁶ Davis, *Human Trafficking*, 32.

¹²¹⁷ Jeffreys, "Globalizing Sexual Exploitation", 186.

may be hard to resist. Further research has indicated that poor people in the rural areas are less likely to become victims of human trafficking as compared to their counterparts living in urban settings but who are less poor mainly because of the promises of leading affluent urban lives similar to the ones they see in their neighborhoods.¹²¹⁸ The urban individuals are conscious of what can be attained by living in urban settings. The trafficked victims are mostly unaware of the type of employment they will be offered or forced into upon arrival at their final destinations.

On the other side of the demand side with regard to poverty as a causal factor in human trafficking are those businesses that have to rely on forced labor to make financial profits. They have to count on cheap labor where they pay workers low wages or pay nothing at all to meet business objectives.

The demand for cheap labor, cheap sex or cheap items in developed countries maintains human trafficking businesses. Usually, the demand side of a market is focused on the price of the commodities and their usefulness. Those who demand the goods are traditionally the final users of the products. Research has shown that most economically developing countries are unable to meet growing demands for high-cost labor. As such, they opt for cheap labor, which comes from the trafficking of impoverished victims across borders to supplement their need for cheap labor.¹²¹⁹ In return, these businesses make high profits due to employing trafficked persons at little or no compensation at all. Sex sectors take advantage of trafficked victims to rake in high profits by meeting their labor requirements and maintaining high production levels at little or no cost. Trafficked persons are appealing to some companies' owners who prefer employing cheap immigrant labor than local personnel who demand better remuneration for their services.¹²²⁰ Due to these factors, among others, some industries may opt for trafficked persons over local workers. These decisions raise and maintain the demand for human trafficking, which with time becomes difficult to control due to the lucrativeness associated with it.

¹²¹⁸ David A. Feingold, "Human Trafficking", *Foreign Policy*, no. 150 (2005): 26-32, <http://www.jstor.org/stable/30048506>.

¹²¹⁹ Chuang, "Beyond a Snapshot", 144.

¹²²⁰ *Ibid.*, 144-45.

The demand and supply side of trafficking are not in a vacuum but come into being because of the economic mechanisms involved. These are “pull” and “push” factors must exist for the demand and supply sides to act. For instance, poverty acts as a catalyst for human trafficking. Poor individuals will be tempted to cross border and seek employment opportunities where they think opportunities are adequate. As such they easily fall into the traps of individuals who act as intermediaries in guiding them to their point of exploitation. Human trafficking therefore relies largely on the interaction between the supply and the demand side.

Looking at how victims of human trafficking are taken advantage of by their oppressors, we can thus see a lack of virtuous characters in the latter. The actors in human trafficking would involve more than the traffickers and those in demand of trafficked victims. The actors can involve governments that lack clear policies to help curb human trafficking, corrupt government officials who collaborate with organized criminal gangs to permeate human trafficking business, the buyers of trafficked persons who are in need of cheap labor in order to meet their business objectives, and those who purchase the services of the trafficked victims.

Conclusion

In this second part, we explored human trafficking using the ethical perspectives of Deontology, Utilitarianism, and Virtue Ethics that yielded slightly different conclusions. In general, each of the above-mentioned ethical theories regards human trafficking and prostitution as unethical, especially when there is a focus on the impact on victims and the proper functioning of society.

Considering Kantian Ethics, human trafficking and prostitution are judged as unethical in the main on the level of violations of autonomy, human dignity, respect to others and self-respect. Trafficking victims are deprived of their human rights by degrading them to the state of humiliation and dependency by being used as ‘mere things’. On Kant’s view that human dignity is above any price since it has an absolute, inner value that is not matched by any monetary worth, we can see that human trafficking preparators use women, men, and children for sexual exploitation and violate their inherent human dignity. Trafficking victims are only used as a means to an end. Therefore, all rational creatures are autonomous and should be respected and not be treated

as mere means for the satisfaction or even the contentment of other rational beings. Humans should not use other people's lives or bodies for arrangements that they have either coerced or misled them into joining. In a society complying with Kant's perspective, it is conceivable for all people not to be used as instruments of other people.

Additionally, in human trafficking, the violation of duties of respect to others is ubiquitous through the practice of arrogance, defamation, and ridicule. Kant contends that these vices of disrespecting other people demonstrate a fundamental trait regarding the nature of humanity that has close ties with the deep-seated inclination for immorality. If we consider that all rational beings are of equal value, then using others only as means to our ends would be a complete violation of the universal law of the realm of ends. Especially regarding prostitution and self-respect, Kant argues that persons who engage in sexual activities for profit disrespect themselves and act as mere objects that satisfy other peoples' desires.

Furthermore, his views on sexual morality support even more that notion since intercourse ought to be between married individuals, otherwise the act would be degrading human dignity. Kant contends that sex outside marriage is demeaning and objectifying to both partners engaging in the act, even if it is consensual. This kind of sex fails to show respect for the humanity of partners but focuses on the act of sex. Therefore, the other person is treated as a mere object whose sex is the object of desire for the other partner. Kant comes into contrast with contemporary views on sexual morality, which seem to invoke autonomy and rights, to suggest that individuals are at their disposal and therefore they should choose for themselves what to do with their bodies. Kant's conception of autonomy implies that people ought to have restrictions on the way they treat themselves. Kant calls this the categorical imperative, a law pertaining to how individuals should treat themselves and others. It requires that all rational beings should treat all sensible beings, including themselves, with respect. When people use their bodies outside of this way, they then violate the categorical imperative and disrespect themselves and others. Kantian Ethics finds human trafficking and prostitution outright unethical.

Regarding utilitarian ethics, it is clear that the final "utility" of human trafficking practices is not that of human happiness. Victims of human trafficking suffer from

an array of both psychological and physical health conditions due to inhumane and severe emotional and physical treatment. Human trafficking impacts society at the macro level, including health and economic sectors, and at the micro-level, with individuals' health being negatively impacted and their social life stigmatized. Following Bentham's note on the efficacy of felicific calculus and its applicability to complex and multifaceted moral issues, as far as human trafficking and prostitution go, we can deduce that it is close to impossible to calculate the impact of human trafficking and prostitution on society by following the seven criteria of the calculus accurately. It would be overwhelming due to the high-efficiency costs. Experience, on the other hand, would be a better guide.

Examining the Virtue Ethics perspective on human trafficking and prostitution, I explored its three main paths: eudaimonism, agent-based theories, and care ethics. The general focus of virtue ethics rests on an individual developing a virtuous character. Each individual should endeavor towards developing her character, and this should be the principal concern. In general, an act would be considered to be virtuous or right if it is done by someone irrespective of the character of the person doing it. The action is also right if the agent performing it has a virtuous character. The primary aim is for the agent to develop a virtuous character, which will determine the rightfulness of the actions performed by the agent or will enable the agent to observe features in conditions that make actions right. Human trafficking would not exist if all human beings developed virtuous characters.

We can perceive that these versions of virtue ethics primarily focus on the character of an agent which needs to be virtuous, rather than the action performed by the agent being right. It is the virtuous character which makes the action the right one. From virtue ethics, we can easily deduce that human traffickers and those who allow human trafficking to take place lack moral characters.

Human trafficking, therefore, happens because of the greed of the actors involved in the business. A greedy individual cannot be considered to be a virtuous agent when looking at the base on which the virtue ethics perspective is grounded. Although almost anyone can become a victim of forced labor, there are certain groups most vulnerable to labor exploitation. Looking at how victims of human trafficking are taken

advantage of by their oppressors, we can see the lack of virtuous characters in them. The actors in human trafficking involve many more than the traffickers, victims, and those in the desire of trafficked victims. The actors involve governments that lack clear policies to curb human trafficking, corrupt government officials who collaborate with organized criminal gangs to permeate human trafficking businesses, the consumers of trafficked persons who need cheap labor to meet their business objectives, and those who purchase the services of the trafficked victims.

CHAPTER FIVE

BUDDHIST ETHICS

5.1 Introduction to Theravāda Buddhism

“NGOs, academics, and religious groups state that 85 to 95 percent of the population of Thailand is Theravāda Buddhist and 5 to 10 percent Muslim”. Other groups “that constitute less than 5 percent of the population include animists, Christians, Confucians, Hindus, Jews, Sikhs, and Taoists”¹²²¹.

Understanding Buddhism in any context necessitates a prior clear comprehension of its fundamental tenets and basic practices. For the purpose of this thesis, Buddhism has been selected as a primary contributing factor to the phenomenon of sex trafficking in Thailand and the Thai sex industry. The first part of this chapter will introduce the essential elements of the Theravāda doctrine and its practice to establish the clear connection that it holds with everyday life in Thailand and how it influences the formation of Thai values and social mores. A case in point on how Buddhism has permeated Thai society lies in the fact that since antiquity, the laity held the highest respect for bhikkhus and bikkhunīs (the monks and nuns). In Theravāda cultures, the monks possess the most elevated status, even higher than the royal families. In countries like Thailand, monks would never stand up to address the King; conversely, the King should advance and salute.¹²²²

5.1.1 Defining Buddhism

Buddhism is a profoundly convoluted phenomenon that allows many different interpretations and approaches. Contrary to general belief, it is not a unified religious or ethical tradition since it comprises many different schools and traditions. It has a

¹²²¹ United States Department of State, *2018 Report on International Religious Freedom: Thailand*, (United States Department of State - Bureau of Democracy, Human Rights, and Labor, 2020), accessed September 12, 2021, <https://www.state.gov/reports/2018-report-on-international-religious-freedom/thailand/>.

¹²²² Asanga Tilakaratne, *Theravada Buddhism: The View of the Elders* (Honolulu: University of Hawai'i Press, 2012), 136.

central core of beliefs and principles like many other western ethical or religious traditions, but we should avoid identifying it with any of them without considering the peculiarities and complexities of its nature. When exploring culturally alien traditions, belief projection is a “dangerous” trap. Trying to define the nature of Buddhism by comparing it with Western equivalents can end up a frustrating endeavor. Often, it is classified as a religion or even a way of life or a philosophy. Others deny tagging it as a religion since it lacks the notion of a creator God who oversees our world. So, in the western view, Buddhism could easily fill in the atheistic category of ideologies. But before rejecting the religion tag, we should determine what constitutes a religion.¹²²³

Assuming that religions around the world integrate many different elements, a method like that of Ninian Smart, as described by Damien Keown in his book “Buddhism: A very short introduction”, is one of the most effective ones in scrutinizing and assessing their nature. Smart approached religions in seven dimensions, which are: practical and ritual dimension; an experiential and emotional dimension; a narrative or mythic dimension; a doctrinal and philosophical dimension; an ethical and legal dimension; a social and institutional dimension; and a material dimension. By carefully juxtaposing Buddhism with each of these dimensions, we can conclude that:¹²²⁴

- Though the practical or ritual dimension is less prominent than other religions, there are plenty of Buddhist rituals and ceremonies.
- The experiential and emotional dimensions forge the core of Buddhism. Buddha perceived his enlightenment as a personal experience springing from deep empathy for the sorrows of humanity. This event formed the basis of his teachings. In turn, he propagated that any Buddhist tenets bear little value if not experienced personally through meditation and other spiritual practices that aim to self-transformation.
- The presence of myths and legends is also prominent and enhances the Buddhist tradition’s narrative and mythic dimension.
- The doctrinal and philosophical dimension also permeates Buddhism, considering the abundance of doctrines like the Four Noble Truths, the

¹²²³ Damien Keown, *Buddhism: A Very Short Introduction* (New York: Oxford University Press, 1996), 1-4.

¹²²⁴ *Ibid.*, 4.

Eightfold Path, and The Five Precepts. All of these comprise the base of Buddhist teachings and are studied and reinterpreted rigorously by the Saṅgha (Order of the Monks).

- The ethical and legal dimension emanates from sets of principles and predominantly that of The Five Precepts, which instruct how to follow a proper way of life. First and foremost, a person should abstain from harming and respect every life form on earth equally.
- The social and institutional dimension might be less evident in Buddhism in comparison with other religions, but it cannot be denied. Despite its liberal structure, the Buddhist society is organized in the form of Monk orders (Saṅgha) and the male and female laity (upāsaka/upāsikā).
- Finally, the material dimension includes all the monuments, artifacts, and religious texts that represent Buddhism and are spread ubiquitously around Asia.¹²²⁵

Concluding this analysis, we can discern that Buddhism is multidimensional and contains all the elements that characterize religions all over the world. Consequently, any unidimensional approach would not be enough to explore its depth and unavoidably would lead to inaccurate inferences. Nevertheless, depending on which dimension is emphasized, Buddhism can be a philosophy, a way of life, a moral code, and even more. It incorporates all of these, but it should not be reduced to any specific dimension.¹²²⁶

5.1.2 Historical Context of Buddhism

Contemporary to Buddha's era, the Indian religion was characterized by high ethical and metaphysical erudition. The Vedic religion was one of the two most prevalent religious traditions. It had already met its highest development in the form of the Upanishads, which contained the Brahmins' "most advanced 'theological thinking'"¹²²⁷. Upanishad translates into a rarefied knowledge that is disseminated to the most principal and reliable students. This knowledge encompassed the secrets of Ātman

¹²²⁵ Ibid., 4-10.

¹²²⁶ Ibid., 13.

¹²²⁷ Tilakaratne, *Theravada Buddhism*, 2.

(individual soul) and the universe. In the heart of Upanishadic view on existence laid the belief in the Ātman and the Brahman, God as the protector and designer of the world. This belief concentrated on the concept of “indestructible individual essence and the universal essence”¹²²⁸. Liberation involved the dissolution of Ātman into the Brahman. This theoretical system is referred to as “the inner science” and the subsequent religious practice “the inner engagement”.¹²²⁹

Despite the high level of philosophical sophistication, a “complex web of rites, traditions, and customs” governed people's lives and constituted the “path of action” (kamma-marga), which stood in contrast to the “path of knowledge” (jnana-marga).¹²³⁰

Small Brahmin groups dwelling in the forests established the methods of “inner practice”¹²³¹. The majority, though, comprised high-status city inhabitants who emerged as professional priests and intermediates between the people and celestial beings. The Brahmins held the highest position in the social strata. The Brahminic division of society contained four varna or “colors”. Particularly, the brahmana (priests), the kshatriya (warriors), the vaishya (traders and farmers), and the shudra (slaves). This descending stratification was analogous to each caste’s “social status throughout their lives”.¹²³²

Each caste held its svadharma, which was intended as the sacrosanct “one's own duty”. Brahmins’ svadharma “was to study the scriptures and associated sciences, to teach, to perform sacrifices, and to accept offerings”¹²³³. The warriors’ duty was ruling, war, attend and practice Brahmanic rites and rituals. Traders and farmers had the duty to operate their businesses and perform religious rites and ceremonies, while slave’s duty was to serve the other three groups obediently.¹²³⁴ There were also other groups of people that existed outside of the four mentioned classes. They came to be known as “outcasts” or pancama, and were utterly ignored from the Brahminic worldview. Actually, deliverance was only attainable for the first three castes.¹²³⁵ In contrast to the

¹²²⁸ Ibid., 2.

¹²²⁹ Ibid.

¹²³⁰ Ibid.

¹²³¹ Ibid.

¹²³² Ibid.

¹²³³ Ibid., 3.

¹²³⁴ Ibid.

¹²³⁵ Ibid.

highly stratified society of the era and the contemporary Brahminic practices, Buddha accepted anyone regardless of their status, even women whose society treated them as inferior and weak.¹²³⁶

On the opposite pole to the Vedic religion, the sramana groups emerged as a response to the stratified society and the Brahminic tradition of rites and rituals. These disunited groups consisted of mendicants who abnegated mundane life, subsisted on alms offered by people, and rejected the Brahminic practice. Allegedly, there were six different senior teachers during Buddha's epoch. The most prominent was Niigantha Nataputta, who established a disciplined group of ascetics and promoted a radical attitude of nonaggression. Others were: Purana Kassapa, who advocated inaction "that denied the validity of moral distinctions";¹²³⁷ Makkhali Gosaala, who believed in the rigid control of human life by faith; Ajita Kesakambala, "a moral nihilist who advocated a full-fledged materialism";¹²³⁸ Pakudha Kaccana, who held that reality was governed by seven principles which made moral action impossible; and Sanjaya Belatthiputta, who defended "moral and epistemological skepticism"¹²³⁹. Sixty-two different religious views existed at that time which differed on the nature and existence of the soul and, mainly, divided into two theological interpretations. Those were the "eternalists" who assumed that the soul was eternal, and the "annihilationists" who held the soul ceased after death.¹²⁴⁰ The sramanas signified another perspective in religion that included people who sought deliverance from human suffering and excluded any "professional clergy".¹²⁴¹

Buddha or Siddhattha Gautama lived in North India during the 6th century B.C. His father, Suddhodana, along with his mother Maya, was the ruler of the kingdom of the Sakyans—located in modern Nepal.¹²⁴² He was married at the age of sixteen to princess Yasodhara. Being a prince and having lived his youth in extreme luxury and comfort after realizing that, outside the boundaries of his exuberant life, suffering and

¹²³⁶ Ibid., 3.

¹²³⁷ Ibid., 4.

¹²³⁸ Ibid.

¹²³⁹ Ibid.

¹²⁴⁰ Ibid.

¹²⁴¹ Ibid., 5.

¹²⁴² Walpola Rāhula, *What the Buddha Taught* (New York: Grove Press, 1974), xv.

misery exist (dukkha), Buddha decided to abandon his royal life and become a mendicant.¹²⁴³ More precisely, he became a sramana. At the age of 29, he left his kingdom and newborn child, Rahula, searching for a solution in human suffering. He roamed the Ganges River for six years. After attending the most influential spiritual teachers and following austere asceticism, he abandoned all known religious systems and started conceptualizing his own spiritual system. At that time, in his middle thirties, he attained Enlightenment under the Bodhi tree, also known as the Tree of Wisdom. That is how he earned the title of Buddha, or the “The Enlightened One”.¹²⁴⁴

Buddha's preaching of deathlessness rapidly attracted many followers who were allowed to enter his sramana group as either monks or laity regardless of their status—with men and women called, uniformly, sons and daughters of Buddha.¹²⁴⁵ His sramana group was further segmented into four subgroups. These were the monks and nuns, also known as bhikkhus and bikkhunīs, which, literally, meant those who beg for their food, and the male and female laypersons or householders (gihi). Bhikkhus and bikkhunīs comprised the basal segments. It is well evidenced that Bikkhunīs constituted a later introduction and, as such, were always regarded as subsidiary to Bhikkhus.¹²⁴⁶

The qualitative difference that separated the householders from pabbajita—a collective term for monks and nuns, meaning those who banished themselves, voluntarily, from family life—was the availability of attainable goals regarding liberation from suffering. While reaching ultimate freedom from dukkha was the goal for pabbajita, being born in heaven in the afterlife was a more pragmatic spiritual destination for gihi. Nevertheless, householders could also aim for complete freedom, but they would have to strive more. In reality, it is the speed in achieving this goal that made the difference and in which they will always fall behind the Saṅgha members.¹²⁴⁷ In Theravāda tradition, male and female householders were referred to as upasaka and upasika (for men and women, respectively). A term bearing the meaning of the “the one who stays closely”¹²⁴⁸ probably attributed to their role as material supporters of bhikkhus

¹²⁴³ Tilakaratne, *Theravada Buddhism*, 5-6.

¹²⁴⁴ Rāhula, *What the Buddha Taught*, xv.

¹²⁴⁵ Tilakaratne, *Theravada Buddhism*, 9.

¹²⁴⁶ *Ibid.*, 10-11.

¹²⁴⁷ *Ibid.*, 11-12.

¹²⁴⁸ *Ibid.*, 12.

and bikkhunīs since they were supposed to live as mendicants and devoted to their spiritual life. But Buddha did not consider them as mere supporters of the saṅgha. On the contrary, he regularly affirmed their significance and even gave guidance on living their secular lives effectively and efficiently, along with protecting and evaluating the monks and nuns. By and large, he attributed equal importance to all four groups.¹²⁴⁹

After the **parinibbāna**—nibbāna-after-death—of Buddha, the first, and most important, council of the elders took place—another five such councils are recorded in history. There, the cornerstone principles of Buddhism were founded and comprised the ethical and textual bedrock for all Buddhist traditions that emerged afterward.¹²⁵⁰ The main verdicts taken in the council remain valid today and “shaped the character”¹²⁵¹ of Theravāda. Among these decisions was the decision to preserve the Buddha’s precepts unchanged and forbid the introduction of new ones. The bhikkhus’ opposition towards the order of bikkhunīs also has its roots in that first meeting—even today, the saṅgha holds firm in the belief that only the reappearance of a Buddha would allow the reinstatement of the order of the nuns.¹²⁵² The second elders’ council rejected the demand for minor rule changes, like the permission to receive and use money. This rejection resulted in the first major Buddhist breakaway from revisionists, which led to the creation of the Mahasanghika group. This group evolved in the following centuries to what is known as Mahayana Buddhism and various other smaller groups.¹²⁵³ Subsequently, the third gathering aimed at cleansing the monastic circles of any unorthodox, non-Theravāda views.¹²⁵⁴

5.1.3 Theravāda Buddhism

Simply put, a Buddhist is the one who seeks ‘shelter’ in the “three refuges”. The first one is Buddha himself, and the second is the Dhamma or the teachings of Buddha, while the third is the Saṅgha, the association of monks and nuns who followed and preserved the Dhamma and served, primarily religiously their material supporters. So,

¹²⁴⁹ Ibid., 11-13.

¹²⁵⁰ Ibid., 13-15.

¹²⁵¹ Ibid., 15.

¹²⁵² Ibid.

¹²⁵³ Ibid., 15-16.

¹²⁵⁴ Ibid., 16-17.

Buddhism is a religion where its practitioners aim to support the Buddha, Dhamma, and Saṅgha and preserve them as refuges.¹²⁵⁵

In Thailand, the predominant form of Buddhism is the Theravāda which is also adopted by many other Southeast Asian countries. The other two forms are Vajrayana, which is practiced mainly in Nepal and Mahayana, spreading throughout East Asia. The Pali Canon, a large assortment of writings theorized to originate directly from Buddha's teachings, dictates what Dhamma is and how the Saṅgha functions. Theravāda is considered the earliest form of Buddhism since its tenets are written in the ancient Indic language of Pali, and the Pali Canon is the only survivor of this kind.¹²⁵⁶

The myth says that Theravāda originated from the form of Buddhism that arrived in Sri Lanka around 250 BCE following the reassessment of the Pali Canon and the affirmation of the veracity of its Dhamma by the "Third Buddhist Council". The Council, under the aegis of Emperor Asoka, moved on to cleanse its core by any unruly monks and nuns that refused or failed to follow the true Dhamma. In a way, Emperor Asoka set the basis for the inauguration of the Theravāda Saṅgha by even providing his own son and daughter as members to the Saṅgha. The study of this myth denotes, to some extent, the deep connection between the Saṅgha and the state that exists in Theravāda dominant societies and supports the narrative of early or original Buddhism.¹²⁵⁷

Further exploration of unique Theravāda characteristics supports this originality even more: Theravāda always regarded Buddha as a real historical person compared to other Buddhist traditions. Another contradiction is that the Theravāda Dhamma is realistic and not idealistic in interpreting and perceiving our external world. Furthermore, Theravāda Saṅgha traditions and operations are akin to Buddha's early followers, including specific liturgies, guises accepting material support from the laity, and more. The identification of "early" has great external and internal value for Theravāda Buddhism, not only for the practitioners but also for those studying its impacts and applications in all aspects of societal life.¹²⁵⁸

¹²⁵⁵ Kate Crosby, *Theravada Buddhism: Continuity, Diversity, and Identity* (Chichester, West Sussex Malden, MA: John Wiley & Sons, 2014), 1.

¹²⁵⁶ *Ibid.*, 1.

¹²⁵⁷ *Ibid.*, 2.

¹²⁵⁸ *Ibid.*

One major problem, though, with the categorization of Buddhism tradition to Theravāda or any other form is that it hinders our ability to realize the depth of the phenomenon. Labeling entails a great risk of constricting and significantly reducing the magnitude and richness of its history, thus disregarding crucial elements to understand the big picture of its evolution and transformations.¹²⁵⁹

The term Theravāda, translated as “doctrine of the senior monks”, represented the Buddhist tradition of south and southeast Asia only in the last few decades.¹²⁶⁰ It should be considered as a product of more than 2,500 years of recurring reassessments of its doctrines.¹²⁶¹ Delving into the numerous and variable Theravāda tenets, we can discern significant divergence in its practices and even many Mahayana and Vajrayana influences. In fact, the different Buddhist traditions only recently tend to characterize whole ethnic groups or even nations.¹²⁶²

Societal and political pressure to reform, originating from specific event crises, are some of the various factors which led to the modern conceptualization of the Theravāda term. The research traces such crisis periods back to the 11th and 12th centuries and then again on the 19th and 20th. Medieval rivalries between monasteries for royal favor, influences from western Buddhist scholars, and the latest reconceptualization of religious and scientific thought played a significant role. In addition, a crucial element of the inter-Buddhist traditions conflict is the use in Mahayana sūtras of the defamatory term Hīnayāna—translated more accurately as “lowly vehicle” and not as “lower vehicle”¹²⁶³—to characterize the Southern Buddhist traditions, which added further pressure to the adoption of Theravāda label from its participants.¹²⁶⁴

Indeed, Theravāda is still classified as belonging to Hinayana school, which, in reality, was understood by the practitioners of Mahayana as the “lowly vehicle”, a derogatory term since it focused on the emancipation of one’s own self and not of all the sentient beings as Mahayanists did.¹²⁶⁵

¹²⁵⁹ Ibid., 2.

¹²⁶⁰ Ibid.

¹²⁶¹ Ibid., 3.

¹²⁶² Ibid.

¹²⁶³ Tilakaratne, *Theravada Buddhism*, xxii.

¹²⁶⁴ Crosby, *Theravada Buddhism*, 3-4

¹²⁶⁵ Tilakaratne, *Theravada Buddhism*, xxii.

The main focus of Buddha's teaching was human suffering, inconvenience, and frustration (*dukkha*) and deliverance from it.¹²⁶⁶ Theravāda Buddhism is not only a way of life followed by monks, nuns, and the laity. It is also an alternative interpretation of Buddhist tenets. It embodies a religious system sustained and overseen by an ascetic tradition that evolved through the systematic practice and examination of Buddha's teachings.¹²⁶⁷ It is considered to have maintained an uninterrupted connection with the original teachings of Buddha.¹²⁶⁸ Theravāda, dominating in South and Southeast Asia, is deemed to be the oldest Buddhist tradition (the other two being Mahayana in East Asia and Vajrayana in Tibet and Mongolia).¹²⁶⁹

As mentioned above, Theravāda's origins are presumably founded on the first council of Buddha's followers after his death since he never appointed any successor and he left only his teachings as a guide to liberation. This gathering was a first attempt to codify and classify his tenets.¹²⁷⁰ The five hundred members were regarded as *thera* (elders), which is why the tradition born in that council came to be known as Theravāda (The View of the Elders).¹²⁷¹ According to the sources, Buddha's teachings were categorized into three *Piṭaka* (baskets), which were the *Sutta* (discourses), *Vinaya* (discipline), and *Abhidhamma* (higher doctrine). The latter was most certainly expanded over the following centuries and probably did not exist in the beginning. There was also a classification of *Dhamma* into five collections named *Nikaya* and of *Vinaya* into another five collections named *pali*. This is how the decisions of this council constituted the foundation of Theravāda.¹²⁷²

One vital aspect that exhibits the uniformity of Theravāda is the absence of other teachers disseminating divergent views. Only different interpretations of the original teachings existed, which were maintained through Theravāda's historical development.¹²⁷³

There are apparent discrepancies in the kind and number of religious practices

¹²⁶⁶ *Ibid.*, xxi.

¹²⁶⁷ *Ibid.*

¹²⁶⁸ *Ibid.*

¹²⁶⁹ *Ibid.*, xxii.

¹²⁷⁰ *Ibid.*

¹²⁷¹ *Ibid.*, xxiii.

¹²⁷² *Ibid.*

¹²⁷³ *Ibid.*, xxiv.

Buddhists perform in Theravāda societies.¹²⁷⁴ Notwithstanding the glaring differences throughout the different countries in Theravāda practice, similarities dominate and confirm the extraordinary continuity and unity of the tradition despite the divergent geographical distribution.¹²⁷⁵ In that context, it is important to note that Sri Lanka grew as the epicenter of Theravāda authenticity during the last fourteen centuries, and it developed a unique Buddhist identity that became the primary influence for the Thai and Myanmar traditions.¹²⁷⁶

Theravāda in Thailand

Buddhism in Thailand traces back to King Asoka's mission. Thais regard the Suvannabhumi area as their origin country and base this claim on many Buddhist ruins from the ancient era of Nakhon Pathom, located only a few kilometers west of Bangkok. The oldest site in the area is the dagoba Pathom Chedi which translates to “the first cetiya”¹²⁷⁷—cetiya are memorials used by Theravāda Buddhists to remember Buddha¹²⁷⁸—and perhaps has been there since the first Suvannabhumi missionaries. For a long time, traces of Buddhism were lost in Thailand until King Anwaratha of Myanmar, who controlled the northern part, restored Theravāda. In the southern region, the Suryavarman dynasty introduced Mahayana Buddhism around the eighth century. Probably, Theravāda, Mahayana, and Hinduism coincided for some time until the former prevailed. This coexistence may explain the solid Brahminic elements present in Thai Buddhism.¹²⁷⁹

The emergence of the Sukhothai kingdom, allegedly the first Thai kingdom, around 1238 set a solid base for the beginning of the “Theravāda history proper”¹²⁸⁰ in Thailand. King Rama Khamheng between 1275-1317 recognized Theravāda as the formal religion. During that period, the Sri Lankan Saṅgha played a significant role in forming the Thai Buddhist tradition. Theravāda continued to thrive in the Ayutthaya

¹²⁷⁴ Ibid., 92.

¹²⁷⁵ Ibid.

¹²⁷⁶ Ibid., 93.

¹²⁷⁷ Tilakaratne, *Theravada Buddhism*, 86.

¹²⁷⁸ Kalingabodhi jāta, quoted in John Strong, *Relics of the Buddha* (Princeton: Princeton University Press, 2004), 19.

¹²⁷⁹ Tilakaratne, *Theravada Buddhism*, 86.

¹²⁸⁰ Ibid.

Kingdom (1350-1767), which the Burmese destroyed in 1767. To preserve the independence of the Thai kingdom, King Taksin (1767-1782) relocated the capital to Thonburi. Finally, Bangkok became the capital of King Rama I, the first of the present Chakri dynasty.¹²⁸¹

Thai kings showed a profound “solicitude” with the purity of the Theravāda tradition and safeguarding its authenticity. Hence, they banned practices alien to Theravāda. King Rama IV (1851-1868), the most prominent Theravāda reformer, authorized the establishment of the ascetic order of Dhammayuttika Nikaya, according to which monks were to follow *Vinaya* rules more strictly than the predominant monastic order, Maha Nikaya. In the end, the Maha Nikaya monks were also pressured into accepting the same reform.¹²⁸²

Thailand is the only Theravāda country that has never submitted to any Western power. It is also the only country where the King has to be Buddhist, and Buddhism is constitutionally established as the formal state religion.¹²⁸³

5.1.4 The Core Theravādin Doctrine

The Three Jewels

Seeking refuge in the Three Jewels—the Buddha, the Dhamma, and the Saṅgha—is what constitutes the quintessence of being a Buddhist practitioner.¹²⁸⁴ Probably the expression “Three Jewels” originated later. In the earlier years, it was just the Buddha, the Dhamma, and the Saṅgha— “the teacher, his teaching, and the community of followers who had achieved the final goal or were on the path toward it”.¹²⁸⁵

The Buddha

“Buddha” means the enlightened, the awakened one. In the early years, he was called Buddha Shakyamuni or Gautama—translated as the sage of Sakyas and his family name respectively—or he would refer to himself as tathagata—one who has thus gone. Buddha remained a way to address him exclusively through history until today.

¹²⁸¹ Ibid., 86.

¹²⁸² Ibid., 87.

¹²⁸³ Ibid.

¹²⁸⁴ Ibid., 19.

¹²⁸⁵ Ibid., 20.

From a religious perspective, it signified his theological eminence by denoting the one who realized the four noble truths and accounting for one of the nine virtues of Buddha.¹²⁸⁶

Buddha is the only founder of a religious system who presented oneself as a pure human being. Others held that they were either gods, incarnations of deities, or inspired by celestial beings. Buddha “claimed no inspiration from any god or external power either”,¹²⁸⁷ but he attributed all his mental and spiritual achievements to the natural properties of human nature and effort. Only a human being can become a Buddha, and everyone has the potential to become one. Buddhists regard him as “a man *par excellence*”, such a perfect human being that he came to be considered almost as super-human.¹²⁸⁸

Theravādins believe there are innumerable buddhas in the past, present, and future, and none of them could exist concurrently in the same world system. Buddha Gautama belongs to the 28 buddhas that are revered in the Theravāda tradition.¹²⁸⁹ Along with all buddhas, Buddhism assigns nine virtues to historical Buddha. Buddha’s nine qualities are:

- arahant,
- fully enlightened,
- endowed with knowledge and conduct,
- well-gone,
- knower of the worlds,
- incomparable trainer of men to be tamed,
- teacher of gods and humans, enlightened, and
- blessed.¹²⁹⁰

Additionally, Buddha Gautama was considered to hold unsurpassed compassion for all living beings.¹²⁹¹

Buddha regarded human beings as holding a supreme position in the hierarchy

¹²⁸⁶ Ibid., 20.

¹²⁸⁷ Rāhula, *What the Buddha Taught*, 1.

¹²⁸⁸ Ibid.

¹²⁸⁹ Tilakaratne, *Theravada Buddhism*, 21.

¹²⁹⁰ Adapted from Tilakaratne, *Theravada Buddhism*, 21.

¹²⁹¹ Tilakaratne, *Theravada Buddhism*, 21.

of nature. No other higher being can decide its destiny. Humans should become a refuge to themselves and aim for liberation from any fetter through personal effort and mental capacity.¹²⁹²

Following this principle of individual responsibility, Buddha never intended to control the Saṅgha, and he never held any “esoteric doctrine”. This freedom that the Buddha allowed to his adherents is unique in the history of religions. It is also necessary since the emancipation of oneself depends on the personal realization of truth, “not on the benevolent grace of a god or any external power as a reward for his good obedient behavior”.¹²⁹³

Buddha held that doubt is justifiable. No one should believe blindly in “tradition, hearsay ... religious texts, nor by mere logic or inference ... nor by the idea: 'this is our teacher'...”¹²⁹⁴ or anything else that does not derive from one’s own self. Only when one knows for oneself what is or is not valid can one choose to deny or accept it. Gautama told the members of the Saṅgha that a disciple should examine even Buddha himself to realize the true value of one's teacher. He even urged his disciples, just before his death, to express any uncertainty about his teaching overtly, “and not feel sorry later that they could not clear those doubts”.¹²⁹⁵ Buddha claimed that doubt (*vicikicchā*) is one of the five Hindrances (*pañca nīvaraṇāni*) to Truth and to any kind of advancement. However, it should not be perceived as a sin since there is no sin in Buddhism in contrast to the common religious perspectives. Ignorance (*avijjā*) and false views (*micchā diṭṭhi*) are the roots of evil. Thus, as long as doubt exists, progress is not possible. Concurrently, doubt is justifiable when there is a lack of clear understanding, but by just saying “I believe” does not make anyone achieve clear understanding. In other words, forcing oneself to believe without understanding is a political, not a spiritual, realization.¹²⁹⁶

Walpola Rāhula expands that along with freedom of thought, Buddha also advocated religious tolerance. Religious labels are meaningless and inessential in the

¹²⁹² Rāhula, *What the Buddha Taught*, 1.

¹²⁹³ *Ibid.*, 2.

¹²⁹⁴ *Ibid.*

¹²⁹⁵ *Ibid.*, 3-4.

¹²⁹⁶ *Ibid.*, 2-4.

same way as “Truth needs no label”, for “it is neither Buddhist, Christian, Hindu nor Muslim”¹²⁹⁷. Such dogmatic labels hinder “the independent understanding of Truth”¹²⁹⁸, and they foster deleterious biases in the human mind. The origin of truth is needless for its realization. Only “seeing” is necessary for achieving that purpose. And he concludes, “If the medicine is good, the disease will be cured. It is not necessary to know who prepared it, or where it came from”¹²⁹⁹.¹³⁰⁰

While most religions relied solely on faith, Buddha stressed “seeing” and understanding. The word *saddhā* appears in Buddhist literature and is regularly misinterpreted as faith instead of the more accurate, “confidence born out of conviction”¹³⁰¹—admittedly, it contains the notion of faith as adherence to the Three Jewels. The fourth-century A.C. Buddhist scholar Asanga elaborated that *saddhā* comprised of “three aspects: 1) full and firm conviction that a thing is; 2) serene joy at good qualities; 3) aspiration or wish to achieve an object in view”¹³⁰². Doubt in belief results from lack of “seeing”. Seeing dissolves uncertainty and thus, establishes faith. Buddha asked his followers to “come and see” (*ehi-passika*) and not to come and believe. By referring to his own enlightenment, he affirmed it is always by *Ñāṇadassana* (knowledge or wisdom) and not believing by faith.¹³⁰³ For Buddha, it was unsuitable for knowledgeable and rational people to hold absolute convictions about truth. He regarded as fetter an attachment “to one thing (to a certain view) and looking down upon other things (views) as inferior”¹³⁰⁴.

The Dhamma

Dhamma in Theravāda entails a twofold meaning. One, which is the most accepted, Dhamma, is what Buddha taught. In his final moments, he said to his followers that Dhamma would be their only guide after his death. The second meaning refers to the “nine transcendental phenomena”, namely, the four paths, the four fruits, and

¹²⁹⁷ *Ibid.*, 5.

¹²⁹⁸ *Ibid.*

¹²⁹⁹ *Ibid.*, 8.

¹³⁰⁰ *Ibid.*, 4-8.

¹³⁰¹ *Ibid.*, 8.

¹³⁰² *Ibid.*

¹³⁰³ *Ibid.*, 8-9.

¹³⁰⁴ *Ibid.*, 10.

nibbāna”.¹³⁰⁵ In reality, the two meanings consist of two similar aspects of the same term; the former being the “propositional” one and the latter the metaphysical. There were also six virtues attributed to Dhamma which were:¹³⁰⁶

- well-taught by the Buddha,
- to be seen in this very life,
- timeless,
- worthy of saying “come and see”,
- to be internalized,
- to be understood by the wise each for oneself¹³⁰⁷

Dhamma is the second of the Three Jewels where Buddhist seek refuge and despite the average layperson regards Dhamma as something static and sacred, its main constituents, teaching, studying, and preaching, are fundamentally dynamic. In the Theravāda countries, Dhamma is part of the school curriculum for young children, while for adults, there are courses mainly in urban areas, and the Saṅgha maintains its own educational system for its members. “The practice of the Dhamma is understood as a lifelong activity that is not confined to any particular time of the day”.¹³⁰⁸

“The Dhamma is constantly being taught, interpreted, reinterpreted and debated over by numerous preachers and writers daily in Theravāda countries. Preachers' and speakers' reputations rise and fall in accord with the number of their waxing and waning admirers. So, in all these ways, the Dhamma is dynamic, vibrant, popular, and even sensational and controversial.”¹³⁰⁹

The Saṅgha

The literal meaning of the word saṅgha is that of community. Rationally, the earliest Buddhist tradition included in the Saṅgha anyone from the four groups—bhikkhus, bikkhunīs, upasaka and upasikas—who accomplished any of the four paths or

¹³⁰⁵ Tilakaratne, *Theravada Buddhism*, 22.

¹³⁰⁶ Ibid.

¹³⁰⁷ Adapted from Tilakaratne, *Theravada Buddhism*, 22.

¹³⁰⁸ Tilakaratne, *Theravada Buddhism*, 59.

¹³⁰⁹ Ibid., 60.

fruits. Still, gradually it ended up referring solely to bhikkhus.¹³¹⁰

In contrast, “taking refuge” refers to anyone who attained higher levels of liberation from dukkha, regardless of gender and status—those who have attained any of the four paths or fruits. In addition to the virtues of Buddha and Dhamma, there are nine virtues for the Saṅgha too, which are:¹³¹¹

- being with good conduct
- being with upright conduct
- being with conduct leading to knowledge
- being with amicable conduct
- being worthy of a gift
- being worthy of hospitality
- being worthy of gifts given for the sake of the departed
- being worthy of reverential salutation
- being an incomparable field of merit for the world¹³¹²

The virtues of the Three Jewels are listed in three different formulae, respectively. Along with chants for taking refuge and the five precepts, these formulae are the primary religious training young Buddhists have taken since childhood. Chanting the formulae might not mean that practitioners realize their meaning, but by repeating the chants, they, at least, acknowledge the Jewels' virtues. Incorporating the translated form of the formulae in Southeast Asian languages has been suggested but not accepted in religious practices.¹³¹³ Buddhaghosa, in his manual “The Path of Purification”, states that reflection on the virtues of all Three Jewels will calm the mind. Many, though, choose to reflect solely on the virtues of Buddha.¹³¹⁴

¹³¹⁰ Ibid., 22.

¹³¹¹ Ibid., 22-23.

¹³¹² Adapted from Tilakaratne, *Theravada Buddhism*, 23.

¹³¹³ Tilakaratne, *Theravada Buddhism*, 23.

¹³¹⁴ Ibid., 23-24.

Seeking Refuge

“Seeking refuge” is, indeed, a deep-rooted practice of human beings in their attempt to abolish evil. Unavoidably it also became embedded in Theravāda Buddhism. Buddha himself commented on this matter as follows:¹³¹⁵

“Stricken by fear, many go to hills, woods, groves, trees, and shrines for refuge ... By resorting to such refuge, one is not freed from suffering. He who has gone for refuge to the Buddha, the Dhamma, and the Saṅgha, sees with right knowledge the four noble truths, namely, suffering, its origin, its cessation, and the path leading to its cessation By seeking such refuge, one is freed from all forms of suffering”¹³¹⁶

Anthropological research has widely recognized that fear stemming from overwhelming threats is the fundamental incentive for humans to ensconce themselves to religion.¹³¹⁷ Accordingly, for Buddhism, this same kind of fear is connected to saṃsāra—the cycle of death and rebirth. Theravādins do not believe that the Three Jewels would shield them from natural hazards. Buddha himself aimed to empower his mind so that the fear of suffering and death would not affect him and denouncing any help from a supernatural being.¹³¹⁸

Taking refuge to the Three Jewels has the threefold meaning of trusting the Buddha so as to realize the same unshakeable mind, charging the Dhamma as the guide to deathlessness, and counting the Saṅgha as an example of the feasibility of the end. The formula chanted for taking refuge in the Three Jewels is the following, repeated twice, adding *dutiyampi* for the second time and *tatiyampi*, for the third time.¹³¹⁹

Buddhaṃ saraṇaṃ gacchāmi I go for refuge to the Buddha.

Dhammaṃ saraṇaṃ gacchāmi I go for refuge to the Dhamma

¹³¹⁵ Ibid., 24.

¹³¹⁶ Ibid.

¹³¹⁷ Ibid.

¹³¹⁸ Ibid., 24-25.

¹³¹⁹ Ibid., 25.

The indispensable feature of “taking refuge” is trust (saddha). It is important to point out that trust in Theravāda should not be perceived as identical to the trust and faith that characterizes theistic religions.¹³²⁰ Taking refuge to the Three Jewels is impossible with a lack of trust. The absence of shelter determines the incapacity to follow the path of Buddhism. So, trust is of central significance in Theravāda.¹³²¹ Even more significant is the way that it develops. Buddha stated that trust could derive from emotional or rational processes and identified “rootless” and “rational” trust, respectively.¹³²²

Buddha elucidated the concept of rational trust on the “Discourse on Inquiry” (*The Middle Length Discourses* 47), the “Discourse to Brahmaṃyū” (*The Middle Length Discourses* 91), and the “Shorter Discourse of the Simile of the Elephant’s Footprint” (*The Middle Length Discourses* 27). Specifically, in the latter, he draws a parallel between the process of “not believing that the Buddha is fully enlightened, that the Dhamma is well proclaimed by the Buddha, and that the Saṅgha practices the good way”¹³²³ and “the practice of a clever elephant tracker who would not draw a hasty conclusion but continue to follow the marks indicating the presence of an elephant until he actually sees the elephant itself”¹³²⁴.¹³²⁵ Evidently, trust in Theravāda is qualitatively distinct from faith observed in theistic traditions. Trust to the Three Jewels should be established on solid confirmation and factual observation and not just unquestionable devotion.¹³²⁶ By all means, only a few Theravādins will seek to act on such a rational basis, since for most, trust is a matter of cultural influence and family upbringing.¹³²⁷

Be that as it may, in stark contrast to Mahayanists and other religious practitioners, no Theravāda Buddhist will ever regard Buddha as a celestial entity that grants wishes. Thus, there are no prayers in Theravāda practice. The only available deities to turn to and ask favors are local and foreign ones, existing exclusively outside of the

¹³²⁰ Ibid., 25.

¹³²¹ See also, Rāhula, *What the Buddha Taught*, 8.

¹³²² Tilakaratne, *Theravada Buddhism*, 25.

¹³²³ Ibid., 27.

¹³²⁴ Ibid., 28.

¹³²⁵ Ibid., 26-28.

¹³²⁶ Ibid., 27-28.

¹³²⁷ Ibid., 28.

Theravāda pantheon.¹³²⁸ Even the omnipresent statues of Buddha in Theravāda societies should not be interpreted as a paradox but as an effort to preserve his memory.¹³²⁹ Theravādins hold that “the power of the virtues of the Buddha”¹³³⁰ can protect them from evil. Hence, visual representations of Buddha symbolize the magnitude of his virtues.¹³³¹

There is a Theravāda legend that, somehow, suggests the superiority of the Dhamma over the other two Jewels. It says that following his Enlightenment, Buddha searched for a mentor to guide him, and he found that guidance in Dhamma.¹³³² Notwithstanding, Buddha and Dhamma should be regarded as a unity. Buddha conceived and disseminated Dhamma, but Dhamma is the reason “that Buddha is the Buddha”. Buddha is the realization and representation of Dhamma. It is through him and Saṅgha that Dhamma reveals itself to the world.¹³³³ There is a twofold sense in Dhamma, the propositional one, representing what Buddha taught, and a psycho-ethical one, which is the realizations achieved by practicing Buddha's tenets.¹³³⁴

The Four Noble Truths

The Buddha in his first sermon, “The Discourse on the Turning of the Wheel of the Dhamma”, revealed to the five heeders the four noble truths. These truths, followed by their abbreviated name, are suffering (*dukkha*), the arising of *dukkha* (*samudaya*), the cessation of *dukkha* (*nirodha*), and the path leading to the cessation of *dukkha* (*magga*). These four noble truths lie at the heart of Buddhist tradition. The Buddha signifies their centrality by invariably stating that he taught only *dukkha* and the way to terminate it and nothing more.¹³³⁵

In fact, every aspect of Buddha's teaching can be associated with the noble truths to a lesser or greater extent. For example, in his discussion with bhikkhu Ma-

¹³²⁸ Ibid., 28.

¹³²⁹ Ibid., 29.

¹³³⁰ Ibid.

¹³³¹ Ibid.

¹³³² Ibid., 31.

¹³³³ Ibid.

¹³³⁴ Ibid., 31-32.

¹³³⁵ Tilakaratne, *Theravada Buddhism*, 39; Rāhula, *What the Buddha Taught*, 16.

lunkyaputta he explained that if an arrow wounds a man, the focus should be the treatment and not any other trivial issues like who the archer was.¹³³⁶ Thus, dukkha is of primary concern for human life.¹³³⁷ Subsequently, the noble truths concentrate on dukkha in saṃsāra and the liberation from it in nibbāna. Because of the failure to conceive and realize the noble truths, someone wanders through saṃsāra for a long time. Each truth requires its distinct action; one must comprehend dukkha, abandon its cause, realize the cessation and practice the path to cessation.¹³³⁸

The Buddhist view of causality constitutes the foundation of the entire Theravāda philosophy and metaphysics. Buddha referred to it as paṭiccasamuppāda or dependent co-origination and stated that “whoever sees dependent co-origination sees the Dhamma, and whoever sees the Dhamma sees dependent co-origination”, denoting this way the centrality of this concept in his doctrines.¹³³⁹

Paṭiccasamuppāda - Dependent Origination

Sanskrit word Ātman denotes there is a permanent entity, an unchanging substance within every human being. It is the soul that either lives eternally in hell or heaven, or, according to others, it extends into various lives with the aim of completely purifying itself and unite with its origin, the Universal Soul or Ātman (God or Brahman). It is the thinker of thoughts and feeler of sensations. Buddhism denies the concept of Ātman—and subsequently that of God—and theorizes that the sense of self is an illusory belief, source of all the troubles, and it allows toxic perceptions of “me” and “mine”, that convey selfish feelings of “craving, attachment, hatred, ill-will, conceit, pride, egoism, and other defilements”.¹³⁴⁰

Human beings created God from a need for self-protection and conceived Ātman as a response to the need for self-preservation and console themselves from the impermanence of life. Buddhism intends to guide people to enlightenment by eliminating ignorance, weakness, fear, and desire. The ideas of God and Soul are deep-rooted

¹³³⁶ See, Rāhula, *What the Buddha Taught*, 14, and Tilakaratne, *Theravada Buddhism*, 39.

¹³³⁷ Tilakaratne, *Theravada Buddhism*, 39.

¹³³⁸ *Ibid.*, 40.

¹³³⁹ *Ibid.*, 32.

¹³⁴⁰ Rāhula, *What the Buddha Taught*, 51.

in humankind.¹³⁴¹

The doctrine of Anattā or No-Soul is an analytical approach that culminates from the examination of the Five Aggregates and the doctrine of Paṭiccasamuppāda, the Dependent Origination. According to the First Noble Truth (Dukkha), a being is the composition of the Five Aggregates¹³⁴². There is nothing behind them that forms Ātman. Paṭiccasamuppāda yields the same result. This synthetical approach concludes that nothing in the world is absolute. Everything is conditioned, relative, and interdependent.¹³⁴³

The concept of dependent co-origination¹³⁴⁴ signifies the causality of how reality occurs and unfolds. The following formula represents it abstractly:¹³⁴⁵

In the presence of this, this is.	Imasmiṃ sati idaṃ hoti
From the arising of this, this arises.	Imassuppādā idaṃ uppajjati
In the absence of this, this is not.	Imasmiṃ asati idaṃ na hoti
From the cessation of this, this ceases.	Imassa nirodhā idaṃ nirujjhati ¹³⁴⁶

Rāhula provides a modern interpretation of the above formula:¹³⁴⁷

“When A is, B is;
A arising, B arises;
When A is not, B is not;
A ceasing, B ceases.”¹³⁴⁸

Buddhist discourses further expand this formula into its actual application by employing twelve concepts to show the interdependent way dukkha progressively

¹³⁴¹ Ibid., 52.

¹³⁴² The Four Noble Truths and the Five Aggregates will be analyzed later in this chapter.

¹³⁴³ Rāhula, *What the Buddha Taught*, 52-53.

¹³⁴⁴ Rāhula refers to this doctrine as “Conditioned Genesis”, (in Rāhula, *What the Buddha Taught*, xii), in Tilakaratne, *Theravada Buddhism*, xxvii, Tilakaratne labels it as “Dependent Co-origination”. Among various other, the most prevalent translation, which this work will use mostly hereafter, is “Dependent Origination”).

¹³⁴⁵ Tilakaratne, *Theravada Buddhism*, 32-33.

¹³⁴⁶ Adapted from Tilakaratne, *Theravada Buddhism*, 33; and Rāhula, *What the Buddha Taught*, 53.

¹³⁴⁷ Rāhula, *What the Buddha Taught*, 53.

¹³⁴⁸ Ibid.

arises and ceases. These concepts are listed as follows:¹³⁴⁹

1. Avijjā - Ignorance: lack of knowledge about dukkha, its origin, its cessation, and the path leading to its cessation.
2. Saṅkhāra - Volitional constructions: physical, verbal, and mental volitional actions.
3. Viññāna – Consciousness: the six (not five) kinds of consciousness; namely, eye-consciousness, ear, nose, tongue, body, and mind consciousness.
4. Nāma-rūpa - Psychophysical entity or Body and Mind: feeling, perception, volition, contact, and attention are called “name”; the four basic material elements and matter derived from them are called “form”. The two together are called a psychophysical entity (or name-and-form).
5. Saḷāyatana - Six sense bases: the eye base, ear, nose, tongue, body, and mind base.
6. Phassa - Contact: Contact means the union of three things—the sense organ, the relevant object, and the associated consciousness. Taken together, they are sixfold-as eye contact, ear, nose, tongue, body, and mind contact.
7. Vedanā - Feeling or the act of feeling: These are sixfold-as the feeling born from eye contact, ear contact, nose contact, tongue contact, body contact, and mind contact.
8. Taṇhā - Thirst, or the act of desiring, or craving: It is sixfold as the thirst for material forms, sounds, odors, tastes, tactile objects, and mental phenomena
9. Upādāna - Clinging, or the intense act of grasping: It is fourfold as the clinging for sensual pleasures, clinging to views, clinging to rules and rituals, and clinging to the view of self.
10. Bhava – Existence or Becoming: It is the three planes of existence as sense sphere, fine material sphere, and nonmaterial sphere.
11. Jāti – Birth: The birth of a being into any one of the above mentioned three planes of existence.

¹³⁴⁹ Tilakaratne, Theravada Buddhism, 33.

12. Jarā-maraṇa - Decay and Death: the aging and the passing away of beings after they have been born.¹³⁵⁰

Furthermore, the interdependent process of the arising and the cessation of dukkha set out as follows:¹³⁵¹

1. Conditioned by avijjā arise saṅkhāra;
2. Conditioned by saṅkhāra arises viññāṇa;
3. Conditioned by viññāṇa arise nāma-rūpa;
4. Conditioned by nāma-rūpa arise saḷāyatana;
5. Conditioned by saḷāyatana arises phassa;
6. Conditioned by phassa arises vedanā;
7. Conditioned by vedanā arises taṇhā;
8. Conditioned by taṇhā arises upādāna.
9. Conditioned by upādāna, bhava arises.
10. Conditioned by bhava, jāti happens.
11. Conditioned by jāti, jarā-maraṇa arise.

This is how dukkha arises in its entirety. Its cessation follows the reverse sequence: As ignorance ceases, volitional constructions cease ... As birth ceases, decay and death cease. Thus, *dukkha* ceases in its entirety.¹³⁵²

All these factors are conditions for (paṭīccasamuppāda) and are also conditioned by (paṭīccasamuppanna), and they are “relative, interdependent, and interconnected, and nothing is absolute or independent”¹³⁵³. Even free will is non-existent, according to paṭīccasamuppāda. Nothing can be absolutely free in this world as everything is conditioned and relative. Free will indicates autonomy, independence from conditions, and cause and effect. But none of these are possible since life itself, “the whole of existence”, is “conditioned and relative”.¹³⁵⁴

¹³⁵⁰ Adapted from Tilakaratne, *Theravada Buddhism*, 33-34; Chamnong Thongprasert, “Paticcasamuppada (Dependent Origination)”, *The Chulalongkorn Journal of Buddhist Studies* 7 (December 2013): 81-82, <https://so06.tci-thaijo.org/index.php/cjbs/article/view/244914>; For the 12 causal links see also, Crosby, *Theravada Buddhism*, 114-115.

¹³⁵¹ Tilakaratne, *Theravada Buddhism*, 34.

¹³⁵² Tilakaratne, *Theravada Buddhism*, 34; Rāhula, *What the Buddha Taught*, 54.

¹³⁵³ Rāhula, *What the Buddha Taught*, 54.

¹³⁵⁴ Ibid.

Buddha distinguishes between dependently arisen phenomena and dependent origination.¹³⁵⁵ The latter is the doctrine or theory that articulates the manner of how reality emerges by interdependent conditions. The application of the theory depends on what aspect of reality is examined. In the rise and cessation of suffering, the aforementioned twelve factors or links are the dependently arisen phenomena. It is the totality of their interdependent association that explains the cessation and origination of suffering.¹³⁵⁶

In the above process, *avijjā* (ignorance) might appear like the beginning of *dukkha*, but at no point, Buddhist tradition acknowledges it as an initial cause. In fact, Buddha states, ignorance is impermanent, dependently originated, subject to cessation, “Ignorance was not there prior to this; it started only from here!”¹³⁵⁷

Another critical aspect of the origination and termination of *dukkha* is its two-fold dimensions; the first dimension refers to the constant present. The second is related to a fundamental feature of Buddhist metaphysics, the multi-lived existence. Thus, the first step for realizing the arising and cessation of suffering is to conceive it through the present life, as occurring at every instance of mortal life. Suffering arises spontaneously in all the unawakened ones, and termination is achieved only through systematic practice of its dependently derived factors.¹³⁵⁸

According to dependent origination, all past events incorporate the conditions of *avijjā* (ignorance) and *saṅkhāra* (volitional constructions). *Avijjā*, though, is indispensably linked to *taṇhā* (craving) and *upādāna* (clinging) while *saṅkhāra* are necessary for *Kama-Bhava* (the process of becoming). Thus, by examining past events through *taṇhā*, *upādāna*, and *Kama-Bhava*, their causality is unveiled in the following manner:¹³⁵⁹ *Avijjā* is ignorance that affects peoples' actions their past lives; *saṅkhāra* is the perpetual generation of action; *taṇhā* is the desire “to obtain the result of action in the present and future life”¹³⁶⁰; *upādāna* is clinging to actions and their consequences; and *Kama-Bhava* regards intention. These five factors constitute the past conditions that

¹³⁵⁵ Tilakaratne, *Theravada Buddhism*, 34.

¹³⁵⁶ *Ibid.*, 35.

¹³⁵⁷ *Ibid.*

¹³⁵⁸ *Ibid.*

¹³⁵⁹ Thongprasert, “*Paticcasamuppada*”, 84.

¹³⁶⁰ *Ibid.*

lead to rebirth and existence.¹³⁶¹

The second dimension extends the fundamental doctrine to how dukkha develops and ceases in saṃsāra, all the way through the past, present, and future, with five causes concerning each one of them, respectively.¹³⁶² Those causes are: a) “ignorance, constructions (craving, grasping, and existence);” b) “consciousness, name and form, six [sense]bases, contact, and feeling;” c) “ignorance, constructions (craving, grasping, and existence);” and d) “birth, decay, and death (of consciousness, name and form, six bases, contact, and touch)”. In the preceding examination, the elements in parentheses “is what is subsumed by the major factors”.¹³⁶³ Hence, five conditions of ignorance, volitional constructions, craving, clinging and becoming in the past life lead to the five conditions of ignorance, volitional constructions, craving, clinging and becoming in the present life, leading to another five conditions of ignorance, volitional constructions, craving, clinging and becoming in the future life.¹³⁶⁴

The process of dukkha—its arising and termination—extends, similarly, to everything that occurs. All are subject to suffering, “nothing happens for no reason, or any absolute reason, such as through an almighty God”.¹³⁶⁵ Buddhist theory of causality recognizes five domains where dependent origination is employed and associated with five respective principles and their analogous causal process: the principle of seasons and the seasonal changes, the principle of seeds and the process of plant production and growth, the principle of action and the human actions and its results, the principle of nature and the events of nature, and the principle of mind and the functioning of the human mind, as there is no person or soul accountable for conceiving”. These five principles underlie the functioning “of the natural world and the moral and psychological spheres of human life”.¹³⁶⁶

The manifestation of Paṭiccasamuppāda in every aspect of existence demon-

¹³⁶¹ Ibid.

¹³⁶² Tilakaratne, *Theravada Buddhism*, 35.

¹³⁶³ Ibid., 35-36.

¹³⁶⁴ Thongprasert, “Paṭiccasamuppada”, 85.

¹³⁶⁵ Tilakaratne, *Theravada Buddhism*, 36.

¹³⁶⁶ Ibid., 36.

strates the causal conditionality of reality and a twofold absence that characterizes Buddhism. The absence of a God as a creator and the lack of a soul.¹³⁶⁷ This ontological view orients Buddhism towards naturalism and constitutes a principal contrast with other theistic traditions.¹³⁶⁸

Despite the absence of a Creator, there is indeed order, stability, and uniformity in the Buddhist worldview. Dependent origination, as the primary organizer of reality, contains four properties. These are: **A**) Objectivity (tathata), which ensures that dependent origination is objectively real. As Buddha stated, “dependent nature of reality exists whether buddhas were to appear in the world or not”¹³⁶⁹; **B**) Necessity (avitathata), which affirms the stability of the process; **C**) Invariability (anannathata), which confirms the “constancy and uniformity of causes and effects”¹³⁷⁰; and finally, there is **D**) Conditionality (idappaccayata), which demonstrates that conditioning depends on a diversity of constituents.¹³⁷¹

In summation, dependent origination is the Buddhist perception of reality. That reality encompasses all living organisms, their thoughts, actions, and the natural world. Reality also incorporates dukkha.¹³⁷² That said, there is no notion of “eternalism and annihilationism or existence and non-existence” associated with the Buddhist concept of suffering.¹³⁷³ The conditional causality that governs dukkha, and anything else that comes into existence, represents the soulless and atheistic Theravādin worldview.¹³⁷⁴

The relationship between the doctrine of dependent origination and four noble truths is very tight. The main difference is that the former analyses the origin and cessation of dukkha from a “human psychology” and reality point of view, and the latter assesses it as a “comprehensive ethical program”.¹³⁷⁵

Suffering - Dukkha - The First Noble Truth

The first noble truth is described on the Discourse on the “Turning of the Wheel

¹³⁶⁷ Ibid., 36.

¹³⁶⁸ Ibid., 37.

¹³⁶⁹ Ibid.

¹³⁷⁰ Ibid.

¹³⁷¹ Ibid.

¹³⁷² Ibid.

¹³⁷³ Ibid., 38.

¹³⁷⁴ Ibid.

¹³⁷⁵ Ibid., 38-39.

of the Dhamma” as below:

“Birth is dukkha, decay is dukkha, illness is dukkha, death is dukkha, to be associated with the unpleasant is dukkha, to be dissociated from the pleasant is dukkha, not getting what one yearns for is dukkha; in brief, the five aspects [of a person] characterized by grasping are dukkha.”¹³⁷⁶

There are three diverse applications of the term dukkha:¹³⁷⁷

- Dukkha-dukkha - Dejected suffering: the common physical pain and mental anguish. It is suffering in its most familiar form.
- Vipariṇāma-dukkha - Suffering caused by change: dissatisfaction associated with the changeability and fluidity of life and reality—including old age.
- Saṅkhāra-dukkha - Suffering associated with constructed things. Dissatisfaction is linked with the impermanence of things.¹³⁷⁸

The term saṅkhāra in Saṅkhāra-dukkha regards “everything that is causally conditioned and dependently arisen”¹³⁷⁹. Acknowledging Theravāda Buddhism concentrates on human dissatisfaction, this third form of dukkha should be conceived as the anguish of the individuals. Further, it is the same kind of suffering that the conventional interpretation of dukkha refers to—in terms of the individual's clinging on the five aggregates.¹³⁸⁰

Understanding the causal genesis of human beings necessitates the conception of a five-element design of human life.¹³⁸¹ Buddha conceptualized 'being', or 'I', as the unification of dynamic physical and mental forces, divided into five aggregates or pañcakkhandhā. Dukkha and the five aggregates are not two different things. Indeed, the five aggregates constitute dukkha.¹³⁸²

¹³⁷⁶ Ibid., 40.

¹³⁷⁷ Tilakaratne, *Theravada Buddhism*, 40; Rāhula, *What the Buddha Taught*, 19-20.

¹³⁷⁸ Tilakaratne, *Theravada Buddhism*, 40.

¹³⁷⁹ Ibid.

¹³⁸⁰ Ibid.

¹³⁸¹ Ibid., 41.

¹³⁸² Rāhula, *What the Buddha Taught*, 20.

The **five aggregates (pañcakkhandhā)** are:¹³⁸³

- a) The material form—rūpa-khandha, perceived as the constantly changing physical body.¹³⁸⁴ The entire domain of matter, internal and external, is incorporated in the Aggregate of Matter.¹³⁸⁵
- b) Feelings or sensations—vedanā-khandha—that contain neutral, happy, and unhappy emotional experiences.¹³⁸⁶ There are six kinds of sensations and are experienced through the eye as visible patterns, through the ear as sounds, the nose as odors, the tongue as flavors, the body as tangible objects, and the mind as thoughts or ideas. Vedanā-khandha represents all human sensations, mental and physical.¹³⁸⁷ Rāhula comments that Buddhism accepts Mind—or Manas—as an organ or faculty (indriya), similar to the eye or the ear. Humans have the capacity to regulate and expand it like any other organ or faculty. Buddha stressed the value of disciplining the six faculties. Different senses convey different experiences of the world. The five physical sense organs, the eye, ear, nose, tongue, and the body, help humans perceive visible patterns, sounds, odors, tastes, and material objects. What cannot be conceived by the eye, ear, nose, tongue or body, can be conceived by the mind. Nevertheless, “ideas and thoughts are not independent of the world experienced by these five physical sense faculties ... they depend on, and are conditioned by, physical experiences”¹³⁸⁸. Hence, Ideas and thoughts are generated and conditioned by physical experiences and are conceived by the mind. Therefore, mind (manas) is acknowledged as a sense faculty (indriya).¹³⁸⁹
- c) Perceptions—saññā-khandha, which include perceptions through the eyes, ears, nose, tongue, body, and mind.¹³⁹⁰ Perceptions correspond to the “six

¹³⁸³ Tilakaratne, *Theravada Buddhism*, 41; For an in-depth analysis on pañcakkhandhā see also, Rāhula, *What the Buddha Taught*, 20-27.

¹³⁸⁴ Tilakaratne, *Theravada Buddhism*, 41.

¹³⁸⁵ Rāhula, *What the Buddha Taught*, 21.

¹³⁸⁶ Tilakaratne, *Theravada Buddhism*, 41.

¹³⁸⁷ Rāhula, *What the Buddha Taught*, 21.

¹³⁸⁸ *Ibid.*, 22.

¹³⁸⁹ *Ibid.*, 21-22.

¹³⁹⁰ Tilakaratne, *Theravada Buddhism*, 41.

internal faculties” and the respective six “external objects”. They are generated by the association of the “six faculties with the external world”, and their role is to identify physical and mental objects.¹³⁹¹

- d) Constructions or Mental Formations—saṅkhāra-khandha, regarded as mental and physical actions. This Aggregate incorporates all volitional actions, good and bad that can produce kammic effects. What is generally known as kamma (or karma in Sanskrit) belongs to this aggregate too. Buddha defined Kamma as volition or cetanā “Having willed, one acts through body, speech and mind”¹³⁹². Cetanā is a mental formation or activity that directs the mind towards good, bad or neutral actions—important to note that sensations and perceptions are not deliberate actions and as such are not included here. There are six kinds of volitions associated with the six internal faculties and the respective six objects.¹³⁹³
- e) Consciousness—viññāṇa-khandha, which emerges from the six base senses—sight, hearing, smell, touch, taste, and mind.¹³⁹⁴ Consciousness is a response with one of the six organs as its basis and one of the six corresponding external phenomena as its object. For example, mental consciousness has the mind as its foundation and a mental object, like thought, as its object. Thus, consciousness links with other faculties, like sensation, perception, and volition, is sixfold and relates to six internal faculties and the corresponding six external objects.¹³⁹⁵

It is crucial to comprehend that the precise function of Consciousness is not to recognize an object but to enable awareness of the presence of an object. The only Aggregate responsible for recognition is that of perception.¹³⁹⁶ As already mentioned, there is no concept of a permanent self or soul (ātman) in Theravāda Buddhism. Likewise, consciousness could not be conceived through the context of a dyadic relationship

¹³⁹¹ Rāhula, *What the Buddha Taught*, 22.

¹³⁹² Ibid.

¹³⁹³ See, Rāhula, *What the Buddha Taught*, 22-23, and Tilakaratne, *Theravada Buddhism*, 41.

¹³⁹⁴ Tilakaratne, *Theravada Buddhism*, 41.

¹³⁹⁵ Rāhula, *What the Buddha Taught*, 23.

¹³⁹⁶ Ibid.

of “spirit in opposition to matter”.¹³⁹⁷ Buddha emphasized that consciousness cannot manifest autonomously from matter, sensation, perception, and mental formations.¹³⁹⁸

The synergy of these five aggregates allows the perception of the self and self-permanence and leads to the formulation of all egocentric desires.¹³⁹⁹ The totality of five Aggregates constitutes the phenomenon of “being”, and signifies “dukkha itself (saṅkhāra-dukkha)”. No other “being” exists, overseeing the five aggregates in experiencing dukkha.¹⁴⁰⁰

The four noble truths and the concept of dukkha frame the basis of Theravāda Buddhism. In fact, for Buddha, seeing dukkha is seeing its rise, its end, and the path leading to its termination. Equally, we could deduce there is solely one truth with four perspectives.¹⁴⁰¹

Notwithstanding, the principal significance of dukkha should not identify Buddhism as pessimistic.¹⁴⁰² Buddhism is neither pessimistic nor optimistic, but realistic, for it takes a pragmatic and objective view (yathābhūtaṃ) of the world. It objectively describes humans and their world and offers guidance to “perfect freedom, peace, tranquility, and happiness”¹⁴⁰³. Indeed, while dukkha means “‘suffering’, ‘pain’, ‘sorrow’ or ‘misery’”¹⁴⁰⁴ in ordinary language, as the First Noble Truth, it also depicts Buddha's view of reality and encapsulates more profound concepts “such as ‘imperfection’, ‘impermanence’, ‘emptiness’, ‘insubstantiality’”¹⁴⁰⁵. Thus, there is no unique word to contain the complete interpretation of the notion of dukkha.¹⁴⁰⁶

Buddhism does not dismiss happiness in life. Instead, it accepts various forms of joy, which can be material, spiritual for laypeople or monks. Be that as it may, these kinds of happiness remain impermanent and are subject to change, and for Buddha, whatever is impermanent is dukkha.¹⁴⁰⁷

¹³⁹⁷ Ibid., 23.

¹³⁹⁸ Ibid., 25.

¹³⁹⁹ Tilakaratne, *Theravada Buddhism*, 41.

¹⁴⁰⁰ Rāhula, *What the Buddha Taught*, 26.

¹⁴⁰¹ Tilakaratne, *Theravada Buddhism*, 41.

¹⁴⁰² See, Rāhula, *What the Buddha Taught*, 17, and Tilakaratne, *Theravada Buddhism*, 41.

¹⁴⁰³ Rāhula, *What the Buddha Taught*, 17.

¹⁴⁰⁴ Ibid.

¹⁴⁰⁵ Ibid.

¹⁴⁰⁶ Ibid.

¹⁴⁰⁷ Ibid., 17-18.

Regarding happiness, Buddha insisted on the realization of the following notions: “1) attraction or enjoyment (assāda), 2) evil consequence or danger or unsatisfactoriness (Ādīnava), and 3) freedom or liberation (nissaraṇa)”¹⁴⁰⁸. When one is attracted to and enjoys something beautiful, this is assāda. But this satisfaction is not permanent. When one is deprived of this joy, one starts to experience the ādīnava. When there is a lack of attachment to that source of happiness, nissaraṇa results. These three conditions hold about all pleasures in life. In Buddha's thought, one must consider life's pleasures, along with its pains and sorrows and liberation from them, to appreciate life entirely and perceive it objectively. That is how actual deliverance becomes feasible.¹⁴⁰⁹

Dukkha and the process of dependent origination are only objective facts that define the causality of existence. The four noble truths share the characteristics of objectivity, necessity, and invariability with dependent origination.¹⁴¹⁰ The scope and objective of this systematic examination is to establish the actuality of suffering regardless of any human belief. Hence, the primary purpose of Buddha's teaching is to reveal dukkha and causal conditionality and insist on the existence/possibility of deliverance from anguish.¹⁴¹¹

Craving - The Origin (Samudaya) of Dukkha - The Second Noble Truth

“... Craving produces rebirth, associated with passionate desire, and which finds delight now here, now there -it is a thirst for pleasures, for existence, and non-existence.”¹⁴¹²

The above passage describes the second noble truth and the rise of dukkha (dukkhasamudaya-ariyasacca) due to taṇhā or craving. As the primary cause for rebirth and clinging to anything, taṇhā is driven by yearning. In further analysis, one can distinguish three kinds of it. Hence, there is a craving for:¹⁴¹³

- Objects that satisfy the six base senses. Accordingly, the interaction between the sense organ and the gratifying object, creates consciousness.

¹⁴⁰⁸ Ibid., 18.

¹⁴⁰⁹ Ibid., 18-19.

¹⁴¹⁰ Tilakaratne, *Theravada Buddhism*, 41.

¹⁴¹¹ Ibid., 41-42.

¹⁴¹² Ibid., 42.

¹⁴¹³ Tilakaratne, *Theravada Buddhism*, 42; Rāhula, *What the Buddha Taught*, 29.

The union of the three produces phassa or contact, eventually leading to taṇhā and causing dukkha. [Kāma-taṇhā]

- Being in either of the three realms of existence—the realm of pleasures and the ones of fine materiality, and immateriality. [Bhava-taṇhā]
- Non-existence and self-annihilation. [Vibhava-taṇhā]¹⁴¹⁴

All three aspects of craving bear the notion of the uniqueness of self and the immortal soul. In particular, the second type exemplifies the dogma of life after death and “eternalism”; in that manner, one desires to continue to exist and experience even more advanced levels of being. The third type and the yearning for self-annihilation embodies what is called “annihilationism”.¹⁴¹⁵

Taṇhā is what gives rise to dukkha and the continuity of existence. Yet, it is not the first cause. There is no such cause in Theravāda as “everything is relative and interdependent”.¹⁴¹⁶ Craving simply happens to be the most tangible, immediate cause, “the ‘principal thing’ and the ‘all-pervading thing’”¹⁴¹⁷ that “has as its [center] the false idea of self arising out of ignorance”¹⁴¹⁸. Craving also involves dhamma-taṇhā, which is the clinging to “ideas and ideals, views, opinions, theories, conceptions, and beliefs”¹⁴¹⁹. All suffering in the world, “from little personal quarrels in families to great wars between nations”¹⁴²⁰ originates from self-centered craving.

Taṇhā is also the essential condition that “leads to rebirth” (ponobhavika). According to the Buddhist theory of kamma and rebirth, there are four Nutriments, āhāra, that compose the necessary conditions for existence and continuity of life: 1) kabalīkārahāra or the ordinary material food; 2) phassāhāra, or contact of sense-organs with the external world; 3) consciousness (viññāṇāhāra); 4) mano-sañcetanāhāra or mental volition.¹⁴²¹

From the four āhāra, mental volition denotes “the will to live, to exist, to re-

¹⁴¹⁴ Adapted from, Tilakaratne, *Theravada Buddhism*, 42; and Rāhula, *What the Buddha Taught*, 29.

¹⁴¹⁵ Tilakaratne, *Theravada Buddhism*, 42.

¹⁴¹⁶ Rāhula, *What the Buddha Taught*, 29.

¹⁴¹⁷ Ibid.

¹⁴¹⁸ Ibid., 30.

¹⁴¹⁹ Ibid.

¹⁴²⁰ Ibid.

¹⁴²¹ Ibid.

exist, to continue, to become more and more”¹⁴²². It constitutes the source of existence and continuity in the form of good and bad actions. It is similar to 'Volition' (cetanā), which according to Buddha, corresponds to Kamma. Buddha elaborated on mano-sañcetanāhāra: “When one understands the nutriment of mental volition one understands the three forms of [taṇhā]”¹⁴²³. Consequently, taṇhā, cetanā, mano-sañcetanāhāra, and Kamma signify the same idea, the endless desire to exist, to re-exist, and to grow. This is the root, the antecedent of the arising (samudaya) of dukkha, observed in the Aggregate of Mental Formations.¹⁴²⁴

The above expresses one of the most critical details in Buddha’s tenets. The arising of dukkha lies in dukkha itself, and not outside, and the cause of the cessation of dukkha also lies in dukkha itself. This is the meaning of the renowned Pali formula: Yaṃ kiñci samudayadhammaṃ sabbaṃ taṃ nirodhadhammaṃ, which translates as, “Whatever is of the nature of arising, all that is of the nature of cessation”¹⁴²⁵. Thus, a creature that possesses within itself the nature of arising also has within itself the nature of its own cessation. Similarly, dukkha has in itself the nature of its own arising, and also the nature of its own cessation.¹⁴²⁶

Kamma in the Buddhist theory means only volitional action and not any action. Neither it includes the result of Kamma, for its effect is known as kamma-vipāka. Volition or desire can be good or bad. Nevertheless, craving, volition, and kamma, irrespective of their nature, contain the force to continue in a good or bad direction. Good or bad, it remains relative to the sphere of saṃsāra, the cycle of death and rebirth. The false idea of self drives the yearning for continuity.¹⁴²⁷

The theory of Kamma does not correlate with ‘moral justice’ or ‘reward and punishment’. The latter originate from the notion of a God that determines what is right and wrong. Kamma “is the theory of cause and effect, action and reaction”¹⁴²⁸, and it describes a natural law that does not associate with justice or reward and punishment.

¹⁴²² Ibid., 31.

¹⁴²³ Ibid.

¹⁴²⁴ Ibid.

¹⁴²⁵ Ibid.

¹⁴²⁶ Ibid., 31-32.

¹⁴²⁷ Ibid., 32.

¹⁴²⁸ Ibid.

Volitional actions produce their effects in virtue of their own law or nature, and their results may extend in a life after death.¹⁴²⁹

In Buddhism, death is “the total non-functioning of the physical body”, but “will or volition to exist”¹⁴³⁰ is an enormous force that moves everything, the whole world included. It is “the greatest energy in the world”, which does not cease after death, but it “recommences” life by causing rebirth.¹⁴³¹

In the logical question of what is there to be reborn, after death, if there is no soul (*ātman*), Buddha stressed that life is the combination of physical and mental energies—Five Aggregates—, which “they do not remain the same for two consecutive moments. Every moment they are born, and they die”¹⁴³². These energies do not vanish after death. They proceed to take another form of life. Similar to a child that grows into an adult, these energies incorporate “the power to take a new form, and grow gradually and gather force to the full”.¹⁴³³ Since there is nothing unchanging, nothing can pass to the next life:

“The difference between death and birth is only a thought-moment: the last thought-moment in this life conditions the first thought-moment in the so-called next life, which, in fact, is the continuity of the same series. During this life itself, too, one thought-moment conditions the next thought-moment ... As long as there is this ‘thirst’ to be and to become, the cycle of continuity (*saṃsāra*) goes on.”¹⁴³⁴

The Buddha clarifies in his teachings that craving is not the *single* cause of dukkha. Thus, he mentions greed, hatred, and ignorance (*avijjā*) as to the “three roots of unskillfulness”¹⁴³⁵. Desire and aversion stand at the opposite ends of the human mind, and ignorance acts as their base. In that sense, desire includes *taṇhā*. *Nibbāna* corresponds to the deliverance from these destructive modes of mental functioning. It is the

¹⁴²⁹ Ibid., 32.

¹⁴³⁰ Ibid., 33.

¹⁴³¹ Ibid.

¹⁴³² Ibid.

¹⁴³³ Ibid.

¹⁴³⁴ Ibid.

¹⁴³⁵ Tilakaratne, *Theravada Buddhism*, 43.

relation to them that illustrates the ultimate realization as liberation.¹⁴³⁶

Cessation of Dukkha - Nibbāna - The Third Noble Truth

The third noble truth describes how the complete elimination of craving leads to liberation from suffering. The Buddhist tradition terms this state as Nibbāna. Alternatively, it is the total abolition of greed (rāgakkhayo), hatred (dosakkhayo), and delusion (mohakkhayo).¹⁴³⁷ Descriptions of Nibbāna appear invariably in Pali literature. Some of them define it as: the dissolution of craving for the Five Aggregates of Attachment; as well as the suspension of continuity and becoming (Bhavanirodha), is Nibbāna; Liberation from vanity, elimination of craving, “the uprooting of attachment, the cutting off of continuity, the extinction of 'thirst' (taṇhā), detachment, cessation, Nibbāna”^{1438, 1439}.

The concept of Nibbāna has attracted a lot of controversy. Debates have addressed the “nature of Nibbāna’s experience” and the personhood’s fate after attaining the ultimate aim. For instance, by misinterpreting that the soul ceased to exist after Nibbāna, proponents of eternalism labeled Buddhism as an annihilationist religion.¹⁴⁴⁰

In Buddhism, no individual exists independently. Therefore, the attainment of Nibbāna cannot destroy any individual since there is, actually, no individual.¹⁴⁴¹ Descriptions with the use of negative terms also led many to conclude that it is all about negativism and self-annihilation. But Nibbana cannot involve the annihilation of self, for “there is no self to annihilate”. Instead, it is “the annihilation of the illusion, of the false idea of self”.¹⁴⁴² When someone liberates himself from dukkha realizes the truth of the dependent origination of reality. This understanding leads to the extinction of craving and the termination of the individual’s saṃsāra. The life of an awakened person can compare to the flame of a lamp. As the fire gets extinguished when there is no more fuel, likewise there is nothing to “refuel” rebirth once saṃsāra ends. Consequently, there is no death but rather a complete blowing out or parinibbāna. Thus, nothing is left

¹⁴³⁶ Tilakaratne, *Theravada Buddhism*, 43.

¹⁴³⁷ Tilakaratne, *Theravada Buddhism*, 43; Rāhula, *What the Buddha Taught*, 36-37.

¹⁴³⁸ Rāhula, *What the Buddha Taught*, 37.

¹⁴³⁹ Tilakaratne, *Theravada Buddhism*, 43; Rāhula, *What the Buddha Taught*, 36-37.

¹⁴⁴⁰ Tilakaratne, *Theravada Buddhism*, 43; Rāhula, *What the Buddha Taught*, 37-38.

¹⁴⁴¹ Tilakaratne, *Theravada Buddhism*, 44.

¹⁴⁴² Rāhula, *What the Buddha Taught*, 37 See also 57-58.

to the individual, arahant in particular, to refer to after the liberation from dukkha.¹⁴⁴³

Buddha also uses the word Truth or Absolute Truth instead of Nibbāna. A term that encompasses the meaning that world contains nothing that is absolute, “everything is relative, conditioned, and impermanent, and that there is no unchanging, everlasting, absolute substance like Self, Soul, or Ātman within or without”¹⁴⁴⁴. This Absolute Truth can never be negative, and its realization necessitates to see things as they are (yathābhūtaṃ) without illusion or ignorance (avijjā), leads to the abolition of craving (Taṇhakkhaya), and the cessation (Nirodha) of dukkha.¹⁴⁴⁵

Furthermore, Nibbāna is not the natural result of the extinction of craving either. A result presupposes an effect and a relevant cause, and there “would be saṃkhata ‘produced’ and ‘conditioned’”¹⁴⁴⁶. But Nibbāna is beyond cause and effect, it is Truth itself. Only seeing and realizing is possible. Walpola illustrates oh how Nibbāna is not comparable to “result”:¹⁴⁴⁷

“There is a path leading to the realization of Nibbāna. But Nibbāna is not the result of this path. You may get to the mountain along a path, but the mountain is not the result, not an effect of the path. You may see a light, but the light not the result of your eyesight”.¹⁴⁴⁸

Additionally, apart from the meaning of passing away of arahants or the Buddha, parinibbāna denotes the nature of the liberated person while still living.¹⁴⁴⁹ The terms visuddhi (purification) and vimutti (liberation) help expand the liberated person's case further. Hence, we can respectively say that the degraded mind is purified and that the tethered mind is liberated. The Buddhist tradition deems these states of feeling and mindfulness above plain mundane experience. One cannot parallel temporal, earthly happiness with Nibbāna happiness¹⁴⁵⁰. The latter exceeds what one can perceive

¹⁴⁴³ Tilakaratne, *Theravada Buddhism*, 44; Rāhula, *What the Buddha Taught*, 39-40.

¹⁴⁴⁴ Rāhula, *What the Buddha Taught*, 39.

¹⁴⁴⁵ Rāhula, *What the Buddha Taught*, 39-40.

¹⁴⁴⁶ *Ibid.*, 40.

¹⁴⁴⁷ *Ibid.*

¹⁴⁴⁸ *Ibid.*

¹⁴⁴⁹ *Ibid.*, 43.

¹⁴⁵⁰ *Ibid.*

through the sphere of the senses.¹⁴⁵¹

Nibbāna shifted gradually to represent a discrete transcendental entity in the succeeding Theravāda tradition. According to the prominent commentator Buddhaghosa, “Nibbāna is not nonexistence but existence”¹⁴⁵². An early Buddhist acknowledgment was “that both existence and nonexistence in absolute terms”¹⁴⁵³ are extremes and that the Buddha had repudiated such extreme perspectives. Notwithstanding, Theravādin scholars, like Buddhaghosa, came to view Nibbāna as a metaphysical phenomenon realized after the liberation from dukkha. This trend inspired the widespread view—probably enhanced even more by linguistic misinterpretations—that Nibbāna is a state of absolute happiness.¹⁴⁵⁴

Despite that, Theravādins seem to effectively acknowledge the underlying contrast between happiness in Nibbāna and the one existing in the celestial planes indicated in Buddhist discourses. It looks as Buddhists conceptualize Nibbāna as the final step to end saṃsāra. In reality, this ultimate goal is not to be achieved hastily, but only when the coming Buddha Metteyya reveals the Dhamma anew to the world. Until then, they will have plenty of time to enjoy all forms of happiness.¹⁴⁵⁵

The Eightfold Path - The Fourth Noble Truth - Magga: The Path

“Bhikkhus, there are these two extremes that should not be associated with by one who has renounced his worldly life. These are indulging in sensual pleasures which is low, vulgar, and belonging to the unenlightened, and the self-mortification, which is painful, ignoble, and harmful. Avoiding these two extremes is the Middle Path realized by the Buddha, which is productive of eye, knowledge, wisdom, science, and light.”¹⁴⁵⁶

With the above passage, the Buddha commences his first sermon by declaring

¹⁴⁵¹ Tilakaratne, *Theravada Buddhism*, 44-45; Rāhula, *What the Buddha Taught*, 39-40.

¹⁴⁵² Tilakaratne, *Theravada Buddhism*, 45.

¹⁴⁵³ Ibid.

¹⁴⁵⁴ Ibid.

¹⁴⁵⁵ Tilakaratne, *Theravada Buddhism*, 45; Rāhula, *What the Buddha Taught*, 43-44.

¹⁴⁵⁶ Tilakaratne, *Theravada Buddhism*, 45.

the fourth noble truth and the Middle Path (*Majjhimā Paṭipadā*) that leads to the termination of suffering.¹⁴⁵⁷ *Majjhimā Paṭipadā* avoids the two extremes of search for happiness, with one being “through the pleasures of the senses”¹⁴⁵⁸, and the other, through self-mortification in severe forms of asceticism. Buddha himself tried these two extremes and found them ineffective. He realized that only the Middle Path yields “vision and knowledge, which leads to Calm, Insight, Enlightenment, Nirvāṇa”¹⁴⁵⁹. This Middle Path is commonly mentioned as the Noble Eightfold Path (*Ariya-Aṭṭhaṅgika-Magga*), because it comprises eight levels. It abridges and embodies what one needs to practice for attaining Nibbāna. In further analysis, the eight steps, along with their brief explanation, are:¹⁴⁶⁰

1. Right View or Understanding (*Sammā-diṭṭhi*): means to understand the four noble truths and view reality as it is. It is the highest wisdom that unveils the Ultimate Reality. Buddhist tradition distinguishes two classes of understanding: One is relatively shallow, is called *anubodha* (knowing accordingly) and represents “knowledge, an accumulated memory, an intellectual grasping of a subject according to certain given data”¹⁴⁶¹. And the other is true, deep, understanding, called *paṭivedha* (penetration), and exemplifies “seeing a thing in its true nature, without name and label”¹⁴⁶². It is possible only when one fully develops one’s mind through meditation and liberates it from all impurities.¹⁴⁶³
2. Right Thought or Intention (*Sammā-saṅkappa*): means to cultivate ideas or thoughts of renunciation or selfless detachment, love, non-hatred, and inoffensiveness that apply universally to all beings.¹⁴⁶⁴
3. Right Speech (*Sammā-vācā*): means to speak only the truth, abstain from lying, backbiting and defamation or talk that provokes any kind of dishar-

¹⁴⁵⁷ *Ibid.*, 45.

¹⁴⁵⁸ Rāhula, *What the Buddha Taught*, 45.

¹⁴⁵⁹ *Ibid.*

¹⁴⁶⁰ Tilakaratne, *Theravada Buddhism*, 47; Rāhula, *What the Buddha Taught*, 45.

¹⁴⁶¹ Rāhula, *What the Buddha Taught*, 49.

¹⁴⁶² *Ibid.*

¹⁴⁶³ *Ibid.*

¹⁴⁶⁴ Rāhula, *What the Buddha Taught*, 49; Tilakaratne, *Theravada Buddhism*, 46.

mony in human relationships, recurring gossiping, using ungrateful and absurd language but only speak the truth and in an agreeable, gentle, compassionate, and meaningful manner.¹⁴⁶⁵

4. Right Action (Sammā-kammanta): promotes ethical, noble, and amicable conduct. It means to abstain from killing and practice compassion for living beings; to abstain from stealing and protect the possessions of others; to abstain from sexual misconduct, and live an ethical life.¹⁴⁶⁶
5. Right Livelihood (Sammā-ājīva): means to avoid a wrong means of earning a livelihood, and live one's life adhering to proper standards. One should abstain from having a profession that causes harm and, indeed, have a profession that is noble, harmless to others.¹⁴⁶⁷
6. Right Effort (Sammā-vāyāma): indicates the endeavor “(1) to prevent the arising of evil and unwholesome states not already present; (2) to get rid of evil and unwholesome states already arisen; (3) cause good and wholesome states that have not arisen already to arise; and (4) to develop and enhance good and wholesome states already arisen”¹⁴⁶⁸.¹⁴⁶⁹
7. Right Mindfulness (Sammā-sati): means to be determined, “well aware, and mindful, to avoid attachment and aversion, and to reflect on the activities and states of one's physical body, feelings, states of mind, and phenomena”.¹⁴⁷⁰ Rāhula provides a further description: “to be diligently aware, mindful and attentive” concerning the activities of “the body (kāya)”, “sensations or feelings (vedanā)”, “the activities of the mind (citta) and ideas, thoughts, conceptions and things (dhamma)”.¹⁴⁷¹ Practicing ānāpānasati or concentration on breathing is a well-known training for mental development, “one should be clearly aware of all forms of feelings and sensations, pleasant, unpleasant and neutral, of how they appear and disappear within

¹⁴⁶⁵ Rāhula, *What the Buddha Taught*, 47; Tilakaratne, *Theravada Buddhism*, 46.

¹⁴⁶⁶ Rāhula, *What the Buddha Taught*, 47; Tilakaratne, *Theravada Buddhism*, 46.

¹⁴⁶⁷ Tilakaratne, *Theravada Buddhism*, 46; Rāhula, *What the Buddha Taught*, 47.

¹⁴⁶⁸ Tilakaratne, *Theravada Buddhism*, 46-47.

¹⁴⁶⁹ See also Rāhula, *What the Buddha Taught*, 48.

¹⁴⁷⁰ Tilakaratne, *Theravada Buddhism*, 47.

¹⁴⁷¹ Rāhula, *What the Buddha Taught*, 48.

oneself”¹⁴⁷². There should be clear awareness of all forms of feelings and sensations and of how they emerge and vanish. There should also be similar awareness for the activities of mind, whether the mind is lustful, revengeful, deluded, bewildered, and so on. Regarding ideas, thoughts, conceptions, one should also know their nature and how they appear and disappear.¹⁴⁷³

8. Right Concentration (Sammā-samādhi): means to develop ekaggatā, which is the tranquility of mind or one-pointedness. It leads to jhāna and the first four stages of serenity.¹⁴⁷⁴

Buddha dedicated most of his forty-five years of teaching to disseminating the purpose and significance of the Path and elaborating on its constituents.¹⁴⁷⁵ The eight “steps” of the Path are not meant to be developed serially, following the numerical order faithfully. But rather, they should be expanded concurrently, according to the individual’s capacity. Each one of them is intended to promote the advancement of the other reciprocally.¹⁴⁷⁶

They are also not meant to be developed serially, following the numerical order faithfully. But rather, they should be expanded concurrently, according to the individual’s capacity. Each one of them is intended to promote the advancement of the other reciprocally. The immediate objective of the Eightfold path is to develop and master the three elements of Buddhist training and discipline.¹⁴⁷⁷ In other words, the Path incorporates and advances tisikkhā or “the threefold training”. These three aspects are Sīla (moral conduct), samādhi (concentration, meditation), and paññā (understanding, wisdom), and they encompass the various steps of the path. In particular, Sīla includes the right Speech, Action, and Livelihood; Samādhi, right Effort, Mindfulness, and Concentration; Paññā, right view and thought. For that reason, many discourses refer to the Path as the “threefold training”.¹⁴⁷⁸

Sīla bases its foundation on universal love and compassion for all living beings.

¹⁴⁷² Rāhula, *What the Buddha Taught*, 48.

¹⁴⁷³ Ibid.

¹⁴⁷⁴ Tilakaratne, *Theravada Buddhism*, 47.

¹⁴⁷⁵ Rāhula, *What the Buddha Taught*, 45.

¹⁴⁷⁶ Ibid., 46.

¹⁴⁷⁷ Ibid.

¹⁴⁷⁸ Tilakaratne, *Theravada Buddhism*, 47.

Buddha promulgated that, human beings should strive “for the happiness of the many, out of compassion for the world”.¹⁴⁷⁹ The purpose of the Buddhist way of life is perfection in character, which is only possible by developing *karuṇā* (compassion) and *paññā* (wisdom) uniformly. *Karuṇā* denotes “love, charity, kindness, tolerance and such noble qualities on the emotional side”¹⁴⁸⁰, and *paññā* correlates with the intellectual properties of the mind. Advancing only one side, one may become either “a good-hearted fool” or “a hard-hearted intellect without feeling for others”.¹⁴⁸¹ Thus, character perfection requires equal development of compassion and wisdom.¹⁴⁸² Buddhist ethical conduct aims to cultivate happiness and harmony in the individual and society, and it is necessary for any further spiritual advancement.¹⁴⁸³

That True wisdom (*paññā*) is endowed with the noble qualities of selfless detachment, love and non-violence, denotes that selfish desire, ill-will, hatred and similar ill-disposed thoughts derive from lack of wisdom.¹⁴⁸⁴

Tisikkhā - The Threefold Training

“Walking” the path following *tisikkhā* is a progressive process. Each stage is not only a prerequisite for the subsequent stage, but it also builds on the previous one. Thus, concentration requires morality, and in turn, both, in a union, lead to understanding. On this gradual progress, no one should forsake the earlier stages. Indeed, morality reinforces concentration, which similarly expands understanding.¹⁴⁸⁵

Sīla - Morality

Sīla, the first stage of the threefold training, signifies being able to regulate and even restrain one's own verbal and nonverbal behavior. The right speech, action, and livelihood from the eightfold path act as guides for the right conduct. Worth pointing out, there is a variation in right action and livelihood between the laity and the *saṅgha* members. For instance, practicing sex is sanctioned for the laity—but should refrain

¹⁴⁷⁹ Rāhula, *What the Buddha Taught*, 46.

¹⁴⁸⁰ *Ibid.*

¹⁴⁸¹ *Ibid.*

¹⁴⁸² *Ibid.*

¹⁴⁸³ *Ibid.*, 47.

¹⁴⁸⁴ *Ibid.*, 49.

¹⁴⁸⁵ Tilakaratne, *Theravada Buddhism*, 48.

from sexual misconduct—but not for the monks. Regarding the right livelihood, lay-people should shun corrupt methods of earning money (“selling animals, weapons, meat, poison, and liquor”)¹⁴⁸⁶. At the same time, monks shall abstain from any inappropriate verbal and nonverbal behavior associated with acquiring food, clothing, shelter, or medicine.¹⁴⁸⁷

All in all, Sīla for upāsaka or upāsikā diverges from that of the saṅgha. The laity is to observe and hold the so-called **five precepts** as a guide to ethical life. That said, Theravāda tradition enunciates the five precepts as follows:¹⁴⁸⁸

I undertake to observe the precept of refraining from killing life.

I undertake to observe the precept of refraining from taking what is not given.

I undertake to observe the precept of refraining from sexual misconduct.

I undertake to observe the precept of refraining from telling lies.¹⁴⁸⁹

I undertake to observe the precept of refraining from alcohol that causes intoxication and negligence.

Theravādins recite the above chant in Pali on a daily basis as part of their religious practice.¹⁴⁹⁰ Customarily, a bhikkhu is invited to perform the ritual of delivering the five precepts “preceded by the formula for taking refuge”.¹⁴⁹¹

Upasakas and upasikas also observe additional precepts on full moon days and other religious days. Some of these precepts are to abstain from taking meals at undue times, from dancing, singing and playing music, attending entertaining performances, decorating one- self, and using high and valuable beds and seats. In addition, some might abstain from accepting money and regard they observe ten precepts by counting abstinence from dancing, singing, and music as two precepts. When someone follows eight or ten precepts, refraining from sexual misconduct adjusts to refraining from sexual conduct entirely. These precepts are to be observed twenty-four-hour on full moons,

¹⁴⁸⁶ Ibid., 48.

¹⁴⁸⁷ Ibid.

¹⁴⁸⁸ Ibid.

¹⁴⁸⁹ Ibid.

¹⁴⁹⁰ Ibid.

¹⁴⁹¹ Ibid., 49.

but nowadays this practice usually lasts only till the evening.¹⁴⁹²

Sīla concerning the Saṅgha is broader and more extensively articulated. In the monastic circle, there are bhikkhus and bikkhunīs and additionally male and female novices, or samaneras and samaneris. Pabbajja is the initial admission to the Saṅgha—literally meaning “deliberate expulsion”. Next follows upasampada or full admission, which leads to the ordination of the novice as bhikkhu or bikkhunī. The requirements for full admission are to be at least “twenty-one years old, familiar with the basic teachings and disciplinary rules, physically fit, and have permission from one’s parents or spouse”.¹⁴⁹³ In contemporary Theravāda tradition, upasampada has evolved from an internal procedure into public, widely attended ceremonies.¹⁴⁹⁴

Regarding Sīla, samaneras and samaneris shall observe the aforementioned ten precepts, termed “novice morality”.¹⁴⁹⁵ After complete admittance, bhikkhus and bikkhunīs follow the entire Sīla. Monastic Sīla comprises two groups, the fundamental morality concerning the noble life and morality concerning to moral behavior. The regulations of the former hold higher significance. There are two hundred and twenty-seven rules for bhikkhus and three hundred and eleven for *bikkhunīs*. This compilation, called patimokkha Sīla—the very vital precepts—, begins with the four most severe infractions. They are called pārājika or “defeats” and necessitate banishment from the saṅgha. Accordingly, monks and nuns should not a) engage in any kind of sexual intercourse, b) steal, c) kill a human being, d) claim to “have supernormal powers”.¹⁴⁹⁶ The remainder violations are classified in decreasing severity. These rules derive from laws propagated by Buddha himself, which formed into a complex legal system and a variety of disciplinary sanctions and restoration procedures.¹⁴⁹⁷ In simpler terms, and apart from its complex structure, Sīla means to “pursue” the path of the threefold training.

¹⁴⁹² Ibid., 49.

¹⁴⁹³ Ibid.

¹⁴⁹⁴ Ibid., 49-50.

¹⁴⁹⁵ Tilakaratne, *Theravada Buddhism*, 50.

¹⁴⁹⁶ Se also, “Bhikkhu Pāṭimokkha: The Bhikkhus' Code of Discipline, translated from the Pali by Thanissaro Bhikkhu”, *Access to Insight (BCBS Edition)*, last modified December 17, 2013, <https://www.accesstoinsight.org/tipitaka/vin/sv/bhikkhu-pati.html>.

¹⁴⁹⁷ Tilakaratne, *Theravada Buddhism*, 50.

The Buddha maintained that morality goes beyond the discipline of verbal and nonverbal behavior; it constitutes the cornerstone of the entire path.¹⁴⁹⁸

Samādhi - Concentration

The second aspect of the threefold training aims to cultivate tranquility and composure. The term samādhi is designated as “concentration of the wholesome mind”¹⁴⁹⁹. It stems from a mind enriched and expanded by Bhāvanā—meditation. The noun Bhāvanā originates from the verb bhaveti, which means “to cultivate”. The Buddha stressed the significance of expanding one's mind and the wild and erratic character of the ordinary human mind. Concentration ensures solemnity in practicing the path. In Theravāda, meditation does not suggest inner engagement or metaphysical communication but to practice one-pointedness of mind to gain dominance over it.¹⁵⁰⁰

There are two types of Bhāvanā, samatha Bhāvanā, which is meditation for one-pointedness and tranquility, and vipassanā Bhāvanā, which is meditation for insight. Samatha is alternatively labeled as citta Bhāvanā, translated as mind cultivation, as it provides the basis for the development of paññā—understanding.¹⁵⁰¹

The progress from Sīla to paññā requires effortful practice and preparation. Among many requirements the removal of the “Five Hindrances” (pañca nīvaraṇāni) is of paramount importance.¹⁵⁰² Thus the practitioner by renouncing: mundane desires; animosity and hatred, and embracing “compassionate love for the welfare of all living beings”¹⁵⁰³; sloth and torpor and espousing mindfulness; worry and bewilderment and attaining calmness of mind; uncertainty and disbelief; one unfetters and purifies the mind from the five hindrances.¹⁵⁰⁴

The impact of the five hindrances on the human mind is parallel to being in debt, ill, prison, being a slave, and wandering in the desert. The relief from these hindrances rivals “paying off the debt, recovering from illness, being released from prison, freed

¹⁴⁹⁸ Ibid., 51.

¹⁴⁹⁹ Tilakaratne, *Theravada Buddhism*, 51.

¹⁵⁰⁰ Tilakaratne, *Theravada Buddhism*, 51; Rāhula, *What the Buddha Taught*, 68.

¹⁵⁰¹ Tilakaratne, *Theravada Buddhism*, 51; Rāhula, *What the Buddha Taught*, 68-69.

¹⁵⁰² Tilakaratne, *Theravada Buddhism*, 52.

¹⁵⁰³ Ibid.

¹⁵⁰⁴ Ibid.

from slavery, and crossing the desert harmlessly”¹⁵⁰⁵. Then one feels glad and becomes delighted; amidst delight, the body feels tranquility; with tranquility comes joy; hence comes concentration for the mind. Thus, the practitioner attains the first jhāna, thinking and pondering, yielded by withdrawal, full of bliss and pleasure. Then, with further advancement, one accomplishes the second, third, and fourth jhānas identified by the highest detachment, surpassing tranquillity and concentration; the mind reaches levels of complete absorption and focused attention.¹⁵⁰⁶

Right concentration in terms of the eightfold path intends the realization of the four levels of jhana. As described by Buddhaghosa in *Visuddhimagga*, the “great treatise” on Buddhist practice and Theravāda Abhidhamma, forty different meditation subjects can be selected as an aid to meditation. This notable variability in subjects is due to the divergent personal characteristic among meditators. The meditators were classified according to a predominance of lust, hatred, delusion, faith, intelligence, and speculation. An instructor could then assess his trainee according to his predominant trait and assign the appropriate subject. The mediator experiences the subject by either seeing, hearing, or touching, as the case may be. After one achieves concentration on the subject with clarity of mind, one progresses to tranquility, abolishes the five hindrances which lead, and accomplishes concentration. Only now can someone be ready to enter the final stage of the path, understanding.¹⁵⁰⁷

Paññā - Understanding

Developing paññā is the final stage of tisikkhā. The threefold training designates understanding as perceiving reality's authentic design, characterized by anicca, dukkha, and anattā—impermanence, suffering, and absence of a permanent self, respectively. Paññā corresponds to the “fruit” obtained by treading the complete eightfold path.¹⁵⁰⁸ The meditation required for understanding is vipassanā (insight) which translates into “seeing in a special manner”. An alternative terminology of the same concept is yathabhuta nana which means the knowledge of viewing things “as they have come to be”.

¹⁵⁰⁵ Ibid.

¹⁵⁰⁶ Tilakaratne, *Theravada Buddhism*, 52; Rāhula, *What the Buddha Taught*, 47.

¹⁵⁰⁷ Tilakaratne, *Theravada Buddhism*, 53.

¹⁵⁰⁸ Ibid., 53.

In Theravāda, true reality contains three properties.¹⁵⁰⁹

Anattā is the first property of reality. In Theravāda, all formations relating to saṅkhāra are impermanent. In other words, everything is causally conditioned and dependently originated. Human existence itself is impermanent; for Buddha, whatever is impermanent is displeasing; hence, it cannot have a permanent self or soul (atta), and consequently, anattā manifests as the third property of reality.¹⁵¹⁰

As mentioned earlier, the dismissal of the existence of the soul is a unique element of the Theravāda doctrine. It is this reason that drove Brahmins, among others, to accuse Buddhism of materialism and annihilationism. Buddha, though, regarded eternalism and annihilationism as the two opposite poles of the same concept. One is supporting the continuity of the soul and the other its impermanency. Indeed, Buddha advocated conditional causality of reality and, reasonably, the impermanence of existence.¹⁵¹¹

In Brahmanism, the concept of soul suggested the permanent substance contained in all living beings. It was what caused thought, perception and action. It survived after death by transmigrating from one body to another. The Buddha argued that human beings are solely comprised of the five aggregates (panca-khandha) and that there is nothing more beyond these.¹⁵¹²

“Just as there arises the name ‘chariot’ when there is a set of appropriate constituents, even so there comes to be this convention ‘living being’ when the five aggregates are present.”¹⁵¹³

In Theravāda Buddhism, consciousness is what could potentially compare with the concept of the soul. Yet, there is no primal consciousness from where all others stem. Indeed, consciousness has six forms deriving from the eye, ear, nose, tongue, body, and mind. Accordingly, eye-consciousness or ear-consciousness depends on the

¹⁵⁰⁹ Ibid., 54.

¹⁵¹⁰ Ibid.

¹⁵¹¹ Ibid.

¹⁵¹² Ibid., 55.

¹⁵¹³ Y. Karunadasa, *The Dhamma Theory: Philosophical Cornerstone of the Abhidhamma* (Kandy, Sri Lanka: Buddhist Publication Society, 1996), 41.

respective organs. Buddha elaborated that all the elements of personhood occur dependently, and nothing could appear independently, unbound to conditions. Therefore, a person does not and cannot exist. Buddhaghosa exemplifies as follows:¹⁵¹⁴

“Suffering alone exists, not a sufferer; action alone exists, not an actor; extinguishment alone exists, not one who is extinguished; path alone exists, not one who treads on it.”¹⁵¹⁵

The view of soul permanency constitutes the grounds for the erroneous impression of self and the self-centered comprehension of the world. The principle of five aggregates denotes that “the belief in ‘I’ or ‘Mine’” is unsubstantiated.¹⁵¹⁶

The Theravādin concept of annata—non-self or impermanence—has a twofold significance. On the one hand, it rejects the Brahminic conceptualization of the soul as permanent and immortal. On the other hand, it consolidates the lack of I-ness and that nothing can belong to “I”. This realization—achieved at the stage of understanding in the threefold training—is experienced as complete emancipation.¹⁵¹⁷

The eightfold path ought to be understood via the threefold training, while the two concepts should be conceived as complementary to each other. Paññā is what, indeed, channels the realization of the four noble truths. The Buddha conveyed to his followers that human beings create, inside them, unsatisfactory worlds. *Dukkha residing* in the world or the individual is identical. “Both the problem and the solution are within reach of all human beings”.¹⁵¹⁸

In practicing meditation to realize Nibbāna, samādhi operates in harmony with paññā. Cultivation of concentration solidifies understanding. As a case in point, satipatthana is the most widespread meditation technique in Theravāda. It aims to achieve mindfulness. In the eightfold path, right-mindfulness or samma-sati promotes higher concentration with focused attention that allows the perception of reality as it is—an integral element of paññā.¹⁵¹⁹

¹⁵¹⁴ Tilakaratne, *Theravada Buddhism*, 55.

¹⁵¹⁵ *Ibid.*

¹⁵¹⁶ *Ibid.*

¹⁵¹⁷ *Ibid.*, 56.

¹⁵¹⁸ *Ibid.*, 57.

¹⁵¹⁹ *Ibid.*

Mindfulness is accomplished by focusing on the body, feelings, thoughts, and phenomena, corresponding to the four aspects of reality. By contemplating in the body, using specific breath in and breath out techniques, the meditator reaches one-pointedness of thought and encourages an objective perception detached from both fondness and hatred to one's body; thus, one develops understanding.¹⁵²⁰

There can also be contemplation of pleasant, unpleasant, or neutral feelings to shun desire and hatred and promote a state of neutrality. Another meditation subject could be focusing on various negative thoughts along with their opposites—last, non-lust, hatred, non-hatred. Finally, one can contemplate the hindrances of meditation—"desire, ill will, sloth and torpor, restlessness and remorse, and the wavering character of the mind"¹⁵²¹—the five aggregates, the processes of the six sense bases, the four noble truths and other mental phenomena.¹⁵²² The aim is to expand morality, eliminate immoral aspects of the mind, and realize reality as it truly comes to be. In that context, mindfulness causes understanding which initiates the process of cessation of dukkha.¹⁵²³

The Fruits of the Eightfold Path

Treading the eightfold path and practicing the threefold training grants the fruit of deliverance from suffering at four different levels. The path represents Dhamma as "a process of practice", the fruit is its outcome, and the realization constitutes Nibbāna. The realization can be conceived as the "experiential manifestation"¹⁵²⁴ of the Dhamma, while the path and the fruit as the propositional sense. Realization includes four stages.¹⁵²⁵ The first is sota-apatti or "stream-entry". The metaphor "stream" symbolizes one has entered the "stream leading to Nibbāna"¹⁵²⁶ and has already renounced the "fetters": self-view, uncertainty, and "distorted grasp of rites and rituals"¹⁵²⁷. There will be no more doubts about the Three Jewels or any commitment to erroneous views.

¹⁵²⁰ Ibid., 57.

¹⁵²¹ Ibid., 58.

¹⁵²² Ibid., 57-58.

¹⁵²³ Ibid., 58.

¹⁵²⁴ Ibid.

¹⁵²⁵ Ibid.

¹⁵²⁶ Ibid.

¹⁵²⁷ Ibid.

Nibbāna is within reach of seven rebirths. In the second, sakadagami or “once-returner”, the “fourth and fifth fetters, sensual desire and ill-will”¹⁵²⁸ weaken. One “will be born only once into the world of sensual pleasures before he attains Nibbāna”¹⁵²⁹. In anagami or “non-returner”,¹⁵³⁰ the third stage, sensual desire, and ill-will vanish. One is a non-returner since, after death, he or she will be born as a higher celestial being (Brahma) “without ever returning to the sensual existence”¹⁵³¹. Finally, there is arahatta or “state of being worthy”,¹⁵³² where the remaining five fetters, desire for form and formless, vanity, restlessness, and ignorance, vanish entirely.¹⁵³³

There is an experience of liberation and pureness parallel to eradicating or weakening the fetters in the first three stages. In the last stage, though, there is absolute freedom from “suffering, misery, unsatisfactoriness, and anguish”. In Theravāda, the entire aforementioned process is delineated as “nine world-transcending Dhamma” and comprised of four paths, four corresponding fruits, and Nibbāna.¹⁵³⁴

A Theravāda follower is one who finds shelter in the Three Jewels. Buddha Gautama was a historical figure, and it is his enlightenment that made him be recognized as a refuge.¹⁵³⁵ In Theravāda tradition, Buddha terminated his cycle of life and death, birth and rebirth (his samsaric experience) with his last birth. He disseminated Dhamma which is realized as an abstract concept. Saṅgha, as the monastic order, also has a conceptual aspect that denotes anybody who realized—any or all—the noble paths or fruits is qualified to be part of it.¹⁵³⁶ In philosophical terms, only Dhamma is the absolute prerequisite for Theravāda since teaching guides someone to the cessation of dukkha. However, Dhamma and Buddha are indispensably interrelated, and this relation should be understood as dependently arisen.¹⁵³⁷

¹⁵²⁸ Ibid.

¹⁵²⁹ Ibid.

¹⁵³⁰ Ibid.

¹⁵³¹ Ibid., 59.

¹⁵³² Ibid.

¹⁵³³ Ibid., 58-59.

¹⁵³⁴ Ibid., 59.

¹⁵³⁵ Ibid., 29.

¹⁵³⁶ Ibid., 30.

¹⁵³⁷ Ibid.

The Social Teachings of the Buddha

A significant number of western scholars, like Max Weber, judged Buddhism as solely soteriological and, as such, could not include any social teaching; early Buddhism was regarded as simply tolerance with householders in exchange for supporting the Saṅgha. Indeed, Buddha dedicated a notable portion of his teachings to guiding householders in their everyday life. Therefore, the social aspect of Buddha's tenets was not insubstantial. As already mentioned, his group of followers consisted of bhikkhus and bikkhunīs as well as upasakas and upasikas, who comprised the other half. The role of the householders was indispensable, and they pursued the very same objective, to attain Nibbāna. Their path to liberation from suffering was different, though, more convoluted and indirect than that of the Saṅgha. For them, there was a further focus on the pleasure of mundane life, which included “social relations, duties, marriage, wealth, investment, and good governance”.¹⁵³⁸

Buddha's guidance to the householders never neglected to include instructions for both present and life after death. His instructions to the laity aimed at helping to attain social well-being and sound moral development. While “addressing a wealthy householder”¹⁵³⁹, Buddha delineated four elements that facilitated well-being—willing to launch new enterprises, guard the profits earned from such efforts, quality friendships, balanced life—and another four inner ones for happiness—trust in the Three Jewels, “morality, generosity, and understanding”.¹⁵⁴⁰

Despite describing samsaric existence as generally unsatisfactory, Buddha maintained that upasakas and upasikas could, indeed, experience pleasure in their worldly lives. He further identified four types of happiness for householders, precisely, “the happiness of ownership, happiness of consuming such wealth”, being debtless, and being inculpable.¹⁵⁴¹

Buddha regarded acquiring wealth as ethically acceptable and beneficial, and that hard labor and righteousness should be the means to achieve it. He prescribed that the amount of wealth was irrelevant, only the means mattered, and those should never

¹⁵³⁸ Ibid., 70.

¹⁵³⁹ Ibid.

¹⁵⁴⁰ Ibid.

¹⁵⁴¹ Ibid.

be in contravention with the Dhamma. While the accumulation of wealth could facilitate happiness, hoarding was not beneficial. Buddha suggested spending it on personal enjoyment and that of “one's family, friends, and the satisfaction of the people of religion”.¹⁵⁴²

In the renowned discourse “Advice to Sigala” (Sigalovada Sutta), Buddha introduced a **code of ethics for social life**. Due to its importance, it later came to be known as dihi-vinaya (“ethics for household life”) and compared with the monastic vinaya. It should be noted that Buddha never claimed any jurisdiction on declaring “a code of law for the household society”.¹⁵⁴³ The central theme is how one needs to ensure reciprocal relationships with the six social groups, a process referred to as “securing six directions”.¹⁵⁴⁴

Buddha commences by identifying four vices that hinder “advancement in both this and the next life”,¹⁵⁴⁵ killing, stealing, adultery, and lying. He continues by describing desire, anger, fear, and confusion as to the four constituents of biased behavior. Then, Buddha presents the six ways of squandering wealth: being addicted to alcohol and drugs, constantly indulging in nightlife, “habitually patronizing fairs”,¹⁵⁴⁶ being addicted to gambling, socializing with evil companions, and slothfulness. Further, he illustrates the four types of false friends: “one who is there to get whatever he can, one who pays only lip service to friendship, one who flatters, and one who is present to support evil actions”¹⁵⁴⁷. Finally, Buddha concludes with the four types of genuine friends: a friend in need, one who is present in happiness and misfortune, who gives good advice, and the compassionate friend.¹⁵⁴⁸

Further in the discourse, Buddha associates the six social groups with the “six directions”. On the east are the parents, south are the teachers, west is the family, north are the friends and colleagues, “below” are the workers and servants, and “above” are

¹⁵⁴² Ibid., 72.

¹⁵⁴³ Ibid.

¹⁵⁴⁴ Ibid.

¹⁵⁴⁵ Ibid.

¹⁵⁴⁶ Ibid.

¹⁵⁴⁷ Ibid., 73.

¹⁵⁴⁸ Ibid.

the Saṅgha members.¹⁵⁴⁹ One should safeguard these directions as follows:¹⁵⁵⁰

1. Children should esteem their parents, as follows:¹⁵⁵¹ 1) tend their parents who reared them; 2) support them in their profession; 3) keep their family's tradition and lineage; 4) preserve the inheritance from their parents; 5) after their parents' demise, they should perform the appropriate rites and make offerings; Thus, tended by their children, the parents reciprocate:¹⁵⁵² 1) They advise and guard them against evil; 2) guide them to good; They nurture and prepare them for a virtuous life; 3) train them in skills and support their education; 4) arrange proper marriages for them; 5) bequeath an inheritance to them in due time;
2. Students should treat their teachers as follows:¹⁵⁵³ 1) They rise to greet them and show respect; 2) approach their teachers in order to serve them, attend to them, receive advice and so on; 3) displaying enthusiasm in learning and taking heed to their teachers' lessons; 4) offer their assistance to them and run errands for them; 5) They receive what they are being taught with respect and excitement and acknowledge its significance. In turn, teachers reciprocate:¹⁵⁵⁴ 1) they instruct their students efficiently and effectively; 2) they ensure their thorough comprehension of the subjects taught. 3) they educate them fully in arts and sciences; 4) introduce them to their friends and recommend them to colleagues; 5) they provide them security in every direction, videlicet, tutoring them to apply their knowledge effectively, behave morally and enjoy happiness in their worldly life.
3. A husband should tend his wife as follows:¹⁵⁵⁵ 1) He respects her; 2) refrain from disrespecting her; 3) abstain from adultery; 4) entrust the management of the household to her; 5) provide her with clothes, ornaments, and other gifts.

¹⁵⁴⁹ Tilakaratne, *Theravada Buddhism*, 73.

¹⁵⁵⁰ The following numbered list is adapted from, Ven. P. A. Payutto, *A Constitution for Living: Buddhist Principles for a Fruitful and Harmonious Life*, trans. Bruce Evans (Kandy, Sri Lanka: Buddhist Publication Society, 2007), 5-8; and, Tilakaratne, *Theravada Buddhism*, 73-74.

¹⁵⁵¹ Tilakaratne, *Theravada Buddhism*, 73.

¹⁵⁵² Ibid.

¹⁵⁵³ Ibid.

¹⁵⁵⁴ Ibid.

¹⁵⁵⁵ Ibid., 74.

Hence a wife should reciprocate:¹⁵⁵⁶ 1) She manages the household well; 2) displays hospitality and courtesy to in-laws, friends and servants; 3) abstains from adultery; 4) looking after the family's wealth; 5) shows skill and diligence in performing her duties.

4. One should treat one's friends in five ways:¹⁵⁵⁷ 1) with generosity; 2) with courtesy and compassion; 3) with helping them; 4) with equality; 5) with honesty and faithfulness. Thus, friends reciprocate:¹⁵⁵⁸ 1) they shield their friends when they need protection; 2) they protect their friends' property when required; 3) they offer themselves as shelter in perilous situations; 4) they do not abandon them when in misfortune; 5) they treat one's family and relatives with respect.
5. Masters should tend their servants in five ways:¹⁵⁵⁹ 1) by assigning work according to strength, sex, age and abilities; 2) by providing them adequate compensation—in food and wages—corresponding to their services; 3) by attending to them when in bad health; 4) by sharing treats with them; 5) by granting them leave and the opportunity to rest; Thus, servants will reciprocate:¹⁵⁶⁰ 1) by waking up before him; 2) by going to sleep after him; 3) by taking only and accepting what is given to them; 4) by doing their work properly and effectively; 5) by spreading a good reputation about their masters.
6. One should minister to the Saṅgha members in five ways:¹⁵⁶¹ 1) act towards them with kindness; 2) talk to them with kind words; 3) think of them with benevolent thoughts; 4) treat them with hospitality; 5) support them with alms-food, robes, shelter, and medicines. In turn, Saṅgha members will reciprocate:¹⁵⁶² 1) by discouraging one from evil conduct; 2) by urging one on moral conduct; 3) by supporting one with compassion and loving-kindness; 4) by offering knowledge that has not been taught; 5) by reviewing and clarifying what

¹⁵⁵⁶ Ibid., 74.

¹⁵⁵⁷ Ibid.

¹⁵⁵⁸ Ibid.

¹⁵⁵⁹ Ibid.

¹⁵⁶⁰ Ibid.

¹⁵⁶¹ Ibid.

¹⁵⁶² Ibid.

has already been taught; 6) by unveiling the path to heaven and how-to live-in happiness and prosperity.¹⁵⁶³

Buddha pointed out the importance of developing this reciprocity between the six social groups. Otherwise, nothing would differentiate parents from children. He moved on to compare the social duties with “axle pins of a chariot that prevent its wheels from flying off”.¹⁵⁶⁴ Likewise, a society without this reciprocal interdependence would dissolve into chaos.¹⁵⁶⁵

For Buddha, “economic stability” was a prominent characteristic of a well-functioning society. In addition, financial prosperity required hard work, initiative, effective leadership, and an efficient ruler ensuring the necessary “infrastructure, guidance, and social stability”¹⁵⁶⁶. What follows next is Buddha’s exposition on how **societal economy, polity, and morality** should form a web of balanced **interconnection** and **interdependence** with each other.¹⁵⁶⁷

The “Discourse on the Lion's Roar of the Universal Monarch” elaborates how social disorder and moral decay correlate with economic instability.¹⁵⁶⁸ The text demonstrates the interdependent relationships between economy, polity, and morality and reveals that even the king has to follow the Dhamma under any circumstance.¹⁵⁶⁹

Buddha identified in leaders the vital function of securing economic stability, harmony and order in their communities, and for that reason, they should embody rectitude at its best.¹⁵⁷⁰ Accordingly, the exemplary King is delineated by ten virtues, precisely, Dāna-generosity, Sīla-morality, Ppariccāga-sacrifice (in an altruistic context), Ājjava-honesty, Maddava-gentleness, Tapa-discipline (as self-control), Akrodha-absence of anger, Ahimsā-exercising non-violence, Khanti-patience, and Avirodha-agreeableness. In addition, the properties of generosity, gentle expression, and communication, treating others as one treats oneself, and striving for social welfare would magnify

¹⁵⁶³ adapted from, Ven. P. A. Payutto, *A Constitution for Living: Buddhist Principles for a Fruitful and Harmonious Life*, trans. Bruce Evans (Kandy, Sri Lanka: Buddhist Publication Society, 2007), 5-8; and, Tilakaratne, *Theravada Buddhism*, 73-74.

¹⁵⁶⁴ Tilakaratne, *Theravada Buddhism*, 75.

¹⁵⁶⁵ *Ibid.*, 74-75.

¹⁵⁶⁶ *Ibid.*, 75.

¹⁵⁶⁷ *Ibid.*

¹⁵⁶⁸ *Ibid.*

¹⁵⁶⁹ *Ibid.*, 76.

¹⁵⁷⁰ *Ibid.*

a King's statesmanship and secure a flourishing social life.¹⁵⁷¹

Buddha also advocated seven practices that would advance any society. They can be summarized as follows: Holding regular assemblies; meetings and businesses should be conducted in harmony; following the ancient tradition; honoring and respecting the elders; abstaining from abducting wives and daughters of others; honoring shrines at home and abroad; “making proper provisions for the safety of arahants”;¹⁵⁷² These practices are mainly directed at kings. For, when kings are moral and impartial, their subjects “will follow suit”, and society will prosper.¹⁵⁷³

Buddha conceived a well-balanced society, economically developed and stable, with happy and effectively integrated members, free of turmoil and unrest. People should have enough recourses to fulfill their social obligations and duties and sustain the Sangha's members. They should invest their wealth for their happiness and for that of their family and their associates. They should have happy families and take care of their kids accordingly. Men and women should foster healthy reciprocal relationships between themselves and their kids. Lastly, society's rulers should be righteous and observe the Dhamma equally with anybody else.

5.1.5 The Traditional Theravāda Practice

Merit Making

We can distinguish two paths of Theravāda practice:¹⁵⁷⁴

- The Kammatic path where the aim is to generate puñña (merit) and involves facilitating one's hopes and ambitions in the samsaric existence;
- The nibbānic path is followed by adherents who have forsaken their “samsaric aspirations” and aim to attain Nibbāna as soon as possible.¹⁵⁷⁵

It is worth noticing that in reality, the line that separates the religious practice of the laity and that of the Saṅgha is rather indistinct, and the edges obscure.¹⁵⁷⁶

Buddhists regard human existence as a ceaseless roaming in saṃsāra, endless

¹⁵⁷¹ Ibid., 77.

¹⁵⁷² Ibid.

¹⁵⁷³ Ibid.

¹⁵⁷⁴ Ibid., 93.

¹⁵⁷⁵ Adapted from Tilakaratne, *Theravada Buddhism*, 93.

¹⁵⁷⁶ Ibid., 93.

deaths and rebirths constantly sustained by intentional good or evil actions (white or black kamma) that induce pleasure or dissatisfaction. Samsaric existence extends indefinitely into the past and the future with an unknown beginning, and attaining Nibbāna brings an end to the cycle of death and rebirth. But such an aim is not straightforward for upasakas and upasikas. A more affordable objective for the layperson would be to either be born in a better place or avoid a future life in hell. Consequently, Theravādins strive to accrue merit that brings positive results and prevent demerit and negative results.¹⁵⁷⁷

Since immediate Nibbāna was so difficult for the laity, early Buddhist discourses clarified that seeking birth in heaven is a more attainable aim. Nevertheless, Buddhist literature claims that some upasakas and upasikas contemporary to Buddha's era realized Nibbāna. While householders probably aspire to attain Nibbāna equally with the Saṅgha members, they cannot dedicate themselves to the same level. For that reason, after a meritorious action, they wish to achieve Nibbāna as a result of it.¹⁵⁷⁸

Monks conventionally describe Nibbāna as a state of the “highest happiness”; mundane concerns become extinct, succeeded by “sublime bliss”. All laypeople hold Nibbāna as their ultimate goal, but in the end, they linger in saṃsāra and yield to the pursuit of its immediate pleasures. For that particular goal, everyone can choose to postpone absolute happiness. Thus, one can aim to attain Nibbāna either after “a long series of imaginable samsaric pleasures” or “at the feet of the future Buddha Metteyya”.¹⁵⁷⁹

Worth mentioning that the compromise between Nibbāna and saṃsāra remains relevant to all four Buddhist groups. As Saṅgha evolved, its members stopped regarding Nibbāna as their sole objective and gradually started emphasizing the accumulation of merit.¹⁵⁸⁰

A Buddhist's life concentrates on and identifies with merit-making. There are three available categories of meritorious activities, videlicet, Dāna (giving), Sīla (morality), and Bhāvanā (meditation). The more one engages in these activities, the better

¹⁵⁷⁷ Ibid., 93-94.

¹⁵⁷⁸ Ibid., 94.

¹⁵⁷⁹ Ibid.

¹⁵⁸⁰ Ibid., 95.

his samsaric life would be.¹⁵⁸¹

The average Buddhist pursues merit-making holding the conviction that it will contribute to a higher number of satisfying samsaric experiences and gradually lead to Nibbāna. In this context, the concept of anattā (no-soul) and its association with kamma was never a concern for the common laypeople—except for the scholars.¹⁵⁸²

Dāna - Giving

Dāna is the most practiced and honored meritorious deed. Theravāda history is rife with people from all social strata engaging in it. Jataka literature, a voluminous collection of stories about Buddha's former births, illustrates Buddha giving away his wealth, parts of his body, his family and even life itself. Dāna integrates deeply with the act of renouncing one's lust for pleasure. With systematic practicing of giving, craving and desire become depleted, absolute. Hence, it generates positive results and brings pleasure in future life.¹⁵⁸³

Additionally, dāna increases in quality and value of results according to the worth of the receiver. In this view, giving to bhikkhus and bikkhunīs is held in the highest esteem since it is described as “the incomparable field of merit”¹⁵⁸⁴. Furthermore, as Saṅgha members refrain from production activities, their survival depends gravely on dāna. Logically, Buddhist texts, most of them authored by monks, always underlined the Saṅgha's vital necessity of external economic support.¹⁵⁸⁵

Buddhist societies deem the maintenance of Saṅgha an uppermost priority. Often, providing the essentials to monks—food, clothing, residences, medicine—takes precedence over the vital needs and duties of laypeople's lives. Dāna also refers to what is given, and in that case, it is mostly food. So, practicing dāna concentrates on preparing and serving meals for monks, a responsibility that “burdens” women solely. Pindapata is the most noticeable practice of dāna and involves “offering food and other basic needs” to “monks in their morning alms round”.¹⁵⁸⁶

¹⁵⁸¹ Ibid., 95.

¹⁵⁸² Ibid.

¹⁵⁸³ Ibid., 96.

¹⁵⁸⁴ Ibid.

¹⁵⁸⁵ Ibid.

¹⁵⁸⁶ Ibid., 96-97.

Dāna to sustain the monastic order is the most basic practice of giving. This way, the average followers are truly devoting themselves to helping the monasteries of their local community, principally without considering the primary purpose of dāna to conquer their desires. While Buddhists ought not to be selective towards the monks or monasteries they choose to support, in reality, familiarity and popularity are of key importance. Usually, they are predominant factors of where dāna will be directed. Nevertheless, giving to unknown bhikkhus is still regarded as a supreme meritorious action.¹⁵⁸⁷

Inviting monks to one's place or other private or public places is another popular form of dāna. The purpose of the invitation includes various kinds of celebrations and most commonly “transferring merit to the departed”.¹⁵⁸⁸

Dāna is preferably given to monks of higher virtue since the more notable the monk, the greater the merit one accumulates—in this regard, forest monks are deemed as supreme. Consequently, some monasteries benefit the most in comparison with others.¹⁵⁸⁹

Apart from giving food, dāna practice includes robes, medicine and various essential everyday objects. Additionally, donating habitations, funding constructions of buildings, as well as offering technology equipment, furniture, cookware, and other utensils offer higher merit. Any contribution of such kind becomes property of the grantee, and only the Saṅgha has the power to alter such ownership.¹⁵⁹⁰ The following are the primary forms of dāna appearing in Theravāda practice.

- **Kaṭhina-dāna:** The most exacting form of dāna is referred to as Kaṭhina-dāna and translates to offering robes to the monks after the monsoon season observance.¹⁵⁹¹ It originated from the era when peripatetic congregations sought shelter during rain, primarily to protect themselves and avoid crushing freshly grown grass, which was deemed a sacrilegious act. The practice

¹⁵⁸⁷ Ibid., 97.

¹⁵⁸⁸ Ibid., 97-98.

¹⁵⁸⁹ Ibid., 98.

¹⁵⁹⁰ Ibid.

¹⁵⁹¹ Ibid.

proved reciprocally beneficial for both the laity and the bhikkhus since it offered the monks the opportunity of further commitment to their religious cause, which in turn rendered more salutary and solid guidance to the laypeople.¹⁵⁹² Kaṭhina-dāna evolved from a straightforward activity to a complex ceremony. Nowadays, this form of dāna is held in every monastery as a high-spirited fair joined by Buddhists from multiple communities. Becoming a patron of Kaṭhina-dāna is “a lifetime aspiration” for the devout followers and necessitates a substantial monetary expense. Despite that, it remains a collective deed granting the belief that kamma is shared between everyone who contributes.¹⁵⁹³

- **Dhammadāna:** Dāna can also take the form of physical or mental effort, knowledge, time, liberation from worry and fear, and Dhamma teaching. Monks who are preaching or teachers instructing meditation, except for addressing Dhamma and giving their knowledge, also dedicate energy and time. All these activities are included in the practice of Dhammadāna. Buddhist communities regard this class of dāna as invaluable. The roles of giver and receiver reverse as the bhikkhus are the ones who customarily teach and disseminate the Dhamma. In turn, the receiving layperson practices Dhammapuja, involving giving gifts in exchange for being taught the Dhamma.¹⁵⁹⁴ Laypeople have the alternative option of sponsoring sermons and offering Dhamma to others. Hence, one accumulates kamma by practicing Dhammadāna indirectly. Notwithstanding Saṅgha monopoly on disseminating Dhamma, laypersons delivering Dhamma discourses increase in numbers in modern Theravāda countries.¹⁵⁹⁵ One of the most “merit-generating”¹⁵⁹⁶ forms of Dhammadāna is patronizing the “recital of Vessantara-jataka”¹⁵⁹⁷, the most prevalent Jataka account in the Theravāda tradition. Such a deed epitomizes the accomplished Buddhist and requires immense preparation,

¹⁵⁹² Ibid., 99.

¹⁵⁹³ Ibid., 99-101.

¹⁵⁹⁴ Ibid., 101.

¹⁵⁹⁵ Ibid., 102.

¹⁵⁹⁶ Ibid.

¹⁵⁹⁷ Ibid.

monetary expenses and time dedication.¹⁵⁹⁸

- **Dāna to Laypeople:** Saṅgha is not the only beneficiary from dāna. Many elect to give dāna to various institutions like children, old age or rehabilitation centres. The reason for such an act can be either out of social duty or stemming from a general disappointment from the Saṅgha. On many occasions, this practice helped facilitate the financial and material support of numerous public projects. Additionally, national catastrophes or donation campaigns have also benefited the most from such initiatives. Another form of dāna is meals offered to laypeople gathering in monasteries to observe the eight or ten precepts on full-moon days. Similarly, at important Buddhist celebrations, pilgrims also receive dāna in the form of food and drinks.¹⁵⁹⁹

Sīla - Morality

Following the pañcasīla or the five precepts is the basic requirement for a Theravāda follower. On the other hand, the act of observing the eight or the ten precepts holds meritorious value. For that reason, lay Theravādins choose to practice the eight or ten precepts, preferably the former. At the same time, the observance of Sīla takes place on the four uposatha (sabbath) days, especially on the full-moon and ideally lasts for twenty-four hours. Specific programs administered by monasteries or even laypeople support this merit-making activity.¹⁶⁰⁰

Bhāvanā - Meditation

Bhāvanā, or meditation, is practiced with the aim to purify the defilements of one's mind (kilesa). Therefore, Bhāvanā's ultimate function is to bring an end to saṃsāra. Understandably, performing meditation to accumulate merit diminishes any nibbanic utility.¹⁶⁰¹ From the historical perspective, a devastating famine that threatened to annihilate the monastic order in Sri Lanka, during the reign of Vattagamani Abhaya, defined the modern Theravāda attitude toward meditation. This calamity led to a debate that compared the values of pariyatti (learning) versus patipatti (practice).

¹⁵⁹⁸ Ibid., 102-103.

¹⁵⁹⁹ Ibid., 104-106.

¹⁶⁰⁰ Ibid., 106-107.

¹⁶⁰¹ Ibid., 107-108.

The proponents of pariyatti prevailed in a decision that led to the debasement of the practice of meditation and the devotion over the meticulous preservation of the words of Buddha. Consequently, in modern Theravāda tradition, Bhāvanā is still perceived with relative indifference. Nevertheless, Mahasi Sayadaw of Myanmar and Ajahn Chah of the Thai-Lao tradition are meditation teachers who contributed the most to the current popularity of Vipassanā meditation. Hence, Bhāvanā in Thailand remains widespread. Many distinguished monastic and lay instructors teach thousands of students in contemporary Thailand.¹⁶⁰²

Vandana - Worship

The worship of the Three Jewels is central to Buddhism. In many Buddhist houses, there are places dedicated to that purpose. Also, many laypeople visit monasteries on days of key importance, such as on full-moons.¹⁶⁰³ There are three types of holy objects observed in monasteries. In particular, the corporeal relics of Buddha or structures like dagoba where such relics are hallowed; “objects used by the Buddha or objects representing them”; and symbols representing Buddha.¹⁶⁰⁴ The dagoba, which contains the physical relics of Buddha, holds the highest spiritual significance. The bodhi tree comes second in religious value, and last are the objects and symbols representing the Buddha. While followers worshipping the Three Jewels should follow the exact aforementioned order, in reality, the average Buddhist does not necessarily do so.¹⁶⁰⁵

Lately, the adoration of the Bodhi Tree, also known as “bodhi puja”¹⁶⁰⁶, has expanded in popularity. The deed of revering the Bodhi Tree except for its merit value—as any other kind of worship—differentiates due to its earthly avails, which is a vital aspect of the competitive nature of modern free-market economies.¹⁶⁰⁷

On many occasions, the individual act of worshipping converts to communal

¹⁶⁰² Ibid., 107-111.

¹⁶⁰³ Ibid., 111.

¹⁶⁰⁴ Ibid.

¹⁶⁰⁵ Ibid., 112.

¹⁶⁰⁶ Ibid.

¹⁶⁰⁷ Ibid., 112-113.

rituals administered by ascetics or lay specialists. Pali is used as the principal ceremonial language, but, occasionally, in contemporary Buddhist societies translating into local languages is favored.¹⁶⁰⁸ One of the most common worship practices is the veneration of the twenty-eight past buddhas. Others of higher eminence is offering eighty-four thousand oil lamps or one hundred thousand lotus flowers.¹⁶⁰⁹ These religious events require a vast amount of resources and great organizational effort and skills. Nevertheless, they allow the acquiring of high levels of merit, which is also the foremost objective. Additionally, such ceremonies represent opportunities for high-status individuals to promote personal agendas.¹⁶¹⁰

Pantheons in Theravādin Societies

Buddhists believe in the existence of good deities that will shield Sasana—the Buddha's tenets and institutionalized religion—and evil ones that will not. Traditionally after merit-making acts, Buddhists choose to transfer merit to deities that safeguard Sasana with the expectation that, in turn, gods will reciprocate by protecting the worshippers. Faith in celestial guardians probably existed since the very early years of the Buddhist tradition. At a relevant account of the “Discourse on the Great PariNibbāna”, it is written that the one who obtains the divine blessings “always prospers”.¹⁶¹¹

Every Theravāda nation has a pantheon of local and foreign gods to whom they transfer merit with the expectation of enjoying protection. In addition, the offerings may also include food, flowers, incense, and of course, money. The veneration of these divine guardians takes place in devaalaya, meaning house of gods, shrines located in monasteries, and kept separate from shrines dedicated to Buddha. As already mentioned, no Theravādin would ever pray to Buddha for any favor. In the Theravāda world, it is universally accepted that Buddha is no more and can offer no assistance to anyone. Buddhists can opt to pray to Gods of protection for favors. Rituals (pujas), for that matter, are administered chiefly by lay priests. Despite the archaic origin and extreme prevalence of such practices, the Saṅgha displays severe opposition to acts that

¹⁶⁰⁸ Ibid., 113.

¹⁶⁰⁹ Ibid., 113-114.

¹⁶¹⁰ Ibid., 114.

¹⁶¹¹ Ibid., 133-134.

overstep the bounds of merit-making. The real meaning of this kind of religious behavior is an attempt to compensate the human need for a pantheon of God protectors with the nontheistic nature of the Theravāda tradition.¹⁶¹²

5.1.6. The Laity and the Ascetics in Theravāda

The Ascetics

The core of the Saṅgha is comprised solely of bhikkhus, monks who have received full admission. The recruitment starts at a very early age. The newly recruited boys are called samanera (novices), and the initial access to the monastic order is called pabbajja, which means “voluntary banishment”. They observe ten precepts and follow rigorous training that prepares them for upsampada (full admission), at the age of twenty. In case the candidate holds the appropriate age and knowledge, he can receive immediate full admission. After ten years, he obtains the title of thera (elder monk) and maha thera (great elder) after twenty.¹⁶¹³

Two different groups of monks developed in Saṅgha. The forest monks, who specialize in patipatti (practice) and meditation, and village monks, who focus primarily on pariyatti (learning) and the preservation of Buddha’s words. Nowadays, there are no actual constraints on changing affiliations. The variance in Theravāda monasticism lies in a continuum; for instance, few monks renounce the use of technology and embody the one end, and others embrace technology and represent the other end. Worth noticing that monk’s morality is independent of the above practices.¹⁶¹⁴

Southeast Theravāda nations hold the tradition that males should join the Saṅgha at least once in their lives. It is a rite of passage that empowers their progress to adulthood—with the majority staying for a limited time. Entrance to the Saṅgha can also be regarded as means of transferring merit to deceased family members or, in conditions of scarcity, for receiving a quality education. Reverting to secular life is acceptable in most Theravāda societies—except for Sri Lanka, where it is stigmatized—since even a short passage from the Saṅgha implies a responsible, adult personality.¹⁶¹⁵

¹⁶¹² Ibid., 134-135.

¹⁶¹³ Ibid., 114-115.

¹⁶¹⁴ Ibid., 115.

¹⁶¹⁵ Ibid., 115-116.

From a historical and religious perspective, the Saṅgha is the most vital element of the Theravāda tradition. Monks are “the incomparable field of merit for the world”, and as such, they still constitute the highest preference for dāna giving. Bhikkhus also administer essential ceremonies, like last rites, as part of their social duties. The necessity and significance of their participation in merit-making practices have never declined.¹⁶¹⁶

Historical evolution brought changes to some of the core functions of the ascetics. In modern times monks lost a significant part of their social role. In the context of ancient, self-sustained communities and as the most educated, they not only offered spiritual guidance but were also mentors, physicians, and judges, among others. Modern development has already displaced monks from performing many of the above duties.¹⁶¹⁷

In the premodern era, monasteries functioned as the primary educational centers. Such a role helped many Theravāda nations to maintain low levels of illiteracy despite their low economic development and general impoverishment. Nowadays, offering such services to the laity is gradually becoming obsolete. Only in Sri Lanka monks maintain an essential role in education, while in other Southeast Buddhist countries, monastic schooling is limited solely to disseminating the Dhamma.¹⁶¹⁸

Inevitably, the role of physician and astromancer has also diminished significantly. While, nowadays, mainly criticized, there are a few monks—almost exclusively in Sri Lanka, due to lack of a powerful authority—who, by exploiting the effectiveness of mass media, achieve great success and popularity in such practices.¹⁶¹⁹

Another ascetic service includes the chanting of paritta, which stands for short verses that offer protection from misfortune and perils.¹⁶²⁰ Monks shall not accept money for blessings or any other services. On the basis of living a virtuous life, Buddha urged the ascetics to follow his example and embrace the virtues of amiability, compassion, selfless delight, and serenity as the “four ways of sublime living”. Thus, one

¹⁶¹⁶ Ibid., 116-117.

¹⁶¹⁷ Ibid., 117.

¹⁶¹⁸ Ibid., 118.

¹⁶¹⁹ Ibid.

¹⁶²⁰ Ibid., 118-119.

would be “an ideal social worker transcending the boundaries of selfhood”.¹⁶²¹

Buddha cautioned monks “had to live alone like the horn of a rhinoceros—always single”¹⁶²², and avoid familiarity with the laity. Despite that, Saṅgha members did not restrict their social purposes solely to advancing merit-making and offering blessings. On the contrary, in the modern era, ascetics have considerably expanded their social action. There has already been monastic engagement in politics in Sri Lanka, Myanmar, and Thailand, which has met variable outcomes.¹⁶²³ As a case in point, during the end of the 1990s, in Sri Lanka, bhikkhu Gangodawila Soma was advancing the concept of dharma-rajyaya or “a righteous regime” as an answer to the country's socio-economic instability and spiritual confusion.¹⁶²⁴

Since the 1950s, numerous bhikkhus have taken the initiative to afford vocational training, children's schooling, improve communities, and promote welfare via various “extensive social service projects”.¹⁶²⁵

Saṅgha members have launched numerous large-scale social projects in Thailand, including environmental organizations, care and support centers for drug rehabilitation, and AIDS patients. The most extensive and contentious among them is the Dhammakaya Foundation, with a network spread all over the country. While being criticized for its right-wing, expansive policies endures as the most prominent Thai monastic social service.¹⁶²⁶

In addition to the above organizational activities, individual social initiatives are still eminent in Thailand. Ajahn Chah (1918-1992), Ajahn Buddhadasa (1906-1993), Ajahn Dhammado (1914-2005), Ajahn Maha Boowa (1913-2010), and Ajahn Jumnien (1936), and the upasika teacher, Ajahn Naeb (1897-1983) are identified as predominant masters of Thai Theravāda tradition. Among these influential instructors, Ajahn Chah is probably, the most famous meditation teacher, and Ajahn Buddhadasa left a deep impression in Thai Buddhism with his legacy in Dhamma's interpretation. Worth noticing, in 2006, UNESCO also recognized Buddhadasa as one of the world's

¹⁶²¹ Ibid., 119-120.

¹⁶²² Ibid., 120

¹⁶²³ Ibid.

¹⁶²⁴ Ibid., 121-122.

¹⁶²⁵ Ibid., 122.

¹⁶²⁶ Ibid., 123.

great personalities.¹⁶²⁷ While traditional monks' roles are diminishing, their current educational services have reached the highest levels and are globally accessible.¹⁶²⁸

The Laity

Max Weber has characterized Buddhist laity as those who existed with the sole purpose to “nurture” and sustain the members of Saṅgha. While this “instrumentalist” view describes an essential, pragmatic aspect of the relationship between the Theravāda laypeople and the ascetics, it fails, though, to embrace the full extent of the phenomenon and the function of upasaka and upasika.¹⁶²⁹ In his “Discourse on the Great Parinibbāna”, Buddha refused to attain parinibbāna until all his followers—bhikkhus, bhikkhūnīs, upasaka and upasika—fully assimilated and embraced his teaching. The meaning of this account does not convey equality between the four groups; on the contrary, it was always clear that Buddha highlighted the precedence of the Saṅgha but clearly states the significance of upasaka and upasika. In the well-known Buddha's allegory, the ascetics are fast and straightforward in their mission to Nibbāna, like the swans, and the laypersons are vivid but slow like the peacocks. Although different in their approach, all groups tread the same path the same.¹⁶³⁰

Considering upasakas and upasikas and their respective religious behavior, in stark contrast to the fact that women exhibit much higher levels of participation, men enjoy privileges like occupying the front seats at ceremonies and being the only ones permitted to hold the casket of the Buddha's relics. Frequently though, since many elements of religious practice are regarded as holding a feminine connotation, many men prefer to let women take precedence.¹⁶³¹

Notwithstanding, Theravāda chronicles almost avidly portray laypeople as “essential participants in the growth and maintenance of the whole organization of the Saṅgha”.¹⁶³² For instance, multiple monastic precepts resulted from the laity's influence

¹⁶²⁷ Ibid., 123-124.

¹⁶²⁸ Ibid., 125.

¹⁶²⁹ Ibid., 128.

¹⁶³⁰ Ibid., 128-129.

¹⁶³¹ Ibid., 135-136.

¹⁶³² Ibid., 129.

on Buddha. Evidence suggests that it would be more efficient to observe the relationship between monks and laypersons as mutually reciprocal. In the past and the present, laypeople provide material support, and monks reciprocate by contributing their spiritual services.¹⁶³³

Lay teachers were a reality in Theravāda history. Laypersons contemporary to Buddha, like Citta and Khujjuttara, were well-versed in the Dhamma. New lay scholars emerge invariably in the modern Theravāda world.¹⁶³⁴

Influenced by Western scholars who espoused Buddhism like Olcott and Blavatsky, Theravāda countries started establishing modern Buddhist educational organizations at the end of the nineteenth century. Unprecedentedly, new localities started emerging, other than monasteries, where Theravāda Buddhists would socialize, without the Saṅgha's superintendence. The function of monks was confined to religious guidance and lacked any executive or elective power.¹⁶³⁵

Theravāda's development and progress in educational systems have led to the proliferation of Buddhist scholars, academic authors, professors at universities, and intellectuals who disseminate Theravāda doctrine by public speaking.¹⁶³⁶

A prominent lay Theravādin intellectual and activist in Thailand is Sulak Sivaraksa. As a member of multiple international and domestic organizations, he established Santi Pracha Dhamma Institute with the intention to expand environmental emotions in people, foster dialogue between nations and religions, and general development around the globe. He also censured the burgeoning consumerism in the monastic and lay communities. Another lay Buddhist organizational initiative with high social impact and cultural penetration, the Young Buddhist Association of Thailand (YBAT), operates on the dissemination of meditation in youth as means of deploying Dhamma to resolve their problems.¹⁶³⁷

In most cases, lay Buddhist activism initiatives like those above developed a reciprocal relationship of mutual support with the Saṅgha. In other instances, though,

¹⁶³³ Ibid.

¹⁶³⁴ Ibid.

¹⁶³⁵ Ibid., 129-130.

¹⁶³⁶ Ibid., 130-131.

¹⁶³⁷ Ibid., 131.

there were reactionary movements like the Vinaya-*vardhana* (discipline improvement) Society, in Sri Lanka, in 1932, which demanded the strict abidance to the entire Vinaya laws by the monks. In particular, Vinaya-*vardhana* was an expression of dissatisfaction towards bhikkhus' misconduct. But in general, Theravāda society is not occupied with Saṅgha reformation. Preferably, it substitutes ascetics with laypeople in functions and responsibilities that were formerly exclusively monastic—like attending funerals and alms giving.¹⁶³⁸

In the Theravāda world, the practice of *Bhāvanā*, and in contrast to the popular view, has been customarily confined within the forest monk community. Nevertheless, in recent decades lay Buddhists have been displaying an increasing engagement in meditation. The primary influence for this trend came from the efforts of notable lay scholars, like Mahasi Sayadaw in Myanmar, Matara Sri Nanarama in Sri Lanka, and Ajahn Chah in Thailand, among others.¹⁶³⁹

The reasons for increased lay interest in meditation vary from a need to relieve the social and professional pressure, which is apparent in the educated representatives of the middle class, to the aspiration of immediate attainment of *Nibbāna*. The latter cause associates firmly with the newly formed premise that the laity could pursue meditation as a means to attain *Nibbāna* in the present life. Such assumptions, though, contradict Theravāda concepts like the four noble truths and the eightfold path and provoke criticism on behalf of the traditionalists.¹⁶⁴⁰ Despite the rapid expansion of meditation practice in the laity, *Kamma* and merit-making remain the main concern for lay Theravādins.¹⁶⁴¹

Considering *upasakas* and *upasikas* and their respective religious behavior, in stark contrast to the fact that women exhibit much higher levels of participation, men enjoy privileges like occupying the front seats at ceremonies and being the only ones permitted to hold the casket of the Buddha's relics. Frequently though, since many elements of religious practice are regarded as holding a feminine connotation, many men

¹⁶³⁸ *Ibid.*, 131-132.

¹⁶³⁹ *Ibid.*, 132.

¹⁶⁴⁰ *Ibid.*, 133.

¹⁶⁴¹ *Ibid.*

prefer to let women take precedence.¹⁶⁴²

5.2 Buddhist Ethics and Sex Trafficking

This part will explore Buddhist ethics with a primary orientation towards issues related to sex trafficking and specifically prostitution. There will be an analysis of Kamma and the five precepts as primary ethical foundations for the Thai laity and for forming their beliefs and values regarding issues like abortion, suicide, sexual ethics, prostitution, gender inequalities, and the position of women in society.

5.2.1 Kamma

Kamma is a central concept in Buddhism.¹⁶⁴³ Belief in the principle of Kamma constitutes a vital aspect of Buddhists' values and beliefs. The so-called “karmic” Buddhism influences heavily everyday life in Theravāda states. While the concept itself is not meant to be viewed in any fatalistic or deterministic terms, nonetheless, it often serves as the ultimate and last explanation for the incomprehensible.¹⁶⁴⁴

Kamma has its roots in the Indian philosophical and religious tradition. It is defined as an action that is evaluable on an ethical level. Forerunners of kamma can be found in Vedic literature in the form of sacrificial acts. The concepts of good (puñña) and bad (papa) date back to the early post-Vedic era. Jains, a sramana group, held that good and evil were part of the person's soul, who could abolish them via extreme asceticism. On the other hand, annihilationist groups denied any moral weight in human action related to the notions of soul and afterlife. Buddha, while renouncing theism and essentialism he recognized kamma as a natural, dependently arisen phenomenon.¹⁶⁴⁵

Except for its moral dimension, kamma holds an equally important dimension as a form of action determining human identity.¹⁶⁴⁶ In the absence of the concept of soul, Buddha encountered the variability in human characters and personalities. In Brahman's view, society was stratified into four different classes. The established clas-

¹⁶⁴² Ibid., 135-136.

¹⁶⁴³ Rāhula, *What the Buddha Taught*, 31-32.

¹⁶⁴⁴ Tilakaratne, *Theravada Buddhism*, 69.

¹⁶⁴⁵ Ibid., 61.

¹⁶⁴⁶ Ibid.

ses existed under the Creator's will. This deterministic essentialism supported that Brahmins came to be as such due to the qualities of their soul. Based on the notion of *Ātman* (individual soul) and *brahman* (universal soul), this view was repudiated by Buddha. Instead, he chose human action to represent the human essence, if existent at all, in place of the concept of the static soul.¹⁶⁴⁷

The reasoning of Buddha's counter-essentialist views can be summarized by his conclusion while arguing with a young Brahman: "I do not call anyone a Brahmin because of his origin and lineage"¹⁶⁴⁸. This clearly, denotes a non-substantialist (*anattā*) definition of human personality or identity. It is also a dynamic view since it describes personhood on the basis of one's actions. In Buddha's thought, human personality is dependently originated, like any other aspect of existence. Identity is impermanent and not fixed. Thus, human beings should be regarded as capable of both good and bad actions and not hold statically fixed good or bad identities.¹⁶⁴⁹

Kamma as the principal organizer of human morality

The following passage from Dhammapada—the best-known and most widely esteemed text in the Pali Tipitaka—highlights the contrast between right and wrong actions in the Theravāda doctrine:¹⁶⁵⁰ Eschew evil actions, promote good actions, and purify the mind —this is the teaching of the Buddhas.¹⁶⁵¹

Buddha affirmed that kamma depends on intention (*cetanā*). Specifically, kamma is action with purpose. *Cetanā* precedes any action, and it is the nature of the former that determines the quality of the latter (good or bad). Buddha distinguished three central ideas of kamma: intentionality (*cetanā*), the action, and its result.¹⁶⁵²

The Buddhist interpretation of *cetanā* necessitates the examination of the contradictory relationship between two pairs of concepts, namely, the good (*puñña*) and evil (*papa*), and the skillful (*kusala*) and unskillful (*akusala*). *Good and evil hold the same meaning with the pan-Indian equivalents of morally good and bad actions. The*

¹⁶⁴⁷ Ibid., 62.

¹⁶⁴⁸ Ibid., 63.

¹⁶⁴⁹ Ibid.

¹⁶⁵⁰ Ibid.

¹⁶⁵¹ Tilakaratne, *Theravada Buddhism*, 63; Acharya Buddharakkhita, *The Dhammapada: The Buddha's Path of Wisdom* (Kandy, Sri Lanka: Buddhist Publication Society, 2008), 67 [183].

¹⁶⁵² Tilakaratne, *Theravada Buddhism*, 63.

concepts of kusala and akusala, though, are identified as uniquely Buddhist notions. What determines skillful and unskillful actions are two threefold sets of mental sources, respectively. Accordingly, the three sources of unskillful actions are *lobha* (greed), *dosa* (hatred), and *moha* (delusion). Their opposites, *alobha* (non-greed), *adosa* (non-hatred), and *amoha* (non-delusion), are the sources of skillful actions.¹⁶⁵³

The sources for evil (*papa*) or unskillful (*akusala*) actions are identical, and in that context, these concepts are interchangeable. Thus, all evil actions are unskillful and vice versa. On the contrary, all skillful actions do not translate into good ones. For instance, making a donation is a good action but doing it “in exchange” for a prospective reward entails desire-driven motives. People wander in *samsāra*, experiencing pleasure or suffering according to their actions. Good actions convey pleasurable experiences, while bad ones bring misery. Regarding the concept of *samsāra*, one should prefer moral actions and a more hopeful rebirth. But good and evil actions tend to prolong *samsāra*. The ultimate aim for a follower of Buddha is to terminate the cycle of death and rebirth and attain *Nibbāna*. Only skillful actions lead to that purpose, and that is why enlightened people are described as the purely skillful ones who have transcended good and evil.¹⁶⁵⁴

From the ethical perspective, there are five types of *kamma*. They are organized on the basis of the infringement of the five precepts—killing, stealing, sexual misconduct, lying, and use of intoxicants. A Buddhist is expected to follow the five precepts, abstain from the five evil actions, and commit themselves to practice the “three good actions”, namely, *dāna* (giving), *sīla* (morality), and *bhāvanā* (meditation). In further analysis, there are also the “ten unskillful actions”, specifically, 1) killing, 2) theft, 3) sexual misconduct, 4) lying, 5) spiteful gossip, 6) “uttering harsh words”, 7) “engaging in a trivial and superficial talk”, 8) “severe craving”, 9) severe hatred, and 10) wrong view. Conversely, abstinence from these actions and practicing their antipodes constitute the “ten skillful actions”.¹⁶⁵⁵

Next, there is the categorization of the “ten good actions”: 1) offering, 2) virtue, 3) meditation, 4) “transferring merits”, 5) “rejoicing in merits”, 6) “attending (on those

¹⁶⁵³ Ibid., 64.

¹⁶⁵⁴ Ibid., 64-65.

¹⁶⁵⁵ Ibid., 65.

who are attendance-worthy)", 7) "paying respects (to those who are respect-worthy)", 8) educating others on the Dhamma, 9) attending to the Dhamma, and 10) "straightening one's views". This variety of categorizations illustrate, on the one hand, the multi-level ethical analysis of human activity found in Buddhism and, on the other hand, the possible interchangeability between the terms "good", "evil", "skillful", and "unskillful".¹⁶⁵⁶

The Result of Kamma

Although good and bad kamma produce corresponding results, the Buddha denied that kamma could be divided clearly and simply into black and white. Therefore, Buddha avoided the oversimplified classification of vipaka into white (good) and black (bad) results. Instead, he established the following categories: 1) black kamma with black effects; (2) white kamma with white effects; 3) black and white kamma with black and white effects; (4) neither black nor white kamma with neither black nor white effects. In further examination, black and white kamma are self-explanatory. The third signifies mixed kamma with good and bad intentions, and hence producing mixed results. Finally, the fourth rises above common good and evil actions and intentions and leads to Nibbāna. Thus, the four types of kamma manifest that kamma's Buddhist concept transcend the simplistic view of kamma with precise consequences.¹⁶⁵⁷

Buddhism regards kamma as a universal and fundamental concept and examines it through the principle of dependent origination. In this view, there is no doer or anyone accountable for any result. Alternatively, Buddhist literature has compared vipaka with collecting the yield of what one has already planted. In a similar manner, in kamma causing vipaka, there is no need for an agent. Buddhaghosa confirmed: "There is no doer of the karma; nor is there experiencer of the result. Pure phenomena alone exist; this is the right vision"¹⁶⁵⁸. In Theravāda cosmology, Yama, the king of the underworld, inflicts punishments on wrong-doers. As everything dependently arises, no "being can exist over and above karma causation"¹⁶⁵⁹. Thus, one should conceive Yama as a being

¹⁶⁵⁶ Ibid., 65.

¹⁶⁵⁷ Ibid., 66.

¹⁶⁵⁸ Ibid., 67.

¹⁶⁵⁹ Ibid.

that suffers from its past transgressions by tormenting others.¹⁶⁶⁰

In final analysis, the Buddhist study of kamma is naturalistic and does not include the dependence on any metaphysical agent. Yet, there is a lot of reasonable skepticism about saṃsāra. Buddha's answer to inquiries about the cycle of death and rebirth resembled arguments similar to “Pascal's wager on the existence of God”, except that Buddha employed such reasoning in support of morality.¹⁶⁶¹

When two teachers make conflicting assertions on the existence of the afterlife, one claiming there is an afterlife where good actions bring a fortunate rebirth and bad ones an unfortunate rebirth and the other teacher insisting on the absence of afterlife, heeders face a belief dilemma. If they believe in the afterlife, they will observe moral conduct. In case their belief comes true, they will be rewarded in both current life and future rebirth. If not, their morality will still be receptive to praise. On the contrary, if they accept that there is no afterlife, moral conduct would be redundant. If that belief proves false, they will face suffering in both current life and future rebirth, while in case their faith is valid, they will still face criticism for their lack of virtue in their present life. In conclusion, it is more beneficial to assume that the afterlife exists and behave accordingly, notwithstanding the truth of that assumption.¹⁶⁶²

In another similar instance, while asserting that one should not believe in anything based merely on authority or logic, Buddha maintained that any acts governed by the three sources of unskillful deeds (greed, hatred, and delusion) were harmful and only their opposites are beneficial. He further supported that moral behavior would offer four “consolations” in the present life: 1) Happiness will await in the next life. 2) In the case of no afterlife, there will still be relief of living a blissful life without any hatred. 3) “If it is true that one encourages an evil state by committing evil acts”, refraining from such deeds, one is relieved by feeling safe in the afterlife. 4) “Even if evil deeds do not breed evil states”, abstaining from such deeds, one “obtains the relief that his present behavior is pure”.¹⁶⁶³

Buddha did not command the dogmatic faith in the concepts of kamma and

¹⁶⁶⁰ Ibid., 67.

¹⁶⁶¹ Ibid.

¹⁶⁶² Ibid., 68.

¹⁶⁶³ Ibid.

vipaka. Instead, his position was, more reasonably, governed by moral pragmatism. Hence, he shunned any transcendental or metaphysical claims to support his assertions that skepticism shall not justify lack of morality.¹⁶⁶⁴

Kamma, Poverty, Prostitution and Sex Trafficking

In Buddhist cultures, misinterpretations of kamma often lead to stigmatization of disabled and disadvantaged populations. Disability brought by one's evil actions in a past life is a common Buddhist belief. This attitude of "you deserve it" alienates and isolates individuals and prolongs their suffering. In Buddhist literature, Buddha appears to verify that humans are responsible for their actions "they originate from their actions ... It is action that distinguishes beings as inferior and superior".¹⁶⁶⁵ The prevailing interpretation of kamma in Theravāda societies is an overarching justice procedure that punishes individuals in present life for bad kamma accumulated in their past lives,¹⁶⁶⁶ and rewards accordingly past life good deeds.

Such beliefs allow the formation of passive and fatalistic attitudes that sustain and rationalize not only traditional practices, like landlords in Southeast Asia regularly claiming a 70 percent share of the harvest from landless peasants in exchange for farming their land,¹⁶⁶⁷ but also horrific illicit activities like human trafficking and sexual exploitation. In Thailand, prostitutes, and even worse, sex trafficking victims, are seen as deserving of their fate, and that it is no one's responsibility to intervene to help them.¹⁶⁶⁸

Kamma is even employed to justify female inferiority, and being born as a woman is due to evil deeds in a past life, which worsens the alienation and marginalization of female trafficking victims and voluntary prostitutes. As we will see later in this chapter, the lower value of Thai women is also further preserved by the fact that

¹⁶⁶⁴ Ibid., 69.

¹⁶⁶⁵ Sallie B. King, "The Problems and Promise of Karma from an Engaged Buddhist Perspective", in *A Mirror Is for Reflection: Understanding Buddhist Ethics*, ed. Jake H. Davis (New York: Oxford University Press, 2017), 169.

¹⁶⁶⁶ Ibid., 170.

¹⁶⁶⁷ Sulak Sivaraksa, "Buddhism and human rights in Siam", in *Socially Engaged Buddhism for the New Millennium: Essays in Honor of the Ven. Phra Dhammapitaka (Bhikkhu P.A. Payutto) on His 60th Birthday Anniversary*, ed. Sulak Sivaraksa (Bangkok: Sathirakoses-Nagapradipa Foundation and Foundation for Children, 1999), 198.

¹⁶⁶⁸ King, "The Problems and Promise of Karma", 171.

Thai Saṅgha does not allow full ordination of women as nuns. Thus, young girls from impoverished rural families are deprived of the prospect to become bhikkhunis as a way to repay their parents' support by offering the highest possible merit to them. In comparison, Thai boys had always enjoyed the possibility to temporarily ordain.¹⁶⁶⁹

Ambedkar's two tests for verifying that something signifies Buddha's words could serve as a piece of initial evidence on how prevalent Thai understandings of kamma accord with Buddha's spirit. Following the first test, any teaching based on logic and rationality could be regarded as belonging to Buddha.¹⁶⁷⁰ Thus, the continuation of the soul after death is incompatible with the rationale of non-self or *anātman*. Therefore, justifying suffering of one's present life due to kamma from a past life is not in line with Buddha's words. The second test pertains to Buddha ignoring the pursuing of intellectual matters that do not benefit humankind's welfare. No word not relating to the betterment of human life can be attributed to the Buddha. Being recognized as holding unsurpassed compassion and loving-kindness, Gautama would never support a tenet that maintains kamma producing present-life suffering.¹⁶⁷¹

Buddha never stated that kamma is destiny and all human experience is due to it. While kamma influences present and future lives, numerous other factors act similarly. The concept of kamma should not promote passivity and inaction, for it embodies dynamic continuity and action. It is about individuals producing their own kamma. Accepting kamma as an unchangeable fate hinders people's efforts to practice *dammha* and shape their own future for and by themselves. Such attitudes hinder gravely any effort to tread the Eightfold path to enlightenment.¹⁶⁷²

¹⁶⁶⁹ Ibid., 172.

See also Ouyporn Khuankaew, *Thai Buddhism and Patriarchy* (Unpublished manuscript, 2012), quoted in King, "The Problems and Promise of Karma", 172; and Ouyporn Khuankaew, "Buddhism and domestic violence: Using the four noble truths to deconstruct and liberate women's karma", in *Rethinking Karma: The Dharma of Social Justice*, ed. Jonathan S. Watts (Chiang Mai, Thailand: Silksworm Books, 2009), 199-224.

¹⁶⁷⁰ Bhimrao R. Ambedkar, "The Buddha and his Dhamma", accessed April 18, 2020, 1957, book. IV, part. II, section. II, www.ambedkar.org/buddhism/BAHD/45D.Buddha%20and%20His%20Dhamma%20PART%20IV.htm#a24.

¹⁶⁷¹ Ambedkar, "The Buddha", book. IV, part. II, section. II; King, "The Problems and Promise of Karma", 174.

¹⁶⁷² King, "The Problems and Promise of Karma", 176, see also,

Aung San Suu Kyi and Alan Clements, *The voice of hope: Conversations with Alan Clements* (London: Penguin Books, 1997), 124; and, Phra Prayudh P. Payutto, *Buddhadhamma:*

The aspect of Buddhism as a practice of cultivating virtues that promote the cessation of dukkha is pivotal in providing an authentic interpretation of the concept of kamma. Of those virtues, karuṇā (compassion) and mettā (loving-kindness) stand above all. A faithful follower of Buddha should feel love and compassion for every human being¹⁶⁷³ and be involved in compassionate responses that alleviate suffering in the world. Such an attitude is meritable and enables someone to accumulate good kamma for the future.¹⁶⁷⁴

“The Questions of King Milinda” offers a case in point of the employment of the concept of bad kamma for attributing personal responsibility to one's suffering.¹⁶⁷⁵ It parallels the relationship between a previous human life and a succeeding one with fruit hanging in a tree and the seed from which the tree grew. The fruit and the seed share continuity, but they also have differences that can be attributed to environmental conditions. This text builds on the theory of anātman which prescribes that individuals are not the same and no different from the ones who preceded them in the sequence of death and rebirth. Kamma of the previous person is a factor for the continuity and existence of the latter person in addition to multiple factors that also pertain to the choices and environmental influence in the present life. Hence, saṃsāra might contain continuity, but it also involves a dynamic component that negates the persistence of identity in the process of death and rebirth.¹⁶⁷⁶

Furthermore, in his social teachings, Buddha advocated that kings should invest every possible effort and resource in eradicating poverty and misfortune. He also disseminated the abolishment of the Hindu caste system as an oppressive social convention with no pragmatic value to the cessation of human suffering. Status in human societies should depend on individuals' actions and not their birth.¹⁶⁷⁷ Following the rationale of rejecting castes, Buddha could never describe kamma functioning on the basis of the

Natural Laws and Values for Life, trans. Grant A. Olson (Albany, NY: State University of New York Press, 1995), 147.

¹⁶⁷³ Sallie B. King, *Being Benevolence: The Social Ethics of Engaged Buddhism* (Honolulu: University of Hawaii Press, 2005), 208-209.

¹⁶⁷⁴ King, “The Problems and Promise of Karma”, 177.

¹⁶⁷⁵ Henry Clarke Warren, “Milindapanha (The questions of King Milinda)”, in *Buddhism in Translations*, translated by Henry Clarke Warren (New York: Atheneum, 1979), 46:5ff, 234-235, quoted in King, “The Problems and Promise of Karma”.

¹⁶⁷⁶ King, “The Problems and Promise of Karma”, 179.

¹⁶⁷⁷ Ibid.

same logic.¹⁶⁷⁸

Finally, even if Buddha taught that people were being born with weak or defective health or with low social status due to their past life deeds, he always accepted everyone with loving-kindness and compassion, including men, women, outcasts, and the disadvantaged. He cautioned his followers to follow his example and never turn their back to anybody, especially those in need. For instance, "[h]e refused to speak to a group of villagers until they fed a hungry man ... himself nursed a sick disciple"¹⁶⁷⁹. The Sangha has also always nursed and cared for disabled people, and its answer toward sickness and suffering was primarily compassionate and active support.¹⁶⁸⁰

5.2.2 The Ethics of the Five Precepts (Pañcasīla)

The five precepts are the foundation of lay Buddhists' ethical code. Every Buddhist, laypeople and the ascetics regard these precepts as the basis of upright morality. In fact, adhering to Buddhism means the voluntary acceptance to observe the five precepts as duties. Thus, Buddhism identifies its ethical requirements as duties and not as rights.¹⁶⁸¹ Additionally, Buddhist morality in Buddhism organizes not only on the basis of precepts but also on virtues. The precepts epitomize what virtuous people ought to refrain from acting on. Therefore, the observance of the precepts requires an adequate foundation of available virtues and relevant right motives.¹⁶⁸² Buddhism enjoins the cultivation of good dispositions and practices that would enable the integration of moral conduct principles with one's personality and become an indispensable part of ethical behavior. Subsequently, concerning the first precept, refraining from killing should derive from developing empathy towards living beings and not from simply restraining natural behavioral functions. Therefore, observing the precepts habituates individuals in proper moral conduct and brings them closer to enlightenment.¹⁶⁸³

As already mentioned earlier, all virtues derive from the three principal virtues,

¹⁶⁷⁸ Ibid., 180.

¹⁶⁷⁹ Ibid.

¹⁶⁸⁰ Ibid.

¹⁶⁸¹ Keown, Damien, *Buddhist Ethics: A Very Short Introduction*, (Oxford: Oxford University Press, 2005), 8-9.

¹⁶⁸² Ibid., 12.

¹⁶⁸³ Ibid.

alobha, (non-attachment or greed), adosa (benevolence or non-hatred), and amoha (understandings or non-delusion), and they act as means of opposition to kilesas or defilements. Their counterparts are the three principal vices lobha (greed), dosa (hatred), and moha (delusion). In further explanation of the principal virtues, alobha denotes the absence of egocentric greed that contaminates human behavior with narcissist entitlement. Adosa is the disposition of goodwill towards all living beings, and amoha is the genuine understanding of Buddhist tenets. Buddhist tradition always emphasized the role of cultivating virtues in attaining spiritual growth. For that reason, some scholars classify Buddhist ethics as a form of “virtue ethics”.¹⁶⁸⁴

Before analyzing each of the five precepts one by one with emphasis on their ethical perspective regarding prostitution, it is useful to list the five precepts:

1. *pānātipātā veramaṇī sikkhāpadaṃ samādiyāmi*: I undertake the precept not to cause the death of living beings.
2. *adinnādānā veramaṇī sikkhāpadaṃ samādiyāmi*: I undertake the precept not to take what is not given.
3. *kāmesu micchācārā veramaṇī sikkhāpadaṃ samādiyāmi*: I undertake the precept to refrain from sexual misconduct.
4. *musāvādā veramaṇī sikkhāpadaṃ samādiyāmi*: I undertake the precept to refrain from false speech.
5. *surāmerayamajjapamādaṭṭhānā veramaṇī sikkhāpadaṃ samādiyāmi*: I undertake the precept to refrain from intoxicants that cause sloth and heedlessness.¹⁶⁸⁵

In contrast with the monastic code, the lay precepts have been left to the Saṅgha's discretion for further and more extensive interpretation of their purpose further. Avoiding extremes by following the “Middle Path” is often highlighted. Buddhism advocates that one should always aim for future personal improvement rather than hold-

¹⁶⁸⁴ Ibid., 12-13.

¹⁶⁸⁵ Adapted from, Crosby, *Theravada Buddhism*, 116; Hammalawa Saddhatissa, *Buddhist Ethics: The Path to Nirvāna* (London: Wisdom Publications, 1987), 73; Peter Harvey, *An introduction to Buddhist ethics: foundations, values, and issues* (Cambridge, UK: Cambridge University Press, 2000), 67.

ing intense guilt for percept infringements. Buddhists should regard the precepts as ideals motivating one to attain perfection. By observing each precept, the individual gradually eradicates the sources of unwholesome actions and develops particular virtues. Hence, adherence to the first precept leads to kindness and compassion, to the second, generosity and renunciation, to the third, “joyous satisfaction with one's own wife”¹⁶⁸⁶ and contentment, to the fourth precept, honesty, and trustworthiness, and to the fifth precept, mindfulness, and awareness. Thus, there is a positive complement for each precept.¹⁶⁸⁷

All the precepts are meant as rules of training, and they do not constitute Buddha's commandments, for there are no such commandments in Buddhism. Disciples undertake to themselves “to do [their] best to observe a certain type of restraint because [they] understand that it is a good thing to do”, if they don't think it is a good thing they “should not undertake it”.¹⁶⁸⁸

The First Precept

pānātipātā veramaṇī sikkhāpadaṃ samādiyāmi: I undertake the precept not to cause the death of living beings.

The first precept delineates the abstention from destroying, causing the destruction, or approving the destruction of a living being. Saddhatissa, *Buddhist Ethics*, 74. “Living being” signifies “anything that has life”.¹⁶⁸⁹ Refraining from harming life by any means recognizes humankind's close, interrelated connection with all living beings. In a manner, harming any living creature equates to harming oneself. Buddha cautioned on that matter: “Everyone fears violence, everyone likes life; comparing oneself with others one would never slay or cause to slay”.¹⁶⁹⁰ Buddha also stressed that even “causing another to kill by giving an order” is to be regarded as an act of slaughter.¹⁶⁹¹

The precept involves all creatures irrespective of size, and it includes every kind

¹⁶⁸⁶ Harvey, *An introduction to Buddhist ethics*, 68.

¹⁶⁸⁷ *Ibid.*, 68.

¹⁶⁸⁸ Maurice O. Walshe, *Buddhism and Sex* (Kandy, Sri Lanka: Buddhist Publication Society, 1986), 3.

¹⁶⁸⁹ Saddhatissa, *Buddhist Ethics*, 73.

¹⁶⁹⁰ *Ibid.*, 74.

¹⁶⁹¹ *Ibid.*, 75.

of animal sacrifices. The kammic consequences of killing correlate with the victim's physical and mental development and the circumstances.¹⁶⁹² Consequently, there is a lesser degree of culpability (*appasāvajja*) and a greater degree (*mahāsāvajja*). A Buddhist ought not to kill living beings, “not kill or condone killing by others”¹⁶⁹³, and refrain from using violence against the strong or the weak. The conditions that establish an act of killing are the following five: “1) the presence of a living being, 2) the knowledge that the being is a living creature, 3) the intent to kill, 4) the act of killing by appropriate means, 5) the resulting death”¹⁶⁹⁴. The recognition of the act of killing requires the presence of all the conditions. Otherwise, and even if the result is death, it is regarded as an accident and would not cause any harmful effect for the agent.¹⁶⁹⁵

Following the first precept is based on the principle of *ahiṃsā* (non-injury), which requires refraining from the destruction of life and cultivating the virtue of *mettā*, which means benevolence and good will towards all beings. *Mettā* is developed mainly through various steps of meditation. Some of them involve reflecting on formulas that are directed towards oneself, like the following:¹⁶⁹⁶ “May I be free from enmity ... may I be free from ill-will ... may I be free from distress ... may I keep myself happy”;¹⁶⁹⁷ On formulas that encompass all life: “May all beings be free from enmity, affliction and anxiety and live happily. May all breathing things; all who are born; all individuals of whatever kind be free from enmity, affliction and anxiety, may they live happily”.¹⁶⁹⁸

The above formulae illustrate that in Buddhism, overcoming resentment is of paramount importance. As a case in point, Buddha stated: “Monks, even if bandits brutally severed limb from limb with a two-handled saw, he who entertained hate in his heart on that account would not be one who carried out my teaching”.¹⁶⁹⁹

By extrapolating the above analysis, any act that causes harm to any living being is a violation of the precept. Accordingly, the agents of sex trafficking are violating

¹⁶⁹² *Ibid.*, 74-75.

¹⁶⁹³ *Ibid.*, 75.

¹⁶⁹⁴ *Ibid.*

¹⁶⁹⁵ *Ibid.*

¹⁶⁹⁶ *Ibid.*, 76-77.

¹⁶⁹⁷ *Ibid.*, 77.

¹⁶⁹⁸ *Ibid.*

¹⁶⁹⁹ V. Trenckner and R. Chalmers, eds., *Majjhimanikāya*, Reprint, vol. 1 (London: Pali Text Society, 1964), 129, quoted in Saddhatissa, *Buddhist Ethics*, 79.

every possible aspect of the first precept. They repeatedly abuse physically and mentally, killing, torturing, and forcing them to participate in dangerous acts. All the third parties profiting from sex trafficking are breaking the precept of no-harm at some level since even those they indirectly support and benefit from the harm of others, be it brokers and smugglers, brothel owners, sex buyers, or corrupt law enforcement officers. Their actions and attitudes sustain the menace of sexual exploitation of human beings and allow immense harm to be inflicted on them.

On the other hand, voluntary sex workers often repeatedly break the precept. For instance, prostitutes often have unwanted pregnancies and choose to have an abortion. Consenting to have an abortion violates the first precept on the part of the mother, as well as on the part of the physician,¹⁷⁰⁰ especially when it is accompanied by indifference in taking contraceptive measures while being aware of the risk of unwanted pregnancies in unprotected sex and lacking remorse in aborting the child. STIs transmission prevalence is also very high in the world of sex work, and many prostitutes seem to ignore the health risks of unprotected sex, disregarding their health and that of others. Suicide, an unfortunate "life" choice of many voluntary or involuntary sex workers¹⁷⁰¹, is also not acceptable in Buddhism. Every person has a responsibility not to harm any life, including one's own. Any action that involves harming one's self or others is against the value of ahimsa or non-injury, which is essential for cultivating the virtues of mettā (loving-kindness) and karuṇā (compassion) that in turn expedite one's treading of the path to enlightenment and end of suffering.

The termination of human suffering is the ultimate objective of Buddha's teachings. Sex trafficking and voluntary prostitution further violence, abuse, coercion, and torture of life.

¹⁷⁰⁰ Daniel Cozort and James M. Shields, *The Oxford Handbook of Buddhist Ethics* (New York: Oxford University Press, 2018), 593-594; Damien Keown, *Buddhism & Bioethics* (New York: St. Martin's Press, 1995), 93; Harvey, *An introduction to Buddhist ethics*, 313; Hermann Oldenberg, *The Book of Discipline: Vinaya-Piṭaka*, trans. I. B. Horner, vol. 1 (London: Luzac & Company Ltd., 1949), 145.

¹⁷⁰¹ Juan M. Millan-Alanis et al., "Prevalence of suicidality, depression, post-traumatic stress disorder and anxiety among female sex workers: a systematic review and meta-analysis", Preprint, submitted May 11, 2021, <https://doi.org/10.21203/rs.3.rs-459170/v1>; Winnie W. Yuen et al., "Psychological health and HIV transmission among female sex workers: a systematic review and meta-analysis", *AIDS Care* 28, no. 7 (2016): 816-824, <https://doi.org/10.1080/09540121.2016.1139038>.

The Second Precept

adinnādānā veramaṇī sikkhāpadaṃ samādiyāmi: I undertake the precept not to take what is not given.

Buddha denounced any action of stealing under any circumstances and distinguished two kinds of thieves. The first takes something that belongs to another without the owner's consent, and the second includes the use of fraud and deception to appropriate anything that is property of another. Even when a buyer is unaware that the purchase is of less value than one is paying for, and any comparable wicked and ignoble plot violates the second precept. Thus, all dishonest and fraudulent acts equate to a transgression of the principle of no-stealing. In other words: "One should avoid that which is not given, whatever or wherever it is. The disciple, perceiving this, does not steal or condone stealing. Everything that is not given he should avoid".¹⁷⁰²

The act of stealing—as illustrated above—is the reverse of *dāna pāramī* or generosity, which is the first of the ten perfections—*Dasa pāramitā*, noble qualities commonly linked to enlightened beings. Practicing *dāna* is a fundamental requirement for eliminating clinging to impermanent things and purifying from desire and yearning.¹⁷⁰³

Further, the precept begins with the word *adinnādānā* which consists of the word *adinna*, meaning "that which is not given"¹⁷⁰⁴ and the opposite of *dānā*, which is *adānā*, meaning "taking". Confirming the act of "taking what is not given" requires five conditions, *Saddhatissa* writes: "[1] existence of] others' property; [2)] awareness of the fact that it is others' property that is being taken; [3)] the immoral volition of stealing; [4)] the employment of a device to steal; and [5)] the act of removing the property".¹⁷⁰⁵

The severity of the action depends on the value of the thing stolen and the virtue of the victim. Fraud, cheating, forgery, and falsely impugning debts also relate to this precept. Alleging higher "compensation for a theft than is appropriate, accepting the gift of two robes when one only needs one and giving to one monk what one has promised to another" are also acts that breach the precept.¹⁷⁰⁶

¹⁷⁰² *Saddhatissa, Buddhist Ethics*, 86.

¹⁷⁰³ *Ibid*, 87.

¹⁷⁰⁴ *Ibid*.

¹⁷⁰⁵ *Ibid*.

¹⁷⁰⁶ *Harvey, An introduction to Buddhist ethics*, 70.

Thai Buddhist tradition also includes borrowing without permission and breaking promises, as it involves taking liberties that have not been granted.¹⁷⁰⁷ In addition, Thai view gambling as a breach of the second precept¹⁷⁰⁸ because “it causes avarice, unpleasantness, hatred, deception, cheating, wildness, lying, senseless and harsh speech”¹⁷⁰⁹.

The perpetrators of sex trafficking use various methods to exploit their victims and appropriate the profits made from selling sex services. The use of threats and coercion are the means of preference to deprive the victims of monetary profits. In many cases, deception is also employed, for that matter. It has already been demonstrated how fictitious debts accumulate and lead to debt bondages and withholding of wages. In addition, deception is omnipresent in the recruitment stages of sex trafficking. Thus, the offenders break the second precept systematically to increase the effectiveness of their exploitation methods and maximize their profits.

In the case of prostitution, many sex workers do not directly violate the second precept. The selling of their sexual services involves seemingly a fair transaction; they offer sexual satisfaction and receive monetary compensation. Nevertheless, prostitutes, especially where sex work is unregulated, are not rare regarding stealing from their unaware clients as a welcoming addition to their income. Except for the act of stealing, which constitutes a direct violation of the precept, prostitution regularly correlates with deception for the purpose of acquiring profit from others. Sex workers frequently exaggerate their "qualities" and employ dishonest seductive methods to convince sex buyers of their sex services' qualities or the sincerity of their emotions towards them. In Thailand, there are numerous cases of naive sex tourists that fall victim to prostitutes' false promises of love and end up spending vast amounts of money to help them escape the sex industry. While seemingly indirect, such practices are, indeed, direct infringements of the second precept, considering that their sole purpose is to appropriate something that is not given via fraud and deception.

¹⁷⁰⁷ B. J. Terweil, *Monks and Magic: An Analysis of Religious Ceremonies in Central Thailand* (London: Curzon Press, 1979), 188-9.

¹⁷⁰⁸ *Ibid.*, 188.

¹⁷⁰⁹ Harvey, *An introduction to Buddhist ethics*, 70.

The Third Precept and Remarks on Sexual Ethics

kāmesu micchācārā veramaṇī sikkhāpadaṃ samādiyāmi: I undertake the precept to refrain from sexual misconduct.

On matters of sexual conduct, Buddha stated: “The wise man should avoid the uncelibate life (*abrahmacariyaṃ*) like a pit of burning coals. But if he is incapable of living a celibate life, he should not transgress against another’s wife”.¹⁷¹⁰

Buddhist tradition classifies sexual desire as the strongest instinct among all animals and has an even greater impact on humans, and, therefore, a high level of mental development is required to control it.¹⁷¹¹

While Buddhism holds celibacy as one of the highest recognized virtues of human character, family life as the aspiration of the majority of people is not to be denounced. Householders can thrive in family life and attain high levels of personal development, and concurrently promiscuity remains under control. Thus, marriage maintained its honorable value in the Buddhist tradition.¹⁷¹²

Disciples who adhere to the injunction of the third precept ought also to purify their minds from immoral sensual thoughts and even abstain from inspiring others to act on immoral sensual behavior.¹⁷¹³

The common interpretation of the third precept is abstaining from immoral sexual intercourse or adultery. But a proper grammatical analysis of the phrase “*kāmesu micchācārā*” reveals that *kāmesu* is the locative plural of *kāma*—sensual pleasures—and means “in/to sensual pleasures”, and *micchācārā* means “misconduct”.¹⁷¹⁴ From that perspective, the precept purports to refrain from all pleasures of senses, which encompasses all five sensuous objects—visible objects, sound, olfactory, taste, and tactile objects. Hence, *kāmesu micchācārā* is misconduct with regard to the five sense faculties. Pali texts describe quite often the “fifth factor of *kāma*, that is, body impression”, as “unlawful sexual intercourse”.¹⁷¹⁵ But a more relevant interpretation of the precept

¹⁷¹⁰ Harvey, *An introduction to Buddhist ethics*, 71.

¹⁷¹¹ Saddhatissa, *Buddhist Ethics*, 88.

¹⁷¹² *Ibid.*, 89-90.

¹⁷¹³ *Ibid.*, 91.

¹⁷¹⁴ *Ibid.*, 88.

¹⁷¹⁵ *Ibid.*, 92.

would be complete abstinence “from the five forms of self-indulgence, both directly and indirectly”.¹⁷¹⁶

Greed for food and other sensual pleasures are also part of the scope of the precept. Addiction to sexual indulgence is interrelated with other dependencies to sense-pleasures. Dukkha stems from desires and cravings, and controlling them keeps suffering in check. It is as simple as that. But of course, that which is simple is not necessarily easy.¹⁷¹⁷

Revisiting the Buddhist theory on kamma, the feelings of pleasure are not actions but results. Thus, there is nothing “skillful” or “unskillful” in experiencing pleasure, neither “virtuous” or “sinful”. People can enjoy pleasant feelings with no sense of guilt. It is the attachment to sexual pleasure that is unskilled, not sexual pleasure itself. Experiencing pleasure without attachment is acceptable. Attachment, though, constitutes unskilled kamma which leads to dukkha.¹⁷¹⁸ The rationale of the precept arises directly from the doctrine of Dependent Origination: Contact forms the foundation for the arising of feeling; feeling brings craving, craving gives rise to clinging, and so on. The ultimate outcome is the perpetual process of becoming and suffering. Sensual pleasures, particularly sex, are not evil in themselves, but moderating them is advisable and brings merit.¹⁷¹⁹

In its narrower interpretation, that of adultery, and in comparison with the other four, the third precept holds the distinctive feature of cautioning against an act that harms a third party even in the presence of the second party’s consent.¹⁷²⁰ From that perspective, it implies the cause of harm by failing to regulate the sexual behavior of oneself. Adultery is the most direct and easily understood violation of the precept and also concerns, except for harming others, an expression of greed.¹⁷²¹ Taking “one who

¹⁷¹⁶ Ibid., 92.

¹⁷¹⁷ Walshe, *Buddhism and Sex*, 4.

¹⁷¹⁸ Ibid., 6.

¹⁷¹⁹ Ibid., 7.

¹⁷²⁰ Ven Pandita, “Sexual Misconduct in Early Buddhist Ethics: A New Approach”, *Journal of Buddhist ethics* 26 (July 2019): 160, <https://blogs.dickinson.edu/buddhistethics/?s=Sexual+Misconduct+in+Early+Buddhist+Ethics>.

¹⁷²¹ Harvey, *An introduction to Buddhist ethics*, 71.

another loves”¹⁷²² and destroying a couple’s loving relationship is a defilement of marriage. Adultery with another’s wife with or without her husband’s consent still frames a violation due to the ill-disposed character of the act.¹⁷²³ In reality, the precept extends “to intercourse with any woman who is, in modern parlance, ‘in a relationship’ with another man”.¹⁷²⁴ A man breaks the precept when he has intercourse with an engaged woman or one protected by a relative, while intercourse with young girls not protected by relatives is an offense against the king’s wishes.¹⁷²⁵

Rape and incest are also violations of the precept and even intercourse with courtesans or prostitutes.¹⁷²⁶ The seriousness of infringement is worse according to the woman's virtue and relative to how she observes the precepts. For example, in Thailand, flirting with a married woman could also be a violation. Young men in rural Thailand enjoy more freedom, but young women “are always kept under careful watch”.¹⁷²⁷

The fourth century CE Abhidharmakośa-Bhāṣya frames the conditions of violation, on the man’s part, as follows:¹⁷²⁸

“1) Intercourse with a forbidden woman, that is, the wife of another, one’s mother, one’s daughter, or one’s paternal or maternal relations; 2) Intercourse with one’s own wife through a forbidden orifice; 3) in an unsuitable place: an uncovered spot, a shrine or forest; 4) at an unsuitable time: when the wife is pregnant, when she is nursing, or when she has taken a vow. Some say: when she has taken a vow only with the consent of her husband.”¹⁷²⁹

Other scholars argue that the third precept has a crucial role in maintaining “sexual responsibility”,¹⁷³⁰ refraining from “sexual relations without love and long-term

¹⁷²² Ibid.

¹⁷²³ Etienne Lamotte, *Le Traité De La Grande Vertu De Sagesse De Nāgārjuna (Mahāprajñāpāramitāśāstra)*, vol. II (Louvain: Bureaux du Muséon, 1949), 801, quoted in Harvey, *An introduction to Buddhist ethics*, 73.

¹⁷²⁴ Harvey, *An introduction to Buddhist ethics*, 71.

¹⁷²⁵ Ibid., 72.

¹⁷²⁶ Lamotte, *Le Traité*, 800, quoted in Harvey, *An introduction to Buddhist ethics*, 72.

¹⁷²⁷ Harvey, *An introduction to Buddhist ethics*, 72.

¹⁷²⁸ Ibid.

¹⁷²⁹ Ibid., 73.

¹⁷³⁰ Thich Nhat Hanh and Robert Aitken, *For a Future to be Possible: Commentaries on the Five Wonderful Precepts* (Berkeley, Calif.: Parallax Press, 1993), 29.

commitment”, protecting underages from sexual abuse, and safeguarding familial cohesion from sexual misconduct.¹⁷³¹

Taboo sexual behaviors also violate the precept based on the feelings of guilt they involve. Additionally, obsessive sexual behaviors and other obsessive forms of sensuality, such as gorging oneself with food, breach the precept. Masturbation also denotes a violation of the third precept, though not as severe as sexual intercourse, since it signifies attachment to sense-pleasures.¹⁷³²

Sex trafficking and the sex industry abound in practices that breach the third precept. Except for the sex buyers that indulge in the pleasure of the senses and often commit adultery, many third parties also base their profit on encouraging others to engage in sexual practices. Indeed, the whole sex industry and sex trafficking business depends on their “clients”’ compulsive attachment to sexual pleasure. For instance, most sex workers do not remain passive, but they actively search and employ seductive means for attracting more customers. Narcissistic behaviors involving overreliance on beauty and external appearance are incorporated into the life of prostitutes and promote attachment to the impermanent self that perpetuates suffering. Furthermore, in their striving to prolong their career in the sex industry or increase their customers, they entice others by nourishing their sexual compulsions, thus hindering them from cultivating control on their sex drive.

The Fourth Precept and Remarks on Lying Ethics

musāvādā veramaṇī sikkhāpadaṃ samādiyāmi: I undertake the precept to refrain from false speech.

The fourth precept is comparable to Right Speech of the Eightfold Path and is regarded as the second most significant precept after the first one. Buddhist tradition considers a person with no shame in intentional lying as “capable of any evil action”.¹⁷³³

The word *musāvādā* that appears in the formula of the precept bears the meaning

¹⁷³¹ Ibid., 3-4.

¹⁷³² Harvey, *An introduction to Buddhist ethics*, 73-74.

¹⁷³³ Ibid., 74.

of false speech and includes: speaking untruth, deceit by influencing others that something untrue is indeed true, hyperbolic speech, and anything that deviates “from a reliable sober statement of fact”.¹⁷³⁴ It also refers to accepting as true anything that is already acknowledged as false, non-persistence into validating statements, and any inaccurate view and understanding regarding the examination of the absolute truth. Buddha cautioned that even associating with liars could bring substantial harm and insisted that speaking the truth promotes confidence as no effort is wasted in concealing the truth and also makes people become trustworthy, reliable, and estimable to their communities.¹⁷³⁵

Violation of the precept also encompasses any application of deception or exaggeration, even in their non-verbal form.¹⁷³⁶ Spreading rumors and criticizing in lack of knowledge is also false speech.¹⁷³⁷ The seriousness of intentional lying depends on the size and value of the welfare that it ruins.¹⁷³⁸

Lying infracts the principle of seeking the truth and “seeing things as they really are”.¹⁷³⁹ On many occasions, deceiving others entails deceiving one's own self and thus increasing the individual's delusion and ignorance. But also, the truth can bring harm if delivered at the wrong time. Truth ought to be addressed at the appropriate time, respectful to the facts, in kindness, and with purpose, only when it is spiritually beneficial, and irrespective of whether it is disagreeable to others.¹⁷⁴⁰

False speech requires four conditions: 1) distortion of the truth; 2) intention for false speech; 3) the committed effort; 4) “the act of communicating the untruth”¹⁷⁴¹. All of these should be present for affirming *musāvādā*. Speaking the truth relies on accurate thought, and as such, there can be situations where *musāvādā* typify misapprehension and not a voluntary use of false speech. Nevertheless, systematic use of any kind of false speech leads to a loss of sense of truth.¹⁷⁴²

¹⁷³⁴ Saddhatissa, *Buddhist Ethics*, 92-93.

¹⁷³⁵ *Ibid.*, 93.

¹⁷³⁶ Harvey, *An introduction to Buddhist ethics*, 75.

¹⁷³⁷ Nhat Hanh and Aitken, *For a Future to be Possible*, 4.

¹⁷³⁸ Harvey, *An introduction to Buddhist ethics*, 75.

¹⁷³⁹ *Ibid.*

¹⁷⁴⁰ *Ibid.*

¹⁷⁴¹ Saddhatissa, *Buddhist Ethics*, 93.

¹⁷⁴² *Ibid.*, 93-94.

The right speech also aims to advance moderation of speech and “decrease unwholesome mental states and increase wholesome ones”.¹⁷⁴³ Thus, the use of divisive speech, uncivil and offensive language, and pointless gossiping hinder the development of right speech and cause future harm to one's own self. Light-minded chatter is often compared to boring others. One needs to choose words wisely and not just talk for the sake of it.¹⁷⁴⁴ Accordingly, in Thailand, the violation of the fourth precept corresponds not only to direct lying but also to “exaggeration, insinuation, abuse, gossip, unrestrained laughter, deceitful speech, joking, and banter”.¹⁷⁴⁵ The relevant passage in *Majjhima Nikāya* remarks:¹⁷⁴⁶

“Abandoning divisive speech, he is restrained from divisive speech. Having heard something at one place, he is not one to repeat it elsewhere for causing variance among those people; or having heard something elsewhere, he is not one to repeat it among these people for causing variance among them. In this way he is a reconciler of those who are at variance and one who combines those who are friends. Concord is his pleasure, his delight, his joy, the motive of his speech. Abandoning harsh speech, he is restrained from harsh speech. Whatever speech is gentle, pleasing to the ear, affectionate, going to the heart, urbane, pleasant to the manyfolk, agreeable to the manyfolk: such speech does he utter. Abandoning frivolous chatter, he is restrained from frivolous chatter. He is one that speaks at the right time, in accordance with fact, about the goal, about Dhamma, about moral discipline. He utters speech which is worth treasuring, with opportune similes, purposeful, connected with the goal.”¹⁷⁴⁷

Buddha emphasized the advancement of sound judgment and insight. Inability to distinguish truth from untruth offers no opportunity to attain the required understanding for realizing the absolute truth. Only through right speech and “cleaving to truth in

¹⁷⁴³ Harvey, *An introduction to Buddhist ethics*, 76.

¹⁷⁴⁴ *Ibid.*

¹⁷⁴⁵ Terweil, *Monks and Magic*, 189.

¹⁷⁴⁶ Harvey, *An introduction to Buddhist ethics*, 76.

¹⁷⁴⁷ *Ibid.*

every word and way, will oneself qualify to arrive at right understanding”¹⁷⁴⁸. Thus, one will develop insight and shield oneself from indecision and doubt, or vicikicchā, one of the Five Hindrances to mental development and one of the fetters that bind to saṃsāra. Buddha illustrated right speech as the means par excellence and the foundation of Buddhism.¹⁷⁴⁹

The agents of sex trafficking and the sex industry are promoting wrong speech by violating every possible aspect of the fourth precept. Sex traffickers and voluntary sex workers exhibit numerous deceptive tactics to increase their profits and expedite their purposes. There is always the habitual use of lying by trafficking actors to recruit victims and evade arrest. Lying is also a prevalent method of dealing with law enforcement in the grey market of the Thai sex industry, as commercial sex work remains officially illegal in Thailand. Prostitutes systematically use hyperbolic and foul language to promote the quality of their services. There are instances of prostitutes resorting to lies for hiding their activities from their family members and friends, out of shame or concealing any STIs that they might bear from their clients. In addition, the prevalence of competition between sex workers also leads to the ample use of divisive speech in the form of aggressive and harmful gossiping. In general, speaking the truth, cultivating Right Speech, being trustworthy and reliable is not only discouraged but scolded and condemned by the circles of sex trafficking and commercial sex work.

Furthermore, even victims of sex trafficking resort to deluding themselves out of a need for survival. In many cases, they connect emotionally with their exploiters due to the Stockholm syndrome as an ultimate attempt to protect themselves from further harm. Although such cases involve unconscious mechanisms, they still constitute a failure to discern the reality of their abuse and exploitation. Others do not accept that they have fallen victims to sex trafficking and embrace their "fate" as prostitutes as a voluntary choice.

¹⁷⁴⁸ Saddhatissa, *Buddhist Ethics*, 94.

¹⁷⁴⁹ Ibid.

The Fifth Precept

surāmerayamajjapamādaṭṭhānā veramaṇī sikkhāpadaṃ samādiyāmi: I undertake the precept to refrain from intoxicants that cause sloth and heedlessness

The fifth precept is an injunction against the use of intoxicating drugs and liquors. In addition, the use of hallucinogenic drugs for attaining higher levels of meditation is also a violation of the fifth precept. While several drugs can be effective in treating illnesses and diseases, healthy people do not need to use them. Such intoxicants distort mental functioning, making it impossible to attain or maintain the high standards of vigilance that Buddhists aspire to. Frequent and extensive use of such substances causes serious impairment. The temporary pleasure they offer cannot compensate for the health harms and the dangerous behaviors they instigate.¹⁷⁵⁰

This precept can be perceived as an aid to the practice of right mindfulness. Intoxication “is an attempt to mask, rather than face, the sufferings of life”.¹⁷⁵¹ There is no clarity or tranquility of mind, and there is a high possibility that the inebriated violates all precepts. As a case in point, a well-known Thai story portrays “an exemplary man who was challenged to break just one precept for once. The only precept he could bring himself to break was the fifth, but on getting drunk, he went on to break the rest too”.¹⁷⁵²

Buddhaghosa maintains that violating the fifth precept always holds significant culpability as it hinders “the practice of Dhamma and can even lead to madness”¹⁷⁵³. On the contrary, transgressions of the other precepts vary in culpability depending on the quality of the beings harmed. Intoxicants also impair memory and obstruct the treading of the good path by decreasing all great virtues.¹⁷⁵⁴

However, observing the precept varies between people avoiding intoxicating or mind-altering substances, except for treating health issues, others that avoid intoxicants altogether or regard any drinking as breaking the precept, and others that choose to

¹⁷⁵⁰ Ibid., 95-96.

¹⁷⁵¹ Harvey, *An introduction to Buddhist ethics*, 77.

¹⁷⁵² Ibid.

¹⁷⁵³ Ibid.

¹⁷⁵⁴ Ibid.

violate it systematically.¹⁷⁵⁵ In Thailand, alcohol consumption is widespread even at large religious ceremonies and is considered disrespectful for guests to refuse to drink.¹⁷⁵⁶

While violating the other four precepts is blameworthy by its very nature, the opinions differ regarding the fifth one. Ascetics specializing in monastic discipline theorized it as culpable by nature. Yet, others specializing in spiritual psychology rejected this absolute position. They speculated that “only when alcohol was taken by a person whose mind was defiled, as when an amount is drunk which the person knows will be inebriating, but not if a small amount is taken as a remedy, in a quantity that one knows will not be inebriating ... Thus, breaking the fifth precept is only reprehensible by precept, but not by nature”.¹⁷⁵⁷

Selling alcohol is regarded as wrong livelihood in Buddhism. Nevertheless, Buddhists are flexible on the issue of alcohol consumption. Looking down on others who are drinking is considered a bad practice. Indeed, harmonizing with their happy state without resorting to drinking alcohol would be an appropriate response. Concerning smoking tobacco, it is not a breach of the fifth precept. In Thailand, it is not uncommon for monks to smoke. Equally, with alcohol consumption, it would be improper for a non-smoker to be judgmental about those who do smoke.¹⁷⁵⁸

The prevalence of alcohol and drug abuse in the cycle of sex trafficking and the sex industry is very high. Traffickers force alcohol and drug consumption on their victims as a means to control them by sedating them or inducing substance dependency. Drug addicts, in particular, are easier to comply with their exploiters' demands in exchange for drugs. Sex trafficking victims who accept their fate and tread the path of forced prostitution find psychological "shelter" and consolation in alcohol and drugs as the sole option for masking their tortured lives.

Commercial sex work also encourages abuse of alcohol and drugs both for the sex workers and the sex buyers. Prostitutes consume substances to withstand the stressful environment of nightlife and mask their insecurities and disappointment with their

¹⁷⁵⁵ Ibid., 78.

¹⁷⁵⁶ Terweil, *Monks and Magic*, 191.

¹⁷⁵⁷ Harvey, *An introduction to Buddhist ethics*, 78.

¹⁷⁵⁸ Ibid., 79.

life choices. Especially in conservative and deeply religious societies like Thailand, sex workers are treated as outcasts by society, which puts an extra burden on their mental health and solidifies their societal alienation. While many enter the sex industry out of poverty and others are driven by materialistic and consumeristic incentives, sooner or later, the realities of the unregulated sex work in Thailand cause detrimental consequences on their psychological stability. Thus, substance use and abuse primarily aim to relieve the unbearable suffering of the life of prostitution. It constitutes a self-induced delusion that opposes the principle of Right Mindfulness and hinders the cultivation of vigilance and clarity.

5.2.3 Bhuddism and Prostitution

Early Buddhist literature refers to prostitutes as *sobhini*, which is the abbreviation of *nagar sobhini*, indicating “a beautiful woman belonging to the city”¹⁷⁵⁹. The title originated from the king of Vajji, indicating professional “state prostitute[s]”¹⁷⁶⁰. The title requirements demanded a woman to be exceptionally attractive, well trained, and educated in social arts, like “singing, dancing, conversation, poetry, and the Kamasutra, the art of sensual pleasure”¹⁷⁶¹. Undeniably such women were desired by members of the elite, and that could lead to severe disputes. Therefore, the king bequeathed the title of *sobhini* to denote that anyone could enjoy them—if they could afford their high price—but none could own them. As their services were oriented towards the upper nobility, *sobhinis'* social status was high. *Ganika* was another group of prostitutes, which serviced the lower social strata. Their name denoted a community of women. While early Buddhist literature mainly focused on the *sobhini* without completely neglecting *ganika*, it did not view prostitutes negatively. Gautama himself embraced prostitutes and offered them the “opportunity to walk the path of enlightenment equally with all people, regardless of gender, caste, or creed”¹⁷⁶².

Buddhism accepted prostitutes as equals on treading the path to enlightenment. Being prostitutes and having encountered the “extremes of sensual indulgence helped

¹⁷⁵⁹ Kabilsingh, *Thai Women in Buddhism*, 68.

¹⁷⁶⁰ *Ibid.*

¹⁷⁶¹ *Ibid.*

¹⁷⁶² *Ibid.*

them realize its meaninglessness” and helped some prostitutes to advance spiritually even more rapidly.¹⁷⁶³

Nevertheless, prostitution of the early Buddhism era differed radically from modern-day prostitution. The early writings on prostitution referred primarily to a profession of the upper society, where prostitutes held high social status. The Thai *Bikkhunī* Dhammananda or Chatsumarn Kabilsingh argues that prostitution exists due to men's greed and lust. Disagreeing on the ownership of a prostitute, “they made her public property; she did not really belong to anyone, yet she belonged to all”¹⁷⁶⁴. Indian culture represented women as “mere objects to be possessed by male owners. Men's power in politics, society, religion, and economics determined a woman's fate. Women today and particularly in Thailand still face a similar predicament”.¹⁷⁶⁵

While Buddhism recognizes that prostitutes hold equal spiritual potential with all people, it asserts that prostitution is marked by suffering. Buddhist manuscripts declared that living as a prostitute is the result of bad or unskillful kamma. Buddhism keeps a sympathetic stance on prostitutes, although it clearly does not encourage or support prostitution. Indeed, it aims to empower women, improve their lives and assist them in abandoning prostitution.¹⁷⁶⁶

Buddha himself and his community benefited a lot from prostitutes' donations due to the frequent and direct contact with them. Based on his engagement in helping any sentient being to attain enlightenment, he treated prostitutes similarly. His teachings urged humankind to follow his example.¹⁷⁶⁷ Gautama was the first male religious leader that recognized female spiritual potential and equality by declaring that the path to enlightenment is available to everybody.¹⁷⁶⁸

According to the First Noble Truth, suffering concerns all sentient beings. The realization of the omnipresence of dukkha lets one grasp the meaning of Buddha's tenets. Being a prostitute, being impure, does not forbid the attainment of Nibbāna. For

¹⁷⁶³ *Ibid.*, 71.

¹⁷⁶⁴ *Ibid.*

¹⁷⁶⁵ *Ibid.*

¹⁷⁶⁶ *Ibid.*

¹⁷⁶⁷ *Ibid.*, 81.

¹⁷⁶⁸ *Ibid.*, 82.

Kabilsingh, social condemnation of prostitution is irrelevant to their potential of enlightenment; as mentioned earlier, they “can use their life experience to great advantage on the spiritual path”.¹⁷⁶⁹

The three factors of the theory of conditioned reality (*paṭiccasamuppāda*), *dukkha* (suffering), *anicca* (impermanence), and *anattā* (non-self) permeate every aspect of earthly life. *Anicca* reminds prostitutes that life depending on physical beauty and youth is futile, and valuing such attributes greatly and basing one's living on sensual experiences perpetuates suffering.¹⁷⁷⁰

Nevertheless, the *Saṅgha* oftentimes fails to practice the Buddhist spirit effectively. Some monks articulate women's inferiority and prostitutes' bad *kamma* and even suggest that they should accumulate more merit by donating to temples to ensure a more favorable rebirth. There are temples that benefited the most from such “pieces of advice”.¹⁷⁷¹ On those grounds, Kabilsingh claims that Thai society has yet to overcome prejudices concerning the inferiority of prostitutes and women in general.¹⁷⁷²

5.2.4 Women and Gender Inequality in Theravāda Buddhism

Dalai Lama expounded on Buddha's position against blind acceptance of doctrines and absence of careful examination and verification. He argued when some Buddhist teachings fail to be verified by science or are found invalid, they should be abandoned.¹⁷⁷³

Such declarations derive from *Tiṭṭaka* and later *suttas*, where Buddha systematizes criteria for assessing the validity of religious education and practice. Buddha regularly clarified that his teachings would often be “misremembered, misrepresented, or misunderstood”¹⁷⁷⁴. False and inexact instructions and laws will cause the gradual decline and of the *Dharma*.¹⁷⁷⁵ Employing these principles to examine contentious Buddhist teachings such as those that sustain views on women inferiority is the quintessence

¹⁷⁶⁹ *Ibid.*

¹⁷⁷⁰ *Ibid.*

¹⁷⁷¹ *Ibid.*, 83-84.

¹⁷⁷² *Ibid.*, 82-83.

¹⁷⁷³ Goodwin, “Right View”, 199-200.

¹⁷⁷⁴ *Ibid.*, 200.

¹⁷⁷⁵ *Ibid.*

of developing Right View in treading the Middle Path.¹⁷⁷⁶

Most Buddhist ascetic orders in Asia disseminate women's inferiority to men by emphasizing their mental and physical fragility and “karmic obstructions”¹⁷⁷⁷. They also discriminate against women in rituals and policies and influence their disciples to act similarly. Even in the most liberal Buddhist countries like Taiwan and Korea, laywomen and nuns experience sexist treatment and social discrimination.¹⁷⁷⁸ For example, they should eat after men, “sit, walk, and stand behind monks and laymen in ceremonies, rituals, classes, and retreats”;¹⁷⁷⁹ and teach sūtras that contain disparaging messages about women. In general, female Taiwanese and Korean disciples are regarded as bearing more negative traits and worse kamma than men.¹⁷⁸⁰

However, Theravāda countries are those that exhibit the highest levels of discrimination towards women. Except for Sri Lanka, monastic authorities in Theravāda societies still forbid the full ordination of women, and nuns are not regarded as *srāmanerikā* (novice nuns) or members of the Saṅgha. Compared to *bhikkhus*, they fall behind in training, material support, respect, and opportunities for advancement. Typical beliefs about women include that they need to be reborn as men to attain enlightenment, and they are often forbidden to enter sacred precincts.¹⁷⁸¹

¹⁷⁷⁶ *Ibid.*, 201.

¹⁷⁷⁷ *Ibid.*, 202.

¹⁷⁷⁸ *Ibid.*

¹⁷⁷⁹ *Ibid.*, 203.

¹⁷⁸⁰ *Ibid.*

¹⁷⁸¹ Goodwin, “Right View”, 208; Regarding the modern status of women in Theravāda Buddhist countries see also: Mavis L. Fenn and Kay Koppedrayner, “Sakyadhita: A Transnational Gathering Place for Buddhist Women”, *Journal of Global Buddhism* 9 (2008): 45-79, <http://dx.doi.org/10.5281/zenodo.1307116>.; Hiroko Kawanami, “Patterns of Renunciation: The Changing World of Burmese Nuns”, in *Women's Buddhism, Buddhism's Women: Tradition, Revision, Renewal*, ed. Ellison B. Findly (Somerville, MA: Wisdom Publications, 2000), 159-171; Khuankaew, “Buddhism and Domestic Violence”, 22-26; Klunklin and Greenwood, “Buddhism”, 46-61; Mano Mettanando Laohavanich, “The First Council and the Suppression of the Nuns”, *Hsuan Chuang Journal of Buddhism* 9 (2008): 49-120, accessed June 8, 2021, <http://www.hcu.edu.tw/upload/userfiles/37837C6FAB904E548360E98C1217A9BE/files/9-3.pdf>.; Monica Lindbergh Falk, “Thammacarini Witthaya, The First Buddhist School for Girls in Thailand”, in *Innovative Buddhist Women: Swimming Against the Stream*, ed. Karma Lekshe Tsomo (Richmond, Surrey: Curzon Press, 2000), 62-64; Monica Lindbergh Falk, *Making Fields of Merit: Buddhist Female Ascetics and Gendered Orders in Thailand* (Copenhagen, Denmark: Nordic Institute of Asian Studies Press, 2007); Emma Tomalin, “The Thai bhikkhuni movement and women's empowerment”, *Gender & Development* 14, no. 3 (2011): 385-397, <https://doi.org/10.1080/13552070600980492>; Karma Lekshe Tsomo, “Lao Buddhist Women: Quietly Negotiating Religious Authority”, *Buddhist Studies Review* 27, no. 1 (2010): 85-106, <https://doi.org/10.1558/bsrv.v27i1.85>.; Vichit-Vadakan, “Women and the Family”, 515-524.

Women sustained multifaceted discrimination in Brahminic India before, during, and after Buddha's era. Most Buddhist literature originates hundreds of years after Buddha's Parinibbāna. Like in all other religions in history, disparaging views and restrictive practices on women appeared in the Pali canon "alongside highly positive and equitable ones"¹⁷⁸².¹⁷⁸³ As a case in point, Buddha cautioned that men who judge women as vile should first look at their own baseness and depraved desires before condemning women.¹⁷⁸⁴ Highly optimistic and impartial views of women had always been an integral part of Buddhist literature.¹⁷⁸⁵

Buddha's approach to women appears in Tipiṭaka and later texts. Passages in Mahāvaccagotta Sutta, Somā Sutta, and stories in the Mahāparinibbāna Sutta and the Mahāyāna Dṛdhādhyāsayaparipṛccha Sūtra are of great value for a critical analysis of the issue and exemplify opposing views to other discriminatory Buddhist beliefs about women.¹⁷⁸⁶

Numerous Buddhist texts communicate the indispensable role of laywomen and the bikkhunīs in the Numerous Buddhist texts communicate the indispensable role of

¹⁷⁸² Goodwin, "Right View", 209.

¹⁷⁸³ Ibid., 208-209.

¹⁷⁸⁴ Ibid., 209.

¹⁷⁸⁵ Ibid., 210.

¹⁷⁸⁶ Goodwin, "Right View", 210-211; On Saṅgha's attitudes toward women see also: An Ok-Sun, "A Critique of the Early Buddhist Texts: The Doctrine of Woman's Incapability of Becoming an Enlightened One", *Asian Journal of Women's Studies* 8, no. 3 (2002): 7-34, <https://doi.org/10.1080/12259276.2002.11665930>; Anālayo, "Women's Renunciation in Early Buddhism: The Four Assemblies and the Foundation of the Order of the Nuns", in *Dignity and Discipline: Reviving Full Ordination for Buddhist Nuns*, ed. Thea Mohr and Jampa Tsedroen (Somerville, MA: Wisdom Books, 2010), 65-97; Anālayo, "Chos sbyin gyi mdo: Bhikṣuṇī Dharmadinnā Proves Her Wisdom", *Chung-Hwa Buddhist Journal* 24 (2011): 3-34; Nancy Auer Falk, "The Case of the Vanishing Nuns: The Fruits of Ambivalence in Ancient Indian Buddhism", in *Unspoken Worlds: Women's Religious Lives*, ed. Nancy Auer Falk and Rita M. Gross (Belmont, CA: Wadsworth Publishing Company, 1989), 155-165; Rita M. Gross, *Buddhism After Patriarchy: A Feminist History, Analysis, and Reconstruction of Buddhism* (Albany: State University of New York Press, 1993), 48-54; I. B. Horner, *Women Under Primitive Buddhism: Laywomen and Almswomen* (New York: E.P. Dutton and Company, 1930); Laohavanich, "The First Council", 49-120.; Alan Sponberg, "Attitudes Toward Women and the Feminine in Early Buddhism", in *Buddhism, Sexuality, and Gender*, ed. José Ignacio Cabezón (Albany: SUNY Press, 1992), 3-36; Ajahn Sujato, "A Painful Ambiguity: Attitudes towards nuns in Buddhist myth", BuddhaSasana Website - Budsas, Binh Anson (Source: Santi Forest Monastery, Australia), last modified 2007, <https://budsas.net/ebud/ebdha330.htm>; Bhikkhu Sujato, *White Bones, Red Rot, Black Snakes: A Buddhist mythology of the feminine* (Australia: Santipada Publications, 2012), <http://santifm.org/santipada/wp-content/uploads/2012/08/wbrrbsSCREENopt.pdf>.; Liz Wilson, *Charming Cadavers: Horrific Figurations of the Feminine in Indian Buddhist Hagiographic Literature* (Chicago: The University of Chicago Press, 1996).

laywomen and the bhikkhunīs in the effective dissemination of the Dharma, its growth and expansion, and its persistence over the centuries.¹⁷⁸⁷ In the Mahāparinibbāna Sutta in the Dīgha Nikāya, Buddha affirms that he would pass away only when all four groups of his followers were fully prepared.¹⁷⁸⁸ He bestowed the bhikkhus, bhikkhunīs, upāsakas and upāsikas equality in respect, importance, and responsibility for sustaining every aspect of the Dhamma after his Parinibbāna. He respected all the groups equitably and forewarned that their reciprocal respect to one another was necessary for the continuation of the Dhamma.¹⁷⁸⁹

Tipiṭaka and succeeding literature include various accounts on Buddha and notable early Buddhist scholars signifying the significance of women, advocating their abilities and accomplishments, and depicting them as competent as men in practicing and teaching the Dharma.¹⁷⁹⁰

In Dṛdhādhyāśayapariṣccha Sūtra, Buddha identifies derogatory views toward women, or any other being, as unwholesome and accountable for arousing desires and feelings that stem from deluded thinking, and establishing attachment. Contemplating “the impurity of an entity that has never arisen and never existed”¹⁷⁹¹ opposes the Middle Path. Deeply respectful and non-discriminatory statements about women contradict accounts and rules in discourses that comprise the most critical sources of invalidating Buddhists’ attitudes towards women.¹⁷⁹² According to these derogatory statements credited to the Buddha, women cannot attain enlightenment. They are filthy, cowardly, terrifying, and betray friends. They are easily angered, envious, greedy, and unwise. Even greeting, rising to salute women is an offense.¹⁷⁹³

The accounts of the origin of the bhikkhunī Saṅgha influenced discriminatory Buddhist convictions against women considerably. In these, Buddha Gautama opposed

¹⁷⁸⁷ Anālayo “Women’s Renunciation” 65-72; Goodwin, “Right View”, 212.

¹⁷⁸⁸ Anālayo “Women’s Renunciation” 65-67; Goodwin, “Right View”, 212.

¹⁷⁸⁹ Anālayo “Women’s Renunciation” 70; Goodwin, “Right View”, 212.

¹⁷⁹⁰ Goodwin, “Right View”, 214; For both positive and negative teachings about women in early Buddhism see also: Anālayo “Women’s Renunciation” 65-77; Anālayo, “Chos sbyin gyi mdo”, 3-34; Auer Falk, “The Case of the Vanishing Nuns”, 161-165; Gross *Buddhism After Patriarchy* 48-54; Horner, *Women Under Primitive Buddhism*; Laohavanich, “The First Council”, 49-120; and Sponberg, “Attitudes Toward Women”, 3-36.

¹⁷⁹¹ Goodwin, “Right View”, 215.

¹⁷⁹² *Ibid.*, 214-215.

¹⁷⁹³ *Ibid.*, 216.

women's ordination by rejecting three times the ordination of his aunt and adoptive mother, Mahāprajāpatī Gotamī.¹⁷⁹⁴ Only after he establishes the eight criteria for nun's ordination, known as Eight Garudhammas, did he agree to accept women in the Saṅgha. These rules ascertain the subordination to and dependence of nuns on the monks. According to the account, Gautama goes on to compare women with diseases that destroy crops and even predict that "because he has ordained a woman, Buddhism will die out in five hundred years instead of a thousand".¹⁷⁹⁵

While there are different versions and interpretations of the Garudhammas,¹⁷⁹⁶ every one of them promotes discriminatory limitations to women's authority and power. Such rules, and any relevant assumptions that happen to be influenced by them, augment the concept of attā, the soul, the permanent and independent selves that feed dukkha, and the cycle of death and rebirth. These practices reinforce discrimination, conflicts, and other afflictive mental states that harm human societies. Similar Buddhist rules and teachings that discredit women have brought great controversy about the true spirit and nature of Buddhist morality and ethics.¹⁷⁹⁷

The Tipitaka illustrates severe disputes between the early ascetics about the bhikkhunī Saṅgha, suggesting that the restrictive regulations against women resulted from bhikkhus monks' misogynistic efforts to dominate over the bhikkhunīs.¹⁷⁹⁸ Recent discoveries and studies enhance even more the hypothesis that some passages hold inaccurate information.¹⁷⁹⁹

Despite Buddhist scholars' significant contributions on the subject, fundamentalists still claim that texts that sustain discrimination of women are genuine. Other

¹⁷⁹⁴ Ibid.

¹⁷⁹⁵ Ibid., 217.

¹⁷⁹⁶ Ibid., 220.

¹⁷⁹⁷ Ibid., 221.

¹⁷⁹⁸ Goodwin, "Right View", 222; For the aforementioned disputes see also: Laohavanich, "The First Council", 49-120. For profoundly conflicting views toward women in Early Buddhism see also: Ok-Sun, "A Critique of the Early Buddhist Texts", 7-34; Anālayo, "Theories on the Foundation of the Nuns' Order: A Critical Evaluation", *Journal of the Centre for Buddhist Studies* 6 (2008): 105-142; Anālayo "Women's Renunciation" 65-98; Auer Falk, "The Case of the Vanishing Nuns", 155-165; Sponberg, "Attitudes Toward Women", 3-36.

¹⁷⁹⁹ Goodwin, "Right View", 222; Anālayo "Women's Renunciation" 86-98; Charles S. Prebish, "Cooking the Buddhist Books: The Implications of the New Dating of the Buddha for the History of Early Indian Buddhism", *The Journal of Buddhist Ethics* 15 (2008): 1-21, accessed July 5, 2021, <https://blogs.dickinson.edu/buddhistethics/files/2010/05/prebish-article.pdf>.

scholars maintain that cultural and social pressure urged Buddha to authorize regulations and express ideas that conformed with his contemporary societal values.¹⁸⁰⁰ Nevertheless, several scholars argue that such prejudiced practices and attitudes belie the spirit of Dharma and Buddha's rejection of the Brahminic system of social stratification.¹⁸⁰¹ Following that, rejecting discrimination of castes while embracing prejudices on women appears highly incongruous.¹⁸⁰² These biased rules and damaging remarks on women contradict other teachings of the Tipiṭaka.¹⁸⁰³ Some hypotheses articulate that this inconsistency of Buddhist literature resulted from several authors who disagreed firmly on women's value and place in society.¹⁸⁰⁴

¹⁸⁰⁰ Goodwin, "Right View", 222-223; Gross, *Buddhism After Patriarchy*, 29-39; Chatsumarn Kabilsingh, "A Comparative Study of Bhikkhūnī Pāṭimokkha," in *Chaukhambha Oriental Research Studies* no 28 (Varanasi, India: Chaukhambha Orientalia, 1984), 24; Chatsumarn Kabilsingh, "The Role of Women in Buddhism", in *Sakyadhītā: Daughters of the Buddha*, ed. Karma Lekshe Tsomo (Ithaca, NY: Snow Lion Publications, 1988), 225-226; Claudia Romberg, "Women in engaged Buddhism", *Contemporary Buddhism* 3, no. 2 (2002): 161-170, <https://doi.org/10.1080/14639940208573764>; Bhiksuni Heng-ching Shi, "The Potentialities of Women in the Mahāyāna Vehicle", in *Sakyadhītā, Daughters of the Buddha*, ed. Karma Lekshe Tsomo (Ithaca, NY: Snow Lion Publications, 1988), 95-96; Karma Lekshe Tsomo, "Gender Equity and Human Rights", in *Dignity & Discipline: Reviving Full Ordination for Buddhist Nuns*, ed. Thea Mohr and Ven. Jampa Tsedroen (Somerville, MA: Wisdom Books, 2010), 285; Mōhan Wijayaratna, *Les Moniales Bouddhistes: Naissance et Développement du Monachisme Féminin* (Paris: Éditions du Cerf, 1991), 25, and 159-160 quoted in Goodwin, "Right View", 222-223.

¹⁸⁰¹ Goodwin, "Right View", 223; Bernard Faure, *The Power of Denial: Buddhism, Purity, and Gender* (Princeton, NJ: Princeton University Press, 2003), 60; Laohavanich, "The First Council", 49-120; David C. Schak, "Gender and Buddhism in Taiwan", *Hsuan Chuang Journal of Buddhist Studies* 9 (2008): 153, accessed June 8, 2021, https://www.researchgate.net/profile/David-Schak/publication/29469057_Gender_and_Buddhism_in_Taiwan/links/544116b80cf2e6f0c0f5b588/Gender-and-Buddhism-in-Taiwan.pdf; Tsomo, "Gender Equity", 281-289.

¹⁸⁰² Goodwin, "Right View", 223.

¹⁸⁰³ Ok-Sun, "A Critique of the Early Buddhist Texts", 7-34; Anālayo, "Theories on the Foundation, 105-142; Anālayo "Women's Renunciation" 65-98; In Young Chung, "A Buddhist View of Women: A Comparative Study of the Rules for Bhikṣuṇīs and Bhikṣus Based on the Chinese Prātimokṣa", *Journal of Buddhist Ethics* 6 (1999): 29-105, accessed August 14, 2021; Faure, *The Power of Denial*, 59-60; Chatsumarn Kabilsingh, *Women in Buddhism: Questions and Answers* (Buddha Dharma Education Association Inc., 1998), http://www.buddhanet.net/pdf_file/qanda-women.pdf; Toshie Kurihara, "The 21st Century is a Century of Women: Buddhism and Women", *Journal of Oriental Studies* 15 (2005): 66-77, accessed July 7, 2001, <http://enlight.lib.ntu.edu.tw/FULLTEXT/JR-AN/an147436.pdf>; Bhikkhuni Kusama, "Inaccuracies in Buddhist Women's History", in *Innovative Buddhist Women: Swimming Against the Stream*, ed. Karma Lekshe Tsomo (Richmond, Surrey: Curzon Press, Ltd., 2000), 5-12; Laohavanich, "The First Council", 49-120; Schak, "Gender and Buddhism", 152-153; Sponberg, "Attitudes Toward Women", 3-36; Sujato, *White Bones*; Karma Lekshe Tsomo, "The Bhiksuni Issue", in *Sakyadhītā: Daughters of the Buddha*, ed. Karma Lekshe Tsomo (Ithaca, NY: Snow Lion Publications, 1988), 218; Goodwin, "Right View", 224.

¹⁸⁰⁴ Goodwin, "Right View", 224; Ok-Sun, "A Critique of the Early Buddhist Texts", 7-34; Anālayo, "Theories on the Foundation", 105-142; Anālayo "Women's Renunciation" 65-98; Auer Falk, "The Case of the Vanishing Nuns", 155-165; Gross *Buddhism After Patriarchy* 29-54; Kabilsingh, *Women in Buddhism*; Kurihara, "The 21st Century", 66-77; Laohavanich, "The First Council", 49-120; Schak,

Buddha’s methods for examining and evaluating the validity of moral and spiritual instructions are portrayed in Tipiṭaka and later texts and provide interpretations of the Right and Wrong View, or the “right and wrong way to think, speak, behave, practice, and teach”.¹⁸⁰⁵

Buddha also regularly illuminated that his teachings will be misremembered and misrepresented, and that is why a Buddhist should not believe anything without rigorous questioning and examination. Thus, Wrong Views will often lead to inept teachers and misleading dhamma. He advised that fallacious instructions would erode Dharma and cause its decline. Even if the information stemmed from the Saṅgha, Buddha apprised, no one should accept or discard them before:¹⁸⁰⁶

“carefully note and compare [the claims] with the discourses and review [them] in light of the discipline ... If [the dhammas], on such comparison and review, are found not to conform to the discourses or the discipline, the conclusion must be: ‘Assuredly, this is not the word of the Buddha, it has been wrongly understood by this monk— or by that community, or by those elders, or that elder’—and [the teachings or practices] are to be rejected.”¹⁸⁰⁷

Buddha emphasized even the most prominent educators could fall victim to Wrong Views and deliver inaccurate dhamma. He urged his disciples to rely upon personal inquiries and investigation in accepting Buddha’s teaching. Furthermore, Gautama also stressed erroneous teachings emerge from both eternalistic and nihilistic beliefs about self and soul.¹⁸⁰⁸ That said, he revealed that the true Buddhist relies upon personal judgment and experience, as well as the use of the scientific method along with concrete evidence regarding “dhammas’ qualities and effects”.¹⁸⁰⁹

Buddha’s admonitions to examine religious teachings are ubiquitous in

“Gender and Buddhism”, 152-153; Sponberg, “Attitudes Toward Women”, 3-36; Sujato, “A Painful Ambiguity”; and Sujato, *White Bones*.

¹⁸⁰⁵ Goodwin, “Right View”, 224.

¹⁸⁰⁶ *Ibid.*, 225.

¹⁸⁰⁷ Maurice Walshe, “Mahāparinibbāna Sutta: The Great Passing the Buddha’s Last Days,” in *The Long Discourses of the Buddha: A Translation of the Dīgha Nikāya*, translated by Maurice Walshe (Somerville, MA: Wisdom Publications, 1995), 255-256, quoted in Goodwin, “Right View”, 225-226.

¹⁸⁰⁸ Goodwin, “Right View”, 226.

¹⁸⁰⁹ *Ibid.*, 227-228.

Tipiṭaka. Moreover, Buddhist literature describes Buddha repeating them in his final days. Thus, early Buddhism strongly dissuaded blind faith and ascertained that the aforementioned methods of asserting the authenticity of dhammas are never a blasphemy but, indeed, a Buddhist's duty. Hence, if, after thorough evaluation, a teaching or regulation contradicts the spirit of Dhamma or results in adverse ramifications for individuals and societies, such dhammas are to be abandoned.¹⁸¹⁰ In the Ambalaṭṭhikā Rāhulovāda Sutta, Buddha affirms that any kind of action—bodily, verbal, or mental—that cause and perpetuate suffering is not following his guidance and should be abolished.¹⁸¹¹

Such practices of scrutinizing the truth harmonize with the most crucial Buddhist principle, Ahimsā or non-harm, which is imperative for attaining enlightenment and the cessation of suffering. Early Buddhist literature abounds of passages that declare “mental, verbal, and bodily actions or states that lead to harm are blameworthy, unskillful, unwholesome, criticized by the wise, or should be abandoned”.¹⁸¹²

Buddhism advocates that discriminatory views and practices against any living being divert from the Middle Path and stand in stark contrast with the principle of Right View and the concept of anattā or non-self. Moreover, the realization that there is no soul or separate self and others, but only continually evolving aggregates interdependent and interconnected “with ourselves and other beings and phenomena”¹⁸¹³ leads to abolishing self-attachment, discriminatory thinking, and the cessation of suffering.¹⁸¹⁴

The notion of self and others is a misperception of everchanging, interrelated phenomena, dependently arisen and conditioned by “ignorance, desire attachment, the five aggregates, and the six sense bases”.¹⁸¹⁵ Identification with any of the five aggregates constitutes self-attachment and denotes a lack of wisdom and insight that hinder awakening. Buddhist scriptures abound in assertions that refraining from biased thinking is mandatory for attaining enlightenment.¹⁸¹⁶

¹⁸¹⁰ Ibid., 230.

¹⁸¹¹ Ibid., 231.

¹⁸¹² Ibid., 233-234.

¹⁸¹³ Ibid., 274.

¹⁸¹⁴ Ibid.

¹⁸¹⁵ Ibid., 276-277.

¹⁸¹⁶ Ibid., 277.

The Bhikkhuni Saṅgha

Since the prime years of Theravāda Buddhism, elder bhikkhus were overtly dispassionate towards the Bikkhunī Saṅgha. Despite this attitude, during its early era and for the following centuries after they arrived in Sri Lanka, the bikkhunīs order flourished, with many nuns reaching significant levels of influence and distinction. There is no indication of opposition between female and male ascetics during that period. Traces of the bikkhunī legacy stop near the end of the thirteenth century in Sri Lanka. Since there is no evidence of any contemporary Theravāda realm harboring nuns, conceivably, the Bikkhunī order in Sri Lanka has already died out by the dawn of the fourteenth century.¹⁸¹⁷

Whereas the bikkhunīs have officially become obsolete, there are female renunciants in Southeast Asia today. They are named Maechi¹⁸¹⁸ or Mae chee¹⁸¹⁹ in Thailand and observe the ten precepts. Notwithstanding following an ascetic life, they are not regarded as nuns. The reason for not ordinating new bikkhunīs today lies in the Vinaya rule that their full admission requires both monks and nuns. Following the doctrinal Theravāda attitude, since this prerequisite cannot be satisfied, only the Arrival of the next Buddha will allow the revival of the Bikkhunī Saṅgha.¹⁸²⁰

This formal and well-established position expresses a willingness for Theravādins to follow the Vinaya and their religious tradition faithfully. Many Buddhist scholars and bhikkhus argue that such an approach does not accord with the values that constitute the quintessence of Dhamma and that Saṅgha should display greater flexibility and adaptability for the before-mentioned significant matter. Following the First Council, the Elders have already demonstrated the necessary power to take important decisions, like refusing to employ the privilege bestowed by Buddha, to change minor Vinaya rules. Since that day, the Saṅgha seems determined to preserve tradition anywise.¹⁸²¹

¹⁸¹⁷ Tilakaratne, *Theravada Buddhism*, 146-147.

¹⁸¹⁸ Nancy J. Barnes, "Buddhist women and the nuns' order in Asia", in *Engaged Buddhism: Buddhist Liberation Movements in Asia*, ed. Christopher S. Queen and Sallie B. King (Albany, NY: State University of New York Press, 1996), 267.

¹⁸¹⁹ Karma Lekshe Tsomo, *Buddhist Women in a Global Multicultural Community* (Malaysia: Sukhi Hotu Dhamma Publications, 2008), 227.

¹⁸²⁰ Tilakaratne, *Theravada Buddhism*, 147.

¹⁸²¹ *Ibid.*, 147-148.

The debate about the reestablishment of the Bikkhunī Saṅgha has endured for decades. The contemporary approach focuses on gender equality and human rights in general. In Los Angeles in 1988, two expatriate elder bhikkhus from Sri Lanka, Hawenpola Ratanasara and Walpola Piyananda, “granted initial admission to a Thai woman”¹⁸²² with the justification that gender discrimination was illegal in the United States. More recently, the American monk and Theravāda authority, Bhikkhu Bodhi, held a similar opinion on the matter, based on a twofold rationale. In particular, the Buddha himself authorized the establishment of the nuns' order and the indispensable integration of gender equality and nondiscrimination with modern world ideals.¹⁸²³

“When such ideals have become so widespread in the outlook of educated people in the secular world, I will hold, to insist on exclusionary policies based on gender discrimination in religious life is likely to discourage the confidence of people who might otherwise be attracted to Theravāda Buddhism”.¹⁸²⁴

In 1987 at Bodhgaya, a group of international Buddhist women founded “Sakyadhita International Association of Buddhist Women”. The organization engaged in the reinstatement of bikkhunīs. In 1996, at Sarnath in India, Sakyadhita supported the full admission of ten Sri Lankan women by ten Korean nuns. Further, corresponding to the Vinaya code, monks also gave the recently ordained nuns full entry. In Sri Lanka, there was a dispute in the Saṅgha about the reestablishment of the Nuns' Order; the governing body of the Saṅgha was against it while some other monks were in favor. The bikkhunīs ordination at Sarnath was the first one in Theravāda country after over a millennium. In 1998 another twenty-one Sri Lankan women received complete ordination by Chinese nuns at Bodhgaya and afterward by monks. Nowadays, the full admission ceremony occurs every year in Sri Lanka, where there are already hundreds of bikkhunīs. While the local monastic leadership has not endorsed this initiative, there is

¹⁸²² Ibid., 148.

¹⁸²³ Ibid.

¹⁸²⁴ Ibid.

neither any strong disapproval on its part. While public opinion shows increasing support, the Sri Lankan government has not officially recognized the Bikkhunī Saṅgha.¹⁸²⁵

The effort to reestablish the nuns' order in Myanmar met severe opposition by the military government and, inevitably, failed. Dictators even imprisoned a highly ordained Sri Lankan nun for several months before sending her back to Sri Lanka. In Thailand, the Thai university professor, Dr. Chatsumarn Kabilsingh, “cofounder of the Sakyadhita organization, received higher ordination in Sri Lanka in 2003”, and now she lives in Thailand and is “the head of the Songdhammakalyani Monastery in Bangkok”.¹⁸²⁶ The governing body of the Thai Saṅgha has not approved this move, and neither “has it taken any drastic measures against it”¹⁸²⁷. In stark contrast, in 2009, bhikkhu Ajahn Bramvamso was expelled from the Thai Saṅgha for giving full admission to women in Australia.¹⁸²⁸

The lack of Bhikkhuni ordination in Thailand has serious implications in limiting Thai women’s options on accumulating merit. A case in point is that many rural women, following their familial duty, on trying to gain merit on behalf of their families, choose prostitution as a means to expedite their monetary profits, which will enable them to engage in the most meritable actions of offering dāna to Sangha. Such practices of dāna demand great monetary investments that no unskilled job can guarantee. Establishing the nun’s order in Thailand would possibly ameliorate the phenomenon of young girls engaging in prostitution for accumulating merit. Additionally, limiting the options for women’s spiritual advancement provides further support to structural violence as well as demeaning and discriminating attitudes and cultural values against women. The Bhikkhuni Saṅgha would empower women in their attempt to locate themselves as equals in the strongly theocratic society of Thailand.

Conclusion

This chapter examined Theravāda Buddhism as the majority religion in Thai-

¹⁸²⁵ Ibid., 148-149.

¹⁸²⁶ Ibid., 149.

¹⁸²⁷ Ibid.

¹⁸²⁸ Ibid., 149-150.

land and how its practice and socio-ethical teachings influence Thai views on sex trafficking and prostitution alongside its role in the discrimination against women and disadvantaged populations. Buddhism is a religious and ethical system that aims to guide its followers to the cessation of dukkha through the Eightfold path. In Theravāda, the doctrine of dependent origination, anattā or non-self, and annica or impermanence permeates every aspect of human existence. Their comprehension is essential for understanding how Theravāda interprets social issues like sex trafficking and commercial sex work. The pañcasīla (the five precepts) guide the laypeople in cultivating the necessary virtues that ensure the auspicious treading of the path to enlightenment. In that context, sex trafficking perpetrators violate every aspect of the five precepts in the manner they elect to exploit, abuse, and coerce their victims.

On the other hand, voluntary sex work represents a more challenging task in its ethical evaluation through the lens of Theravāda Buddhism. Nevertheless, prostitution pertains to an immoral activity that breaches every one of the five precepts at different levels. Moreover, sex work constitutes an ignoble profession that does not follow the Buddha's prescriptions for a practical and moral social life.

The kammatic Theravāda practice and the ubiquitous misinterpretation of Theravāda doctrine have serious implications on the formation of Thai social norms and values that organize deleterious attitudes towards the vulnerable populations of the Thai State. These societal attitudes drive life choices in Thai society in a way that gives support to the claims that Buddhism perpetuates passivity, fatalism, and tolerance towards sex trafficking and commercial sex work and also lays the foundations for the structural violence and discrimination against Thai women.

However, a more accurate analysis delivers an interpretation closer to the spirit of Buddha's teaching, which reveals that compassion and loving-kindness should guide human life. Activities that facilitate attachment to impermanence only perpetuate suffering and hinder the cultivation of the essential human virtues for the attainment of nibbāna.

Disregarding Buddha's teaching, which states that all constructed phenomena are subject to change, the Theravāda tradition exhibits noted resistance to modernity

and change. In the First Council, the Great Elders decided to commit themselves wholeheartedly to preserving the “words” of Buddha. The Dhamma and the Vinaya were perceived as interrelated and interconnected. Hence, the monastic code was regarded as totally incorporated into the teaching, one supporting the other. No rule change was to be made, despite Buddha's permission for minor ones, and no new rule not taught by Gautama was to be introduced. Thus, anyone intending to follow “the Vinaya with maximum purity” was allowed “to do so without any institutional prohibition”.¹⁸²⁹

Theravāda tradition holds that Buddha realized the path to liberation after long-drawn striving in saṃsāra. On his final day, Buddha permitted only minor alterations to the rules, but Dhamma's content was not to be modified. For Buddha, disagreements on Dhamma were much more serious than any disputes on Vinaya. In that context, one can easily understand Theravādins' unwavering adherence to tradition. For that reason, any discourse disseminated by the incalculable bhikkhus and bikkhunīs is exclusively contained within Buddha's tenets, and none carries its own unconventional meaning. Thus, besides Buddha, there are no other Theravāda teachers. Concurrently, tradition supplely acknowledges that “everything that is well-said is the word of the Buddha”. Nevertheless, the Dhamma and Vinaya should always be in harmony to the objective to cease dukkha and facilitate Nibbāna.¹⁸³⁰

In Theravāda history, despite its resolute adherence to tradition, there were always moments of apparent flexibility. Yet, a required prerequisite for accepting any reform is that it concurs with Buddha's “words”. The Saṅgha rejected anything that was not deemed appropriate. In such cases, the laity's views were also taken into consideration by the monastic order.¹⁸³¹ Nevertheless, as in the revival of the Bikkhunī order, reaching consensus in the Saṅgha is not always the case. For instance, in Sri Lanka, despite the nonuniversal reception, the Bikkhunī order functions undeterred. At the same time, in Southeast Asian countries, where a central authority governs the Saṅgha, there is a formal rejection universally accepted by all Theravādins.¹⁸³²

The uncertainty in the Theravāda Saṅgha reflects Buddha's hesitation to appoint

¹⁸²⁹ Ibid., 150.

¹⁸³⁰ Ibid., 151.

¹⁸³¹ Ibid.

¹⁸³² Ibid., 152.

his successor and his caution to employ the Dhamma and Vinaya for primary moral and ethical guidance after his death. The Sri Lankan monastic order interpreted this caution as permission for liberty in interpretation. Still, this independence “has proved to be too open-ended at times, leading almost to anarchy”¹⁸³³. Concurrently, an uncompromising attitude would not accord with Buddha's liberal reasoning. However, what is still lacking is a will from the Saṅgha to reassess and speculate on similar conflicting subjects of the Theravāda doctrine.¹⁸³⁴

Throughout history, Theravāda exhibited an apparent ability to discuss and decide, in unison, about important issues. Similarly, modernity and change of the present global society mandate more than ever an emphatic effort to reassess and reinterpret Buddhism concerning modern values and ideals.¹⁸³⁵

Nonetheless, Theravāda Saṅgha has unquestionably evolved through millennia. The monastic order has devised alternative ways to deal with the necessity of change while conserving the integrity of the Vinaya. The reasons why Theravāda Saṅgha seems inflexible in revisioning the monastic code lie primarily in the lack of a central individual authority that could promote the approval of such law reforms—Buddha never appointed any successor of his legacy. Additionally, the preservation of the original Vinaya allows anybody to follow it as Buddha himself taught it. Notwithstanding, the Saṅgha has occasionally displayed innovation and effective adaptive responses to change. Indeed, it is the nature of its approach to modernity that always remains enigmatic.

¹⁸³³ Ibid.

¹⁸³⁴ Ibid.

¹⁸³⁵ Ibid.

CONCLUSION

Utilitarianism and Theravāda Buddhism are two philosophical models, which originated from two different cultural traditions. While both systems vary in context, history, culture and origin, concurrently they share many similarities. Both philosophies seek precisely the morality of goodness. They are centered on the hunt for the happiness of humanity, and to a certain degree, both concentrate on the outcomes of the actions that they carry out.

In line with these three similarities stated above, there is without a doubt a uniformness and agreement between them, which we can discover in both ethical traditions. According to utilitarianism, an action is moral as long as it promotes happiness, and the maximum pleasure of the highest number should be the controlling code of conduct. Utilitarians certainly would find the act of prostitution to be wrong but will not entirely disapprove of it. The primary basis behind utilitarianism is that any action that maximizes pleasure to the highest number of people is moral. Still, when it comes to prostitution, it can be arguable if the overall result is good or not.

If a married man, by way of example, cheats on his wife to have sex with a prostitute, but he benefits sexual pleasure from the act, and the prostitute receives money, this action cannot be moral. This is because the man's wife is far from going through her highest happiness. Irrespective of whether she discovers it, she is being lied to, which happens to be naturally wrong on its own. However, if the man were unmarried, the business would never be so challenging.

Hence, John Mill's Utilitarianism would possibly maintain that the act of prostitution in its most basic form is moral, but when being complicated by a third party or mediator, in particular, it becomes immoral from the damage that it primarily delivers to other people. Nevertheless, in Utilitarianism, the act of prostitution is not immoral if it benefits an increasing number of persons when harming a small number of people. For instance, if the effects of prostitution give economic assistance to society, it follows that the action is not condemnable on a moral basis.

In contrast, Buddhist ethics focuses on the rules and actions that help people act in ways that benefit them instead of harm. Buddhism's moral decision on prostitution focuses on the Buddha's guidelines consisting of the Four Noble Truths. Namely, the

reasons behind suffering, the truths regarding suffering, the path to ending pain and the end of suffering. The Buddha's guidelines also incorporate The Eightfold Path. Namely, the right intention, proper view, right livelihood, right speech, right concentration, right action, right effort, and right mindfulness. These guidelines may, of course, propose an element from which a person could logically rebuild Buddhist normative ethical principles.

Utilitarianism and Buddhism seem to be entirely different concerning individual beliefs. First, Buddhism approaches the issue of prostitution as a challenge for each person. On the other hand, utilitarianism concentrates on the trading of a person's self for the direct profit of the society, implying that it's moral in the Utilitarian view if a prostitute trades her body for the economic goal of the society.

On the contrary, the very core distinction between Utilitarianism and Buddhism regarding the morality of prostitution rests in their theories concerning suffering and its factor. Buddhism retains that suffering is natural to life (kamma), and dying won't stop suffering. For Buddhism, the only solution to pain is the fulfillment of enlightenment. Therefore, prostitution for Buddhism tends to be judged in regards to kamma.

Also, Nibbana performs a vital role while assessing the ethics of prostitution for Buddhism. Nibbana entails the full realization of the actual cause of a person's misery. Most importantly, whenever an individual has not yet achieved Nibbana, actions of such an individual originate from an entirely utilitarian viewpoint. And once an individual aims at the direction to Nibbana, actions of such an individual arise from a gradually less utilitarian view. When an individual reaches Nibbana, the actions of such an individual originate from a far less utilitarian viewpoint. When an individual enters Nibbana, that individual develops a vast understanding of other humans. To this end, it can infer that the actions of prostitution seem to originate from a person's will in such a business.

Prostitutes ought to thrive for survival, and they have to obtain shelter, water, food. For that reason, they need to discover ways to live life. In this level of reality, there is utilitarianism in Buddhism, but this utilitarianism is observable to a mind which has not yet obtained Nibbana. Utilitarianism, on the contrary, only considers prostitution as a human situation with virtually no metaphysical properties. Here, it appears

that the authorization of prostitution, nevertheless, may very well be deemed to be a just action.

And of course, if the federal government chooses to authorize prostitution as a way to lift up the economy and give jobs, we may afterward maintain that this would be completely fine and societally useful. If safety and health conditions are substantially active, and each party is assured to be taken care of with honor through the practice, then it will be deemed sound to regulate a job which will undeniably continue to emerge without authorization.

The most prominent concern that Utilitarians might have with the authorization of prostitution, alternatively, is that its exercise satisfies just one of the lesser pleasures. In Mill's explanation of utilitarianism, a lesser pleasure with sex is a lower intense satisfaction of the maximum happiness theory. If a prostitute and a customer get pleasure from sex for business, they are both contented, and they are not looking for the entire human happiness within that act. Certainly, Mill's utilitarianism would find this case to be troublesome.

Buddhist ethics, in contrast, is entirely different from utilitarianism for the reason that Buddhist ethics does not differentiate the right autonomously from what is morally wrong. In Buddhist ethics, prostitution as an act is inseparable in its religious applications. Hence, in line with Buddhism ethics, prostitution does not appear completely good or bad. Additionally, the second concern here is the moral motivation of Buddhism when compared to utilitarianism. The Buddha asserts that there are two kinds of prostitution: (i) Prostitution by individuals who consciously and voluntarily do so for irrelevant material gains; (ii) Prostitution driven for the aim of survival.

According to the Buddha, an awful creature in the above cases is the man who sleeps with a lady in the second group. He asserts that it is a person who does not desire to be there for her very own selfish needs, while the man might be offering her money out of kindness without getting to sleep with her. The man will eventually get corrupted and end up with terrible kamma.

And of course, the man who sleeps with the first group of ladies is violating the Buddhist precept of sexual misconduct, which maintains him in desire instead of looking for benefit by way of enlightenment but will not get much negative kamma for the

reason that it is a contract or an agreement. The very same thing applies to the woman in the first group. She enhances a life in desire instead of getting away from it, which is way better obtained by the usual means of labor. For the weak woman unconsciously in the second group, it is actually up to the personal circumstance, but the lady needs to get compassion to escape from her way of life.

Contrary to utilitarianism, the intention of prostitution is somewhat irrelevant because the efficiency of utility evaluates the person's morality. For Buddhism, all present life is inseparable from suffering and to avoid the immorality of prostitution is by understanding the Noble Eightfold Path as a substitute for utilitarian's felicific calculus.

An additional issue is the need to differentiate between the inner kamma effects of a person who is in prostitution and outside effects of his or her actions. Buddhism considers both accounts of impact, while utilitarianism as a nonspiritual theory undertakes no metaphysical considerations. While utilitarianism is worried about the epistemic boundaries of evaluating utilities of prostitution, karmic account for Buddhism additionally increases the worry.

Deontology versus Buddhism on Prostitution: One major issue that attracted the author of this work collectively to deontology and Buddhist ethics was the concept of morality, which is at a time high and imminent. Of course, this implies that there is undoubtedly an idea by which morality is situated beyond our ordinary feelings in the world, and still, it is accessible to us continuously.

The theory of deontology says that humans are morally compelled to act in line with a particular set of principles and rules no matter the final result. Deontologists consider that morality is dependent on duty. This indicates that we all hold moral duties to carry out things that are proper to do and moral responsibilities not to carry out things that are improper to do. Regardless if something is right or wrong does not rely on its outcomes. Instead, an action is right or wrong on its own.

The subject of prostitution indeed results in several controversies relating to the ethical issues that are brought up. In general, prostitution leads to the moral worry of degrading a person's body. Without a doubt, prostitution involves placing a person's feelings aside as a way to give sex service merely for money in exchange. These women literally market their bodies for the satisfaction of men that are ready to compensate

them with cash. Prostitutes make it possible for their bodies to be utilized for sex, thus humiliating themselves to gain monetary profit and offer sexual satisfaction to their clients.

According to Kant's deontological theory, the demeaning of a woman's body due to prostitution is immoral. For him, prostitution exemplifies treating humans as merely a means to an end and is shameful because it places humans on the same level as animals. Prostitution violates the second formula of the categorical imperative by making it possible for men to use a woman primarily as a "means to an end".

On the other hand, the argument regarding sexual abuse or rape is an entirely separate issue. Sexual assault can only occur if the woman is "forced" into the business of sex against her free will. If there were a joint agreement between the two different people, then the service of prostitution would not be under the judgment of rape. In every circumstance, the woman needs to have absolute authority regarding whether she desires to offer the service and needs to be permitted to leave if she decides. Deontology would look at each person's motive to ascertain the morality of this act and whether it is rape from this perspective. Of course, Kant's deontology would claim that the act of rape is wrong for the reason that the motives of the action are entirely dishonest.

Prostitution is a business by which many male customers are in unions with other women and sometimes married, which provides a different moral issue. The business, in essence, makes it simpler for men to cheat on their wives just by paying out money to have sex with unfamiliar persons. Deontology indeed would propose that this matter is immoral for many distinct factors. Besides, adultery is considered to be immoral by society. Therefore, Kant would maintain that the man possesses immoral intentions by getting into the act. This might even result in separation and divorce caused by the man's unfaithfulness.

In contrast, Buddhist ethics involves the thought that persons are accountable for their actions (kamma), which indicates that a woman's choice to engage in prostitution for business results from the consequences of her decisions and actions. So, the concepts of Buddhist ethics arise that the goal which comes before an action involves a person's intention. For this reason, prostitution done for the aim of survival holds certain moral validity for Buddhism in that particular context, while deontology sees free will as a solution to the morality of prostitution.

Similarly, Buddhism considers that all persons are the makers of themselves. Therefore, the right approach to the issue of prostitution is within humanity rather than in the power of a claimed creator (God). For Kant's deontology, God is considered to be the factor required for making sure the actions of prostitution usually have moral effects, i.e., that good, in the end, comes to people who act well and so on. Without a doubt, it is different from kamma, but it works the same way when it comes to morality.

The significant aspect that pertains to whether prostitution is immoral in Buddhism is the mental attitude that compels it. Buddhism believes that longing desire could inspire harmful acts. By way of example, obsessive addiction to prostitution can force a person to move from one sexual trip to another. Of course, frustration or even rape can at the same time inspire prostitution.

Additionally, it is quite easy to say that prostitution can lead to an increase of Sexual Transmitted Diseases between prostitutes and customers. Even though both customers can protect themselves during sex, particularly with a prostitute, the distribution of some deadly diseases is unavoidable. However, this is a moral issue and dangers connected to prostitution which will not be ignorable. Along with being dishonest in marriage, there is an actual chance for the distribution of diseases from the prostitute to the man and eventually to his wife.

Kant claimed that the moral level of an action is not dependent upon its outcomes. Hence, we are not ethically required to seek the best total effect on our behavior, but instead to carry out those behaviors that are under our moral duty. Kant considered that our power for logical thought is enough to identify the morality of prostitution. The idea behind this practice tends to be that each time a prostitute exchanges her body with money, the action practically warrants a will.

Prostitution, by meaning, violates the second formula of the categorical imperative—treat other people as ends in themselves, not as just a means to an end. And the prostitute ought to have free will and be permitted to choose for herself if she wishes to turn to the business or not, with the choice of walking away whenever she wants to. The will implies a prostitute who agrees to have sex willingly in exchange for money. If not willing, she is getting used as mere means rather than as an end in herself.

Deontology ethics asserts it is not the results of prostitution that makes it good or bad but the intentions of the individual who embarks on the business. Persons dishonor human beings by concentrating only on their sexual qualities. It is a great disrespect and moral violation to treat another person as merely a means to an end. The end here involves sexual fulfillment, which is contrary to any duty.

In Buddhist ethics, no person is compelled to do anything of any kind for anybody. Prostitutes do their job with no rule, and hence the concept of duty in the thoughts of obligation ultimately makes no sense. The development of this belief was because Buddhism endorses kamma in its procedure and assumes precisely that each person is liable for his or her worldly destiny and future.

Buddhism assumes that whatsoever a person does, a person does so from self-accountability rather than on account of a person's duty in the direction of other people. To this end, taking a stance on the side of Buddhism, we may argue that burden is like a punishment, and it steals a person's liberty to decide and choose the cause behind the morality of prostitution.

Human Trafficking is very deeply rooted in Thai society. My proposed solutions should be based on levels of advancement of Thai society. For the moment, many aspects of Western ethics that already exist and are applicable in Western societies are lacking either to some or to a great degree in Thailand. These include human rights, gender equality, a consistent legal system, separation or independence from religion, etc. Therefore, trying to apply Western ethics in Thailand straight away, without any preparative steps, will be futile. The proposed solutions should be given in gradual stages of increasing exposure.

In the first stage, a reinterpretation of Buddhist teachings is vital in order for the

overwhelming majority of Thais to change substantially their views on human trafficking. Considering Buddhism's prevalence in Thai Society, many Thais either misinterpret Buddhism's tenets or follow the ones that directly or indirectly support human trafficking and prostitution. For example, in many situations, Thais choose to remain neutral to the problem of human trafficking because they consider Buddhism's notion of kamma and regard victims as solely responsible for their miserable lives due to mistakes from previous lives. Furthermore, in the most common version of the Buddhist religion, women are not allowed to take superior positions. The Buddhist religion also indirectly promotes prostitution by accepting the money that comes from prostitution. Young girls work as prostitutes to earn money to give as donations to the temple, which they believe helps them to gain merit. They think that increasing benefits will help them to be reborn in a more favorable position.

Considerable effort should be made to emphasize the following, reinterpret them, and gradually apply them in Thai society: According to the Buddhist religion, one is expected to adhere to five main conditions. These are: "do not kill", "do not steal", "do not engage in sexual misconduct", "do not tell lies" and "do not take intoxicants". These concepts or conditions can further be elaborated in the Five Precepts' description of right actions. The Five Precepts focuses on promoting moral and peaceful conduct. It warns us that we should abstain from destroying life, from stealing, from illegitimate intimacy or sexual intercourse, from false speech, from illegal activities, and that we should also help others live peaceful and honorable lives in the right way, which will then impact the greater good of the society. On the other hand, saying that one should abstain from sexual misconduct or avoid being involved in illicit sexual conduct creates a problem because it does not ultimately explain what is at fault or what kind of activity is illegitimate in the modern world for laypersons to understand clearly. A criticism would be that contemporary Buddhism in Thailand does not put forth enough effort or take seriously enough the issues of the 21st century.

Considering the above tenets, the section that states "...we should abstain from stealing, from destroying life, from illegal activities, from illegitimate intimacy or sexual intercourse and that we should also help others live peaceful and honorable lives in the right way..." is crucial. The general understanding of those living in Thailand

should be updated to acknowledge that most victims of human trafficking are being taken advantage of, underpaid, sexually abused, and, in general, having their lives destroyed. They do not live peaceful lives because other unscrupulous people steal their money, freedom, and happiness.

During the next stage, when Thai society starts to understand the harms of trafficking through the above reinterpretation of Buddhism's tenets about prostitution and human trafficking, we can introduce the notions of Utilitarianism. An emphasis on the concept of Utilitarianism in a collectivist society sounds simple, though Thailand's major focus on individual families is a factor. Because of preexisting concepts of Thainess and national unity, among others, Utilitarianism can be introduced without any major changes in the collective psyche. The idea of calculating the harms that human trafficking and prostitution bring to our own society is an idea that already exists in some forms. Following this introduction, we can place a greater effort on striving to reduce the unhappiness of fellow citizens and allow them to help themselves and their family members to live in a better, safer and more healthy society.

Taking into account that violations of human rights had historically inflicted grave torments to humanity, the utilitarian perspective on human rights aligns with the belief that human rights are genuinely good and serve as a guarantee of human well-being. In addition, John Stuart Mill argued that a perceptive and far-sighted utilitarianism supports strong rights both of democratic participation and of individual freedom of action. Gradually Thais can be conditioned to view Thai society as an extension of themselves and their families, again, which is already present to some degree in political discourse. A brief summary could be expressed by the following: "anything that harms our society brings harm to us too and to our extended family members. Any effort we make to reduce those harms will be beneficial to ourselves too".

Finally, in the third Stage, when the relevant persons in Thailand have been exposed long enough, and the notions of Utilitarianism start becoming second nature to them, Kantian Ethics could possibly start to be introduced into Thai society gradually and selectively, especially the parts about dignity, respect, and self-respect. It should be pointed out, though, that applying Kantian Ethics in Thailand may be totally utopic considering its current politic-religious and socio-economic situation, namely issues of

the lack of promotion of human rights and gender equality as well as the minimal separation of the legal system from religion, etc. One can easily argue that Thai society is not ready yet to accept such great changes that the application of Deontological notions would demand. There should be an effort to introduce the notions of dignity, self-respect, and respect in a gradual and selective manner; nevertheless, maintaining the conditioning in the notions of Utilitarianism on future generations is likely much more applicable and cost-effective. For these reasons it should be a priority. This is the case particularly with regard to Thailand as a developing materialistic society where utilitarian ethics can fuse easier with the current cultural and religious beliefs. Furthermore, issues of dignity and respect are strong among certain members of the working class and are often a source of pride against the trappings of ultra-materialism.

It is much easier to promote a philosophical idea than witness its acceptance on a large scale. In modern times, for better or worse the prevalence of social media in addition to standard media in all forms play a role in the public's perception. Novels, films, and personal stories have influenced entire societies in the past and there is no reason why this will not continue. In the case of Thailand, with the awareness of all aspects of human trafficking, perhaps a mass media programs will be the catalyst to spread accurate information about the plight of those who are less fortunate and to address the issues in a way that benefits the majority of citizens. At first serving as a complement to philosophical forms, addressing these issues in a popular fashion may spark a deeper exploration into the philosophy of human trafficking.

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