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## COMBATTING HUMAN TRAFFICKING IN EAST ASIA: MIND THE GAPS

By Julius Cesar Trajano<sup>1</sup>

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### ABSTRACT

Despite the ratification of global and regional anti-trafficking frameworks and enactment of relevant national laws, human trafficking remains an endemic security problem in East Asia, threatening states and societies. Two-thirds or 25 million of global trafficking victims were identified to be in the region. This NTS Insight briefly reviews the current regional trends and patterns of human trafficking in East Asia. It demonstrates that robust legal frameworks, while absolutely important, are not sufficient to eradicate and prevent human trafficking. It primarily analyses three fundamental issues that impede effective law enforcement and the eradication of human trafficking in East Asia: (1) weak law enforcement capacity of states; (2) the persistent corruption-trafficking nexus; and (3) limited support services and protection assistance for victims. It highlights the importance of developing and adopting a victim-centered approach in order to make anti-trafficking efforts more holistic and effective.

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<sup>1</sup> About the author: Julius Cesar Trajano is Research Fellow at the Centre for Non-Traditional Security Studies, S Rajaratnam School of International Studies, Nanyang Technological University, Singapore.

## INTRODUCTION

Across the world, human trafficking is being committed every hour of the day and is viewed as one of the largest criminal enterprises. Human trafficking, dubbed as modern-day slavery, is an enduring global problem with approximately 40 million men, women and children trapped in horrendous trafficking situations such as forced labour, sexual exploitation and forced marriage.<sup>2</sup> This extremely high figure is a wake-up call to the global community which has committed to eradicating modern slavery and human trafficking by the year 2030 (Sustainable Development Goals (SDGs) Targets 5.2, 8.7, and 16.2).<sup>3</sup> According to some estimates, human trafficking has become one of the most lucrative organised crimes, with illicit profits exceeding US\$150 billion every year.<sup>4</sup>

**TABLE 1: Estimated annual profits generated from trafficking**

REGION	Annual profits per region in (US\$ billion)
Asia-Pacific	51.8
European Union	46.9
Central and Southeastern Europe and CIS	18
Africa	13.1
Latin America and the Caribbean	12
Middle East	8
<b>GLOBAL PROFIT</b>	<b>150</b>

Source: ILO, 2014.<sup>5</sup>

Human trafficking remains an endemic security problem in East Asia, threatening states and societies, as discussed and analysed in this NTS Insight. Two-thirds or 25 million of global trafficking victims were identified to be in the region.<sup>6</sup>

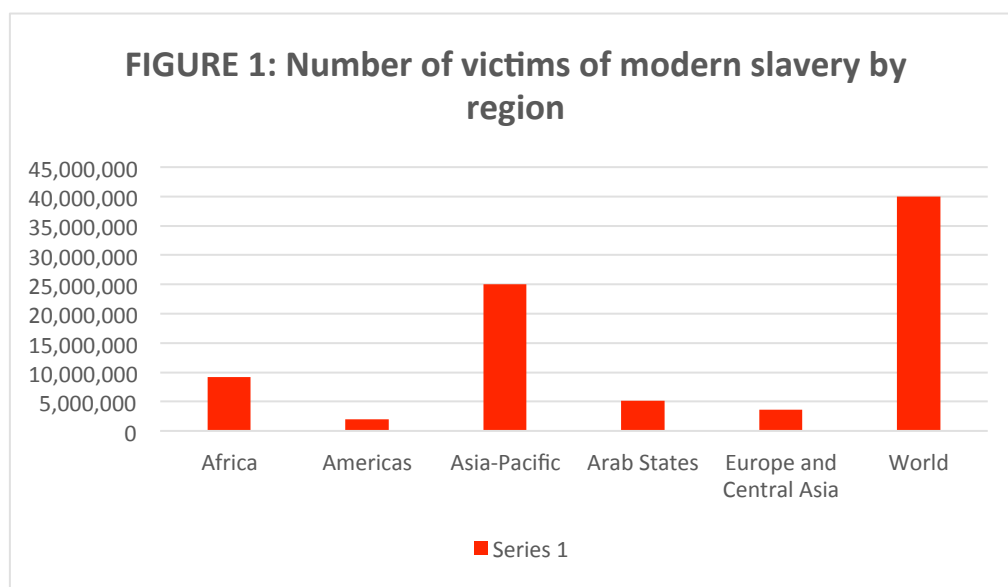
<sup>2</sup> ILO and Walk Free Foundation, *Global estimates of modern slavery: forced labour and forced marriage*, Geneva: International Labour Organization and Walk Free Foundation, 2017 [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_575479.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf)

<sup>3</sup> UNICEF USA, The Sustainable Development Goals that Aim to End Human Trafficking, 29 January 2016, <https://www.unicefusa.org/stories/sustainable-development-goals-aim-end-human-trafficking/29864>

<sup>4</sup> David Luna, Ending Human Trafficking: Building a Better World and Partnerships for Sustainable Security and Human Dignity, Opening Statement at OECD-APEC Roundtable on Combating Corruption Related to Human Trafficking, Cebu, the Philippines, 25 August 2017, <https://www.oecd.org/gov/risk/HumanTraffickingStatement-D.M.Luna-27August2015.pdf>

<sup>5</sup> ILO, *Profits and Poverty: The Economic of Forced Labour*, Geneva: International Labor Organization, 2014.

<sup>6</sup> Walk Free Foundation, *Global Slavery Index 2016*, Australia: The Minderoo Foundation Pty Ltd, 2016. <https://www.globalslaveryindex.org/region/asia-pacific/>



Source: ILO, 2017 <sup>7</sup>

To provide an overview of the extent of human trafficking in East Asia, this NTS Insight briefly reviews trends and patterns of trafficking in the region. It then primarily analyses three fundamental issues that impede the eradication of human trafficking in East Asia. Firstly, the key issue of weak implementation of relevant anti-trafficking frameworks at the national level remains. Secondly, the longstanding problems of corruption and the failure of the state to prosecute complicit officials still exacerbate human trafficking in most states of East Asia. Lastly, the lack of appropriate protection and assistance mechanisms for victims heightens the vulnerabilities that can push people into trafficking or being victimised again.

## Current trends and patterns

### 1. Intra-regional trafficking is the major pattern reported in East Asia.

The great majority – more than 85 percent - of the victims rescued in East Asia and the Pacific were trafficked from within the region in 2016.<sup>8</sup> About 6 percent of the victims were trafficked from South Asia, specifically from Bangladesh and India.<sup>9</sup> Another 5 percent of victims belonged to stateless ethnic minorities such as the Rohingya in Myanmar.<sup>10</sup>

Thailand has been detecting foreign victims from neighbouring countries such as Cambodia, Laos and Myanmar, in addition to victims of domestic trafficking. Malaysia has been a main destination of trafficking victims from Indonesia, the Philippines and Vietnam.<sup>11</sup> China has been repatriating trafficked Cambodians, Indonesians, Mongolians and Vietnamese. Taiwan has been rescuing and repatriating Indonesians, Filipinos and other nationalities from Southeast Asia. In Japan, most of the identified victims are from Southeast Asia, although domestic trafficking is also reported there.<sup>12</sup>

<sup>7</sup> ILO, *Global estimates of modern slavery: Forced labour and forced marriage*, Geneva, ILO, 2017.

<sup>8</sup> UNODC, *Global Report on Trafficking in Persons 2016*, New York: United Nations, 2016.

<sup>9</sup> Ibid.

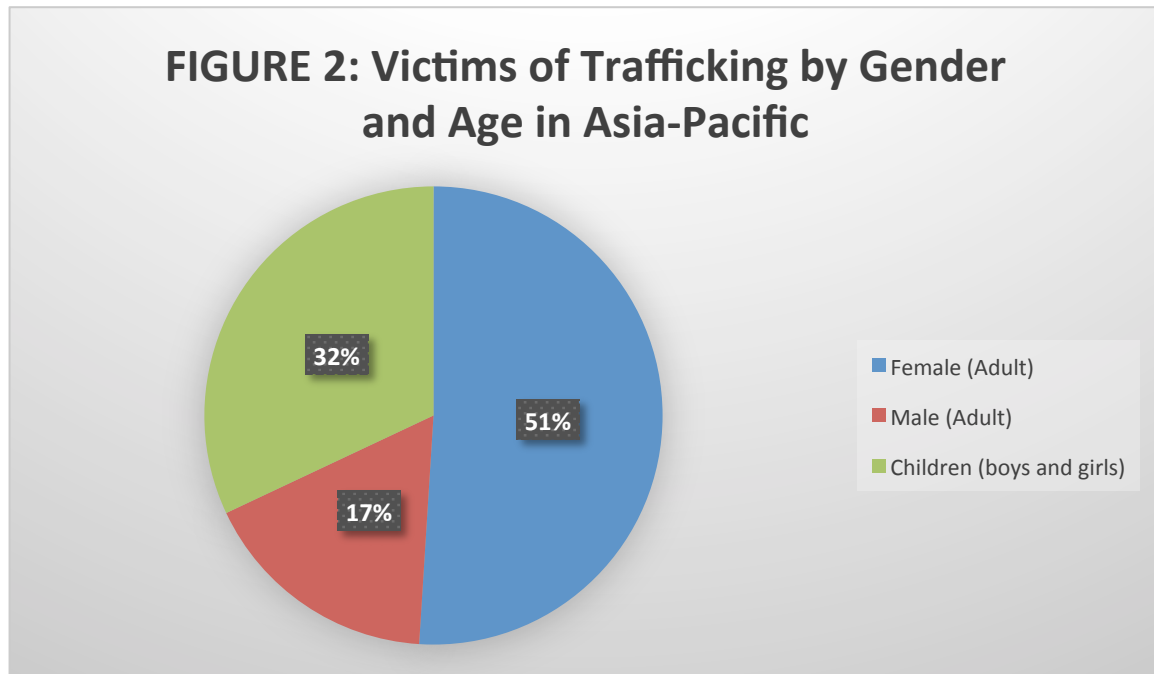
<sup>10</sup> Ibid; Human Rights Council, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar: Report of the United Nations High Commissioner for Human Rights*, 28 June 2016.

<sup>11</sup> UNODC, *Global Report on Trafficking in Persons 2016*, New York: United Nations, 2016.

<sup>12</sup> Ibid.

**2. Majority of trafficking victims are women and girls. Trafficking for sexual exploitation is the most frequently detected form.**

According to UN Office on Drugs and Crimes' (UNODC) *Global Report on Trafficking in Persons Report 2016*, 51 percent of trafficking victims in Asia-Pacific were women.<sup>13</sup>



*Source: UNODC, 2017.*<sup>14</sup>

As a consequence of frequent trafficking of minor girls, children comprised nearly a third of the victims detected in East Asia. More than 60 percent of the 7,800 victims rescued between 2012 and 2014 in the region were trafficked for sexual exploitation.<sup>15</sup> For instance, women and children from the Philippines' impoverished indigenous communities are the most vulnerable to sex trafficking. They are also susceptible to domestic servitude that enslaves domestic helpers without compensation in private residences and other forms of forced labour such as debt-bondage, commercial sexual exploitation, forced confinement in factories and plantations, and illegal recruitment.<sup>16</sup> Trafficked women and children from Thailand, Myanmar, Laos, and Cambodia are forced to work in Thailand's vast commercial sex industry.<sup>17</sup>

**3. Trafficking for online sexual exploitation of children is now an alarming trend.**

In recent years, child trafficking for sexual exploitation has been exacerbated by the proliferation of new technologies, including the online live-streaming of sexual abuse of children. Child trafficking is being committed with great frequency as various estimates indicate that tens of thousands of children in the Philippines alone are subjected to online sexual abuse while Thailand and Cambodia have been tagged as major source countries of child sexual abuse images.<sup>18</sup> The Philippines

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>17</sup> Ibid.

<sup>18</sup> Deanna Davy, *Regional Overview: Sexual Exploitation of Children in Southeast Asia*, Bangkok: ECPAT International, 2017.

has been tagged as the “global epicentre of the live stream sexual abuse trade.”<sup>19</sup> In fact, makers of online child sexual abuse materials in the Philippines generate up to US\$1 billion of annual revenue.<sup>20</sup> Globally, this industry earns between US\$3 billion and US\$20 billion annually.<sup>21</sup>

#### **4. Forced labour is the second most prominent form of trafficking.**

The International Organization for Migration (IOM) reported that forced labour is prevalent within Southeast Asia and among labour migrants destined for other regions.<sup>22</sup> Labour migrants might end up as victims of forced labour and sex trafficking. Their migration is mostly facilitated by brokers and recruiters, some are not legally registered. Migrants might be charged with exorbitant recruitment fees along with plane tickets, loan interest and boarding expenses. But excessive fees and debts incurred by migrant workers to obtain employment abroad made them vulnerable to sexual exploitation, forced labour and exploitative conditions. Their dire working situations might compel them to find alternate options, such as wading into the sex industry. Others are simply duped into entering the sex industry from the beginning and are forced to perform acts they never agreed to.<sup>23</sup> In 2015, IOM helped 1,564 victims of trafficking in Southeast Asia, 85 percent of whom were men trafficked for forced labour.<sup>24</sup> Meanwhile, UNODC claimed that about 32 percent of the reported trafficking victims in East Asia were subjected to forced labour. One of the prominent forms of trafficking is forced labour in the fishing industry particularly in Indonesia and Thailand.<sup>25</sup>

#### **5. Armed conflicts and climate change-induced disasters are increasingly exacerbating human trafficking.**

According to the IOM, the impact of climate change is seldom regarded as a contributing factor to human trafficking in global, regional, and national-level policy frameworks.<sup>26</sup> However, with the increasing evidence that environmental and climate changes drive sudden migration, more studies are needed to clearly understand the direct implications for human trafficking.<sup>27</sup> For instance, in 2013, Typhoon Haiyan hit Philippine provinces that were already suffering from extreme poverty and prevalent trafficking. Out of 112 randomly selected villages in two Haiyan-devastated regions, 39 percent reported an increase in the number of children involved in forced labour.<sup>28</sup>

Persons who are fleeing armed conflicts and humanitarian emergencies are highly vulnerable to trafficking in their desperate attempt to seek safety and protection. For instance, displaced Rohingyas are at great risk of human trafficking in Myanmar-Bangladesh border. In fact, more than 5,000 Rohingyas trafficked or smuggled in different parts of Bangladesh were rescued

<sup>19</sup> Andy Brown, Safe from harm: Tackling online child sexual abuse in the Philippines, PREDA Foundation, 4 July 2017, <http://www.preda.org/world/safe-from-harm-tackling-online-child-sexual-abuse-in-the-philippines/>

<sup>20</sup> Deanna Davy, *Regional Overview: Sexual Exploitation of Children in Southeast Asia*, Bangkok: ECPAT International, 2017.; Terre des Hommes, *Becoming Sweetie: A Novel Approach to the Global Rise of Webcam Child Sex Tourism*, 2013 <http://www.terredeshommes.org/wp-content/uploads/2013/11/Webcam-child-sex-tourism-terre-des-hommes-NL-nov-2013.pdf>

<sup>21</sup> Deanna Davy, *Regional Overview: Sexual Exploitation of Children in Southeast Asia*, Bangkok: ECPAT International, 2017.

<sup>22</sup> International Organization for Migration, *IOM Strategy in Asia and the Pacific 2017-2020*, Bangkok: IOM, 2017,

<sup>23</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018; The China Post, How migrant workers become human trafficking victims in Taiwan, *Asia One*, 2 August 2016, <http://www.asiaone.com/asia/how-migrant-workers-become-human-trafficking-victims-taiwan>

<sup>24</sup> International Organization for Migration, *IOM Strategy in Asia and the Pacific 2017-2020*, Bangkok: IOM, 2017.

<sup>25</sup> David Murphy, Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry, Human Rights Watch, 23 January 2018, <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>; UNODC, *Global Report on Trafficking in Persons 2016*, New York: United Nations, 2016.

<sup>26</sup> IOM, *The Climate Change-Human Trafficking Nexus*, Bangkok: IOM, 2016.

<sup>27</sup> Ibid

<sup>28</sup> Netsanet Tesfay, *Impact of Livelihood Recovery Initiatives on Reducing Vulnerability to Human Trafficking and Illegal Recruitment: Lessons from Typhoon Haiyan*, Geneva: IOM and ILO, 2015,

and transported by police back to the camp areas.<sup>29</sup>

## GAPS IN ENFORCING ANTI-TRAFFICKING LEGAL FRAMEWORKS

The fight against human trafficking is not a straightforward process. In East Asia, there are big wins in this battle such as the passage of strong national anti-trafficking laws in accordance with the *Palermo Protocol*, also known as the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*. In 2017, six ASEAN member states ratified the *ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)*. However, it is also important to note that the ratification of the Palermo Protocol and ACTIP coupled with the enactment of national legislative framework are only the first steps in building an effective anti-trafficking regime at the national level. Other important measures include effective law enforcement, prosecution, eradication of official complicity, and robust assistance for trafficked victims.<sup>30</sup> Nevertheless, there are still significant gaps at the national level.

### 1. Weak law enforcement capacity of states

The “3P” paradigm (prosecution, protection, and prevention) serves as the fundamental global framework for combatting human trafficking, as reflected in the *Palermo Protocol*. State parties to the Protocol have an obligation to adopt legislative frameworks and other measures as may be necessary to criminalise human trafficking activities and to provide for the physical, psychological and social recovery of victims of trafficking.<sup>31</sup> At the regional level in Southeast Asia, the legally binding ACTIP adopts the international anti-trafficking framework based on the “3Ps” notion.<sup>32</sup>

The lack of convergence between (i) the global/regional norms on combatting trafficking and (ii) national law enforcement/criminal justice system is very evident in the region. The limitations of the anti-trafficking law enforcement approach in the region are most apparent when perpetrators cannot be held accountable and trafficking remains endemic.<sup>33</sup> While there is enough national legislation, the main problem is the limited capability of law enforcers, labour inspectors, and other officials tasked to handle trafficking cases. This limited capability entails inadequate criminal justice response, law enforcers’ lack of understanding of relevant anti-trafficking laws, enforcement agencies’ limited funding and resources, skewed implementation of relevant laws, and lack of coordination among agencies. Consequently, as claimed by the UNODC, there is an overall stagnation in the number of convictions in East Asia, despite the enactment of anti-trafficking laws.<sup>34</sup> Several examples of these challenges from East Asian states are provided in this section.

The ineffectiveness of the law enforcement approach is primarily due to lack of law enforcement understanding of the multifaceted human trafficking issue. While the Palermo Protocol, ACTIP and even most of the current national laws are

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<sup>29</sup> Jack Board, Displaced Rohingyas at great risk of human trafficking in overwhelmed camps, *Channel News Asia*, 28 September 2017, <https://www.channelnewsasia.com/news/asiapacific/displaced-rohingyas-at-great-risk-of-human-trafficking-in-9258108>

<sup>30</sup> Jay Song, Australia and the Anti-Trafficking Regime in Southeast Asia, *Lowy Institute*, 15 November 2016, <https://www.lowyinstitute.org/sites/default/files/documents/Song%2C%20Australia%20and%20the%20anti-trafficking%20regime%20in%20Southeast%20Asia%2C%20WP1%5B1%5D.pdf>

<sup>31</sup> Liberty Asia, Legal Gap Analysis of Thailand’s Anti-Trafficking Legislation, June 2017, <http://un-act.org/publication/view/legal-analysis-human-trafficking-thailand/>

<sup>32</sup> ASEAN Convention Against Trafficking in Persons, Especially Women and Children, Kuala Lumpur, Malaysia, November 2015, <http://www.asean.org/wp-content/uploads/2015/12/ACTIP.pdf>

<sup>33</sup> Maggy Lee, *Trafficking and Global Crime Control*, London: Sage Publications, Ltd, 2011.

<sup>34</sup> UNODC, *Global Report on Trafficking in Persons 2016*, New York: United Nations, 2016.

specific enough in explaining trafficking and the necessary “3P” responses that need to be done, law enforcers, labour inspectors and first responders are still baffled by the questions: “*What does human trafficking really entail?; How do we identify a trafficking victim?; and What are the needs of the victims?*”<sup>35</sup> As explained in various human trafficking reports, the legislation and unswerving enforcement of comprehensive legal frameworks serve as cornerstones to a multifaceted anti-trafficking regime.<sup>36</sup> A comprehensive anti-trafficking law vividly defines the crime consistent with international law—identifying the acts, means, and ends of trafficking. It provides framework for all domestic anti-trafficking efforts. In order to boost prosecution and law enforcement, a strong anti-trafficking law includes: (1) the criminalisation of all types of human trafficking; (2) accurate definition of human trafficking that enumerates the acts, means, and ends, in order to differentiate it from related crimes; (3) mandated penalties of imprisonment that must be equivalent with those for other heinous crimes; and (4) a mandate delineating roles and responsibilities for relevant government agencies, including inter-ministerial coordination of anti-trafficking policies.<sup>37</sup>

Without comprehensive legal frameworks and consistent law enforcement, no government can prosecute traffickers, eliminate human trafficking, and provide the needs of victims. Traffickers would simply take advantage of legal gaps and the inability of authorities to strictly implement anti-trafficking policies.<sup>38</sup>

For instance, the respective anti-human trafficking laws of Myanmar, Cambodia, Thailand and Laos criminalise sex and labour trafficking, and the penalties for human trafficking stipulated in these laws are sufficiently stringent<sup>39</sup>. However, an estimated 451,000 migrants are smuggled into Thailand annually from Myanmar, 55,000 from Cambodia and 44,000 from Laos.<sup>40</sup> According to the UNODC, between 4 and 23 percent of these irregular migrants could be considered as trafficking victims.<sup>41</sup> Identifying whether a case is one of human trafficking or migrant smuggling can be very difficult for a number of reasons. While consent of victims is present in smuggling, sometimes trafficking and smuggling overlap. Some trafficked persons might at the beginning consent to be smuggled into a country illegally, but find themselves deceived, coerced or forced into an exploitative situation later in their journey.<sup>42</sup> Insufficient resourcing of law enforcement has been identified as a challenge to anti-trafficking regime in these countries. Their law enforcement agencies often lack personnel and equipment to conduct proactive, intelligence-driven investigations in remote areas while inter-agency coordination mechanisms remain weak. Furthermore, the number of female law enforcers is often inadequate to provide specialised assistance to female victims.<sup>43</sup>

Improper identification of victims also dents enforcement of relevant domestic laws. This has primarily affected child victims of trafficking. For example, due to the Thai government’s complicated implementing guidelines for the identification and

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<sup>35</sup> RSIS Centre for Non-Traditional Security (NTS) Studies, *Consultative Roundtable on the Humanitarian Dimension and Protection Aspect of Trafficking in Persons, 26-27 June 2014, Event Report*, Singapore: RSIS Centre for NTS Studies, 2014.

<sup>36</sup> UNODC, *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, Bangkok: UNODC, 2017. US State Department, *Trafficking in Persons Report 2017*, Washington DC: US State Department, 2017.

<sup>37</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>38</sup> UNODC, *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, Bangkok: UNODC, 2017.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018; UNODC, *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, Bangkok: UNODC, 2017.

treatment of trafficking victims, children are erroneously treated by law enforcers as illegal migrants rather than as victims of human trafficking. This restricts their right to protection and assistance.<sup>44</sup>

Malaysia's anti-trafficking law was twice amended (in 2010 and 2015) to expand its coverage by prohibiting all forms of trafficking, imposing stricter penalties, and enhancing the rights of trafficking victims.<sup>45</sup> However, two crucial factors limit the execution of their duties, namely, the lack of manpower and expertise, and inadequate facilities and equipment. Law enforcement bodies of Malaysia have insufficient number of officers as well as labour inspectors who can detect and investigate trafficking indicators.<sup>46</sup> The lack of proper equipment for surveillance and monitoring has prevented Malaysia's maritime enforcement bodies to prevent trafficking activities at sea.<sup>47</sup>

The Philippines' anti-trafficking legal framework is regarded to be the most comprehensive in the East Asian region and has a Tier 1 status accorded by the US State Department.<sup>48</sup> However, the difficulties faced by the government in combating the proliferation of online sexual exploitation of children pose a challenge to the effective enforcement of its anti-trafficking law. In handling cases of trafficking for online sexual exploitation, police and prosecutors reported challenges, including difficulty in obtaining search warrants and arresting perpetrators mainly due to insufficient personnel, inadequate resources for operations logistics and computer evidence analysis, and the need for training on presenting digital evidence in court.<sup>49</sup>

Meanwhile, in Japan, due to the absence of a comprehensive anti-trafficking law, existing criminal and immigration statutes are applied in trafficking cases.<sup>50</sup> Consequently, authorities detain, charge, and in some cases deport victims, rather than send them to shelters for trafficked victims.<sup>51</sup> In the case of China, there is no anti-trafficking law that fully meets the international standards, according to the *Trafficking in Persons Report 2018*.<sup>52</sup> Instead, its criminal code criminalises some forms of sex and labour trafficking. The government handles most cases with indicators of forced labour merely as administrative issues and seldom initiates prosecutions of such cases.<sup>53</sup>

## 2. The symbiotic relationship between corruption and trafficking

Another shared problem that exacerbates human trafficking in East Asian states is the unpunished complicity of officials, criminal justice actors and law enforcers in human trafficking. The UNODC has identified corruption and lack of accountability as factors underpinning human trafficking in Southeast Asian countries.<sup>54</sup> As a framework on trafficking-

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<sup>44</sup> Allen & Overy and Liberty Asia, *Policy Overview: Gaps in the implementation of child trafficking laws in Thailand and recommendations for reform*, 2017, <https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/59f497ea64265f811b2d94a6/1509201926457/Policy+Overview.pdf>

<sup>45</sup> Suhana Saad and Ali Salman, Government policy and the challenge of eradicating human trafficking in Malaysia, *Malaysian Journal of Society and Space*, Vol. 10, No. 6, pp. 66-74, 2014; Steven Sim, Enforce immediately anti-trafficking law amendments, *Malaysiakini*, 15 August 2016, <https://www.malaysiakini.com/letters/352304>

<sup>46</sup> State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>47</sup> Zuraini Ab Hamid, Noor Shuhadawati Mohamad Amin and Norjihan Ab Aziz, The Challenges Faced by the Enforcement Bodies in Malaysia, Proceedings of INTCESS 2017 4th International Conference on Education and Social Sciences, Istanbul, Turkey, 6-8 February 2017, [http://www.ocerint.org/intcess17\\_epublication/papers/292.pdf](http://www.ocerint.org/intcess17_epublication/papers/292.pdf)

<sup>48</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018; Andrea Varella, Live Streaming of Child Sexual Abuse: Background, Legislative Frameworks and the Experience of the Philippines, *Online Child Sexual Exploitation: An Analysis of Emerging and Selected Issues*, ECPAT International Journal, Issue 12, 2017.

<sup>49</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid; Justin Stafford, Japan's Battle Against Human Trafficking: A Victim-Oriented Solution, *The George Washington International Law Review*, Vol. 50, No. 1, 2017, pp. 181-207.

<sup>52</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018

<sup>53</sup> Ibid.

<sup>54</sup> UNODC, *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand*, Vienna: UNODC, 2017.



corruption nexus, the UNODC, Anti-Slavery International and Transparency International have specifically identified a number of mechanisms wherein corruption in the public sector facilitates trafficking.<sup>55</sup>

- recruitment, transportation and exploitation of victims with the help of corrupt public officials;
- undermined or delayed investigation, prosecution and adjudication of trafficking cases due to corrupt criminal justice officials;
- scarce information and data collection on, as well as reporting of, human trafficking- related corruption;
- obstruction of social and protective services for victims by corrupt public officials; and
- insufficient responses to underlying causes of trafficking.

The aforementioned trafficking-corruption nexus mechanisms are vividly seen in East Asia. In some countries, law enforcers ignore evidence of exploitation or even actively participate in human trafficking. Some government officials in China and Myanmar, for instance, are often involved in state-sponsored forced labour for infrastructure projects and in state facilities.<sup>56</sup>

Traffickers bribe border and immigration officials to permit illegal entry of trafficking victims or smuggled migrants who are susceptible to trafficking and may later face exploitation.<sup>57</sup> In the borders of Malaysia and Thailand, the discovery of huge mass graves of suspected victims of trafficking and smuggling in 2015 generated reports that law enforcers and military officers facilitated migrant smuggling and trafficking crimes.<sup>58</sup> But in an "*unprecedented effort by Thai authorities to hold perpetrators of human trafficking accountable*"<sup>59</sup> in 2017, a Thai local court convicted 62 trafficking perpetrators, including 11 government officials and a Thai army general, in the largest-ever human trafficking trial in the region.<sup>60</sup> However, Thailand has yet to prosecute and convict the rest of corrupt government officials involved in trafficking.<sup>61</sup> In 2017, the government launched investigations of 26 officials (10 in 2016), but initiated prosecution of seven, and convicted 12 officials complicit in trafficking crimes.<sup>62</sup> In the Philippines, there are ongoing cases of police and immigration officers actively facilitating illegal recruitment and sex trafficking involving online sexual exploitation of minors.<sup>63</sup>

In order to cut the corruption-trafficking nexus, states must aggressively prosecute and seek conviction of corrupt officials involved in human trafficking. However, in most countries in the region that have endemic human trafficking problems, there seem to be no serious state efforts to consistently investigate, prosecute and convict complicit law enforcers.<sup>64</sup> In addition,

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<sup>55</sup> UNODC, Anti-Slavery International and Transparency International, *The Role of Corruption in Trafficking in Persons*, United Nations, Vienna, 2011, p. 27, [http://www.unodc.org/documents/human-trafficking/2011/Issue Paper - The Role of Corruption in Trafficking in Persons.pdf](http://www.unodc.org/documents/human-trafficking/2011/Issue_Paper_-_The_Role_of_Corruption_in_Trafficking_in_Persons.pdf).

<sup>56</sup> Jay Song, Australia and the Anti-Trafficking Regime in Southeast Asia, Lowy Institute, 15 November 2016, <https://www.loyyinstitute.org/sites/default/files/documents/Song%2C%20Australia%20and%20the%20anti-trafficking%20regime%20in%20Southeast%20Asia%2C%20WP1%5B1%5D.pdf>; Richard Finney, Government Complicity Slows Progress on Trafficking in RFA Broadcast Countries: Report, *Radio Free Asia*, 30 June 2016, <https://www.rfa.org/english/news/myanmar/complicity-06302016162314.html>

<sup>57</sup> Devy Ernis and Aditya Budiman, Pusaka Benjina Admits Bribing Govt Officials, *Tempo*, 6 April 2015, <https://en.tempo.co/read/news/2015/04/06/056655625/Pusaka-Benjina-Admits-Bribing-Govt-Officials>

<sup>58</sup> Kocha Olarn and James Griffiths, Thai court convicts dozens in large human-trafficking trial, *CNN*, 19 July 2017, <https://edition.cnn.com/2017/07/19/asia/thai-human-trafficking-trial/index.html>

<sup>59</sup> Ibid.

<sup>60</sup> Tan Hui Yee, Thai army general gets 27 years jail for human trafficking, *The Straits Times*, 19 July 2017, <http://www.straitstimes.com/asia/se-asia/verdict-due-in-major-thai-human-trafficking-trial>

<sup>61</sup> Patchanee Malikhao and Fiona Servaes, Human Trafficking in Thailand: A Culture of Corruption, In *Culture and Communication in Thailand. Communication, Culture and Change in Asia*, Vol 3, Singapore: Springer, 2017.

<sup>62</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018

<sup>63</sup> Boy Ryan B. Zabal, Immigration officers, recruiters nabbed for human trafficking, *Rappler*, 20 January 2017, <https://www.rappler.com/nation/158999-immigration-officers-recruiters-nabbed-human-trafficking>.

<sup>64</sup> Ibid.

military and police officials reportedly facilitating recruitment of child soldiers, sex trafficking, and trafficking of people for forced labour in state-led projects, such as in Myanmar, have never been prosecuted and convicted in civilian courts.<sup>65</sup>

It is therefore vital that governments investigate and prosecute vigorously official complicity, in order to deter officials from conniving with criminal syndicates. Complicit government officials should face criminal accountability, prosecution and stern verdicts to strengthen the enforcement of anti-trafficking laws. Credible prosecution of complicit officials is an essential element of a sustainable anti-trafficking regime, given that organised trafficking requires systemic corruption. Countries are therefore recommended to adopt strategies that jointly combat corruption and human trafficking.<sup>66</sup>

### 3. Limited support services and protection for victims

While prevention and prosecution, through effective law enforcement, are crucial in combatting human trafficking, the protection aspect is also an indispensable element of any anti-trafficking regime. As seen in several East Asian countries, the criminal law enforcement-led approach to counter-trafficking<sup>67</sup> does not often include what the Palermo Protocol prescribes on the protection of victims, especially women and children.<sup>68</sup>

Criminal law enforcement alone cannot sufficiently address the protection needs of trafficking victims whose profiles do not fit in with the normative expectations of criminal justice gatekeepers and welfare officials. Trafficked persons who do not meet the normative expectations of what victims look like, how they act, or what they need, may be denied legitimate victim status. The 'ideal' trafficked victims for law enforcers are those who are willing to cooperate and participate in the criminal justice process. However, trafficked persons who do not trust the authorities or service providers and refuse to cooperate due to their trauma may not be given protection and assistance.<sup>69</sup> Hence, **a victim-centered and trauma-informed approach** is crucial in establishing trust between the victims and law enforcers.<sup>70</sup> Such an approach seeks to understand the vast impact of trauma on victims and craft special response measures in addressing their peculiar needs.<sup>71</sup> Survivors of human trafficking have often suffered complex trauma substantial enough to cause long-term psychological and physical effects. To appropriately support survivors, a trauma-informed approach should be incorporated with the criminal justice process and victim protection.<sup>72</sup>

Apart from being a law enforcement issue, human trafficking is also a public health problem. The implications of human trafficking on public health are vividly evident. Victims of human trafficking often suffer unsanitary and unsafe work environments, poor living conditions, malnutrition, exposure to sexually transmitted and other communicable diseases (including HIV/AIDS) and limited access to any health care services.<sup>73</sup> For instance, among trafficking survivors in Southeast Asia in 2016, 22 percent sustained severe physical injuries and reported symptoms of depression.<sup>74</sup>

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<sup>65</sup> Fortify Rights, Myanmar, Thailand, Malaysia: End Human Trafficking, Protect Survivors, Press Release, 1 July 2016, <http://www.fortifyrights.org/publication-20160701.html>

<sup>66</sup> OECD, *Trafficking in Persons and Corruption: Breaking the Chain*, Paris: OECD Publishing, 2016.

<sup>67</sup> Maggy Lee, *Trafficking and Global Crime Control*, London: Sage Publications, Ltd, 2011; RSIS-ICRC...

<sup>68</sup> Palermo Protocol, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

<sup>69</sup> Maggy Lee, *Trafficking and Global Crime Control*, London: Sage Publications, Ltd, 2011.

<sup>70</sup> UNODC, *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, Bangkok: UNODC, 2017; US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Margeaux Gray, Why human trafficking is a public health problem, *CNN*, 25 July 2016 <https://edition.cnn.com/2016/07/11/opinions/human-trafficking-health-margeaux-gray/index.html>;

<sup>74</sup> Cathy Zimmerman and Ligia Kiss, Human trafficking and exploitation: A global health concern. *PLoS Medicine*, Vol. 14, No. 11, 2017.

However, regional governments have made slow progress on the protection of trafficking victims.<sup>75</sup> Trafficking victims still struggle to receive protection and health care. For instance, in Cambodia, Thailand and Vietnam, survivors of human trafficking desperately need better access to comprehensive health services, especially related to mental health. More than 60 percent of the victims from the three countries reported symptoms of depression and 40 percent were diagnosed with post-traumatic stress disorder.<sup>76</sup>

Unconditional support for child victims needs to be tailored to their special needs. According to UNICEF, several countries in Southeast Asia have just partly established or are in the process of developing special support services to child victims.<sup>77</sup>

In the Philippines, despite the government's serious and sustained efforts to prosecute perpetrators and dismantle online sex trafficking syndicates, specialised shelter and mental health services are not given strong state support and inadequate to address the specific needs of child victims of online sexual exploitation.<sup>78</sup> Minor victims are not always guided and accompanied by child psychologists and/or a guardian throughout the criminal justice process.<sup>79</sup>

The lack of sustainable rehabilitation and reintegration programmes for returning irregular migrants, including rescued trafficking victims, also exacerbates human trafficking in the region. Without stronger efforts on the sustainability of their return, there would be a greater risk that returnees may once again be victimised by traffickers or smugglers.<sup>80</sup> In many documented cases in Cambodia, Laos and Myanmar, illegal recruiters prey upon returning and deported migrants from Thailand, due to the absence of sustainable full-time employment and livelihood assistance.<sup>81</sup> Similarly, in the southern Philippines, internally displaced persons are subjected to forced labour and sex trafficking in major Philippine cities.<sup>82</sup> They become more susceptible to be victimised again as they are not aware of or do not have sufficient access to reintegration and livelihood programmes in their communities.<sup>83</sup>

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<sup>75</sup> Jay Song, Australia and the Anti-Trafficking Regime in Southeast Asia, *Lowy Institute*, 15 November 2016, <https://www.lowyinstitute.org/sites/default/files/documents/Song%2C%20Australia%20and%20the%20anti-trafficking%20regime%20in%20Southeast%20Asia%2C%20WP1%5B1%5D.pdf>

<sup>76</sup> Mike Ives, Mental health of trafficking victims overlooked, *SciDevNet*, 11 March 2015, <https://www.scidev.net/global/vulnerability/news/mental-health-trafficking-victims.html>

<sup>77</sup> UNICEF, *Child protection in the digital age: National responses to online child sexual abuse and exploitation in ASEAN Member States*, Bangkok: UNICEF EAPRO, 2016.

<sup>78</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>79</sup> UNICEF, *Child protection in the digital age: National responses to online child sexual abuse and exploitation in ASEAN Member States*, Bangkok: UNICEF EAPRO, 2016.

<sup>80</sup> IOM, *The Causes and Consequences of Re-trafficking: Evidence from the IOM Human Trafficking Database*, Geneva: IOM, 2010.

<sup>81</sup> UNODC, *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, Bangkok: UNODC, 2017.

<sup>82</sup> US State Department, *Trafficking in Persons Report 2018*, Washington DC: US State Department, 2018.

<sup>83</sup> Anders Lisborg, Rethinking Reintegration: What do returning victims really want? Evidence from Thailand and the Philippines, *SIREN Report*, 28 August 2009, [https://childhub.org/en/system/tdf/library/attachments/siren\\_09\\_tra\\_reintegration\\_1009.pdf?file=1&type=node&id=18987](https://childhub.org/en/system/tdf/library/attachments/siren_09_tra_reintegration_1009.pdf?file=1&type=node&id=18987)

## CONCLUSION

This NTS Insight demonstrates that robust legal frameworks, while absolutely important, are not sufficient to eradicate and prevent human trafficking in East Asia. Significant gaps at the national level have effectively hindered the eradication of trafficking in the region. Firstly, the lack of effective law enforcement efforts, as a primarily tool to implement states' robust legal frameworks, remain a challenge. Inadequate institutional resources, funding and training for frontline officers and law enforcers impede the investigation of human trafficking cases. These issues must be addressed head-on by governments.

Secondly, corruption and trafficking are deeply intertwined in the region. The failure of governments to run after and prosecute complicit officials and law enforcers exacerbates the corruption-trafficking nexus in the region. In this regard, undertaking robust efforts to jail complicit officials involved in trafficking is crucial to deterring trafficking crimes from taking place, especially in the region's porous state borders.

Thirdly, the lack of protection and social services for the victims also undermines the fight against trafficking. In many East Asian states, the lack of provision for victim protection reflects broader capacity questions, akin to the challenge to effective enforcement of anti-trafficking regime. The protection needs of victims of trafficking are oftentimes secondary concerns to other priorities such as the criminalisation approach and prosecution. Government agencies, while assuming primary responsibility, should enhance their cooperation with the civil society and humanitarian organisations that assist and provide support services for victims of trafficking in order to promote **a victim-centered, trauma-informed approach to counter trafficking**.

Given the abovementioned common challenges among regional states, the opportunities provided by regional cooperation remain underutilised and trafficking syndicates take advantage of the limitations of national anti-trafficking regimes and agencies to move beyond national borders. It is important therefore for ASEAN Member States to work together to fully utilise the ACTIP, which provides a framework for Member States to enter into direct law enforcement cooperation on human trafficking cases and common standards for the protection of victims.<sup>84</sup> If multiple actors (state and non-state) in ASEAN and the broader East Asian region pool together their expertise, resources, and capacity, preventing trafficking and prosecuting perpetrators can be comprehensively implemented in parallel with protection initiatives that address the vulnerabilities of trafficking victims.

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<sup>84</sup> ASEAN Convention Against Trafficking in Persons, Especially Women and Children, Kuala Lumpur, Malaysia, November 2015, <http://www.asean.org/wp-content/uploads/2015/12/ACTIP.pdf>

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