



## ***Prevent Human Trafficking Institute (PHI) FREQUENTLY ASKED QUESTIONS***

- 1) What is the internationally-accepted definition of human trafficking?***
  - 2) How does the United States define human trafficking?***
  - 3) What is commercial sexual exploitation of children?***
  - 4) What is the difference between smuggling and human trafficking?***
  - 5) How many trafficking victims are there worldwide?***
  - 6) Is trafficking for forced prostitution or trafficking for forced labor more prevalent?***
  - 7) Is there one country or one region whose record for combating trafficking is the worst?***
  - 8) What are the causes of human trafficking?***
  - 9) What is being done to combat human trafficking?***
  - 10) What needs to be done to combat human trafficking? What are some aspects about the issue of trafficking that need to be researched?***
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### ***1) What is the definition of human trafficking?***

During the late 1990s, countries began to debate the definition of human trafficking at the United Nations. Arguments centered on prostitution – one argument claimed prostitution is always trafficking because prostitution is never voluntary, and another argument claimed prostitution is not always trafficking because prostitution can be both voluntary and involuntary. Ultimately, the United Nations left prostitution undefined in the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (also known as the Palermo Protocol).

The Palermo Protocol defines “Trafficking in Persons” as “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.”

In order to constitute trafficking, the Palermo Protocol requires “transnational movement” of persons; that is, a person must be transported over an international boundary.

## **2) How does the United States Government define human trafficking?**

The United States Trafficking Victims Protection Act (TVPA) defines “severe forms of trafficking in persons” as:

(a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or  
(b) 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. Within the definition,

- "Sex trafficking" is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
- "Commercial sex act" is defined as “any sex act on account of which anything of value is given to or received by any person.”
- "Coercion" is defined “as (a) threats of serious harm to or physical restraint against any person; (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.”
- "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.”
- "Debt bondage" is defined as “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.”<sup>1</sup>

The United States government declared zero-tolerance of prostitution in the National Security Presidential Directive 22 (NSPD-22). Although U.S. government policy explicitly makes a link between prostitution and trafficking, the TVPA is operationalized in such a way that recognizes the necessity of force, fraud or coercion to be considered “trafficking.” The TVPA does not require any movement to constitute trafficking.

## **3) What is commercial sexual exploitation of children?**

Commercial sexual exploitation of children (CSEC) is the use of children for sexual purposes, including prostitution, pornography, early marriages, and child sex tourism. At the World Congress against Commercial Sexual Exploitation of Children in 1996 and 2001, governments, intergovernmental and non-governmental organizations declared their commitment to protecting children from CSEC. The congresses defined CSEC as “sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a

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<sup>1</sup> United States Trafficking in Victims Protection Act 2000.

sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labor and a contemporary form of slavery.”<sup>2</sup>

Some countries have extraterritorial laws to prosecute their nationals for engaging in sexual conduct with children. Under the *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (PROTECT Act)*, United States Government can charge Americans for engaging or intending to engage in illicit sexual conduct with children abroad, with a possible sentence of a maximum of 30 years in prison, a fine, or both.

CSEC has been described as a form of child trafficking.

**4) What is the difference between smuggling and human trafficking?**

The key difference between smuggling and human trafficking is consent; one cannot consent to being trafficked, while one can consent to being smuggled. The Smuggling and Trafficking Center outlines the differences as:<sup>3</sup>

HUMAN TRAFFICKING	SMUGGLING
Must contain an element of Force, Fraud, or Coercion (actual, perceived or implied), unless under 18 years of age involved in commercial sex acts.	The person being smuggled is generally cooperating
Forced Labor and/or Exploitation	There is no actual or implied coercion.
Persons trafficked are victims	Persons smuggled are violating the law. They are not victims.
Enslaved, subjected to limited movement or isolation, or had documents confiscated	Persons are free to leave, change jobs, etc.
Need not involve the actual movement of a victim	Facilitates the illegal entry of person (s) from one country into another
No requirement to cross an international border	Smuggling always crosses an international border
Person must be involved in labor/services or commercial sex acts, i.e. must be “working”	Person must only be in country or attempting entry illegally

In some cases, a person who has consented to being smuggled is later trafficked into sexual or labor exploitation in their destination country. Children under the age of 18 used for sexual or labor exploitation are always considered trafficked and not smuggled.<sup>4</sup>

<sup>2</sup> Declaration and Action for Agenda of the World Congress Against Commercial Sexual Exploitation of Children (1996)

<sup>3</sup> The Human Trafficking and Smuggling Center Fact Sheet: Distinctions between Human Smuggling and Human Trafficking, January 2005

<sup>4</sup> UN Protocol to Prevent, Suppress and Punish Trafficking in Person Protocol

**5) *How many trafficking victims are there worldwide?***

There is no consensus on the number of trafficking victims worldwide. The number is difficult to obtain because of the clandestine nature of human trafficking and the difficulty in identifying a trafficking victim. Despite the internationally accepted definition of trafficking, not all governments have comprehensive domestic laws to prohibit trafficking, therefore governments sometimes conflate statistics – mixing illegal migrants and trafficking victims. With that said, some have published their estimates of the number of trafficking victims. The United States estimates that 800,000 men, women, and children are trafficked across international borders each year, approximately 80% of whom are women and girls, up to 50 percent are minors – the majority of global trafficking victims are females trafficked for commercial sexual exploitation.<sup>5</sup> The U.S. Government estimates that 14,500 to 17,500 people are trafficked to the U.S. every year. The International Labor Organization (ILO) estimates 12.3 million people are victims of forced labor, 2.45 million of whom are trafficked at any given time.<sup>6</sup> The UN Children’s Fund (UNICEF) estimates 700,000 men, women, and children are trafficked annually, more than 300,000 children under age 18 are currently exploited in over 30 armed conflicts world wide, and 5.7 million children who are victims of forced labor.<sup>7</sup> The United Nations Office on Drugs and Crime (UNODC) reports trafficking victims from 127 countries are exploited in 137 countries.<sup>8</sup> The International Organization for Migration (IOM) has provided assistance to over 14,000 trafficking victims worldwide.<sup>9</sup>

**6) *Is trafficking for forced prostitution or trafficking for forced labor more prevalent?***

Again, there is no consensus about the number of trafficking victims; ergo, there is no consensus about which type of trafficking is more prevalent. The international community has, however, made educated guesses. Internationally, the U.S. Government argues that most victims are trafficked for sexual exploitation. Internationally and domestically, however, the International Labor Organization argues that most victims – 89% to be exact – are trafficked for forced labor. It seems, therefore, that forced labor predominates in domestic trafficking, while sexual exploitation predominates in international trafficking.

Educated guesses have also been made particular to countries at certain levels of economic development. In transition and industrialized economies, the International Labor Organization argues that the dominant form of forced labor is for commercial sexual exploitation, 67% so in industrialized countries.<sup>10</sup>

**7) *Is there one country or one region whose record for combating trafficking is the worst?***

The International Labor Organization (ILO) found the largest incidence of forced labor is in Asia and the Pacific, followed by Latin America and the Caribbean, and sub-Saharan Africa. Of the 12.3 million victims of forced labor, the ILO estimates 9.49 million are found in Asia and the Pacific, 1.32 million are found in Latin America and the Caribbean, 0.66 are found in Sub-

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<sup>5</sup> United States 2006 Trafficking in Persons Report

<sup>6</sup> International Labor Organization: A Global Alliance Against Forced Labor

<sup>7</sup> UNICEF Factsheet: Child Soldiers

<sup>8</sup> UN Office on Drugs and Crime Trafficking in Persons Global Patterns, April 2006

<sup>9</sup> The IOM Handbook on Direct Assistance for Victims of Trafficking, 2007

<sup>10</sup> International Labor Organization: A Global Alliance Against Forced Labor

Saharan Africa, 0.26 are found in the Middle East and North Africa, 0.36 are found in industrialized nations, and 0.21 in transition economies. 10 percent of the forced labor in Asia and the Pacific is for commercial sexual exploitation, 9 percent of the forced labor in Latin America and the Caribbean is for commercial sexual exploitation, 8 percent of the forced labor in Sub-Saharan Africa is for commercial sexual exploitation, and 10 percent of the forced labor in the Middle East and North Africa is for commercial sexual exploitation.<sup>11</sup>

It is difficult to determine which countries and regions have the worst record because each faces the challenge of combating trafficking differently. The United States Government publishes its annual Trafficking in Persons Report, in which countries are categorized into Tier 1, Tier 2, Tier 2 Watch List and Tier 3: governments that fully comply with the TVPA's minimum standards are placed in **Tier 1**; governments that do not fully comply with the TVPA's minimum standards but are making significant efforts to meet the TVPA's 'minimum standards' are placed in **Tier 2**; governments that are making significant efforts to meet the TVPA's 'minimum standards' but have lagged in their efforts to combat human trafficking from the previous year are placed on **Tier 2 Watch List**; and governments that do not fully comply with the TVPA's 'minimum standards' nor are they making significant efforts to do so are placed in **Tier 3**. The TVPA's minimum standards are: a) The government should prohibit and punish severe forms of trafficking in persons and punish acts of such trafficking; b) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault; c) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense; d) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons. Of the countries assessed in the 2007 U.S. Department of State Trafficking in Persons Report, the Burmese, Cuban, North Korean, Sudanese, and Saudi Arabian governments have remained consecutively in Tier 3 for not complying with the "minimum standards" of the TVPA.<sup>12</sup>

### **8) What are the causes of human trafficking?**

The socio-economic, political, and individual root causes of why people become severely exploited are diverse and complex. The reasons why some people exploit, and others become exploited, vary according to the area of the world one lives, one's culture, and one's experiences. In an effort to find reasons why people become trafficked, large global phenomena have been implicated, such as globalization, poverty, illegal migration, lack of education, women's socio-economic inequality, lack of employment opportunities, and demand for cheap (sexualized) labor. For example, a common conception and point of discourse is that globalization *in and of itself* is a root cause of trafficking. Similarly, some have implicated poverty as a root cause. Some experts who have studied the issue of trafficking extensively in Southeast Asia argue that these large global processes are not root causes of trafficking. Instead, trafficking should be conceived of as a crime caused by the actions of criminals. They argue that globalization and

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<sup>11</sup> International Labor Organization: A Global Alliance Against Forced Labor

<sup>12</sup> United States 2007 Trafficking in Persons Report

poverty can make victims more vulnerable to being trafficked, but it does not cause them to be trafficked.

What is relevant about these global issues is that they represent *structural vulnerabilities*, which create conditions, which may lead people to becoming exploited. While the large proportion of trafficking victims are poor, not all victims are poverty-stricken. Similarly, globalization has facilitated many kinds of networks – some good, some bad. Interestingly, with regards to the issue of the lack of education, research has found that, in Thailand specifically, people who have more education sometimes choose to migrate for work or pay recruiters to transport them to another place or country. It is the relative relationship between having higher education and few opportunities for employment in one's home community.

Another issue which has been described as a structural vulnerability is the fact that several hundred thousand ethnic 'hill-tribe' people do not have citizenship or even a birth certificate in Northern Thailand. These people's lack of proper identity papers make them more vulnerable to being exploited. Finally, the propensity for people to migrate is a common phenomenon; however, the opportunities for legal migration have diminished tremendously, at a time when the ability to travel across borders has become much easier and the numbers of people wanting to move is greater than at any other time. From this point of view, the level of economic disparity between areas and regions contributes to the existence of a large potential supply of workers. Mismatches between immigration policies and labor market realities serve to make much of the cross-border migration illegal, and therefore increase the vulnerability of those potential migrant workers. This is further exacerbated by the lack of recognition of the rights of migrants at points of destination.

In addition to structural vulnerabilities, some researchers and organizations have pointed to prior physical, sexual, or emotional abuse by family members or spouses as an underlying vulnerability to be exploited in prostitution or other labor situations. This evidence has been found when organizations interview individuals who have been trafficked.

### ***9) What is being done to combat human trafficking?***

In the United Nations, there are many organizations tasked to combat different aspects of human trafficking.

#### International Governmental Organizations

The UN Children's Fund (UNICEF) is tasked with protecting children from human trafficking. The UN Office on Drugs and Crime (UNODC) is tasked with curbing corruption and organized crime involved in human trafficking, and developing criminal justice systems to combat human trafficking. The International Organization for Migration (IOM) is tasked with raising awareness, conducting research on migrant trafficking, providing programs to return and reintegrate victims, and assisting governments to improve their legal systems and technical capacities to combat trafficking.<sup>13</sup> The International Labor Organization (ILO) is tasked with combating child labor and forced labor.

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<sup>13</sup> International Organization for Migration Counter-Trafficking Activities <http://www.iom.int/jahia/page748.html>

For government and NGO activities in East Asia and Pacific countries and the United States, please visit our country pages.

### *U.S. Government efforts to combat human trafficking*

The United States Government launched efforts to combat trafficking in the late 1990s. As part of President Clinton's International Crime Control Strategy, an interagency working group was established to develop a strategy; its strategy was to concentrate on the "three Ps": preventing trafficking, prosecuting traffickers, and protecting victims.<sup>14</sup> The three P's eventually became the framework to assess other country efforts in the annual [Trafficking in Persons Report](#). On October 16, 2000, President Clinton signed into law the Trafficking Victims Protection Act (TVPA).<sup>15</sup> The TVPA was the first US legislative framework for combating trafficking in persons. President Bush has since reauthorized the TVPA in 2003 and 2005 (TVPRA) that mandated additional responsibilities to the government for campaigns to combat sex tourism and created additional legal rights for trafficked victims.<sup>16</sup> In January 2002, the U.S. Attorney General created the T-Visa, P.L. 106-386, which allows trafficking victims to stay in the United States if they cooperate with U.S. officials to prosecute their traffickers.

### ***10) What needs to be done to combat human trafficking? What are some aspects about the issue of trafficking that need to be researched?***

There is no consensus what needs to be done and what is the most pressing concern. The ILO recommends, *inter alia*, preparing bilateral labor agreements ensuring regular migration channels, especially for women migrants, using model employment contracts; bettering employment and vocational training policies, and monitoring of private recruitment agencies. The United States Government recommends, *inter alia*, alerting communities to the dangers of trafficking, improving and expanding educational and economic opportunities for vulnerable groups, promoting equal access to education, educating people regarding their legal rights, fighting public corruption, identifying and interdict trafficking routes through better intelligence gathering and coordination, and naming and appropriately punishing employers of forced labor and exploiters of victims trafficked for sexual exploitation. The UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP) recommends the following:<sup>17</sup>

#### ***Law and law enforcement***

- Ratify relevant international conventions and protocols;
- Define national strategy, and develop a national plan, for opposing human trafficking,
- Draft and implement relevant laws against trafficking that criminalize human trafficking against women, men, and children for all end purposes;

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<sup>14</sup> US Department of Justice. Trafficking in Women and Children: The U.S. and International Response

<sup>15</sup> US Department of Justice. Trafficking in Women and Children: The U.S. and International Response

<sup>16</sup> US Department of Justice Assessment of U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2001-2005.

<sup>17</sup> UN Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region FAQs <http://www.no-trafficking.org/content/FAQ/faq3.htm#q18>

- Enhance international law enforcement cooperation and mutual legal assistance mechanisms;
- Reduce official corruption;
- Ensure effective investigation and prosecution of traffickers;
- Recognize that all human beings have inherent basic rights, regardless of legal status;
- Increase effective channels through which victims and witnesses can report trafficking crimes, and ensure protection for such witnesses and victims;
- Increasing the traffickers' perception of risk by simultaneously implementing penalties that accurately reflect the severity of the crime, and increasing the capacity of law enforcement agencies to advance trafficking cases.

### ***Promoting safe migration***

- Promote safe migration, and provide awareness raising and education that ensures intending migrants know the dangers of human trafficking;
- Create and support mechanisms for safe and efficient legal migration;
- Develop safeguards for the protection of migrants, particularly in destination countries
- Promote creation of empowered networks of migrants in destination countries to provide information about how trafficking occurs, and assist victims;
- Bring migration laws in line with current labor market realities in the region.

### ***Trafficking prevention***

- Recognition of education as a key preventive measure against child trafficking;
- Improved awareness among vulnerable children;
- Improved protection networks at community level.

### ***Protection of trafficking victims***

- Adoption of measures for the protection of and assistance to victims of trafficking;
- Improved mechanisms for return and reintegration;
- Reduction of the discrimination and social stigma for returned trafficked children;
- Protection of returnees from retribution by trafficking gangs, corrupt authorities, or employers;
- Creation of assistance programs and employment opportunities for returnees
- Availability of avenues for recourse for victims of trafficking

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