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**Stuck in Traffic:
Sexual Politics and Criminal Injustice in Social Movements Against Human Trafficking**

By

Edith Celine Marie Kinney

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

Jurisprudence & Social Policy

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Kristin Luker, Chair

Professor Jonathan Simon

Professor Kathy Abrams

Professor Marianne Constable

Fall 2011

Abstract

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University of California, Berkeley

Professor Kristin Luker, Chair

This dissertation analyzes the sexual politics of transnational movements against human trafficking. I track the periodic securitization of women's migration and commercial sexual exploitation in international affairs from the Victorian-era movement against "White Slavery" to the contemporary campaign against "modern day slavery" and sex trafficking, using the case of Thailand to investigate the role of women's advocates in the transformation of governance strategies to address the issue.

Drawing on a year of field research in Thailand, I analyze the development of collaborative, inter-agency organizations that partner non-governmental organization ("NGO") advocates with criminal justice and social welfare officials to implement "rights-based" measures to prevent trafficking, protect victims, and prosecute offenders. I examine the rise of the anti-trafficking movement in Thailand to explore the complex interplay between the state, civil society organizations, and transnational advocacy networks, as well as movement organizations' strategic mobilization of domestic and international law to pressure states for policy reform.

The following chapters demonstrate the complex ways different social movement organizations and state agents engage women's rights to frame interventions, attract media and financial resources, and secure political influence to advance diverse goals in both local and international forums. I explore the tension between rights-based and crime control approaches to trafficking and labor exploitation by analyzing the divergent incentives of different actors in the processing of trafficking cases. The dissertation reveals how efforts to advance women's rights through criminal justice interventions often operate to create collateral consequences for the very groups they intend to assist and empower.

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Dedication

for my mother

PROLOGUE - Raids, Rescues and Rights¹

The brothel stood off a cobblestone lane in Chiang Mai, Thailand, just beyond the ancient banyan tree and crumbling medieval walls marking the border of the old city. Streams of men came and went throughout the night, some alone, others joking drunkenly with groups of friends. The brothel had been under surveillance by former police investigators and legal professionals from an American faith-based non-governmental organization (NGO), funded by the United States Agency for International Development (USAID). They were looking for evidence of forced prostitution and sex trafficking to pressure local police officials to raid the brothel and to arrest and prosecute suspected traffickers.

The NGO hired a Burmese migrant to go undercover, posing as a customer to scope out the establishment and determine if there were any trafficking victims inside.² The man counted the number of used condoms in the trash cans, noted the size and condition of the rooms, and mapped entrances, exits and offices. He also made audio and video recordings of women working in the brothel without their knowledge or consent. The American NGO presented local officials with information suggesting that some of the women in the brothel had been trafficked and others were minors. The report was passed on to a state-backed taskforce that included police, social workers, legal advocates, and members of a local Thai anti-trafficking NGO. After a second six-week follow-up investigation, the taskforce agreed to raid the brothel with the aid of the American NGO.

When the raid team approached the brothel late one night, an American NGO operative kicked down the door “John Wayne-style.”³ Agents swarmed the property with sirens blaring and guns pulled. The police rounded up all the women they encountered, detaining brothel workers and visiting friends. The “rescued victims” were handcuffed during the initial vetting process. Immigration officials sorted out Thai women from Burmese illegal aliens and ethnic minority women. Unable to speak the languages of the confused and terrified women, social workers attempted to identify which were “willing victims” (voluntary sex workers) and which were “unwilling victims” of trafficking. Officials believed that the “unwilling victims” might be more readily induced to cooperate with investigators.⁴

¹ This opening section recounts a controversial brothel raid carried out in Chiang Mai, Thailand in 2003. Chiang Mai is the largest city in Northern Thailand and is a major destination for migrants from the Greater Mekong Subregion, particularly “hill tribe” ethnic minorities from the mountainous borderlands of Thailand, Myanmar, Laos, and Southern China. Many migrant women find work in Thailand’s sex industry. The narrative draws on accounts by NGO activists, government social workers and immigration officials, shelter operators, and police representatives of the local multi-disciplinary anti-trafficking taskforce. It also includes information regarding the reactions to the raid from other activists in the local NGO community, including sex workers’ and migrants’ rights organizations.

² Interview with George, American faith-based NGO activist, July 15, 2005.

³ Interview with Banyat, Thai anti-trafficking NGO director, March 22, 2005.

⁴ Interview with Solada, victim assistance provider, Thai anti-trafficking taskforce, February 28, 2005.

Reflecting the complexity and diversification of the Thai sex industry, there are several Thai phrases referring to prostitution that imply varying degrees of disparagement to recognition of the practice as work (low-class brothel whore, woman selling her body/services, women trading in sex, women seeking a living, rented wife, or women working with foreigners at go-go or beer bars). Several Thai interviewees indicated that “unwilling victims” meant women or girls who had been trafficked, tricked, or coerced into prostitution. When I asked who they identified as “willing victims,” interviewees explained that such women “volunteer to sell their bodies,” using

Several of the women working at the brothel had been taking classes at a local sex workers' rights and empowerment organization; activists and friends were frantic over their disappearance. One woman had stopped by the brothel to say goodbye and collect her earnings before returning to her family's village for an upcoming holiday. The police confiscated her belongings and all her savings when they arrested her.

The police, who reckoned that the publicity would enhance the status of their unit, invited the media to attend the raid.⁵ Photos of the half-naked women appeared in local newspapers and on television the next day under lurid headlines about the local and national "flesh trade," with captions including some women's names.⁶

After their capture, the women were detained in a locked shelter facility set up in a government orphanage. The women thought the raid was an attempt to arrest them for prostitution and illegal immigration, rather than a rescue operation. Investigators subjected the "rescued" women "to continual interrogation and coercion, warning the detained women that "refusing to be witnesses against their traffickers would further delay their release."⁷ Some of the rescuees escaped by stringing together sheets and hanging them out the windows because they did not want to cooperate with investigators or social workers. One woman fell and broke her back in her escape attempt.⁸

Some women had been exploited during their journey to Thailand or suffered abuse from clients (or police) at the brothel. Many of the women had voluntarily migrated to Thailand from Burma with the intent to work in the sex trade. Many others, however, claimed not to be victims simply so they could speed along the deportation process by avoiding detention as a witness. Nearly all the women intended to re-migrate to Thailand to resume sex work as soon as possible. They were dismayed at being prevented from earning money to support their poverty-stricken families. With few other options, the women were frustrated that they would have to pay for another round of smuggling fees and bribes (in cash or sex) to border guards, soldiers, and police during the risky return journey.⁹

Few of the anticipated victims were found in the raid, in part because the inter-agency taskforce organizing the intervention had been unable to identify trustworthy police at the local level who would not tip-off brothel owners.¹⁰ Many of the "victims" who were found were unwilling to cooperate with law enforcement officials. For some, this was because they were familiar with police corruption: they had been harassed or abused by police; they had received police as clients, often without pay; or they had witnessed officers accepting bribes. Other women refused to explain the circumstances of their migration into Thailand for fear of implicating those who assisted them (often friends or family), or out of concern about exposure

the Western phrase "sex worker," a term adopted and promoted by Thai sex workers' rights NGOs such as EMPOWER and GAATW (Global Alliance Against Trafficking in Women).

⁵ Interview with Mengrai, district police chief, May 17, 2005.

⁶ See Empower Chiang Mai, *A Report by Empower Chiang Mai on the Human Rights Violations Women are Subjected to When "Rescued" by Anti-trafficking Groups who Employ Methods using Deception, Force and Coercion*, 2003.

⁷ Ibid.

⁸ Interview with Solada, Thai anti-trafficking NGO victim assistance provider, February 28, 2005; Interview with Senii, social worker and government shelter operator, March 30, 2005.

⁹ Interview with Lulu, sex worker NGO activist, July 8, 2005.

¹⁰ Interview with Mengrai, district police chief, May 17, 2005; Interview with Lap, Thai anti-trafficking NGO operations leader, April 28, 2005.

as a sex worker in their village. Some migrant women even worried that they could be charged as traffickers for having helped sisters or friends migrate to find jobs in the sex industry.

Because the prosecutor found so few rescued women who were willing to testify, he released the alleged trafficker for lack of evidence. While many of the “rescued” women remained in custody, the brothel owner had his business back up and running within the week.¹¹ And so it continued: when one woman is rescued, there is always another to take her place.

* * * * *

This botched brothel raid from 2003 exemplifies the complex and problematic relationship between crime control and rights-based approaches to human trafficking and commercial sexual exploitation. Despite increasing collaboration between women’s advocates and state agencies to develop a gender-sensitive, rights-based response to human trafficking, in practice, many benevolent interventions actually compound rights violations against exploited migrants. The collateral damage suffered by migrants due to Thailand’s anti-trafficking campaign illustrates the practical effects of ideological discord between different stakeholders in the movement to abolish “modern-day slavery.” It also reveals the gap between the strategies of well-intentioned anti-trafficking organizations and the remedies sought by many migrants themselves.

The image of the trafficked and sexually enslaved Thai prostitute has mobilized anti-trafficking stakeholders across the political spectrum, from local women’s- and migrants- rights groups to American radical feminists, conservative politicians, and religious organizations. Though many sex establishments in Thailand cater to local clientele, the country’s sex industry gained international notoriety due to its association with prostitution around military bases and “Rest and Relaxation” centers catering to American troops during the Vietnam War; the subsequent expansion of the sex entertainment infrastructure through government-promoted sex tourism; the international outcry against child prostitution and sex trafficking; and the HIV/AIDS epidemic in the 1980s and 1990s.¹² The plight of the “suffering third world prostitute” – an idealized victim subject – galvanized the international campaign for women’s rights as human rights, crystallizing intersecting forms of violence against women and exemplifying diverse feminist critiques regarding the patriarchal roots of women’s social, economic, and sexual subordination.¹³ The powerful rhetoric of sexual slavery positions women’s groups as experts

¹¹ Interview with Banyat, Thai anti-trafficking NGO director, March 22, 2005.

¹² See Wathinee Boonchalaksi and Phillip Guest, *Prostitution in Thailand* (Nakhon Pathom, Thailand: Institute for Population and Social Research, Mahidol University, 1994).

¹³ Donna Sullivan, “Women’s Human Rights and the 1993 World Conference on Human Rights,” *The American Journal of International Law* 88, no. 1 (1993): 152-176; See, e.g., Jo Doezema, “Ouch! Western Feminists’ ‘Wounded Attachment’ to the ‘Third World Prostitute,’” *Feminist Review* 67 (2001): 16-38; Ratna Kapur, “The Tragedy of Victimization Rhetoric: Resurrecting the ‘Native’ Subject in International / Post-colonial Feminist Legal Politics,” *Harvard Human Rights Journal* 15 (2002): 1-37.

Divisions regarding the definition of trafficking and its relationship to commercial sexual commerce and consumption have fractured the international women’s movement into factions promoting different policy and legal approaches to the commercial sex industry. Trafficking problematizes core issues in feminist theory and advocacy, particularly the tension between women’s agency and right to self-determination versus the structural effects of economic subordination and (male) commodification of women’s bodies; the politics of representation and the professionalization of women’s advocacy groups; the tension between intersectional identities of women and the “strategic essentialism” of (some) feminist theories and advocacy strategies; and feminist engagement with the state and cultures of security. The campaign against human trafficking and commercial sexual exploitation in Thailand

and key partners for the state in anti-trafficking campaigns, as NGO activists identify and manage victims, provide shelter and rehabilitation services, and serve as translators, counselors and legal advocates.

Human trafficking is both a cause and consequence of human rights violations – but it is also a crime and a security risk. Highly emotional debates about the scope of “modern day slavery” and the best way to combat it reflect changing legal, political, and socioeconomic arrangements as globalization increases the flow of capital and people across national borders. Moral outrage at the “special evil” of sex trafficking has quickened the pace of anti-trafficking reforms throughout the world – reforms that already were building momentum because of heightened political concern regarding irregular migration, border control, and transnational organized crime. Official campaigns against trafficking and “sex slavery” can also signal a country’s commitment to protecting women’s rights, children’s rights, and human rights to the international community. Influential donor countries have raised the political and economic stakes of trafficking reform, channeling millions in funding to law enforcement institutions, development programs, and NGO projects to promote a desired international legal and moral order, particularly around the issue of prostitution.¹⁴

highlights how many of these debates within feminist theory play out in practice, as different reforms promoted by local and international organizations are implemented by social welfare workers and NGO advocates who rescue and rehabilitate victims, and by the criminal justice officials who engage victim-witnesses to investigate and prosecute cases of trafficking.

¹⁴ The diversification of the global sex industry, the international migration and trafficking of women and children, and the increased visibility of sexual commerce and consumption have provoked a reconceptualization of prostitution, particularly with respect to its relationship to trafficking. Over the past fifteen years, diverse feminists, social conservatives, religious authorities, and politicians have engaged in heated debates regarding the regulation of prostitution and trafficking in both domestic and international law. Policy and legal responses range from efforts to stymie both supply and demand through the criminal law and enhanced policing of (some) forms of commercial sex; decriminalizing the sale of sex but prohibiting its purchase; legalization schemes to register sex workers and regulate the sex industry through labor laws and health codes; adopting proactive “harm reduction” and public health programs; imposing protectionist polices that rescue-rehabilitate-and re-educate “victims” of prostitution and sex trafficking; as well as immigration law reforms and enhanced border interdiction strategies aimed to identify and prosecute traffickers, encourage victims of trafficking to testify against their exploiters, and to deport illegal immigrants. International organizations and large donor countries like the U.S. attempt to promote their preferred mode of prostitution regulation and trafficking policies through programs to increase the capacity of enforcement agencies, by providing foreign advisers to reform laws, and by funding NGOs that champion the (moral) politics and interventions of donor organizations.

The United States has been particularly influential in the contemporary war against “modern-day slavery,” particularly with regards to the emphasis on combating sex trafficking by cracking down on prostitution, through both foreign aid and a unilateral sanction regime. The 2000 Trafficking Victims Protection Act (TVPA) and subsequent reauthorizations mandate the U.S. State Department to compile an annual Trafficking in Persons (TIP) Report ranking foreign governments’ efforts to eliminate trafficking by prosecuting traffickers, protecting victims, and preventing trafficking. The TVPA provides that a negative ranking on the TIP Report is cause for economic sanctions including the denial of non-humanitarian aid, non-trade related assistance, certain development-related assistance, and aid from international financial institutions like the International Monetary Fund and the World Bank. The “new abolitionist” alliance of radical, anti-prostitution feminists with social conservatives and evangelical Christians created a powerful lobby that directed anti-trafficking policies during the administration of former President George W. Bush, channeling funding and resources to anti-prostitution groups worldwide. See Elizabeth Bernstein, “The Sexual Politics of the ‘New Abolitionism’,” *Differences* 18, no. 3 (2007): 128-151; Elizabeth Bernstein and Janet Jakobsen, “Sex, secularism, and religious influence in U.S. politics,” *opendemocracy*, August 25, 2010, <http://www.opendemocracy.net/5050/elizabeth-bernstein-janet-r-jakobsen/sex-secularism-and-religious-influence-in-us-politics>.

However, the problems associated with the enforcement of new anti-trafficking laws and programs may often be invisible to foreign sponsors of reform. Thus, the implementation of anti-trafficking reforms can serve as the vehicle for alternative (and often repressive) political agendas, legitimated by the collaboration of civil society organizations and others in the “rescue industry” spawned by the global effort to combat “modern day slavery.”¹⁵

The new modes of socio-spatial regulation resulting from the movement to criminalize trafficking, arrest traffickers, protect victims of trafficking, and prevent commercial sexual exploitation include contemporary governance mechanisms that advance a range of policy goals. New laws against trafficking not only work to protect (certain) exploited migrants; efforts to guard against trafficking also legitimate enforcement policies to step up border control and restrict irregular migration while accommodating domestic demand for cheap labor. Official campaigns against trafficking can also signal a country’s commitment to protecting women’s rights and human rights to the international community.

Many countries, including Thailand, have adopted reforms developed by women’s advocacy organizations to promote a gender-sensitive, victim-friendly approach to trafficking cases, such as new interview protocol to minimize trauma during investigations, detaining victims in shelters rather than jail cells, and providing psycho-social services and rehabilitation. However, the state officials who implement these reforms do not necessarily share the mandates or motivations of the social justice advocates that promote them.

The response to trafficking in Thailand reflects a dynamic Jonathan Simon identifies as “governing through crime” that operates as “a set of strategies for knowing and acting on subjects of crime . . . and the state and local institutions that address them,” and also creates a “framework generating a new set of privileged subjects for government, including victims and state law enforcement.”¹⁶ Anti-trafficking campaigns are animated by an idealized subject of the law – young, innocent victims of sexual slavery – as well as a desire to punish the villainous traffickers and sexual predators who prey on them. As David Garland observes in his analysis of criminal justice policy in “high crime societies,” the figure of the victim “as a righteous figure whose suffering must be expressed and whose security must henceforth be guaranteed” is reflected in the anti-trafficking rhetoric of social movement activists as well as politicians.¹⁷ Dire warnings that sex trafficking could be occurring in “your own backyard” legitimates dramatic political action and enhanced powers for security actors to protect (potential) victims and identify (suspected) offenders through increased surveillance and policing, facilitated by vigilant community members, faith-based organizations, and women’s advocacy groups who work with criminal justice agents to fight the scourge of human trafficking. Thailand’s “war on trafficking”

Legislative reforms and USAID policies introduced restrictions requiring grantees to sign an anti-prostitution pledge as a condition of funding; as USAID and U.S. grants are a critical source of funding for many countries’ anti-trafficking campaigns, the U.S. has inculcated its abolitionist agenda into domestic, regional, and international anti-trafficking policies. In Thailand, the influence of American policies has translated into enforcement practices that target the most recognizable victims – raids to “rescue” migrant women in prostitution – and the most convenient offenders – arresting the low-level people movers who facilitate irregular migration, rather than the factory and business owners who exploit vulnerable workers. See, e.g., Noy Thrupkaew, “The Crusade Against Sex Trafficking,” *The Nation*, October 5, 2009, <http://www.thenation.com/article/crusade-against-sex-trafficking?page=full>.

¹⁵ Laura Agustín, *Sex at the Margins: Migration, Labour Markets and the Rescue Industry* (London: Zed, 2007).

¹⁶ See Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2007).

¹⁷ David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001), 11.

is taking place alongside a “war on drugs,” a “war against dark influences” (corruption), a “war on terror” against both internal and external threats, a crackdown on illegal immigration, and the forced repatriation of unwanted refugees, revealing the ascendancy of security-oriented campaigns to address social problems.

What happens when enforcement officials ordered to protect national security, arrest illegal immigrants, and fight crime, are tasked with protecting the rights of economically- and/or sexually-exploited migrants? And how has the increasing collaboration between advocacy organizations and government officials to promote a rights-based approach to trafficking affected the practical implementation of anti-trafficking reforms? This dissertation explores these questions by analyzing movements to combat human trafficking and commercial sexual exploitation in Thailand. I investigate different strategies Thai activists deployed to pressure the Thai government to take action to address trafficking and exploitation in prostitution. The following chapters explain how a small group of committed advocates generated a transnational movement and made trafficking and sexual exploitation vanguard issues on the human rights agenda. Those chapters also explore how the implementation of sought after reforms can be affected by a political and cultural context marked by a history of violent repression of social justice activism, official complicity in the sex industry, and social resistance to reforms advancing women’s rights.

Research Methods

This dissertation draws on over eight years of research regarding campaigns against human trafficking and commercial sexual exploitation in Thailand. I spent a year in Thailand on a Fulbright Fellowship from 2004-2005 and an additional two months in 2007 to investigate the social, economic, and legal context of trafficking and domestic and international efforts to combat it. As a lawyer and a social scientist, my work combines legal analysis with qualitative research to reveal how law is constituted through interactions between criminal justice personnel, social workers, NGO advocates, and the women and children targeted as potential victims of trafficking.

Reversing the journey of many ostensible victims of trafficking, I travelled from the sex entertainment districts of Bangkok to remote hill tribe villages in the North and refugee camps in the mountains between Thailand and Burma. I explored border town brothel districts; beaches where aging sex tourists vacationed with their Thai “girlfriends”; and “beer bars” where Western men ogled go-go dancers with numbers pinned to their bikinis. I visited NGO shelters for ethnic minority girls at-risk of recruitment into the sex industry and government rehabilitation centers where “socially disabled” and underage girls found in prostitution spent years in “re-training” programs before being repatriated back home. I also visited other countries in the Greater Mekong Subregion, including Cambodia, Burma, and Laos, to observe the circumstances of women, men, and children who seek to migrate to Thailand to work in factories, fisheries, farms, restaurants, sex establishments, and private homes.

My field research involved interviews with key stakeholders, including NGO activists, legal advocates, UN program coordinators, local police, regional and international law enforcement officials, prosecutors, social workers, and public welfare bureaucrats. I also observed local and regional NGO meetings, human rights workshops, United Nations programs, and the intergovernmental summit at the 2007 Friends of the Helsinki Process Workshop on Human Trafficking, hosted by Thailand. I studied conversational Thai, conducting some interviews in English and others with the assistance of a translator.

I employed a snowball sampling method to identify additional interviewees and contacts in organizations addressing trafficking and the exploitation of migrant laborers. While some NGO activists I interviewed were partners in the state-backed anti-trafficking taskforces, others represented groups critical of the Thai government's raid/rescue/rehabilitate/repatriate approach to trafficking. The interview data I collected is not intended to be representative of all actors addressing trafficking in Thailand. Rather, I sought to solicit information reflecting different actors' legal consciousness regarding the rights (and wrongs) of trafficked persons, as well as the strategic frames they employ to explain what trafficking is and to advocate their approach to the issue. Due to the sensitive nature of many interviewees' comments and critiques, interviews were conducted on condition of anonymity. Quotes are attributed to the role of the interviewee with respect to anti-trafficking and/or advocacy work, and reflect answers to questions regarding both personal opinions about the most effective ways to address trafficking, as well as the mission of the interviewee's particular organization or agency. Quotations in the following chapters are drawn from fifty one- to two-hour semi-structured interviews with the stakeholders I interviewed.

Finally, my research draws on content analysis of anti-trafficking publications spanning three decades, including training manuals for criminal justice agents and social workers, organizational websites, press releases, research project reports, and public awareness campaign materials from NGOs, Thai public welfare agencies and international organizations. I utilize a variety of archival sources from Western and Thai researchers to explore how Thailand's history, politics, economics, and society have influenced the response of the Thai government to anti-trafficking advocacy and legal reforms.

Overview

This dissertation highlights the gap between law-on-the-books and law-in-action, revealing how the implementation of well-intentioned legal reforms can serve to legitimate repressive policies and reinforce discriminatory practices among state agents. It also illuminates how conflicting government mandates and the culture of corruption and impunity within the Thai military and police complicate the realization of reforms aimed to promote gender-awareness, victim-sensitivity, and a rights-based approach to trafficking.

The following chapters detail the political, historical, and cultural factors that shape both the mobilization of anti-trafficking activists and the response of state agents in Thailand's campaign to address trafficking and exploitation in the commercial sex industry. I show how social movement actors developed the ability to shift between political discursive fields, utilizing strategic frames that resonated with targeted audiences to create both material and symbolic opportunities for social movement organizations (SMOs). In the following chapters, I argue that while Thailand's political opportunity structure favors women's movement SMOs advocating protectionist claims, law plays a complex role in mediating between political opportunity structures, discursive opportunity structures, institutional access, and different constituencies. I explore how this ongoing negotiation shapes the trajectory of transnational and local anti-trafficking movements, how different SMOs navigate between political fields to transform national fields and promote desired policy changes, and how SMOs can lose control of the "spin" of an issue to competing groups and/or state agents advancing alternative agendas.

Chapter One develops a multidisciplinary theoretical framework for analyzing the interaction between the political fields across which debates over Thai trafficking and sex work play out. More specifically, I theorize that social movements and transnational advocacy

networks engage and transform political and discursive opportunity structures within given fields, both reacting to and creating opportunities for change. I introduce the concept of “social movement drafting,” whereby movement actors exploit the successes of earlier and/or allied movements to reduce political and social resistance to mobilization and to pressure the state to reform laws, policies, and enforcement practices. This theoretical framework informs the later analysis.

Chapter Two examines the historical context of efforts to address trafficking in Thailand. This chapter describes the colonial encounter between the Kingdom of Siam and Western countries, explaining historical factors that have shaped Thailand’s responses to international critiques regarding trafficking, sexual exploitation, and “white slavery.” Victorian-era associations between sexual respectability, morality, and “civilized” society threatened the sovereign status of the Kingdom, leading the country to Westernize its system of government and law, abolish slavery, regulate prostitution, and (officially) renounce the elite tradition of polygamy in an effort to establish Siam as a legitimate member of the emerging international community of nations. I examine how the management of gendered appearance and sexual access to women’s bodies served to construct and display Thai national identity. The chapter explains how Siamese elites strategically adopted and adapted Western systems of law and governance to ward off colonization and effect an “internal colonization” to consolidate control over independent tributary states and unruly populations.

Chapter Three details how American military and development support militarized Thailand’s political field and facilitated rapid social and economic change. The accompanying Americanization of social norms sparked concerns regarding young women’s dress and sexual behavior, viewed as symptoms of foreign influence, cultural decline, and moral decay. These anxieties crystallized in the figure of the peasant migrant-cum-prostitute, and animated both nationalist critiques of foreign domination by political dissidents and campaigns to reinforce the traditional social order by the military government. Chapter Three explains how the growth of the “rest and relaxation” service sector catering to American occupying troops during the Vietnam War transformed the social significance of prostitution and laid the economic infrastructure for a booming sex tourism industry after the War.

Chapter Four explains how development policies contributed to the growth of Thailand’s tourism and sex sectors. I describe how the erosion of traditional socio-economic structures in rural Thailand motivated many women to migrate for work in Bangkok and abroad, often in the sex industry. The chapter demonstrates how the sexual imperialism of male tourists, official complicity in the sex trade, and mistreatment of migrant women sparked the mobilization of Thai women’s activists against trafficking for commercial sexual exploitation and servile marriage.

Chapter Five explains how Thai “rooted cosmopolitans” raised awareness about the international “sexploitation” of Thai women and helped develop transnational advocacy networks against trafficking and commercial sexual exploitation. The figure of the trafficked and sexually exploited Thai woman served to mobilize an international feminist campaign against sex tourism, the mail-order bride industry, and trafficking for forced prostitution. I describe how Thai activists leveraged a “boomerang effect” generated by transnational advocacy networks to create international criticism that pressured the Thai government to take action to address child prostitution, forced prostitution, and trafficking. This chapter explains how Thai anti-trafficking advocates strategically drafted behind other movements addressing children’s rights, human rights, and HIV/AIDS to position women’s NGOs as both critics of the state and necessary partners to assist victims of trafficking.

Chapter Six analyzes several key lobbying moments in the 1990s that raised the international profile of sex trafficking and galvanized the movement to recognize women's rights as human rights. The trafficked and sexually exploited prostitute served as an idealized victim subject for feminists, calling forth both a need for safety and vengeance.¹⁸ I investigate how competing feminist theories regarding the nature of commercial sex and its relationship to trafficking fractured the international women's movement into anti-prostitution abolitionist and sex workers' rights factions. The chapter explores how the figure of the "suffering third world prostitute," was invoked in framing contests between different factions to promote radically divergent policies and laws governing trafficking and sexual commerce. I analyze how the prostitution/sex work debates between competing feminist factions influenced the drafting of the most recent international agreement addressing human trafficking as a matter of transnational organized crime. I then investigate some implications of housing human trafficking in a crime-control regime as opposed to one concerned with human rights, labor rights, or migrants' rights.

Chapter Seven analyzes the operation of Thailand's contemporary "war on trafficking," exploring the inter-agency taskforces that partner NGO activists with social welfare and criminal justice officials to plan and execute anti-trafficking interventions. I analyze the reform of Thailand's laws addressing prostitution and trafficking to better protect women and children victims of commercial sexual exploitation, calling attention to the gap between law on the books and law in action as state actors implement reforms. Drawing on interviews with taskforce members including activists, shelter operators, police, prosecutors, and legal advocates, I describe the benefits and limitations of collaboration between civil society organizations and the criminal justice system. Chapter Seven highlights the tension between crime-control and rights-based responses to trafficking, exposing the collateral consequences of promoting the rights of trafficked persons, particularly of those in the sex industry, through law-and-order interventions.

Chapter Eight concludes the dissertation by exploring some concerning trends regarding implementation of reforms in the global war against human trafficking, women's rights advocates and anti-trafficking organizations engage cultures of security. I examine how new bilateral and regional anti-trafficking agreements privilege law-and-order approaches to trafficking that overshadow efforts to promote and protect the rights of migrants vulnerable to trafficking and labor exploitation. The complex social, economic, and political processes that animate anti-trafficking interventions in Thailand provide a cautionary tale for policy makers and advocates who promote enhancing the criminal justice response to trafficking and the commercial sex industry. The concluding chapter assesses the trajectory of anti-trafficking reforms in light of the remilitarization of Thailand's political field, yet another military coup, political violence, and accounts of human rights violations by state actors against civilians, migrants, refugees, and human rights activists. The chapter investigates how the resurgence of "wars" on drugs and illegal immigration reflect the Thailand's "governing through crime" approach to socio-economic problems may impact the mobilization efforts of organizations promoting a rights-based approach to human trafficking in Thailand and the Greater Mekong Subregion.

¹⁸ Simon, *Governing Through Crime*.

CHAPTER 1 - Mapping Transnational Social Movements in a Web of Political Fields

Introduction

This chapter poses a theoretical challenge to conventional assumptions about the nature of the state and its relation to local and transnational social movements. I employ an interdisciplinary approach to assess the formation and mobilization of social movement activism against human trafficking and commercial sexual exploitation, using a multidisciplinary methodology that draws on theories of social movements, international relations, feminist jurisprudence, law and society, and global governance.

I posit a theory of political fields interconnected through a global web of networks, which complicates state-centric approaches to the study of international relations, international law, and social movements. The relations between intersecting political fields shape the relationships between the entities that exist in them: between transnational advocacy networks and local instantiations of these movements; between social movement organizations (SMOs) and officials at all levels of government; and, more broadly, between society and law. I introduce the counter-trafficking movement in Thailand to analyze the localization of these wider political processes.

Next, I describe how the discursive and political opportunity structures of a given web of political fields shape the conditions of movement mobilization. Social movement actors engage in strategic framing processes to navigate between different political fields, attract movement adherents, and gain access to resources. Here, I introduce a more complex vision of the role of law in social movements as enabling and constraining movements in both symbolic and material ways. I theorize how different historical, political, legal, and social environments can enable or constrain the range of mobilization tactics available to social movement organizations.

I develop the concept of “social movement drafting,” whereby movement organizations capitalize on earlier and/or allied movements to gain legitimacy, transform framing strategies, and secure political cover in fields inhospitable to movement claims. This approach enables me to analyze the way historical precursors structure the political terrain of contemporary movements, and how the advocacy frames utilized in earlier campaigns for legal reform produce a form of discursive path dependency.¹⁹ The incremental nature of legal change, combined with the resurrection of previous campaigns that link themselves to a tradition of social reform, makes awareness of such historic structuring a particularly important tool in analyzing the sexual politics that characterize contemporary campaigns against human trafficking – and evaluating the likely outcomes of state interventions galvanized by such advocacy tactics.

Finally, I explain the emergence of what I call “nodal governance”: networked partnerships between state and non-state actors to address contemporary security threats like human trafficking. I will show how the transnational women’s movement against human trafficking and sexual violence has contributed to changing conceptions of security, positioned SMOs as security providers, and contributed to the global expansion of “feminist governance” and the institutionalization of women’s rights reforms.²⁰

¹⁹ Raka Ray, *Fields of Protest: Women’s Movements in India* (Minneapolis: University of Minnesota Press, 1999), 12. Ray explains that “the history of past movements is crystallized in the present structuring of a field, for past winners and losers, past events and their memory, all play a part in fashioning its contours and circumscribing its possibilities.”

²⁰ Janet Halley describes feminist governance as “the incremental but by now quite noticeable installation of feminists and feminist ideas in actual legal-institutional power.” The institutionalization of gender-sensitivity

A Web of Political Fields: Reconceptualizing Domestic and Global Opportunity Structures

Overview of Political Fields

Local, national, and regional social norms and political cultures are often in tension with international social movements. As the source of both constraints and opportunities, the features of these political cultures shape options available to activists mobilizing for change. Variations in political and discursive opportunity structures, for example, both affect the ways local movements can articulate and act upon their claims. Certain forms of discourse and certain modes of political activity are legitimized or not based on their relationship to dominant sociopolitical institutions. These factors shape the terrain of the “political field” in which a movement emerges and mobilizes.

Social movements, as with all forms of social activity, take place within political “fields.” Ray describes a field as a “structured, unequal, and socially constructed environment *within* which organizations are embedded and *to* which organizations and activists constantly respond.”²¹ Bourdieu and Wacquant characterize the field as “a network, or a configuration, of objective relations between positions,” making fields both configurations of forces and sites of struggle to preserve or transform those forces.²² A given political field may include the state and its institutions, political parties, media, pressure groups, religious organizations, and social movement organizations – all of which are linked through a shared culture. These diverse actors engage in contests regarding the “legitimate principle of the division of the social world” as well as which groups exercise control over the “use of objectified instruments of power.”²³

In applying the concept of the political field to analyses of social movements, Ray maps political fields along two vectors: the distribution of power, or the “pattern of concentration or dispersal of forces within the field,” and the political culture, or “the acceptable and legitimate ways of doing politics in a given field.”²⁴ While the distribution of power is linked to material resources and institutional *entré*, the factor of political culture is alternatively described as the “prevailing climate” or collectively shared understandings.²⁵ The range of plausible strategies

trainings and victims’ rights provisions in anti-trafficking law and policy exemplifies one form of “governance feminism.” Janet Halley et al., “From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism,” *Harvard Journal of Law & Gender* 29 (2006): 340.

²¹ Ray, *Fields of Protest*, 6 (emphasis original).

²² Pierre Bourdieu and Loic Wacquant, *An Invitation to Reflexive Sociology* (Chicago: University of Chicago Press, 1992), 97. Ray argues that there are “subfields” embedded within the wider political field. While some social movement organizations that adopt an oppositional posture to the prevailing political powers are located within “protest fields,” others more closely allied with the state may occupy a more favorable position and protected cultural status within the larger field (for example, countermovements or reactionary movements that support the status quo or resist challenges to traditional distribution of influence or power). Thus, a “protest field” may consist of “groups or networks that oppose those who have the power in the formal political arena and may or may not share the logic of politics in the larger political field, although they are constrained by it.” Ray, *Fields of Protest*, 8.

²³ Pierre Bourdieu, *In Other Words: Essays Towards a Reflexive Sociology* (Stanford Calif.: Stanford University Press, 1990), 181.

²⁴ Ray, *Fields of Protest*, 7.

²⁵ Karl-Werner Brand, “Cyclical Aspects of New Social Movements: Waves of Cultural Criticism and Mobilization Cycles of New Middle-Class Radicalism,” in *Challenging the Political Order: New Social and Political Movements in Western Democracies*, ed. Russell Dalton and Manfred Kuecher (New York: Oxford University Press, 1990), 24-42; William Gamson and David Meyer, “Framing Political Opportunity,” in *Comparative Perspectives on Social*

available to social movement organizations and the potential outcomes of mobilization are the result of movements being embedded in a particular political field. Thus, the political field provides a conceptual framework that is sensitive to the dynamic local histories, cultures, and contexts in which a given movement operates. Its sensitivity to the influence of local forces makes analysis of “political fields” an apt tool for analyzing local instantiations of transnational social movements and evaluating the efficacy of exported or transplanted movement strategies. Moreover, analyzing social movements across political fields balances structuralist and individualist concerns in assessing the conditions and outcomes of movement mobilization.²⁶

In analyzing both the international women’s movement and the mobilization of local women’s groups around the world, awareness of different cultures and power relations in different political environments is critical to avoid privileging “strategic” (gendered) interests over “pragmatic” (economic) concerns of many women’s groups in developing countries. Mobilization around economic issues of “pragmatic interest” to women (and their husbands and families) has often gone unacknowledged by many scholars of the women’s movement, who tend focus on mobilization around “authentically gendered” issues that advance specifically feminist “strategic” interests.²⁷

As I will show in subsequent chapters, in some political fields, mobilization around women’s pragmatic interests is the most feasible way to access resources, avoid state repression, and ultimately gain political traction and official support for women’s advocacy efforts. Moreover, the “feminist” label is often laden with negative political and cultural connotations of combative and argumentative Western women, and may be levied by movement opponents to delegitimize women’s organizing. Indeed, in Thailand, many activists with whom I spoke who worked on issues affecting women actively resisted the descriptor “feminist” to describe themselves or their work. They were quick to distinguish between the pragmatic, cooperative approach of Thai “advocates for women” and the hostility and aggression towards men associated with (Western) feminism. The variable resistance and claiming of feminist identity demonstrates how the meaning of feminism and social movement goals are constructed by the interaction of both internal and external movement processes, reflecting the effects of the overlapping political fields within which those processes unfold.²⁸

Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings, ed. Doug McAdam, John McCarthy, and Mayer Zald (Cambridge: Cambridge University Press, 1996), 275-290.

²⁶ As Ray explains, excessively structuralist accounts of women’s movements tend to conclude that movements vary with levels of development, while excessively individualist accounts focus on defining role of a few exceptional women. Ray, *Fields of Protest*, 12.

²⁷ Maxine Molyneux, “Mobilization without Emancipation? Women’s Interests, State, and Revolution in Nicaragua,” *Feminist Studies* 11, no. 2 (1985): 227-53. In Molyneux’s analysis, pragmatic interests include issues of employment, wage discrimination, literacy, or access to clean water and electricity. Strategic interests, on the other hand, have come to be understood as authentically gendered issues, such as violence against women, sexual harassment, and reproductive rights. Chapters 5 and 6 discuss how different elements of the international women’s movement promoted the concept of violence against women (VAW) as a unifying frame or common advocacy position that could encompass a range of practices that subordinate women. VAW served to build alliances between women’s advocates in the global North and South and raise the profile of women’s issues on the international human rights agenda.

²⁸ See Nancy Whittier, *Feminist Generations: The Persistence of the Radical Women’s Movement* (Philadelphia: Temple University Press, 1995).

Fields and the Mutual Construction of Political and Discursive Opportunity Structures

Analyzing the emergence and operation of social movements within the context of their political fields – and their ability to navigate between different fields – helps to assess the political and discursive opportunity structures that condition movement mobilization and strategies. This attention to the many and varied influences on movements moves beyond traditional political process theory approaches to social movements. The dominant social movement theorists of the political process school have historically cabined analysis of social movement activity within the concept of a “political opportunity structure.” Rather than a fluid, multi-dimensional, contested terrain of the political field, the political opportunity “structure” is primarily attentive to the dimensions of the institutionalized political system.²⁹

Early elaborations of this political process model adopted a restrictive view of rationality that “assumed that strategic choice was simply a matter of objective opportunities and organizational efficiency.”³⁰ Influenced by work in Europe and in other disciplines, social movement theorists began increasingly to study the role culture plays in mobilization.³¹ As a preliminary attempt to reconcile the two approaches, some scholars posited that culture is yet another aspect of political opportunity structures.³² This enabled scholars to add cultural signifiers to the list of constraints, opportunities, and targets available for social movements, decentering the state and developing a “multi-institutional politics” approach that can account for “new” social movements that seek both formal political and cultural change.³³

²⁹ American theorists initially focused on political process theories to establish the link between institutionalized politics and social movements/revolutions. See, e.g., Doug McAdam, *Political Process and the Development of Black Insurgency, 1930-1970* (Chicago: University of Chicago Press, 1982); Charles Tilly, *From Mobilization to Revolution* (Reading, Mass.: Addison-Wesley, 1978); Sidney Tarrow, *Power in Movement: Social Movements, Collective Action, and Politics* (Cambridge: Cambridge University Press, 1994); Hanspeter Kriesi, “The Political Opportunity Structure of New Social Movements: Its Impact on Their Mobilization,” in *The Politics of Social Protest*, ed. J. Craig Jenkins and Bert Klandermans (Minneapolis: University of Minnesota Press, 1995).

Political opportunity theorists argue that social movements emerge as a result of expanding political opportunities. As Tarrow argues, “The main argument of this study is that people join in social movements in response to political opportunities and then, through collective action, create new ones. As a result, the ‘when’ of social movement mobilization – when political opportunities are opening up – goes a long way towards explaining its ‘why.’ . . . [E]ven groups with mild grievances and few internal resources may appear in the movement, while those with deep grievances and dense resources – but lacking opportunities – may not.” Tarrow, *Power in Movement: Social Movements, Collective Action, and Politics*, 17–18, 81, 150.

McAdam proposes a “highly consensual list of dimensions of political opportunity,” as follows: “1) the relative openness or closure of the institutionalized political system; 2) the stability or instability of that broad set of elite alignments that typically undergird a polity; 3) the presence or absence of elite allies; 4) the state’s capacity and propensity for repression.” Doug McAdam, “Conceptual origins, current problems, future directions,” in *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*, ed. Doug McAdam, John McCarthy, and Mayer Zald (Cambridge: Cambridge University Press, 1996), 27.

³⁰ Myra Marx Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany,” *American Journal of Sociology* 109, no. 2 (September 2003): 304.

³¹ Hank Johnston and Bert Klandermans, eds., *Social Movements and Culture* (Minneapolis: University of Minnesota Press, 1995); Rhys Williams, “The Cultural Contexts of Collective Action: Constraints, Opportunities, and the Symbolic Life of Social Movements,” in *The Blackwell Companion to Social Movements*, ed. David Snow, Sarah Soule, and Hanspeter Kriesi (Malden MA: Blackwell Pub., 2007), 91-115.

³² Gamson and Meyer, “Framing Political Opportunity.”

³³ Elizabeth Armstrong and Mary Bernstein, “Culture, Power, and Institutions: A Multi-Institutional Politics Approach to Social Movements,” *Sociological Theory* 26, no. 1 (2008): 74-99.

Recently, social movement theory has taken a more deeply “cultural turn,” exploring how a movement’s goals, opportunities, and choices are socially constructed and culturally variable.³⁴ Movement actors not only use arguments strategically to advance specific goals; they also seek to redefine how movement constituents, policymakers, and the public understand the meaning of specific practices, laws, or policies.³⁵ Much like analyses of the constitutive nature law, legal consciousness, and legal mobilization, the discourses available or recognizable in a particular field influence how actors construct collective identities, perceive political opportunities, and identify plausible strategies to mobilize the movement or persuade targeted audiences.³⁶

Like political opportunities, discursive opportunities are structured, have patterns, and are anchored in key political institutions. Discursive opportunity structures are defined as “institutionally anchored ways of thinking that provide a gradient of relative political acceptability to specific packages of ideas,” and include the framework of ideas and meaning-making institutions in a particular society.³⁷ Along with the mass media, institutional and cultural structures that organize discourse contribute to the meaning-making processes in a given political field. For example, laws, constitutional principles, and court decisions constitute discursive opportunity structures, in that they provide “concrete ways of understanding what an issue means politically in [a] particular place and time,” and, at least as importantly, vocabularies for talking about social problems.³⁸

When certain interpretations and frames are institutionalized, the resultant discursive opportunity structure privileges certain ways of speaking and articulating political problems,

³⁴ See, e.g., Williams, “The Cultural Contexts of Collective Action: Constraints, Opportunities, and the Symbolic Life of Social Movements”; Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany”; Jennifer Earl, “The Cultural Consequences of Social Movements,” in *The Blackwell Companion to Social Movements*, ed. David Snow, Sarah Soule, and Hanspeter Kriesi (Malden MA: Blackwell Pub., 2007).

³⁵ Sidney Tarrow, “Mentalities, Political Cultures, and Collective Action Frames: Constructing Meaning through Action,” in *Frontiers in Social Movement Theory*, ed. Aldon Morris and Carol Mueller (New Haven, Conn: Yale University Press, 1992), 174-202; Donatella Della Porta and Mario Diani, *Social Movements: An Introduction* (Malden, Mass: Blackwell Publishers, 1999).

³⁶ In the Law & Society tradition, studies of “legal consciousness” explore how people experience and think about the law, legal institutions, and legal rules, and how this awareness affects their day-to-day lives. Sally Engel Merry defines legal consciousness as “the way people conceive of the ‘natural’ and normal way of doing things, their habitual patterns of talk and action, and their commonsense understanding of the world.” Sally Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working-class Americans* (Chicago: Univ. of Chicago Press, 1990). See also,

Scholars of legal consciousness also explore the “mobilization of law,” or how understandings of law/legality are translated into actions and decision-making. See, e.g., Kristin Bumiller, *The Civil Rights Society: The Social Construction of Victims* (Baltimore, MD: Johns Hopkins University Press, 1988); Patricia Ewick and Susan Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998); Patricia Ewick and Susan Silbey, “Conformity, Contestation, and Resistance: An Account of Legal Consciousness,” *New England Law Review* 26, no. 3 (1992): 731-749; Michael McCann, *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization* (Chicago: University of Chicago Press, 1994).

Assessing the legal consciousness of social movement actors is critical to assessing strategic framing processes and movement tactics, particularly when movements are mobilizing to advance legal reforms, as in the movement against human trafficking and commercial sexual exploitation.

³⁷ Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany,” 309; see also, Myra Marx Ferree et al., *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States* (New York: Cambridge University Press, 2002).

³⁸ Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany,” 309.

while subordinating or delegitimizing other ways of framing those problems. This is the structure of discursive opportunity, and identifying it helps explain why certain frames are more prominent in public discourse than others. It also contributes to analysis of the material and symbolic stakes at play in a political field, as discursive opportunities are dynamically related to political opportunities.

Mapping movement activity as responding to political and discursive opportunity structures helps to reveal the effects of political-institutional and cultural factors that construct and constrain possibilities for a given campaign.³⁹ Linking analyses of political and discursive opportunity structures in the concept of the field is particularly useful in studies of social movements and the law, because law operates along both institutional and discursive vectors. Law impacts the ability of SMOs to mobilize material and symbolic resources. Law creates points of institutional entrée and dis/advantages within a political opportunity structure; it also constrains and enables discursive options available to movement actors, the state, and countermovements.

A theory of social movements conscious of the role of political and discursive opportunities within political fields predicts that social movement “success,” however defined, is likely to vary based on the dimensions of the field in which the movement operates. Legal mobilization as a social movement tactic may be more or less effective, for example, in light of the in/stability of the rule of law, the cultural il/legitimacy of “rights talk,” or the existence and accessibility of legal institutions for movement actors. The ability of movement actors to wield law as a tool for social change is determined, in part, by existing political and discursive opportunity structures.⁴⁰ However, social movement actors also exercise agency in the strategic ways in which they invoke the law to challenge power holders and change ideas about what, or whom, the law should protect. The next section assesses how SMOs employ tactical framing processes to pressure states to change their legal response to particular social problems, as well as how these processes situate SMOs as actors with the necessary expertise to solve these problems.

Strategic Framing: Deploying Transnational Concepts in Local Political Fields

Reconstructing Meaning: Frames and Framing Processes

Some social movement theories of more cultural variety have utilized the concepts of “frame” and framing processes to explore the meaning-making work of social movements, or the “struggle over the production of mobilizing and countermobilizing ideas and meanings.”⁴¹ This work moves beyond traditional political process models, which tend to focus on changes to state or political institutions. Elaborating the Goffmanian concept of “framing,” scholars analyze the

³⁹ Johnston and Klandermans, *Social Movements and Culture*; David Meyer and Suzanne Staggenborg, “Movements, Countermovements, and the Structure of Political Opportunity,” *American Journal of Sociology* 101, no. 6 (1996): 1628-60.

⁴⁰ Paul Burstein, “Legal Mobilization as a Social Movement Tactic: The Struggle for Equal Employment Opportunity,” *American Journal of Sociology* 96, no. 5 (1991): 1201-25. Burstein assesses the pursuit of movement goals through “proper channels,” such as the federal courts, finding that resources matter for challengers of the status quo and that the federal government can be a powerful player when it chooses to intervene on behalf of women and minorities.

⁴¹ Robert Benford and David Snow, “Framing Processes and Social Movements: An Overview and Assessment,” *Annual Review of Sociology* 26 (2000): 613.

cultural and ideological work in which social movement organizations engage to promote new meanings of specific policies and practices.⁴² Frame analysis also investigates the role of movement actors as “signifying agents actively engaged in the production and maintenance of meaning for constituents, antagonists, and bystanders or observers.”⁴³ The study of framing strategies by social movements helps to explain why certain discursive opportunities may be more or less potent than others.

Benford and Snow define collective action frames as “action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a social movement organization.”⁴⁴ Collective action frames are produced through interactive and constructionist processes, representing the “outcome of negotiating shared meaning.”⁴⁵ As social movement actors identify problematic situations, propose action, and attempt to mobilize movement participants, they construct a collective action frame to “make attributions regarding who or what is to blame, articulate an alternative set of arrangements, and urge others to act in concert to effect change.”⁴⁶ In so doing, social movement activists and organizations attempt to “identify ‘victims’ of a given injustice and amplify their victimization,” align their position with sympathetic audiences (e.g., the media or donors), and “[construct] vocabularies of motive” that support broader political or institutional goals.⁴⁷ As such, collective action frames perform three “core framing tasks,” including “diagnostic framing,” “prognostic framing,” and “motivational framing.”⁴⁸

The particular worldviews of movement actors influence the group’s perception of important goals, as well as the appropriate methods for achieving them. When activists and organizations produce divergent ideas and meanings about a key movement issue or advocacy approach, fractures may emerge in the movement and generate mobilization by splinter groups. The resultant “frame disputes” often reflect differences in “diagnostic framing” (problem identification and attribution of blame), “prognostic framing” (the solutions, plan of attack, and strategies proposed to address the problem), and “motivational framing” (the “call to arms”).⁴⁹ Thus, frame disputes can be significant motors of change within advocacy networks and social movements more broadly.⁵⁰

⁴² Goffman conceptualized frames as “schemata of interpretation” that enable individuals “to locate, perceive, identify, and label” occurrences within their life space and the broader world. E. Goffman, *Frame Analysis: An Essay on the Organization of the Experience* (New York: Harper Colophon, 1974), 21.

⁴³ Robert Benford and David Snow, “Master Frames and Cycles of Protest,” in *Frontiers in Social Movement Theory*, ed. Aldon Morris and Carol McClurg Mueller (New Haven, CT: Yale University Press, 1992), 136.

⁴⁴ Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 613.

⁴⁵ William Gamson, *Talking Politics* (New York: Cambridge University Press, 1992), 111.

⁴⁶ Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 615. The construction of collective action frames reflects the “naming, blaming, claiming” processes involved in the transformation of disputes, as analyzed by Law & Society scholars Felstiner, Abel and Sarat. William L. F Felstiner, Richard L Abel, and Austin Sarat, “Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . .,” *Law & Society Review* 15 (1980): 631 - 654.

⁴⁷ Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 615, 617.

⁴⁸ *Ibid.*, 615.

⁴⁹ *Ibid.*, 615–616.

⁵⁰ Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998). See also H. H. Haines, *Against Capital Punishment: The Anti-Death Penalty Movement in America, 1972-1994* (New York: Oxford University Press, 1996). Haines found that the anti-death penalty movement in the U.S. evolved into two distinct wings of abolitionists, who advocated for complete abolition of the death penalty, and litigators, who focused on saving individual clients on a case by case basis.

To explore the competing ways factions of the international women's rights movement have framed the issue of human trafficking in different political fields, I employ Myra Marx Ferree's concept of the frame as an "interpretive package [with an internal structure organized around a central idea] . . . in a dynamic model of interaction between challengers and power holders."⁵¹ An understanding of framing as a dialectic process lends itself to analysis of intramovement contention about the most effective frames to diagnose the problem, mobilize targeted audiences, gain cultural influence and media visibility, or promote specific reforms while remaining faithful to the movement's core ideological commitments.

Analyzing frame disputes in the context of specific campaigns helps to document the rise of competing factions within a movement and the strategies SMOs employ as they operate in different political fields.⁵² Focusing on the ways SMOs adapt to changing political and discursive opportunity structures to advance their cause illuminates the interrelated processes of frame construction, frame disputes, frame extension, and frame resonance as described by Benford and Snow. Identifying key differences in the diagnostic frames invoked by contending SMOs is critical to understanding how certain framing processes facilitate or constrain specific movement strategies, particularly when frames have been resurrected from earlier campaigns, as in today's movement against "modern day slavery." Similarly, frames borrowed from related campaigns, such as efforts to promote "security," control "crime," or combat "trafficking" may make certain reforms more likely to gain institutional traction than others. This is particularly important when movements are agitating for legislation or implementation of legal reforms, as divergent diagnostic frames profoundly affect both legal strategies and the forms of legal intervention endorsed or rejected by political elites.

Strategic Framing, Cultural Resonance, and Radicalism: Translating International Ideologies into Local Political Fields

The institutional arrangements and culture of a given political field render it more or less hospitable to certain framings, and should therefore affect the way movement actors articulate their claims. Frames that appeal to one group of state actors may be not be received well by other groups. Analyzing how differently situated movement organizations develop frames to selectively engage the state and other actors, emphasize certain issues but not others, and develop strategic frames that support organizational goals without corrupting or compromising its ideology helps to reveal the contours of a given political field. It also exposes the ongoing

Although the groups recognized the importance of the other's strategy, they differed in terms of the prognostic frames they adopted and the tactics they employ to achieve movement goals.

⁵¹ Ferree, "Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany," 308.

⁵² Keck and Sikkink, *Activists Beyond Borders*, 6–7. Keck and Sikkink define campaigns as "sets of strategically linked activities in which members of a diffuse principled network (what social movement theorists would call a 'mobilization potential') develop explicit, visible ties and mutually recognized roles in pursuit of a common goal (and generally against a common target)." Keck and Sikkink justify their methodology by noting that studying networks through the lens of particular campaigns highlights *relationships* between actors in the network, its allies and opponents; *resources* (information, leadership, symbolic or material capital); and *institutional structures* (both international and domestic). Campaigns also allow researchers to explore the interaction between resources and discourses, by figuring campaigns as *processes of issue construction and 'strategic portrayal'* and the ongoing *negotiation of meaning* both within the network and in the international arena (e.g., evolving tactics to recognize cultural differences, resource inequalities, different valuation of the issues).

negotiation for power and influence between different movement factions and between different NGOs and the state as those fields are renegotiated.

Because the political culture of a given field will be more or less hospitable to certain frames, movement actors often seek to develop “culturally resonant” frames. The concept of “cultural resonance” aims to capture the “effectiveness or mobilizing potency” of different framings, based upon the “credibility of the proffered frame” (involving the consistency of the frame, its empirical credibility, and the credibility of the claimmaker) and the “relative salience” of the frame to targets of mobilization.⁵³ However, it is critical to distinguish between the successful invocation of a culturally resonant frame and movement success. Assuming that cultural resonance is the *sine qua non* of movement success is highly problematic, as it obscures the power relations that shape the dominant discourse as well as movement speech. Without paying attention to the way certain movement ideas are “structurally disadvantaged” in the dominant discourse, analytic approaches positing cultural resonance as a prerequisite for success may find that “the ‘best’ movement speech will appear to be that which is most co-opted.”⁵⁴

Furthermore, framing is not simply a marketing strategy; it is an expression of ideology and values, and is often part of a broader attempt to challenge the ideological prerogatives and cultural assumptions of targeted audiences. Not all movement speakers share the same motivations in framing key issues. Indeed, some movement factions may persistently promote radical (rather than resonant) frames, even at the risk of jeopardizing more immediate political gains such as the approval of elites or widespread popular support. Movement actors that “seek a restructuring of hegemonic ideas and the interests they express and support” may be willing to sacrifice short-term strategic effectiveness and conventional acceptance to express ideological purity, attract the attention of outsiders, or contest the conventional acceptance (and potential cooptation) of other movement factions.⁵⁵

What is considered radical or resonant will vary depending on the local structuring of discourses and the political culture of the field in which movement actors are operating. Indeed, as the same movement actors may move between fields, the same frame may be received as resonant in one field and radical in another. The fluid nature of resonance and radicalism is particularly important to keep in mind when evaluating the activities of social movement organizations that operate in both domestic and international political fields. Where a transnational movement has fractured, or where different SMOs within the same movement engage in framing disputes, it is critical to analyze how certain speakers are discursively marginalized or privileged in different institutional settings.

The framing strategies SMOs can employ depend on their position(s) relative to the concentration of power and political culture dimensions of a political field. For example, an independent women’s group operating in a field with a homogenous political culture may have to acquiesce to the frames proffered by well-established, state-affiliated women’s group. Alternatively, if there is a heterogeneous political culture, even a small, independent group may be able to access a broader range of strategies because it is connected to power forces in overlapping political fields, for example, through an international advocacy network. As individual activists and organizations “constantly negotiate between their ideologies, their knowledge of their groups’ capacities, and the possibilities of their groups’ effectiveness,” they

⁵³ Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 619–621.

⁵⁴ Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany,” 305.

⁵⁵ *Ibid.*, 305–306.

make strategic decisions regarding the way they will frame an issue, which audiences or institutions they will target, and the potential allies or enemies that may respond to particular framings of the issue.⁵⁶

While some ideologies or frames are “created indigenously, within a certain political culture,” movement organizations may also invoke “borrowed ideologies” from other fields or opportunity structures outside their own political field.⁵⁷ The international women’s movement and the human rights movement are important sources of social justice ideologies circulating at the global level. Social movement actors often attempt to localize these discourses through strategic framing techniques designed to connect ideas generated outside a given field to traditional sources of political and cultural legitimacy. The acceptance or translatability of borrowed ideologies depends on the nature of the ideology and the relative permeability of the political culture into which it is imported.⁵⁸ The political culture may serve as a deterrent against borrowing ideology from outside the domestic political field.

Even where a particular framing is radical or resisted in a local political field, if it is resonant with powerful actors or institutions in another field (for example, in the national political field of an important ally), local elites may adopt or acquiesce to non-resonant framings. Again, however, adoption of a frame does not necessarily result in change. Officials responding to demands for reform may nominally adopt a frame while shoring up or reconstituting challenged practices to defuse the transformative potential of the borrowed ideology. Thus, while state agents may endorse a frame in form, the institutional changes desired by movement actors may not necessarily follow, demonstrating the “preservation through transformation” dynamic elaborated by Reva Siegel.⁵⁹

Analyzing how social movement actors localize “borrowed ideologies” such as human rights and women’s rights in different political fields – and how state actors respond to these frames through political resistance or reform – demonstrates the importance of strategic framing processes to a movement’s ability to translate concepts from the international field to local contexts.⁶⁰ It also underscores the critical role international advocacy networks play in linking domestic and international political fields.

The ability to shift between political and discursive fields by invoking different frames that resonate with targeted audiences offers both symbolic and material opportunities for movement actors. Subsequent chapters explore how contending prognostic and diagnostic frames are adopted, reconstructed and implemented in legal institutions, such as “rights-based” or

⁵⁶ Ray, *Fields of Protest*, 85.

⁵⁷ *Ibid.*, 69.

⁵⁸ For example, addressing the coercive migration and exploitation of women as a feature of development and globalization may be less threatening in certain political cultures than posing the same issue as one of women’s rights. The malleability of rights talk allows political elites to acknowledge the importance of rights violations, but it does not guarantee that the state will actually respond to such complaints by enforcing or advancing women’s rights.

⁵⁹ Reva B. Siegel, “‘The Rule of Love’: Wife Beating as Prerogative and Privacy,” *Yale Law Journal* 105 (1996): 2117-2206. In her study of efforts to modernize domestic assault law, Siegel shows how efforts to reform a status regime may bring about change, but perhaps not the kind of change sought by social movement advocates. Although movement actors may successfully contest the legitimacy of a status regime, legal actors may both “cede and defend status privileges – gradually relinquishing the original rules and justificatory rhetoric of the contested regime and finding new rules and reasons to protect such status privileges as they choose to defend.” Efforts to modernize legal regimes may produce unintended consequences that entrench traditional power relations, even as elites translate them into a “more contemporary, and less controversial, social idiom.”

⁶⁰ Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2005).

“gender-sensitive” anti-trafficking policies. Consistent with frame theory, my research demonstrates how being embedded in different political fields affects the availability and meaning of different frames and strategies to local SMOs.⁶¹ Further, the concept of interacting and mutually constitutive political fields helps to avoid privileging conceptions of legal mobilization based in analyses of social movements in the West, particularly the traditions of American reform movements that have informed much of the social movement literature thus far.

In the following chapters, I argue that, while Thailand’s political opportunity structure favors women’s movement SMOs advocating protectionist claims, law plays a complex role in mediating between political opportunity structures, discursive opportunity structures, institutional access, and different constituencies. I assess how this ongoing negotiation shapes the trajectory of anti-trafficking movements as SMOs navigate between different political fields to transform national fields and promote desired policies. In addition, I analyze how the gap between law-on-the-books and law-in-action in a given political field may cause SMOs to lose control of the “spin” of an issue to competing groups and/or state agents advancing alternative agendas.

Social Movement Drafting

The following chapters introduce and elaborate a concept I call “social movement drafting,” whereby SMOs “draft” behind other movements to reduce social and political resistance to movement claims and to minimize the effort required to maintain the momentum of an advocacy campaign. The idea of “drafting” is drawn from racing, where one racer stays close behind another to take advantage of the reduced air pressure created by the leader.⁶² The tactic is often effective for both the leader and the drafter, as the aerodynamics for both improve and they travel faster. Drafting is now without its risks, however. The drafter’s position close behind the leader makes the drafter vulnerable to any mistakes or accidents that befall the leader. The drafter may also be vulnerable when it attempts to move out from behind the leader and advance on its own. I apply this concept to the study of social movements by analyzing how Thai SMOs seek to decrease the effects of political and discursive resistance or “drag” by exploiting the efforts of earlier campaigns, riding in the political wake or slipstream created by other social movements – and risking encountering the same problems that affect those earlier movements.

Social movement “drafting” draws on the concept of “frame diffusion,” which explores how movement ideas, collective action frames, and practices spread from one movement and one culture to others, and how framing processes influence the diffusion of movement beliefs and practices.⁶³ Benford and Snow theorize two ideal types of social movement diffusion processes

⁶¹ Ray, *Fields of Protest*, 11. While acknowledging the important role individual movement actors play in determining the “shape and substance” of a movement, Ray emphasizes that movement strategies and outcomes must be analyzed in terms of their “embeddedness in fields, thus granting greater analytical weight to external rather than internal movement dynamics. . . . [because] the range of possibilities of actions and outcomes, and indeed the very understanding of gender politics. . . are structured by the political field.” Ibid.

⁶² See *Merriam-Webster Online Dictionary*, defining “drafting” as “to stay close behind (another racer) so as to take advantage of the reduced air pressure created by the leading racer.”

⁶³ See Snow & Benford’s 1999 study of cross-national diffusion in the social movement arena. David Snow and Robert Bedford, “Alternative types of cross-national diffusion in the social movement arena,” in *Social Movements in a Globalizing World*, ed. Hanspeter Kriesi, Donatella Della Porta, and Dieter Rucht (New York: Macmillan, 1999), 23-39.

where compatibility between transmitters and potential adopters is uncertain and actors seek to achieve cultural resonance in the host/target culture: 1) *strategic fitting or accommodation*, where a transmitter actively promotes diffusion and seeks to tailor or fit the objects of diffusion (cultural ideas, items or practices) to the host culture, and 2) *strategic selection or adaptation*, where an adopter actively attempts to adapt the borrowed item to the new host context or culture.⁶⁴

Because “changing cultural resonances and collective action frames reciprocally influence one another,” social movement actors can recuperate and reorient frames from different movements.⁶⁵ As “both consumers of existing cultural meanings and producers of new meanings,” social movement actors take advantage of the framing and meaning-making work of earlier or allied movements.⁶⁶ The strategic accommodation and adaptation of frames illustrates one way in which social movement actors attempt to integrate borrowed ideologies and transform the political field in which they are mobilizing.⁶⁷

Although the concept of frame diffusion is useful to explain strategic borrowing of movement discourses, ideas, or practices, it is less helpful in understanding the ways in which leader movements can transform both discursive *and* political opportunity structures for the movements mobilized in their wake. By strategically reframing movement claims, advocates can draft behind the momentum of other movements to help to deflect political resistance and criticism by linking their advocacy issues with ideas that have already been constructed as politically significant or acceptable. This tactic helps activists mobilize support for issues that lack cultural resonance in a political field that may be actively hostile to change by borrowing the discourses of their predecessors. Savvy social movement actors will select those discourses that have been most effective for their predecessors, thereby minimizing the risk of following in those predecessors’ wake.

I argue that the concept of “social movement drafting” helps to explain how a small number of women’s advocates in Thailand were able to generate significant changes in state policies and practices around issues of human trafficking and forced prostitution. Despite a lack of cultural legitimacy for women’s groups, political hostility towards women’s rights, the state’s substantial economic interest in maintaining sex tourism, and official complicity in both trafficking and the sex industry, advocates strategically framed movement demands to not only achieve legal reforms – they also framed movement actors as critical partners positioned to aid the state in the interpretation and implementation of those laws. Anti-trafficking advocates drafted behind movements addressing gender-in-development, child rights, and HIV/AIDS, highlighting the economic, moral, and health-of-the-nation frames utilized in these movements to deflect criticism that raising awareness about trafficking and forced prostitution threatened Thailand’s international image and was therefore unpatriotic.

⁶⁴ Ibid.; Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 627.

⁶⁵ Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 629.

⁶⁶ Tarrow, “Mentalities, Political Cultures, and Collective Action Frames: Constructing Meaning through Action,” 189.

⁶⁷ One of the few studies by framing scholars of diffusion processes provides an analysis of how the gay/lesbian movement strategically adapted collective action frames regarding “sexual terrorism” from the women’s movement in order to redefine violence against gays/lesbians as a social problem. Valerie Jenness and Kendal Broad, “Antiviolence Activism and the (In)visibility of Gender in the Gay/Lesbian and the Women’s Movements,” *Gender & Society* 8 (1994): 402-423. Valerie Jenness, “Social Movement Growth, Domain Expansion, and Framing Processes: The Gay/Lesbian Movement and Violence against Gays and Lesbians as a Social Problem,” *Social Problems* 42 (1995): 145-170.

Further, although women's rights initially had little currency in Thailand's political field, advocates also selectively engaged women's rights discourses in the international political field and drafted behind more powerful actors in the global women's movement to effect change at the domestic level. For example, Thai activists raised awareness about trafficking in transnational advocacy networks. Women's organizations abroad subsequently pressured their own governments to raise the issue of trafficking with Thailand, resulting in significant indirect pressure that ultimately persuaded the Thai government to change tack and respond to local advocates' demands. This "boomerang effect," described by Keck and Sikkink, illustrates the importance of strategic framing, as well as the important role drafting tactics can play in allowing a movement to survive and succeed despite political and discursive marginalization.⁶⁸

Mapping Transnational Social Movements

A Global Web of Political Fields

To this point, discussion of political fields has been primarily focused on fields organized at the nation-state level. Although the "field" is a valuable conceptual tool to analyze social movements that operate within a national political field, the transnationalization of social movements and the simultaneous layering of local, national, regional, and global fields and the movement of SMOs between them requires an expansion of the field concept. While the field analogy serves well to acknowledge the material and constitutive effects of different social institutions and cultural practices on a given social movement, the field is bounded by the existence of a "shared political culture" and the associated distribution of power.⁶⁹ Even if the international community is recognized as an important player in a domestic field, the overlap and mutual construction of national and international fields requires a conceptual model more attuned to the interactive relationship between different nations, state institutions, and the networks that connect them. Cabining domestic social movements into subfields governed by a national political culture fails to capture the ability of local organizations to move between local fields and transnational spaces. Moreover, the field metaphor is limited in its capacity to address the transnational mobilization of social movements where the problem identified is an issue that transcends state borders, like human trafficking.

I argue that conceptualizing domestic political fields as embedded in three-dimensional webs tied to other, overlapping political fields allows for analysis of transnational social movements attuned to the gravitational pull of other states' fields, the variable influence of non-state institutions (like UN agencies or international NGOs), and the receptivity of political and discursive opportunity structures to external influence. A web is constituted through the historical, political, and cultural interactions between different fields. The relative positioning of different domestic fields and the nature of interaction between them is strongly impacted by which state is more influential in the current geo-political order, given histories of colonialism,

⁶⁸ Keck and Sikkink, *Activists Beyond Borders*.

⁶⁹ While Ray acknowledges that the international community may be a prominent player in a domestic political field, "serving both as reference point and an arbiter," merely expanding the field concept to an international or global level fails to address the problem that localized subfields, by definition, share a political culture with the overarching (national) political field in which they are located.

structural inequities in trade and development policies, etc.⁷⁰ Some fields are more hegemonic – that is, more powerful and monolithic – and are able to exert more influence over other fields, while others may be more accommodating or assimilative. The shared political culture and distribution of power within a given field is reshaped as it interfaces with other fields: elements of culture or institutions may be adopted, reformed, buoyed, or jettisoned as a result of the interaction. Yet when one country’s political culture or power exerts a gravitational pull on another country’s political field, both fields are affected.

The interaction between fields may work to restyle some aspects of extant political culture and institutional arrangements. Such factors shape the terrain of a political field and its culture, erecting obstacles and providing opportunities for a given movement to frame its demands to state actors and potential constituents. Interaction between fields can influence the power of specific institutions, and consequently change the political and discursive opportunity structures available to social movement activists. This is particularly evident in social movements involving legal mobilization. For example, foreign funding projects aiming to enhance the “rule of law” may channel resources to one state institution, such as police, over others, such as ministries of labor or public welfare.

The spread of human rights discourses is another example of the power of different political fields to transform each other. Human rights discourses provide SMOs a “representational strategy [that functions] as a tool of advocacy,” by linking local problems to a global audience and articulating claims in a language recognizable to international actors.⁷¹ Thus, even if “rights” are not a concept traditionally recognized or valorized in the local or state political field, “rights talk” by activists may be recognized as a tool for political leverage because it resonates with powerful interests in the global community, which in turn exert influence on actors within the movement’s domestic political field. On the other hand, human rights can be used as a mobilizing tool by both state and non-state actors, and the representational politics of human rights means that activism may inadvertently provide “political support . . . to cultures of security in the name of human rights,” which may result in international pressure to adopt security- as opposed to rights-based reforms.⁷²

In sum, forces outside the domestic field may transform the relative authority and accessibility of the institutions within it, as well as the meanings associated with certain practices. Expanding field analysis through the metaphor of the web also helps to decenter excessively structural accounts of the nation-state *vis-à-vis* domestic movements by recognizing *intrastate* variation within and between state institutions, and the different strategies social movements may use to target institutions they perceive as sympathetic to their demands. Further, recognizing the variable influence of different fields on states and state institutions avoids falling

⁷⁰ Examples might include institutional modeling on colonialism, political and military interventions, the influence of donor countries in development programs, the socio-economic consequences of free trade agreements, immigration policies, and the direction of labor movement.

⁷¹ See “Introduction,” in Wendy Hesford and Wendy Kozol, eds., *Just Advocacy?: Women’s Human Rights, Transnational Feminisms, and the Politics of Representation* (New Brunswick N.J.: Rutgers University Press, 2005).

⁷² *Ibid.* States do not necessarily respond to human rights claims in the ways intended by advocates. The efficacy of human rights-based advocacy frames is contingent, in part, on a government’s desire to develop or maintain good standing as within the international community as a rights-respecting nation, its sensitivity to censure from the international community, the divergence between human rights obligations and current state practices, and a state’s willingness to risk sanctions, among others. States may use human rights rhetoric or violations to justify military interventions, promote protectionist legislation, or legitimate forms of social regulation.

into an over-determined game-theory analysis that obscures the role of transnational social movements in *interstate* interaction. Finally, assessing how activists mobilize in response to international and transnational political and discursive opportunity structures in domestic political fields attends to the influence of culture in a state's response to the claims of social movement actors. Such an approach is crucial to analyzing the impact of local manifestations of transnational social movements as well as the constraints and possibilities movements face when invoking international human rights discourses and laws to promote social change.

Transnational Advocacy Networks and Transnational Social Movements

The increasing importance of transnational advocacy networks in galvanizing social change at both the local and international level, coupled with the emergence of transnational social movements as a product and process of globalization, indicate that scholars must reconceptualize domestic social movement activity as taking place in a global web. It also illuminates how local social change agents can parlay international politics to transform the domestic opportunity structure in which they are mobilizing.

Drawing on theoretical tools from analyses of domestic social movements, Keck and Sikkink developed the concept of a "transnational advocacy network" (TAN) to describe the new forms of organizing that emerged in the late 1990s, aiming to capture the increasing interaction between local and international actors and the coalitions formed between advocacy groups in different countries. TANs are defined to include "those relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services. . . . Activists in networks try not only to influence policy outcomes but to transform the terms and nature of the debate."⁷³ TANs bring together different kinds of actors including SMOs, international NGOs, and nationally and locally-based actors, and can include members of the media, religious groups, academics, as well as agents of the state.

The fluidity of the TAN concept allows for analysis of "the informal and shifting structures through which NGO members, social movement activists, government officials, and agents of international institutions can interact and help resource-poor domestic actors to gain leverage in their own societies."⁷⁴ When social movement organizations operate at multiple levels from the local to the transnational, they may gauge their efforts with respect to the gravitational pull or influence of forces outside their own political field. Social movement advocates may seek allies outside their domestic field to help pressure their government for policy changes, employing the "boomerang" strategies of the transnational advocacy networks

⁷³ Keck and Sikkink, *Activists Beyond Borders*, 2–3. Transnational feminist networks are one manifestation of a transnational advocacy network. Valentine Moghadam defines transnational feminist networks as "structures organized above the national level that unite women from three or more countries around a common agenda, such as women's human rights, reproductive health and rights, violence against women, peace and antimilitarism, or feminist economics." Valentine Moghadam, *Globalizing Women: Transnational Feminist Networks* (Baltimore: Johns Hopkins University Press, 2005), 4. Both transnational advocacy networks and transnational feminist networks provide a conceptual framework useful in capturing the diverse types of actors and relationships between individuals, social movement organizations, and international actors. I argue that state actors may also be considered part of TANs in certain campaigns. For example, campaigns against human trafficking in the U.S., Thailand, and in parts of Europe count women officials, particularly those in social welfare bureaucracies, as key allies as well as movement participants.

⁷⁴ Sidney Tarrow, "Transnational Politics: Contention and Institutions in International Politics," *Annual Review of Political Science* 4 (2001): 13.

described by Keck and Sikkink.⁷⁵ Alternatively SMOs may invoke concepts from external fields or “global opportunity structures” to redefine the terrain of their local field.⁷⁶ Thus, the relative positioning and power of a SMO within its national field is due, in part, to the “fact that it inhabits multiple fields and hence has access to multiple networks of potential allies.”⁷⁷ For example, as local SMOs engage with national and international networks at U.N. meetings, conferences, regional taskforces, and in Internet communities, their range of influence is extended beyond the geographical boundaries of the political field in which they are located.

Participating in transnational advocacy networks facilitates local SMOs’ ability to reshape the contours of a national political field by creating new pressure points in the web connecting different fields.⁷⁸ As key organizations and individual “rooted cosmopolitans” forge connections with different nodes of the transnational network, social movement actors are able to call on a diverse array of external institutions and actors to influence policy decisions within its national field.⁷⁹ Chapters Four and Five detail the critical role academic-activists and other “rooted cosmopolitans” played in the mobilization of Thailand’s anti-trafficking movement, illustrating the strategies of domestic-based activists that “use both domestic and international resources and opportunities” to bridge the global and local and channel the power of transnational activism into success at the national level.⁸⁰

The need to complicate theorizing about the relationship between international and domestic social movements has become increasingly evident over the past decade, given the growing density of TANs, the diversity of coalitions, and the recognition that social problems – and the movements that address them – often transcend national borders. However, the relationship between TANs and transnational social movements remains unclear. While Keck and Sikkink expected TANs and domestic social movements to remain distinct, they subsequently observed similarities between the strategies, tactics, and patterns of influence

⁷⁵ Keck and Sikkink, *Activists Beyond Borders*.

⁷⁶ Myra Marx Ferree, “Globalization and Feminism: Opportunities and Obstacles for Activism in the Global Arena,” in *Global feminism: transnational women’s activism, organizing, and human rights*, ed. Myra Marx Ferree and Aili Mari Tripp (New York: New York University Press, 2006), 7.

⁷⁷ Ray, *Fields of Protest*, 149.

⁷⁸ While this concept is similar to Keck and Sikkink’s model of the “boomerang effect” of transnational advocacy networks, where local organizations appeal to outside nations or organizations to pressure their domestic government, I argue that the metaphor of the web provides a more relational model of this interaction. In addition, it allows for a more sophisticated analysis of the different discursive and structural factors that facilitate the “boomerang effect.”

⁷⁹ For example, organizations and activists that mobilize around the issue of sex trafficking in different countries are situated in political (sub)fields which are shaped, in part, by the rise of global feminisms and the international women’s movement. However, the ways in which different organizations and state actors engage conceptions of women’s rights and their relation to trafficking reflect divergent political locations and ideological commitments. See, for example, Fernandes, “The Boundaries of Terror: Feminism, Human Rights, and the Politics of Global Crisis.”

⁸⁰ Sidney Tarrow, *The New Transnational Activism*, Cambridge Studies in Contentious Politics (New York: Cambridge University Press, 2005). Tarrow describes the emergence of “rooted cosmopolitans” as a feature of transnational activism stimulated by “the growth of a stratum of individuals who travel regularly, read foreign books and journals, and become involved in networks of transactions abroad,” which link individuals in webs of interest, values, and technology. Rooted cosmopolitans are domestic-based activists that “use both domestic and international resources and opportunities . . . [to] move outward to form a spectrum of “rooted cosmopolitans” who engage in regular transnational practices. Ibid., 35.

between the two.⁸¹ The decreasing utility of traditional protest tactics and the increasing interaction between domestic and international actors blur the conceptual border between TANs and transnational social movements (TSMs).⁸² The decreasing salience of geographic borders in the communication of information and the flow of material and symbolic resources; the increasingly transnational character of collective action; the fact that local SMOs in different countries may target the same or similar (national or international) institutions (sometimes through TANS, and sometimes independently); and the export, import, and transplantation of strategies from one (domestic) political field to another suggests the need to more critically theorize the operation of transnational social movement actors.

McCarthy and Zald's classic definition of social movements describes them as a collection of organizations that seek to "[change] some elements of the social structure or reward distribution, or both, of a society."⁸³ Transnational social movements involve organizations that mobilize for social change in specific domestic political fields, but also seek to transform international political, legal, and social norms. Representative of social movement scholars who have expanded notions of contestation to include cultural and symbolic struggles as well as political struggles, Della Porta and Diani (1999) provide a broader definition of social movements that expands beyond the traditional, mid-20th century models of collective action and protest movements, defining social movements as informal networks based on shared beliefs, which mobilize about conflictual issues through the frequent use of various forms of protest.⁸⁴ This definition offers a useful conceptual framework to capture the complex exchanges of power and targets of mobilization that characterize TSMs and distinguish them from TANs.

Assessing the conditions under which transnational social movements can work to transform state policies, practices, and political culture requires a more complex vision of the nature of the relationship between state and non-state change agents, as well as the role social movement actors play in constructing and governing social problems. The legal mobilization of social movement organizations can take place on many fronts, and there are multifarious ways in which social movement actors strategically engage law and state institutions. While some SMOs draft and lobby for laws, others implement them, and still others serve as monitors for rights-abuses that may occur as laws are enforced. The next section explores the increasing enrolment of SMOs as "nodes" in state-backed networks to prevent and police crime and other threats to human security. Below, I discuss how the formation of cooperative partnerships between SMOs and state institutions—both in national political fields as well as regional and global webs—transforms governance strategies, resources, technologies, mentalities, and practices.

Governance and the Enrollment of Social Movement Organizations in Security Projects

Issues such as transnational organized crime and migration blur the boundaries between nation states and require new ways of governing security threats. While military forces protect the integrity of the nation-state and police specialize in domestic security, these actors are no longer considered the sole or best sources of knowledge and capacity to further the governance

⁸¹ Margaret Keck and Kathryn Sikkink, "Transnational Advocacy Networks in International and Regional Politics," *International Social Science Journal* 51, no. 159 (1999): 91.

⁸² Donatella Della Porta, Hanspeter Kriesi, and Dieter Rucht, eds., *Social movements in a globalizing world* (New York: St. Martin's Press, 1999).

⁸³ John McCarthy and Mayer Zald, "Resource Mobilization and Social Movements: A Partial Theory," *American Journal of Sociology* 82, no. 6 (1977): 1217–1218.

⁸⁴ Della Porta and Diani, *Social Movements: An Introduction*, 16.

of security. Additionally, new concerns about human security shift the focus of governance from states or communities to human beings as ‘referent objects’ in what we understand “security” to be and the best methods and actors to achieve it.⁸⁵

Contemporary security threats such as human trafficking, terrorism, irregular immigration, and transnational organized crime networks have transformed ideas about whom or what needs governing, as well as the strategies necessary to accomplish the “task of governing,” defined as intentional activities designed to “shape the flow of events.”⁸⁶ Deconstructing sovereigntist conceptions of the state, Foucault theorized the development and operation of governmental and managerial forms of power.⁸⁷ Governing institutions are composed of people, the equipment they use, technologies such as forms and procedures, and the resources necessary to facilitate institutional outcomes and enact practices.⁸⁸ Thus, governance “takes place through programmes that articulate with institutions to produce practices.”⁸⁹ And “governmentality” shapes the organization of practices, including mentalities, rationalities, and techniques through which subjects are constructed and governed.

Both state and non-state actors are engaged in the process of governance. Contemporary governance is “the consequence of an intense activity of enrolling, convincing and enlisting” a range of actors with diverse forms of knowledge and expertise.⁹⁰ For example, civil society and non-governmental organizations are enrolled in the “war on trafficking” to participate in taskforces that include state institutions such as the police, the criminal justice system, and

⁸⁵ Barry Buzan, Ole Waever, and Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder Colo.: Lynne Rienner Pub., 1998). The turn towards human security and the expectation that states should develop programs to achieve it marks the “securitization” of social problems. Securitization is a “speech act” Ole Waever, “Securitization and Desecuritization,” in *On Security*, ed. R.D. Lipschutz (New York, NY: Columbia University Press, 1995), 46-86. Securitization generates “a process of social construction involving those who carry out the speech act (‘securitizing actors’) who articulate an existential threat to a referent object . . . calling for emergency or extraordinary measures to deal with it.” Jennifer Wood and Clifford Shearing, *Imagining Security* (Cullompton: Willan Publishing, 2004), 66; see also Buzan, Waever, and de Wilde, *Security*, 23-24.

Securitizing speech acts thereby construct “‘humans’ requiring securing and, at the same time, [call] forth the state-non-state networks of aid, subjectivity and political practice necessary for that undertaking” Mark Duffield and Nicholas Waddell, “Securing Humans in a Dangerous World,” *International Politics* 43, 1-23 (2006): 2. Consequently, the shift to human security requires the enrollment of an extended range of actors responsible for the governance of security. In the context of human trafficking and sex trafficking, this extended range of actors includes the feminist organizations and women’s advocates who partner with the state to implement anti-trafficking interventions to identify and protect victim-witnesses and to prosecute offenders.

⁸⁶ C. Parker and J. Braithwaite, “Regulation,” in *Oxford Handbook of Legal Studies*, ed. P. Cane and M. Tushnet (Oxford: Oxford University Press, 2003).

⁸⁷ Michel Foucault, *The Foucault Effect: Studies in Governmentality with Two Lectures by and an Interview with Michel Foucault*, ed. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: Univ. of Chicago Press, 1991). In “Governmentality,” Foucault argues:

[W]ith sovereignty, the instrument that allowed it to achieve its aim – that is, obedience to the laws – was the law itself: law and sovereignty were absolutely inseparable. On the contrary, with government it is a question not of imposing law on men but of disposing things: that is, of employing tactics rather than laws, and even of using laws themselves as tactics – to arrange things in such a way that, through a certain number of means, such-and-such ends may be achieved. *Ibid.*, 95.

⁸⁸ Wood and Shearing, *Imagining Security*, 7.

⁸⁹ *Ibid.*

⁹⁰ B. Latour, “The Powers of Association,” in *Power, Action, and Belief: A New Sociology of Knowledge?*, ed. J. Law (London: Routledge & Kegan Paul, 1986), 273.

bureaucratic authorities. The formation of such networks between state and non-state actors—in both national political fields as well as in regional and global webs—operates to transform governance strategies, technologies, and mentalities. It also creates opportunities for social movements mobilizing to reform the law and the practices associated with its implementation.

Nodal Governance & Networks

Wood and Shearing use the term “nodal governance” to “denote a multiplicity of governance authorities and providers that coexist in multiple ways to produce diverse security outcomes.”⁹¹ Nodal governance is marked by hybridity, where non-state actors from business sectors and “third sector” parties, such as community groups or NGOs, “shape and influence the thinking [and actions] of state institutions and vice versa.”⁹² This concept of nodal governance identifies networks, partnerships, markets, and states as sources of governance located within a field of organizational nodes. The state can govern indirectly by enrolling nodes that employ their diversified knowledge and expertise to operate as governance auspices or providers. Nodes may be organized as institutions or may be located within more informal groupings, and may be analyzed by assessing how their various “mentalities, practices and resources are, or could be, articulated as locations of capacity and knowledge engaged in shaping the flow of events.”⁹³

The connection of nodes to broader networks is also diverse. For example, nodes may be part of an integrated network, and may link to other nodes in multiple networks without a primary network.⁹⁴ Or a node may operate as a “superstructural node” that “concentrate[s] the members’ resources and technologies for a common purpose but without integrating the various networks.”⁹⁵ As different nodal actors are simultaneously involved in other networks, constellations of actors engaged in a specific project of nodal governance create a “complex of hybrid arrangements and practices in which different mentalities of governance as well as very different sets of institutional arrangements coexist.”⁹⁶

For example, a node such as a social movement organization may partake of each type of nodal connection: alliances between NGOs, which are almost always situated in a network of organizations addressing around the core issue for the SMO (e.g., women’s rights, human rights, environmentalism). In addition, NGOs often forge alliances with other NGOs on other social movement “issue clusters.” Despite the fact that these networks may only exist on an ad hoc basis, the connections between the key players in each organization may be tapped as a resource

⁹¹ Wood and Shearing, *Imagining Security*, 13, 27. The concept of nodal governance draws from the interpretations of power and governance as theorized by Latour and Foucault and expands upon theoretical insights regarding “multilateralization” D. Bayley and C. Shearing, *the New Structure of Policing: Description, Conceptualization, and Research Agenda* (Washington, D.C.: National Institute of Justice, 2001) and “pluralization.” See, e.g., Ian Loader, “Plural Policing and Democratic Governance,” *Social and Legal Studies* 9, no. 3 (2000): 323-345; L Johnston and C. Shearing, *Governing Security: Explorations in Policing and Justice* (London: Routledge, 2003); C. Shearing and J. Wood, “Nodal Governance, Democracy and the New ‘Denizens’,” *Journal of Law and Society* 30, no. 3 (2003): 400-419; S. Burris, P. Drahos, and C. Shearing, “Nodal Governance,” *Australian Journal of Legal Philosophy* 30 (2005): 30-58.

⁹² Wood and Shearing, *Imagining Security*, 13.

⁹³ *Ibid.*, 11. See also S. Burris, “Governance, Microgovernance and Health,” *Temple Law Review* 77 (2004): 335-359. Nodes must have “sufficient stability and structure to enable the mobilization of resources, mentalities, and technologies over time.” *Ibid.*, 341–342.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ Wood and Shearing, *Imagining Security*, 21.

if an emerging issue warrants cooperation – even after a key person changes job or works in a different position (for example, the common practice of individuals moving from local NGO fieldwork to a position with the state or the UN). In addition, NGOs may take part of research projects, receive funding, or serve as informants for “superstructural nodes” such as international organizations and donors. Finally, NGOs may be connected to multiple, intersecting projects contemporaneously.

One example of this nodal governance I witnessed during the course of this study was a meeting at the International Labour Organization (ILO) regarding an ongoing research project on trafficking of women and children into factories along the Thai/Burma. Participants included UN officials, university researchers, women’s shelters and NGOs from different parts of Thailand working on diverse issues related to trafficking, development, women’s rights organizations, and migrants’ rights. During the same period as this collaboration, there were at least ten other ongoing projects within the UN that involved many of the same actors and organizations, including the Economic and Social Commission for Asia and the Pacific (ESCAP), the Development Fund for Women (UNIFEM), and the UN Inter-Agency Project on Human Trafficking. The interaction between these groups established relationships on which each could draw later.

Both the infrastructure and operation of anti-trafficking campaigns are affected by nodes connected through intersecting networks that extend vertically and horizontally.⁹⁷ My research identifies the emerging linkage of local, national, and transnational taskforces, partnerships between state and non-state organizations, and multi-disciplinary networks dedicated to fighting trafficking exemplify new forms of global governance. Cross-cutting transnational networks have been formed between a variety of different nodal actors that seek to govern trafficking. Transnational networks among and between state and non-state actors are critical formations in campaigns to fight the combined threats to national and human security posed by human trafficking in Southeast Asia.⁹⁸ For example, NGO activists partner with criminal justice officials and public welfare bureaucrats at the local level to identify situations of trafficking, prosecute offenders, and rehabilitate victims. Thailand has initiated several bi-lateral and multi-lateral Memoranda of Understanding (MOU) to coordinate criminal justice officials across borders, to share intelligence and harmonize procedures to facilitate the extradition of traffickers, repatriation of victims, and deportation of irregular migrants. Finally, states in the Greater Mekong take part in the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT), sending ministers and bureaucrats to connect with their foreign counterparts to enhance trust, develop cooperative policing tactics and enforcement mechanisms, and to build networks of state officials to combat trafficking and prosecute offenders in the region.⁹⁹

⁹⁷ See, for example, the analysis of networked governance by Anne-Marie Slaughter, *A New World Order* (Princeton, NJ: Princeton University Press, 2004).

⁹⁸ I. Loader and N. Walker, *Locating the Public Interest in Transnational Policing*, EUI Working Paper Law (European University Institute, 2007). Loader and Walker describe the emergence of transnational networks that operate to create a world of “multi-level, multi-centre security governance, in which states are joined, criss-crossed and contested by an array of transnational organizations and actors – whether in regional and global governmental bodies, commercial security outfits, or a burgeoning number of nongovernmental organizations and social movements that compose transnational civil society. It is a world in which policing has, however haltingly and unevenly, been both stretched across the frontiers of states and tasked with combating what are often overlapping problems of global organized crime and political violence.” Ibid., 2.

⁹⁹ Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), United Nations Inter-Agency Project on Human Trafficking, <http://www.no-trafficking.org/commit.html> (accessed November 30, 2011).

A Complex Model of the State: Institutional Diversity and the Creation of Moving Targets for Social Movements

The layering of political fields and the increasingly dense web of networks between social movement actors, government bureaucrats, and criminal justice officials in anti-trafficking campaigns illustrate the need for a complex model of the state. While early theories of collective action assumed an oppositional relationship between social movement actors and the state, scholars have come to recognize that movements and/or countermovements take place within larger political fields that affect movement goals and strategies as well as the responses encountered by movement actors.¹⁰⁰ Indeed, in many movements where organizations mobilize with the goal of engaging the state to change laws, movement organizations may seek alliances (networks) with state actors, and may define success in terms of a complementary, rather than oppositional, relationship with the state. This is particularly the case in movements for victims' rights, where movement actors call on the state to protect and assist victims, such as current movements against violence against women, sexual abuse, and human trafficking.¹⁰¹

In campaigns where a social movement is attempting to cooperate with state actors while simultaneously attracting and mobilizing movement constituents, movements cannot capitalize on the politics of opposition, because there is no clear villain against which to mobilize. The state is both the target and the agent of reform. There are multiple institutionalized sources of authority and resources to both challenge and woo. As such, movement actors must balance criticism of official practices with cooperative efforts to inject movement goals into those practices. Studying such movements requires scholars to be more attuned to the trajectory of a given movement and the variable (sometimes contradictory) ways movement actors engage different state institutions over time.

Sharp distinctions between social movements and the state often obscure the mutually constituting political and cultural dynamics that shape both movement strategies and state responses to the problem at hand. Moreover, such distinctions fail to address the role of state actors who identify themselves as movement participants and implementers of movement strategies, or actors who come to work within state systems based on their experiences as activists in civil society organizations.

The transition to networked governance reflects the diversified understanding of disaggregated state power and international relations in the emerging "new world order."¹⁰² Rather than conceiving of the international system as a system of unitary states, Slaughter suggests that scholars of international politics should view disaggregated state institutions as the building blocks of the new world order. On this view, government officials in various institutions (courts, regulatory agencies, ministries, legislatures, etc.) participate in multiple networks that create links domestically, across national borders, and between national and supranational institutions: states, and state agencies, are nodes.¹⁰³

State-centric analyses of international relations and international law obscure the diverse interests and actors involved in the everyday work of governing; such theories fail to acknowledge the diffusion of power in multiple institutions, as well as the important role social

¹⁰⁰ Meyer and Staggenborg, "Movements, Countermovements, and the Structure of Political Opportunity."

¹⁰¹ Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton N.J.: Princeton University Press, 1995).

¹⁰² Slaughter, *A New World Order*, 5–6.

¹⁰³ *Ibid.*

movements (and other non-state actors) play in defining and ameliorating governance gaps.¹⁰⁴ Moreover, state-centric approaches also fail to account for the diverse political cultures and practices that create both constraints and opportunities for social movements *and* state actors. By recognizing the internal differentiation and institutional complexity of the modern state, as well as its location in a globalized world, we are better able to grasp the political terrain that shapes both the identification of trafficking as a social problem and the construction of particular subjects of governance – both key to the success of social movements aiming to reform state laws, policies, and practices.

Policing through Networked “Multi-Agency Partnerships” and Non-State Security Providers

One example of nodal governance is the emergence of “multi-agency partnerships” or “multidisciplinary taskforces” as a mode of public policing. Development of such multi-institutional structures was informed by the corporate sector and neo-liberal understandings of the need to use resources more efficiently to “streamline” government bureaucracies and agencies. Multi-agency partnerships bring together criminal justice officials and bureaucrats with non-state actors, including NGOs and civil society organizations with a broader range of “non-police capacities” and expertise on the social and structural issues that contribute to or cause security problems (for example, crime prevention through social development).¹⁰⁵

¹⁰⁴ Hobbes’ *Leviathan* (1651/1968) established the idea of the state as bounded by sovereign territory and governed through the state’s monopoly of force to promote internal security and protect the integrity of national borders. Contemporary international relations theories generally fall into one of three strands: realism, liberalism, and constructivism. Political realism has long been the dominant theory of international relations, focusing on independent, unitary states as the primary actors in international politics. Realists posit states as rational actors pursuing their own self-interests, chiefly concerned with ensuring sovereignty and security through military and economic might. On this view, international politics is a struggle for power between self-interested states.

Due to the lack of differentiation between different elements of the state and the competing preferences different state agents may pursue, rational choice models of interstate relations have limited purchase on issues that implicate a variety of institutions within the state or where extra-state actors are important agents of change, as in movements for legal reform initiated by social justice organizations. Realist theories of international relations are particularly ill-suited to address transnational human rights issues where social movement organizations play a key role in identifying problems, publicizing wrongs, and pressuring non-conforming governments to comply with (emerging) international human rights norms. While some state behavior related to normative commitments (like human rights treaties) may be explained by a modified game-theory analysis incorporating “reputational costs,” such state-centric models suffer from an inability to map the processes of change *within* the diverse state institutions involved in counter-trafficking activities. See, e.g., Andrew Guzmán, *How International Law Works: A Rational Choice Theory* (New York: Oxford University Press, 2008).

Unlike realist approaches to international relations, liberal theorists acknowledge the role of non-state actors and international institutions play in global politics. This approach recognizes the plurality of domestic institutions and the interdependence between states. The state is conceived of advancing its preferences, which may vary from state to state depending on different economic, political, or cultural regimes.

More recent constructivist approaches challenge both realist and liberal accounts of international relations. Constructivism highlights the role of ideas and ideals in international politics, and accounts for the political influence of both state and non-state actors in the international system. Constructivist approaches to international relations highlight the important role social norms play in (re)shaping foreign policy, as opposed to the security-centric concerns of realist theories. Alexander Wendt, “Anarchy is what States Make of it: The Social Construction of Power Politics,” *International Organization* 46, no. 2 (1992): 391-425.

¹⁰⁵ Wood and Shearing, *Imagining Security*, 45–46.

The push to create such networked partnerships to *prevent* crime “emphasize[s] the mobilization of professional knowledge and capacities through ‘multi-agency’ networks that located the police as one professional node among others in ways that validate their specialized and professional knowledge base.”¹⁰⁶ The expertise and resources provided by these nodal actors (such as the identification and management of “at-risk” populations by NGOs) buttress intelligence-led policing and help to build the capacity of criminal justice institutions.¹⁰⁷

While early forms of public policing sought to prevent security breaches through an “unremitting watch” or “panoptic gaze,” contemporary modes of governance extend this gaze by enrolling non-state actors and regular citizens as “watchers” to report suspicious behavior in the private sphere.¹⁰⁸ One of the key mechanisms of contemporary nodal governance is the enrollment of third parties to participate in crime control through “legal levers,” where laws and regulations originally unrelated to crime control operate to support law enforcement agendas.¹⁰⁹ Third-party policing targets different “focal points” of criminal activity, including people, places, situations, victims, accomplices, and parties who control the “props” or instrumentalities that enable the commission of a crime.”¹¹⁰

While Wood and Shearing identify the emergence of this wave of policing in the early 1990s, NGOs and criminal justice officials developed and replicated multi-agency partnerships against child prostitution and sexual abuse in Thailand in the 1980s.¹¹¹ These networks linked

¹⁰⁶ Ibid., 46.

¹⁰⁷ Tilley defines “intelligence-led policing” in terms of “effectively sourcing, assembling, and analyzing ‘intelligence’ about criminals and their activities better to disrupt their offending, by targeting enforcement and patrol where it can be expected to yield highest dividends.” N. Tilly, “Community Policing, Problem-oriented Policing and Intelligence-Led Policing,” in *Handbook of Policing*, ed. T. Newburn (Cullompton: Willan Publishing, 2003), 313. The enrollment of state and non-state actors in “multi-agency” policing taskforces exemplifies the “business model” of intelligence-led policing as “a means of organizing knowledge and information in such a way that the best possible decisions can be made about how to deploy resources, that actions can be coordinated within and between different levels of policing, and that lessons are continually learnt and fed back into the system.” T. John and M. Maguire, “Rolling out the National Intelligence Model: Key Challenges,” in *Crime Reduction and Problem-oriented Policing*, ed. K. Bullock and N. Tilley (Cullompton: Willan Publishing, 2003), 38–39.

Intelligence-led policing also relies on the categories law enforcement officials use to *perceive* individuals as repeat offenders or to determine the spatial sites to patrol. Social norms shape the perspectives and prerogatives of those developing “crime-mapping” programs, organizations targeting “at-risk” groups, as well as actors determining “the geography of trouble” Richard Ericson and Kevin Haggerty, *Policing the Risk Society* (Buffalo: University of Toronto Press, 1997). Similarly, Lisa Frohman found that prosecutors make assessments of “convictability” drawing from their gendered and racialized understandings of victims within their jurisdiction (e.g., the “bad part of town” “across the tracks,” “gangland,” etc.). Lisa Frohman, “Convictability and Discordant Locales: Reproducing Race, Class, and Gender Ideologies in Prosecutorial Decisionmaking,” *Law & Society Review* 31, no. 3 (1997): 531-556. This suggests that there may be a fine line between gathering intelligence about criminals and reproducing criminality in the interpretive work of intelligence gathering as it is shaped by individuals’ attitudes towards race, gender, and other demographic or other socio-economic factors.

¹⁰⁸ Clifford Shearing, “Reinventing Policing: Policing as Governance,” in *Privatsierung staatlicher Kontrolle: Befunde, Konzepte, Tendenzen*, ed. F. Sack et al. (Baden-Baden: Nomos Verlagsgesellschaft, 1996), 74. See Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1977).

¹⁰⁹ Mazerolle and Ransley observe, “[i]ncreasingly, the criminal law makes use of civil processes and remedies, while in both regulatory and private law serious misbehaviours are criminalized” L. Mazerolle and J. Ransley, *Third Party Policing* (Cambridge: Cambridge University Press, 2005), 67. Feminist jurist Janet Halley’s work calls attention to the “distributional consequences” attending the institutionalization of criminal justice reforms that empower a range of both state and non-state actors in, for example, campaigns against human trafficking, forced prostitution, and sexual violence. See, e.g., Halley et al., “Four Studies in Contemporary Governance Feminism.”

¹¹⁰ Mazerolle and Ransley, *Third Party Policing*, 66.

¹¹¹ Wood and Shearing, *Imagining Security*, 44.

police and prosecutors with social workers, legal advocates, child rights advocates, psychiatrists, forensic specialists, international NGOs, and law enforcement officials in neighboring countries.¹¹² This multi-disciplinary/multi-agency approach was appropriated for subsequent campaigns against human trafficking and has been replicated throughout Thailand. The Thai multi-institutional approach is now used as a “best practice” model for other nations.

The use of third-party policing is evident in the contemporary “war on trafficking” and commercial sexual exploitation. For example, in addition to mobilizing public welfare, police, immigration and border officials, government counter-trafficking initiatives enroll non-state actors like SMOs, businesses in the corporate sector, and even individual citizens to police trafficking. NGOs and other civil society organizations provide information and tips to police to help identify source, transit and destination points to target enforcement efforts. Victim service agencies shelter victims during the investigation and prosecution of trafficking cases, serving as translators and persuading victims to testify about their exploitation and against their traffickers. Corporate sector actors, such as airlines, tour operators, restaurants, bars, and hotels, are threatened with civil and criminal penalties such as loss of license, raids, closure, or seizure of assets if they facilitate, reap profits from, or ignore trafficking- and prostitution-related activities in their businesses. Airline personnel, border, customs, and immigration officials are on alert to screen for child sex tourists, women who may be migrating for sex work, and suspected traffickers or victims. Teachers, public health officials, and social workers have a similar mandate, but focus on preventing trafficking by identifying situations that place women and children “at risk” of becoming trafficked or being “lured” into prostitution. Reaching further into the private sphere, parents may be charged with neglect, criminal abuse or trafficking for allowing their children to labor in exploitative conditions, while neighbors, community members, and even tourists themselves are called on to serve as “watchers” and informants to report suspicious persons and activities to hotlines or police authorities.¹¹³

As nodes within the broader anti-trafficking network, these diverse actors facilitate a variety of governance projects aimed to combat external security threats (transborder crime), control internal security concerns (illegal immigrants and prostitution), and address human security concerns (the consequences of uneven development and the economic and sexual exploitation of women and children). Even if resources are mobilized initially based on concern for the human rights of trafficking victims, those resources are deployed in a network of actors, each of which is connected to other institutions and other agendas; political and discursive opportunities shape and are shaped by the fields in which they exist, as well as by the networks that connect those fields to others.

¹¹² See, for example, the Bangkok-based Center for the Protection of Children’s Rights Foundation (CPCR).

¹¹³ See, e.g., the “Combating Child Sex Tourism” project of ECPAT (Ending Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), which creates partnerships with tourism businesses in the private sector and has created a Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, which requires tour operators and tourism organizations to “commit themselves to informing customers on their child protection policy, training of staff, reporting cases and application of other measures to protect children.” ECPAT International, “Combating Child Sex Tourism,” http://www.ecpat.net/EI/Programmes_CST.asp (accessed December 14, 2011).

Travelers arriving in Bangkok or Siem Reap, Cambodia (site of Angkor Wat) are greeted by large billboards with pictures of white males guiding young children down a darkened hallway. Telephone hotline numbers are posted underneath warnings such as “Sex with children is a crime” and “Children are not a tourist attraction,” urging tourists to report suspected child sex abuse. Child rights activists also distribute flyers to tourists in night markets that describing the plight of street children and the penalties for paying children for sex (Flyer on file with author).

Social Movements as Wave-makers: Securitizing Women’s Bodies, Migration, and Sexuality to Transform Governance Mentalities

Developments in nodal governance, whether related to trafficking or other social movement goals, can be conceptualized as waves that “[draw] upon other waves in ways that create new combinations of elements,” crafting new mentalities, technologies and practices from prior ones.¹¹⁴ Wood and Shearing observe that while new waves bring innovation, to take hold, waves need “bite” or “resonance with established ways of understanding and with institutional concerns and objectives.”¹¹⁵ The concept of wave “bite” dovetails with the analysis of “resonance” in studies of framing processes in social movements.¹¹⁶ When social movements create political waves about a particular social problem, they promote new mentalities and governance strategies. The diagnostic and prognostic framing strategies social movements deploy shape political agendas and subsequent legal reforms, which can, in turn, initiate new waves in policing.

Wood and Shearing suggest that the shape and magnitude of waves are influenced by “[a]n unpredictable and contingent mix of social, political and economic factors” that are “increasingly shaped by a diverse array of police and non-police actors involved in imagining, directing and delivering local security goods.”¹¹⁷ I argue that the political and discursive opportunity structures of a field affect the shape, power, and distance of waves, similar to the way these structures influence framing processes. They are not unpredictable, but the effect of a given wave is contingent on the various forces it encounters within its networked political field.

The enrollment of NGO activists and third sector actors in anti-trafficking taskforces demonstrates one way in which social movements have contributed to a new wave in policing both domestic and cross-border illicit activity. Due to their dual role as both critics of and partners with the state, social movement organizations can be important sources of new mentalities, institutional arrangements, and technologies of governance.¹¹⁸ The increasing concern among policymakers regarding the most effective ways to balance national and economic security interests with that of human security creates demand for specific “types of knowledge and capacity they entail for their actualization.”¹¹⁹ SMOs that have recognized the potential leverage they can achieve by networking with criminal justice officials have enjoyed substantial success in accessing resources and political power by shifting to discourses of security and crime control to describe their work and the social problems they aim to alleviate. The emergence of “carceral feminism” among abolitionist feminists and “militarized humanitarianism” in faith-based organizations in the “rescue industry” exemplifies this process.¹²⁰ These groups deploy frames that securitize women’s migration, bodies, and sexuality

¹¹⁴ Wood and Shearing, *Imagining Security*, 57.

¹¹⁵ *Ibid.*

¹¹⁶ Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment.”

¹¹⁷ Wood and Shearing, *Imagining Security*, 61.

¹¹⁸ As Wood and Shearing observe, “[i]nstitutions matter, but so do mentalities and the innovative capacities of human agency.” *Ibid.*, 57.

¹¹⁹ *Ibid.*, 75. Enlisting non-state actors such as women’s rights NGOs as security providers opens space for diverse forms of expertise that can be “identified, developed, and deployed in producing arrangements for global governance that serve to form bonds or links between otherwise distinct problem spaces” *Ibid.*, 74.

¹²⁰ Bernstein, “The Sexual Politics of the ‘New Abolitionism’”; Elizabeth Bernstein, “Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Antitrafficking Campaigns,” *Signs: Journal of Women in Culture and Society* 36, no. 1 (2010): 45-71. Bernstein studies the political, ideological,

by emphasizing violated femininity and the risks of migration, positioning migrant women as in need of security and protection from pimps, predatory clients, and the “dark networks”¹²¹ that facilitate transnational organized crime. By framing the trafficking issue as one where victims of crime are in need of state intervention and protection, SMOs position themselves as non-coercive bridges to targeted communities. As “front-line soldiers” in the “war on trafficking,” NGO advocates make themselves valuable by exploiting the connections or trust they have established with communities targeted by anti-trafficking interventions, providing intelligence, surveillance services, and victim management services to law enforcement officials. Advocates also serve as gatekeepers to victims, and thus, the evidence that criminal justice actors need to build and win their cases.

By strategically securitizing movement issues previously conceptualized within other arenas of governance, social movement advocates can work to introduce new ideas as to the causes and remedies of social problems.¹²² The incorporation of civil society organizations into state-backed anti-trafficking campaigns facilitates osmosis – alignment of mentalities between spheres.¹²³ New mentalities create the need for new forms of knowledge and capacity to implement these modified forms of governance. The enrollment of social movement organizations in anti-trafficking taskforces to assist in training police and dividing responsibilities for investigation, raids, and the legal processing of victims exemplifies this dynamic. For example, training and gender awareness programs for legal actors such as police and prosecutors aim to resocialize and sensitize them (typically men) to women’s human rights and discriminatory sex/gender stereotypes. NGO trainers serve as experts on gender issues and trafficking to help officials reconceptualize trafficking victims not as criminals or illegal migrants guilty of prostitution or immigration offenses, but rather victims (and potential

and structural factors that led to the alliance between anti-prostitution feminists and evangelical organizations that shaped U.S. anti-trafficking policies during the George W. Bush Administration. The “war on trafficking” securitizes women’s bodies, labor, and migration, as well as men’s, for example by problematizing sex tourism and brothel prostitution among male migrant laborers, which ostensibly promotes “demand” for victims of sex trafficking.

Securitizing trafficking and migrations that involve working in the sex industry allows for the professionalization of NGOs as security providers, increases funding and networking opportunities for both NGOs and law enforcement agencies, and cabins the trafficking issue as one of crime and victimization, delimiting the strategies used in the legal response to trafficking. Both state and non-state actors in the “social sector” working with migrant women to prevent migration into the sex industry and to help and “save” them has spawned what Agustín describes as the “rescue industry.” Agustín, *Sex at the Margins*. The spread of foreign anti-trafficking organizations in Thailand reflects the internationalization of the rescue industry.

¹²¹ J. Raab and H.B. Milward, “Dark Networks as Problems,” *Journal of Public Administration Research and Theory* 13, no. 4 (2003): 413-439. The concept of “dark networks” is particularly apt in Thailand, where campaigns against *ittiphon muet* (dark influence) and *jao pho* (provincial godfathers), Thai mafia figures who, through patronage relationships and connections with local officials, influence local electoral politics and society through the accumulation of wealth by legal or illegal means, and who can “flaunt the law, or protect others from it.” P. Phongpaichit and S. Phiriyarangsarn, *Corruption and Democracy in Thailand* (Political Economy Centre, Faculty of Economics, Chulalongkorn University, 1994).

¹²² Non-governmental activists seeking to raise awareness about a particular social issue also strategically securitize certain aspects of the problem they address. In particular, those in the anti-trafficking movement who are opposed to prostitution have securitized commercial sex by conflating it with trafficking, framing the commercial sexual exploitation of youth as “domestic minor trafficking” and migrant sex workers as victims of sophisticated transnational trafficking rings that threaten the safety of communities and the security of the nation.

¹²³ L. Johnston, “Policing Communities of Risk,” in *Policing Futures: The Police, Law Enforcement and the Twenty-first Century*, ed. P. Francis, P. Davies, and V. Jupp (Houndmills: Macmillan, 1997).

witnesses) deserving of social services. These programs attempt to shift enforcement officials from a “punishment mentality” towards a “rights mentality.”¹²⁴

By simultaneously working *within* the state while critiquing its practices, social movement advocates that work within the legal system are in a peculiar position in relation to anti-trafficking networks. While some SMOs maintain a staunch relationship of critical opposition to the state and traditional security providers, others are willing to partner with the state in hopes of directly shaping governance mentalities, mechanisms, and practices. The question remains, however, whether SMOs’ seat at the table will result in substantive or superficial reform of state institutions and practices. It is possible that access to new nodes may result in changed mentalities within and increased accountability of state institutions; alternatively, it may simply operate to defuse a movement by co-opting its ideological power. Partnerships between the state and SMOs remain fraught with tension in this period of transition to new mentalities and modes of governance. Turf wars over which actors have the responsibility (and authority) to direct trafficking interventions, plan raids, or access to victims highlights the strain between different mentalities and the difficulty of aligning state-centric and human-centric approaches to security. Different actors may try to undermine each other as they jockey for power, influence, and resources in anti-trafficking networks. Attention to the historical, cultural and economic forces that shape a country’s political field helps to map the trajectory of governance projects like the “war against human trafficking.”

Conclusion

The development of a model of nodal networks to govern human trafficking in Thailand demonstrates the complex interaction between the state and the legal mobilization of social movement organizations in both domestic and international political arenas. This complexity does not mean that movement behavior and results are unpredictable – just that scholars must take into account the wide range of variables that affect such outcomes. The tactics used by movement actors in responding to discursive and political opportunities within the networked fields in which they operate will, under certain circumstances, generate waves of change that can influence the governance of social problems. Understanding the nature of those changes depends on accurately mapping the networked fields that simultaneously and dynamically operate as constraints and resources.

The following chapters provide an historical backdrop for the rise of the transnational movement against human trafficking and the transformation of governance strategies to address the issue, especially in Thailand. I explore the periodic securitization of sexuality from the colonial encounter between Siam and the West to contemporary anti-trafficking policies, focusing on the increasing prominence of civil society actors in efforts to govern women’s migration. I then assess the waves of reform sought by women’s groups combating trafficking within Thailand’s networked political field – a particularly rich source of data about the challenges and opportunities for reform in the globalizing world.

¹²⁴ Johnston and Shearing, *Governing Security: Explorations in Policing and Justice*.

CHAPTER 2 - The Colonial Encounter: Civilized Governance and the Construction of Sexual Excess in Polygamy, Prostitution, and National Identity

The Kingdom of Siam has long represented the exotic and erotic in the Western imagination.¹²⁵ As I will demonstrate, representations of gender, sexuality, and nation played a significant role in the transformation of Siam from an absolutist monarchy to a constitutional monarchy, and continue to shape debates about national identity in the Kingdom of Thailand today. The following sections examine the gendered construction of the Thai nation in the quasi-colonial encounter between the Kingdom of Siam and Western powers, focusing on the role of legal reforms regarding polygamy, prostitution, and slavery. Those reforms illustrate how both elite and non-elite Thai women came to serve key symbolic roles and protect Siam's sovereignty in its engagement with the "civilizing" forces of Western powers seeking political and economic dominance in Southeast Asia.

The Colonial Encounter in Thailand

Siam first encountered the West in the early sixteenth century. The Siamese kings of Ayutthaya had grown powerful and rich throughout the fourteenth and fifteenth centuries, attracting trade from around the world.¹²⁶ By the early seventeenth century, the Portuguese, the Dutch, the Danish, the British, and the French had all set up embassies in the capital of Ayutthaya. Early European visitors were in awe of the wealth and splendor of the Ayutthaya court, as well as of Siamese social norms. Travel accounts of sailors, merchants, traders, missionaries and other visitors to Siam reflect Western fascination at the culture and sexual practices of Siamese. Many travelers' accounts of Siam often included colorful descriptions of polygamy, the extent and organization of the King's "harem," and the sexual availability of non-elite Siamese women.¹²⁷ Their assessment of what they saw in Siam was colored by the geopolitical context of their explorations.

Siamese Maneuverings

Siamese kings initially recruited Westerners from a variety of countries to serve as advisors in trade and governance. That ended after a 1688 *coup d'état*, when almost all foreigners were expelled. The British and French quit Ayutthaya; the Dutch remained until

¹²⁵ The nation of Thailand was known as the Kingdom of Siam until 1939.

¹²⁶ During the fourteenth and fifteenth centuries, the Siamese kings of Ayutthaya grew very powerful through tributary alliances, wars, and trading, sustaining an unbroken 400-year monarchical succession through thirty-four reigns, from 1350 to 1767. A thriving seaport, Ayutthaya grew to be one of the most cosmopolitan and wealthiest cities in Asia, developing trading links around the world, including Tokugawa Japan in the east and the Safavid and Mughal empires in the west. See generally, Christopher Baker and Pasuk Phongpaichit, *A History of Thailand*, 2nd ed. (New York: Cambridge University Press, 2005).

¹²⁷ See, for example, Simon de La Loubère, *The kingdom of Siam* (White Lotus, 1986), originally published in 1691. See also Jacob van Neck, "Journal van Jacob van Neck," in *De vierde schvart der Nederlanders naar Oost-Indie onder Jacob Wilkens en Jacob van Neck (1599-1604)*, ed. H.A. Forest and A. de Booy (The Hague, 1980) quoted in Anthony Reid, *Southeast Asia in the age of commerce 1450 - 1680*, vol. 1 (New Haven: Yale University Press, 1988), 155–6.

1765.¹²⁸ In 1764, Ayutthaya fell to the Burmese invasion and King Rama I (1782 - 1806) relocated the Siamese capital to Bangkok. Rama I appointed a Royal Commission to revise the law of the land and in 1805 established the Law of the Three Great Seals, which consolidated a modification of the Hindu Code of Manu along with some royal decrees and edicts. At the same time, Thailand recognized the economic need to trade with its neighbors and the colonial powers.

Geo-strategic concerns regarding colonial expansion, access to productive markets, and “a concern for where the problematic—and profitable—boundaries of commerce and influence might lie” structured politics, trade, and the delineation of borders between Siam, its neighbors, and Western powers during the “imperial century” from 1800-1900.¹²⁹ British and French interest in Siam was shaped by strategic efforts to govern the frontiers of the expanding colonies and to capitalize on commercial interests. Siam granted trading privileges to the British East India Company in 1826 with several restrictions; for instance, British merchants were restricted to Bangkok and could be expelled at the King’s discretion.¹³⁰ By mid-century, however, Siam’s independence was increasingly threatened by colonial expansion, including the encroachment of the French in Cambodia, Cochinchina, Annam, and Tonkin and the British in India, Malaysia, and Burma.

Siam leveraged its position as a buffer between Britain and France, balancing political, economic and territorial concessions to avoid colonial subjugation. The aggressive expansion of European imperial powers in the mid-nineteenth century led Siam’s leaders to a revolutionary modernization of the country’s political, economic, and cultural institutions. King Mongkut (Rama IV) of the Chakri dynasty immediately initiated diplomatic relations with European powers upon his accession to the throne in 1851. He recognized the need to adopt European institutions and centralize Bangkok’s control over tributary kingdoms in the Muslim south and the northern Lan Na (“million rice fields”) Kingdom bordering Burma.

Four years after Mongkut took the throne, the British government sent Sir John Bowring on a diplomatic mission to broker a commercial and political treaty between Siam and Britain. The unequal 1855 Bowring Treaty guaranteed cheaper trade in the region by lifting foreign trade restrictions and standardized duties and taxes; it also granted extraterritoriality to British subjects and allowed them to trade in all Thai ports, travel freely within the country, and own land near Bangkok. Siam’s economic concessions under the treaty evidenced its desire to modernize its international and commercial relations, as well as to protect the independence of the Kingdom. As the Siamese Prime Minister explained to the American envoy to Bangkok, “[The English are]

¹²⁸ The events leading to the expulsion of Westerners from Siam reflect the cosmopolitan approach to governance of Siamese Kings during the early colonial period, as well as the tension between adapting foreign conventions to advance trade and political interests and preserving Siamese sovereignty. Constantine Phaulkon, a Greek adventurer with a Japanese wife, became first counselor to King Narai of Ayutthaya in the late 1600s. Phaulkon had worked for the East India Company, later serving as a translator and adviser in the King’s court. He helped the King fend off colonization by the Dutch and English, although he allowed the French to station six hundred soldiers in the kingdom. When King Narai became ill, his foster brother Pra Phetracha staged a coup d’etat, killing the royal heir and beheading Phaulkon in a 1688 rebellion. Elites portrayed Phaulkon as an opportunist attempting to control the kingdom for Western interests. After Narai’s death, Phetracha installed himself as the new king of Siam and initiated a xenophobic regime, expelling French soldiers, missionaries and almost all foreigners. However, Phetracha arranged an agreement settling a year-long conflict with the British East India Company (conditioned in part on a promise to expel the French from Siam). Today, the Thai word for foreigners of Western descent is *farang*, from “farangset,” or French.

¹²⁹ Eric Tagliacozzo, “Ambiguous Commodities, Unstable Frontiers: The Case of Burma, Siam, and Imperial Britain, 1800–1900,” *Comparative Studies in Society and History* 46, no. 2 (2004): 354-377.

¹³⁰ *Ibid.*, 357.

rapacious tyrants who are seizing the whole of Asia. . . . [We signed the treaty] not because we like the English, but because we fear them.”¹³¹ The Siamese government had to find new sources of income after 1855, and turned to the sale of new monopolies and “tax farms” on opium and gambling, leaning more heavily on the Siamese people themselves for an income source.

The Bowring Treaty marked a new era in Siam’s foreign relations. Siam signed several similar agreements with other European powers, the United States, and Japan. Mongkut’s foresight and skills at diplomacy, compromise, and negotiation allowed Siam to avoid being colonized by European powers, an historical fact proudly asserted by contemporary Thais. The King strategically hired Westerners to serve as government advisers to develop “progress” in Siam.¹³² In 1857 Rama IV sent a party to Britain to gather information on political institutions, science, and transport. In the late nineteenth century, increasing numbers of royalty and Thai elite visited Europe, using the experience as a “blueprint for how to represent themselves to others.”¹³³ Thus, while Siam was the only country in Southeast Asia able to avoid direct colonization, European powers nevertheless influenced Thai modes of production and its internal affairs. The government hired individual foreigners to modernize the country; French consultants proposed reforms to the Siamese legal system, while British consultants reorganized its treasury, and the Germans its military.¹³⁴ Moreover, the Siamese elite also studied Western social conventions in an effort to represent Siam as a civilized, and therefore sovereign, nation to the international community. Sex and gender served as key sites of representation in this process.

Adoption and Adaptation of Western Governance

Colonial expansion and influence in Southeast Asia intensified at the end of the nineteenth century. After conceding to the unequal trade treaties with Western powers in the mid-1850s, Siam faced several threats to its sovereignty resulting from the colonial land grab between France and Britain.¹³⁵ Eager to delimit the expansion of France’s empire in Indochina and prevent an all-out war, the British signed an agreement with France guaranteeing neither country would violate Siamese sovereignty without the consent of the other party.¹³⁶ Siam served as a neutral buffer zone between the mountains of eastern Burma, the Shan region in northeast Burma, and the Laos border at the Mekong River. Siam signed its first international

¹³¹ D. R. Sardesai, *British trade and expansion in Southeast Asia, 1830-1914* (New Delhi: Allied, 1977), 90.

¹³² Baker and Phongpaichit, *A History of Thailand*, 50.

¹³³ Penny Van Esterik, *Materializing Thailand* (New York: Berg, 2000), 118.

¹³⁴ *Ibid.*, 9 citing M.P. Copeland, “Contested Nationalism and the 1932 Overthrow of Absolute Monarchy in Siam” (PhD Dissertation, Australian National University, 1993), 159.

¹³⁵ Winichakul Thongchai, *Siam Mapped: A History of the Geo-body of a Nation* (Honolulu: University of Hawaii Press, 1994). To protect and consolidate Siam’s territory, the king centralized Lan na, one of the key tributary states in the north, and negotiated a treaty with Britain in 1874 to establish the northwestern boundaries of the kingdom. In 1867, France annexed the Thai protectorate of Cambodia, expanding further into Thai territory in the mid-1880s. In 1893, Siam was forced to cede control of the territory east of the Mekong River now known as Laos to the French. Thongchai notes that the 1893 loss of Laos deeply saddened King Chulalongkorn, but he consoled himself with the protection of the core of the Kingdom, represented by the king’s body. . . ‘the Siamese king who fell ill over the incident said: “[t]he loss of those margins along the border of the *phrarcta-anachak* [the royal kingdom], which we could not look after anyway, was like the loss of our fingertips. They are distant from our heart and torso, and it is these we must protect to our utmost ability.” *Ibid.*

¹³⁶ See Thailand Ministry of Foreign Affairs summary of Thailand’s treaties and engagement with the West during the colonial era, in Ministry of Foreign Affairs, Kingdom of Thailand, “Threats to National Independence 1886-1896,” <http://www.mfa.go.th/web/120.php> (accessed December 4, 2011).

treaty, the Postal Union Convention, in 1885, and officially joined the international family of nations in 1899 when it signed the Hague Convention on the Laws of War.¹³⁷

Throughout the next decade, the French continued to chip away at Siam's territories, forcing Siam to surrender its claims to western Cambodia in 1907; Siam also lost control over key cities on the Malay Peninsula. By the beginning of the twentieth century, Siam had ceded a great deal of territory in its effort to preserve independence, and economically, Siam remained essentially a "client state" of Britain until World War II.¹³⁸

Siam's drive to modernize political and legal institutions during the imperial era stemmed, in part, from the diplomatic balancing act necessary to foster advantageous trade relationships with Western powers while maintaining sovereignty. The modernization of Siam took place under an absolute monarchy, and was largely the work of two western-educated reformers, King Mongkut, also known as Rama IV (reigned 1851-68), and his son Chulalongkorn, or Rama V (reigned 1868-1910). Siamese leaders adopted Western governance techniques, institutions, and organizational forms to modernize Siam and establish its position as a sovereign nation in the international community.

Rama V also created political and legal institutions to parallel the structure of those in Western nations and to effect an "internal colonization" to secure power over the diverse peoples in the sovereign (but tributary) kingdoms of the Muslim South and the Lan Na in the northwest.¹³⁹ For example, the pre-reform political geography of Siam had been marked by a variety of tributary *mueang* controlled by local lords connected to different ministries. Rama V transformed the far-flung tributaries of the Siamese kingdom into a nation-state by centralizing power in Bangkok, and by displacing local lords and appointing Bangkok bureaucrats and royal relatives in outlying regions to define and protect the integrity of Siam's territory. Rama V also formed a standing military, which he identified as a core attribute of a modern nation, and also served as a way to reassert Thai masculinity and the association between military power and political legitimacy.¹⁴⁰

In terms of legal reform, Rama V had several European constitutions translated into Thai to establish a modern form of government. One of Chulalongkorn's sons returned from Oxford with a law degree, and was assigned to create a judicial system. Although the Prince proposed a common law approach, the King overruled him on the basis that codified Roman law would be more impressive to foreigners.¹⁴¹ The King also centralized the courts, reorganizing them into a single hierarchy; however, the judiciary was not independent from the bureaucracy, as the King sought to replicate the tighter controls such organization provided in the colonial systems he had studied. Court procedure was reformed to reflect Western standards and was formalized into a code in 1908, and a criminal code was completed the same year. After these reforms, Siam's model of governance "looked uncannily like the colonial government of a British Indian district."¹⁴²

However, the process of state-building also required a reconstitution of subjects into citizens. Traditional status hierarchies, the relative independence and distance of former tributary

¹³⁷ Ibid.

¹³⁸ Charles Keyes, *The Golden Peninsula: Culture and Adaption in Mainland Southeast Asia* (Honolulu: University of Hawaii Press, 1995), 96.

¹³⁹ Tamara Loos, *Subject Siam: family, law, and colonial modernity in Thailand* (Ithaca: Cornell University Press, 2006).

¹⁴⁰ Baker and Phongpaichit, *A History of Thailand*, 61.

¹⁴¹ Ibid., 66.

¹⁴² Ibid., 54.

states from the central administration in Bangkok, and the ethnic and linguistic diversity within the Kingdom complicated the production of national citizenship. Mapping Siam and identifying its citizens required transformations in previous understandings of both space and race.

Boundary-Drawing: Race and Nation

Efforts to map Siam's borders in relation to other nations, often through the surrender of its claims to other regions under its suzerainty, played a key role in creating and defining Thai national identity. The concept of circumscribing territorial sovereignty by demarcating a defined area with a border was foreign, impractical, and unnecessary to Siamese elites in Bangkok, who traditionally considered the location of boundaries to lie in the hands of locals who lived in borderland regions. As Thongchai Winichakul explains, "all of the [Siamese] terms [for boundary] tend to signify areas, districts, or frontiers, not boundary lines. They mean a limit—an extremity without a clear-cut edge and without the sense of division between two powers."¹⁴³

Mapping Siam required the introduction of cartography, bureaucratic re-zoning to ensure that local people were actually Siamese residents, and the need to exert central control over territories and peoples far removed from Bangkok. The negotiation of borders with expanding colonial forces meant that the people who had previously been linked as communities through kinship networks, shared dialects, ethnic identifications, and trade partnerships were now divided by imaginary lines on a map. The difficulty in regulating the movement of goods and people across Thailand's borders—particularly in light of the lack of salience of the border for local residents—continues to pose challenges to contemporary Thai campaigns to combat cross-border traffic in drugs, arms, and people.

The notion of a unified country was similarly transformed. The diverse peoples encompassed in the kingdom of Siam countered the European conception of "nation" as the political expression of "race." The outer reaches of the kingdom were defined according to linguistic-ethnic identity, such as "Khmer," "Malay," or "eastern Lao." These identifications emphasized Siam's "imperial reach over other peoples," exemplified in Chulalongkorn's self-description as "King of Siam and Sovereign of Laos and Malay."¹⁴⁴ The French sought to justify their expansion into Laos by arguing that Siam was illegitimately dominating subject peoples, because the Lao, while linguistically related to Thai, constituted a separate race. In the late nineteenth century, the Siamese court developed the notion of *chat*, originally connoting birth, origin, or a cycle of rebirth, to approximate "race" in European discourse. The diverse ethnic groups within the Kingdom were reconstituted as Thai, as all were subjects of the King and spoke Thai, and hence were the same race, thereby legitimating Siamese rule. From 1902, Thai versions of treaties no longer called the country Siam, but rather used the phrases "*prathet thai*" or "*ratcha-anajak thai*," the country or kingdom of the Thai, and all peoples within the kingdom were identified as "*sanchat thai*," translated as "Thai nationality" in English versions of the

¹⁴³ Ibid., 65. As one Siamese delegate to the treaty negotiations with British Burma commented, "the boundaries between the Siamese and Burmese consisted of a tract of mountains and forest, which is several miles wide and which could not be said to belong to either nation." As one Siamese delegate to the treaty negotiations with British Burma commented, "the boundaries between the Siamese and Burmese consisted of a tract of mountains and forest, which is several miles wide and which could not be said to belong to either nation." Thongchai, *Siam Mapped: A History of the Geo-body of a Nation*, 64.

¹⁴⁴ S. Sahai, *King Chulalongkorn's Visit to India: The Reconstituted Diary of Royal Siamese Journey to India: 1872* (Centre for South East Asian Studies, 2000).

treaties.¹⁴⁵ Thus, this period was marked not only by the negotiation of nationhood, but also the creation of new ethnic identities and the transformation of diverse subjects into citizens of a unified nation and an “imagined community.”¹⁴⁶

However, the deeply embedded status hierarchy of Siamese culture meant that some people were more legitimate citizens than others. In response to the pressure of colonial incursions in the 1880s, King Chulalongkorn and other Siamese officials traveled to the territories to map the boundaries of the new Thai nation. Ironically, *corvée* labor remained legal for some time due to official need for porters and laborers to attend mapping parties. While establishing Siam’s territorial holdings, the king and his advisors also recorded sociological studies of the variety of peoples located within the kingdom’s borders. The studies classified people into three main strata: at the bottom were hill tribe peoples who lived in the jungles and did not speak Thai or wear proper clothing to cover their bodies; these ethnic minorities were considered “beyond civilization or any hope of progress.”¹⁴⁷ Lowland farmers occupied the middle strata, productive agriculturalists but simple, superstitious country folk.¹⁴⁸ The top of the cultural hierarchy was occupied by central Thai and Bangkokians, including the princes, senior officials, and the *siwilai* elite, “civilized” citizens who desired to adopt modern Western norms and standards of progress, thereby qualifying them to dominate other people within and beyond the country’s borders.

This scale of status, civilization, and respectability legitimized the domination of ethnic minority groups within Siam’s borders, creating categories of quasi-citizens and citizens requiring different forms of governance that are still used today. These new civic and political categories did not foster democratic institutions, as the king and court continued to defend the monarchy and aristocracy for several decades. Chulalongkorn created a new vocabulary as he transformed the political landscape of Siam, such as the notion of *samakki*, unity, justifying the creation of a strong state and the need for absolutist rule to propel Siam to progress and importance in the global community.

Keeping Up Appearances: Westernizing Society

In addition to the territorial negotiations delineating Siam as a modern nation-state, Chulalongkorn reformed daily practices and codes of dress and behavior to reflect Western social conventions. The westernization of the monarchy and Siamese society reflected

¹⁴⁵ Baker and Phongpaichit, *A History of Thailand*, 64.

¹⁴⁶ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 2nd ed. (London: Verso, 2006), 6–7. Anderson defines the nation as “an imagined political community – and imagined as both inherently limited and sovereign. It is *imagined* because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion. . . . The nation is imagined as *limited* because even the largest of them . . . has finite, if elastic, boundaries, beyond which lie other nations. . . . [The nation] is imagined as *sovereign* because the concept was born in an age in which the Enlightenment and Revolution were destroying the legitimacy of the divinely-ordained, hierarchical dynastic realm. . . . Finally, [the nation] is imagined as a *community*, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship.” Ibid., 6-7.

¹⁴⁷ Baker and Phongpaichit, *A History of Thailand*, 65. Even today, many lowland Thais consider themselves superior to members of ethnic hill tribes, who are still denied citizenship even if they are born within Thailand’s borders. The continuing discrimination, denial of citizenship, and restrictions prohibiting travel outside a designated province make hill tribe members particularly vulnerable to trafficking and labor exploitation.

¹⁴⁸ Ibid.

Chulalongkorn's efforts to represent Siam as a civilized nation deserving respect (and independence) in the international community. The importance of managing appearance was suggested by the French colonial minister's observation regarding Chulalongkorn's 1897 tour to Europe, as the visit "will give the impression that the kingdom of Siam, whose sovereign has been received in the manner due to a European head of state, is a civilized country which should be treated like a European power."¹⁴⁹

Emphasizing gender difference in dress and appearance was a critical part of the effort to present Siam as a civilized nation. Siamese men and women traditionally wore loose, draped pants, and both men and women had short, "brush cut" haircuts. By the 1870s, males in the court had begun to adopt Western hairstyles, mustaches, and shoes; by the 1890s they wore pants, tailored suits, hats, and dress uniforms for ceremonies.¹⁵⁰ Western social conventions also shaped public sensibilities and new forms of entertainment. Increasing literacy created a market for Western novels, and romances were translated and became popular in the 1880s.¹⁵¹ In 1897, the first commercial film was screened in Thailand, and the cinema became a popular pastime by 1910.¹⁵²

Imperial expansion in Southeast Asia, combined with Siam's economic and political reliance on Western powers, put pressure on the Siamese monarchy to modernize, particularly as elites became increasingly sensitive to Western criticism of traditional Siamese norms and social practices. The growing political traction of anti-slavery, social purity, and women's movements in Europe and the United States influenced the trajectory of Siamese domestic legal reform, as Western activists critiqued their own governments' official toleration of prostitution and immoral, "native" sexual customs abroad. The power of new legal norms to serve as indicators of civilization in the international community are exemplified in Siamese efforts to reform its policies on prostitution and polygamy in response to Western criticism.

Symbols of National Identity: Thai Women and Quasi-Colonialism

Pre-Colonial Gender Roles

Before Thailand's encounter with the West, Thailand had developed a highly stratified notion of gender. The institutions of concubinage and polygamy among ethnic Thais can be traced back to a royal decree of 1361 by King U-Thong, who established the Ayutthaya kingdom (1350-1767). The decree was later officially endorsed by the 1805 *Three Seals Law* (*kotmaii traam saam duang*) compiled during the reign of Rama I (1782-1809). The law ranked wives into three orders: (1) *mia klang muang* (the principal wife) whose parents consented to her marriage and who brought property into the marriage; (2) *mia klang nok* (the secondary wife); and (3) *mia klang thasi* (the slave wife), acquired through purchase or indebtedness.¹⁵³

The polygamous marital system in Siam served important interests for the monarchy, as exchanges of wives between the king and tributary leaders helped to solidify alliances and ensure loyalty. The status of kings and leaders was linked to the perceived purity of their wives. Simon de la Loubère, a French nobleman sent to Siam on a diplomatic mission in the 1600s, reported

¹⁴⁹ P. J.N Tuck, *The French Wolf and the Siamese Lamb: The French Threat to Siamese Independence, 1858-1907* (White Lotus, 1995), 191.

¹⁵⁰ Baker and Phongpaichit, *A History of Thailand*, 69.

¹⁵¹ *Ibid.*, 107.

¹⁵² *Ibid.*

¹⁵³ Than-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia* (London: Zed Books, 1990), 146.

that promiscuous or adulterous elite women were punished by death or by being sold to a brothel owner.¹⁵⁴ In contrast to the surveillance and regulation of royal and elite women's sexual practices, non-elite women had a more equitable status with men and were not subject to such strict codes of sexual behavior.¹⁵⁵ For example, non-elite women were allowed to divorce and were not required to be virgins at marriage.¹⁵⁶

Siam was also a slave society, however. Women and children could be sold into debt bondage by their male relatives, and unmarried female domestic slaves could be forced to serve as concubines to their masters or guests. Prostitution was legal and taxed by the government during the Ayutthaya period; houses of prostitution were located in the Chinese community and catered to both foreign and local men.¹⁵⁷ The King collected a prostitution tax from the noblemen who ran the brothels, which housed women of different social strata, including the wives and daughters of Siamese noblemen.¹⁵⁸ One historical report notes that in the late 1680s, a particular Thai official was licensed by the King to run a monopoly prostitution outfit in the capital using women bought or enslaved for various offenses.¹⁵⁹ This is one of the earliest examples of the Thai tradition of drawing significant state revenue from prostitution. However, although prostitution occurred, scholars have argued that until the late sixteenth century temporary marriage or concubinage were more common than prostitution in Thailand and other Southeast Asian cities.¹⁶⁰

Western Trade and the Precursors to Prostitution

Increasing numbers of sailors, merchants, and travelers visiting Siam raised demand for sexual services and also spawned new forms of relationships between foreign men and local women. For example, some women traders became temporary wives to the European men and junk traders that arrived at the ports. The recollections of the Dutch merchant Van Neck, who arrived in the southern port of Pattani in the early 1600s, described the women in the harbor areas and the services they offered to traders and foreign seamen:

When foreigners come from other lands to do their business . . . men come and ask them whether they desire a woman. The young women and girls also come and present themselves, from whom

¹⁵⁴ Loubère, *The kingdom of Siam*, 74; Leslie Ann Jeffrey, *Sex and Borders: Gender, National Identity, and Prostitution Policy in Thailand* (Vancouver: UBC Press, 2002), 4. Than-Dam Troung also notes the report of an English commentator visiting Siam in 1725, who observed that "If a Person of Quality's Daughter goes astray, she is sold to an Officer who has a Patent from a King for liberty to prostitute Young Women; and he has not less than Five or Six Hundred of these ladies under his care" Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 148.

¹⁵⁵ Jeffrey, *Sex and Borders*, 4–5.

¹⁵⁶ Ibid.

¹⁵⁷ D Mettarikanond, "Prostitution and the Policies of the Thai Government from 1868 to 1960" (Graduate School, Chulalongkorn University, 1983); Wathinee Boonchalaski and Philip Guest, "Prostitution in Thailand" (Salaya: Mahidol University, Institute for Population and Social Research Publication, 1994), Chap. 5; Lin Lean Lim, *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia* (Geneva: International Labour Organization, 1998).

¹⁵⁸ Boonchalaski and Guest, *Prostitution in Thailand*.

¹⁵⁹ Anthony Reid, *Southeast Asia in the age of commerce 1450 - 1680*, vol. 1 (New Haven: Yale University Press, 1988), 156.

¹⁶⁰ Reid, *Southeast Asia in the age of commerce 1450 - 1680*.

they may choose the one most agreeable to them, provided they agree what he shall pay for certain months. Once they agree about the money (which does not amount to much for so great a convenience), she comes to his house, and serves him by day as his maidservant and by night as his wedded wife.¹⁶¹

The foreigner had to pledge not to consort with other women, while the temporary wife was forbidden to converse with other men. The “marriage” lasted as long as the man kept his residence “in good peace and Unity,” and upon the husband’s departure, the women could look for another man “in all propriety, without scandal.”¹⁶²

The temporary marriage system eroded when foreign men disregarded the agreements of fidelity and support, transforming such arrangements into a relationship more akin to commercial prostitution.¹⁶³ As Barbara Watson Andaya observes, Dutch merchants “referred to their ‘wives’ as whores, sluts and trollops.”¹⁶⁴ And while Siamese culture later attached social stigma to temporary wives and women who exchanged sex for material gain, Andaya argues that such condemnation “was not a traditional feature of Southeast Asian societies, but was associated with the spread of world religions.”¹⁶⁵ Western visitors’ representations of Siamese sexual arrangements, including the perceived lack of sexual restraint among elite males and the presumed sexual accessibility of (some) Siamese women, shaped the Western construction of the Kingdom of Siam in ways that would challenge Siamese leaders’ ability to avoid colonial intervention by presenting the country as a modern, sovereign, and civilized state.¹⁶⁶

Sexual Excess, Slavery, and the Capacity to Govern: International Representations of Siamese Women and the Sovereignty of the State

Victorian Critiques of Siamese Gender Relations

Despite Siam’s savvy political and economic efforts to present an image of modernity to legitimate its continued independence from colonial intervention, Victorian associations between morally sanctioned governance and sexuality threatened to undermine Siam’s sovereignty.¹⁶⁷ By the middle of the eighteenth century, the Enlightenment had transformed conceptions of proper sexual practices, social order, and governance.¹⁶⁸ In the late 1600s, French Ambassador Simon de la Loubère had described polygamy as “Pomp and Grandeur” rather than depravity,

¹⁶¹ Jacob van Neck, “Journal van Jacob van Neck,” in *De vierde schvart der Nederlanders naar Oost-Indie onder Jacob Wilkens en Jacob van Neck (1599-1604)*, ed. H.A. Forest and A. de Booy (The Hague, 1980) quoted in Jacob van Neck, “Journal van Jacob van Neck,” ed. H.A. Forest and A. de Booy, *De vierde schvart der Nederlanders naar Oost-Indie onder Jacob Wilkens en Jacob van Neck (1599-1604)* (The Hague, 1980).

¹⁶² Reid, *Southeast Asia in the age of commerce 1450 - 1680*.

¹⁶³ Barbara Watson Andaya, “From Temporary Wife to Prostitute: Sexuality and Economic Change in Early Modern Southeast Asia,” *Journal of Women’s History* 9, no. 4 (Winter 1998): 23.

¹⁶⁴ Barbara Watson Andaya, *The Flaming Womb: Repositioning Women in Early Modern Southeast Asia*, (Honolulu: University of Hawai’i Press, 2006), 126.

¹⁶⁵ Andaya, “From Temporary Wife to Prostitute: Sexuality and Economic Change in Early Modern Southeast Asia,” 12.

¹⁶⁶ Loos, *Subject Siam: family, law, and colonial modernity in Thailand*.

¹⁶⁷ Ibid.

¹⁶⁸ Michel Foucault, *The History of Sexuality: An Introduction* (New York: Random House, 1978).

understandable in the court of the Sun King, Louis the Fourteenth. But by the 1800s, Victorian Westerners viewed polygamy as debauchery, weakness, and backwardness.¹⁶⁹

Applying their Victorian sensibilities to the colonized Other, the sexual rapaciousness of Siamese men was associated with lack of restraint. Conversely, Western rule was associated with the rationality, control, and restraint of the civilized (masculine) state. As Jeffrey observes, “[t]he tyrannical treatment of women that polygamy was presumed to involve indicated to Westerners a lack of the kind of (gentle)manly virtues associated with Western governance.”¹⁷⁰ Colonial discourses feminized native men, but also hypersexualized them, constructing polygamy as a barbaric practice that enslaved Siamese women. These discourses of gender and sexuality reflected and constructed political power asymmetries, and were deployed to justify colonial intervention. Gayatri Spivak argues that the sexualization of colonized peoples by their colonizers works to legitimize imperial governance by valorizing white men saving “brown women from brown men.”¹⁷¹ Ratna Kapur makes similar observations in her analysis of the discursive resurrection of the “native” subject in neo-colonial Western feminist interventions to rescue third-world women in prostitution and trafficking in the developing world.¹⁷²

To counter the barbaric image of Siamese social practices, and to stave off intervention, King Mongkut (Rama IV) adopted Western clothing and habits. At the same time, however, he continued to practice the royal tradition of polygamy, fathering eighty-two children by his wives and concubines. Western visitors, diplomats, and missionaries expressed consternation (and titillation) over the King’s “harem” in their accounts of Siam. Polygamy signaled a lack of sexual control and moral character – necessary elements for civilized governance, the absence of which justified colonizing powers’ imperial right to rule. A mid-1800s report by American diplomat Joseph Balestier for the Secretary of State linked King Mongkut’s sexual excessiveness to his inability to govern:

The present King of Siam is a sensualist having no less than a thousand women in his harem and a devotee of Buddhism with a retinue of forty thousand priests and forty wats or temples . . . Upon these he spends the entire income of the kingdom. But though he reigns he does not govern the State, the administration of which is in the hands of rapacious and arbitrary lords who, by a

¹⁶⁹ Caren Kaplan, “Getting to Know You: Travel, Gender, and the Politics of Postcolonial Representation in Anna and the King of Siam and The King and I,” in *Late Imperial Culture*, ed. E. Ann Kaplan, Roman de la Campa, and Michael Sprinker (London: Verso, 1995), 32-52; Tamara Loos, *Subject Siam: family, law, and colonial modernity in Thailand* (Ithaca: Cornell University Press, 2006), Chapter 4, “Imperialism of Monogamy in Family Law.” Loos notes that “[t]he institutions of family and marriage were interpreted as sources of national, cultural authenticity in nineteenth-century imperial . . . discourse, which considered monogamous heterosexual marriage the paradigmatic model. Monogamous marriage anchored the family as a civilized institution. Societies that allowed marital practices that deviated from a monogamous marriage were located lower down on the evolutionary scale of progress, which had enormous legal repercussions.” *Ibid.*, 100. Polygyny was practiced by Siam’s politically and economically powerful classes, and “evidenced Siam’s backwardness to many nineteenth-century Europeans who otherwise might have had to recognize Siam’s status as an independent and legally equal state.” *Ibid.*, 101.

¹⁷⁰ Jeffrey, *Sex and Borders*, 7.

¹⁷¹ Gayatri Spivak, “Can the Subaltern Speak?,” in *Colonial Discourse and Post-Colonial Theory: A Reader*, ed. Patrick Williams and Laura Chrisman (New York: Columbia University Press, 1994), 93.

¹⁷² Kapur, “The Tragedy of Victimization Rhetoric: Resurrecting the ‘Native’ Subject in International / Post-colonial Feminist Legal Politics.”

heartless and relentless course towards their vassals and serfs and the Chinese are fast bringing about the utter ruin of the country.¹⁷³

Similarly, American missionary Dr. Dan Bradley discussed polygamy in an audience with King Mongkut and later advocated its criminalization in the *Bangkok Recorder*, the first newspaper in Siam.¹⁷⁴ Dr. Bradley warned “[v]irtue can never have much sway in Siam, nor any true prosperity, until polygamy is made a crime by the government.”¹⁷⁵

In 1845, Rama IV issued a decree allowing palace women of all ranks to resign from royal service if dissatisfied, permitting ladies of the Court to marry princes or nobles but requiring them to remain chaste while in royal service. He interpreted the fact that only twelve of his six hundred wives resigned as an affirmation of polygamy by the women themselves.¹⁷⁶ Later, in response to continued Western criticism, Rama IV published the *Kitchanukit* (“A Book Explaining Various Things”) in 1867, defending polygamy as a Buddhist social system, as it enabled men to alternate among his wives so as to avoid forcing himself on anyone against her will and thereby lose merit.¹⁷⁷

Although Rama IV responded to Western pressure, Western representations of Siamese practices regarding marriage and gender oversimplified the relationship between men, women, and power. Siamese gender roles were sharply differentiated by social status. In elite, urban cultures, men were dominant, as the bureaucracy had traditionally been exclusively male and based on a warrior role. Elite women “were an instrument of dynasty building and diplomacy” through polygamy by securing allegiances between important families and commercial partners.¹⁷⁸ However, royal women “trapped” in polygamous relationships were not completely without agency, and in fact could exercise rights that many Western women at the time could not. Certain Thai customs involved the willing of some property to daughters, in part to preserve familial wealth and land holdings. Siamese law provided that a bride’s money and property remained hers alone, and some women used their wealth to open their own businesses.¹⁷⁹ In contrast to Western visitors’ descriptions of Siamese women as utterly enslaved in the “harem,” some wives played important roles such as managing treasuries and directing daily life and work in the palace.¹⁸⁰ Indeed, Rama V respected the political advice of his favorite queen so much that he designated her as regent while he was in Europe.¹⁸¹ Elite Thai women also demanded further rights; by the late 1800s, elite women had begun to challenge laws that allowed families of high rank to determine their daughter’s marriage partner.¹⁸²

In contrast to the economic and social norms restricting the activities of elite women, working-class women contributed through labor. These women worked in markets, factories and

¹⁷³ Baker and Phongpaichit, *A History of Thailand*, 294.

¹⁷⁴ Bradley’s wife and other female missionaries had been teachers to Mongkut’s consorts and wives between 1851-1854. However, according to Bradley’s memoirs, the classes stopped because their students began to drop out due to fear of being converted to Christianity.

¹⁷⁵ Abbot Low Moffat, *Mongkut, The King of Siam* (Ithaca: Cornell University Press, 1961), 135.

¹⁷⁶ Than-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia* (London: Zed Books, 1990), 151, citing M.R.S. Pramoj, “King Mongkut as Legislator,” *Journal of Siam Society* 4 (1959): 2030-2037.

¹⁷⁷ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 151.

¹⁷⁸ Baker and Phongpaichit, *A History of Thailand*, 102.

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*

¹⁸² *Ibid.*, 108. See also Loos, *Subject Siam: family, law, and colonial modernity in Thailand*.

public utilities, and “dominated the street and canal markets to the extent that the government appointed women as market overseers.”¹⁸³ Rural women owned barges to transport rice along the waterways; they also worked as petty traders, selling the surplus from the harvest in the off-season.¹⁸⁴ Indeed, female slaves were valued more than males in the nineteenth century because “the woman is decidedly as a worker worth more than the man.”¹⁸⁵ But despite the diverse ways in which Siamese women of different statuses contributed to social, economic, and political life, Western representations of Siamese women tended to focus on the “sexual enslavement” of (elite) women in the institution of polygamy.

Civilizing Siam: The English Governess at the Siamese Court

One example of the early myopic Western focus on sexual enslavement in Thailand is the work of a nineteenth-century English woman on her time in Thailand. In 1862, King Rama IV called an English widow, Anna Leonowens, to court to serve as governess to his children and wives. The British governess wrote descriptions of life in the Inner Palace, portraying women as captives locked in the “harem.”¹⁸⁶ The *Atlantic Monthly* published some of her writings, which were later expanded into two volumes of memoirs – *The English Governess at the Siamese Court* and *The Romance of the Harem*.¹⁸⁷

Though widely read in the West, Leonowens’ accounts of life in the Inner Palace are sensationalized, and portrayed the Siamese elite as in “the darkness of error, superstition, slavery and death.”¹⁸⁸ In her second book, Leonowens described the King’s alleged torture and execution of one of his concubines, Tuptim. However, given the King’s reputation as a progressive humanitarian and the fact that the incident was not recorded in other accounts, her stories – and her own self-identity – included some fabrications for melodrama’s sake.¹⁸⁹ Leonowens became famous for her accounts of Siamese life in the Inner Palace, which sparked immense curiosity in the West and readily lent themselves to newspaper articles, novels, plays, musicals, and movies, with remakes still popular in the twenty-first century.¹⁹⁰ Her writings contrasted the sexual enslavement and degradation of “harem women” to her status as Western, educated, independent woman, and in a better position to challenge the sexual indulgences of the Siamese King. Read as a blend of travel journals and Dickensian “social protest fiction,”

¹⁸³ Baker and Phongpaichit, *A History of Thailand*, 103.

¹⁸⁴ *Ibid.*, 86.

¹⁸⁵ Holt Samuel Hallett, *A thousand miles on an elephant in the Shan states* (Bangkok: White Lotus, 2000), 131.

¹⁸⁶ See Caren Kaplan, “Getting to Know You: Travel, Gender, and the Politics of Postcolonial Representation in *Anna and the King of Siam* and *The King and I*,” in *Late Imperial Culture*, ed. E. Ann Kaplan, Roman de la Campa, and Michael Sprinker (London: Verso, 1995), 32-52.

¹⁸⁷ Anna Harriette Leonowens, *Siamese harem life*, 1873; Anna Harriette Leonowens, *The English governess at the Siamese court* (Trübner, 1870).

¹⁸⁸ Leonowens, *The English governess at the Siamese court*.

¹⁸⁹ Indeed, Leonowens misrepresented several aspects of her own life—including her mixed-race status, her birth in India, her father’s military rank, her name change from Leon Owens to Leonowens, and that she had lived alone with a “missionary” for several years’ journey. See Susan Morgan, *Bombay Anna: the real story and remarkable adventures of the King and I governess* (Berkeley, CA: University of California Press, 2009).

¹⁹⁰ Thai people were so offended by the 1956 portrayal of the relationship between Anna and the King in the musical *The King and I* (starring Deborah Kerr and Yul Brynner) that the film was banned in Thailand due to its historical inaccuracies and cultural distortions. For example, Yul Brynner’s young, shirtless King did not reflect the nearly thirty-year age difference between Anna and the King. Leonowens’ stories also served as the basis for the 1999 dramatic film *Anna and the King*, starring Jodie Foster.

Leonowens' modernizing and matronizing interventions capture the Western impulse to "civilize" the barbaric heart of the ruler and rescue suffering brown women from sexual slavery.¹⁹¹

Modernizing Siam: Abolishing Slavery

Anna's star pupil was King Mongkut's son, Chulalongkorn, who succeeded him to the throne as Rama V. Chulalongkorn was a great reformer and modernized many social practices to parallel those in Western society and political culture. He did so to demonstrate Siam's *siwilai*, the Thai adaptation of the word "civilized," which also connotes aspirations for "progress." Within a month of reaching his majority, he appointed royal relatives to a newly created Council of State and Privy Council.¹⁹² The Council reformed the law and courts, created a salaried police and army and bureaucracy to replace the local lords, and created programs to develop agriculture and education. The Council was charged with determining which social practices should be abolished—they identified gambling, *corvée* (compulsory unpaid labor), and slavery.

Despite the "civilizing" influence of Europeans, the long history of slaving in Southeast Asia was not easily displaced: the capture, traffic, and sale of humans continued in mainland Siam until at least 1905.¹⁹³ Human trafficking was common phenomenon in the Lao and Siamese highlands, and upland people participated in the trade across the newly demarcated "borders." Military conquests often resulted in large-scale slaving, as in Chiang Mai's 1839 attack on villages in upland Shan areas bordering Burma.¹⁹⁴ Even in the 1890s, titled elites "organized slaving expeditions seeking local women, which aroused the . . . anger of many village elders."¹⁹⁵

Rama IV had asserted that he would "doubtless without hesitation, abolish slavery . . . for the distinguishing of my reign," but he faced resistance from the nobility.¹⁹⁶ Some historiographers conjecture that Mongkut had faked an inscription on an historical stele containing a ban on slavery to prove that Siam had always been a "free" country in order to guard against colonial intervention based on moral or humanitarian grounds.¹⁹⁷ However, the

¹⁹¹ Ironically, Anna Leonowens' son, Louis, would adopt certain aspects of Siamese court culture, as evidenced by a traditional rhyme still recited in Chiang Mai about an agent of the Borneo Company who had a "harem," which represented wealth and virility. "Dr. Chitt and Missa Louis, sleeping with two girls, two nights for fifteen rupees; Miss Kum asked for silver, Miss Huan asked for cloth, Miss Noja asked for an elephant. Hurry up and finish, Doctor." E.J. Bristow, *Prostitution and Prejudice: The Jewish Fight against White Slavery 1879-1939* (Cambridge: Oxford University Press, 1982), 83.

¹⁹² Baker and Phongpaichit, *A History of Thailand*, 52.

¹⁹³ Tagliacozzo, "Ambiguous Commodities, Unstable Frontiers," citing "Mr. Carl Bock's Travel's in Siam" (Siam Advertiser, as excerpted in the Singapore Daily Times, 10 Dec. 1882).

¹⁹⁴ Tagliacozzo, "Ambiguous Commodities, Unstable Frontiers," 362, citing Constance M. Wilson and Lucien Mason Hanks, *The Burma-Thailand frontier over sixteen decades* (Ohio University, Center for International Studies, 1985), 10.

¹⁹⁵ Tagliacozzo, "Ambiguous Commodities, Unstable Frontiers," 362, citing Banchaphumasathan, "Thai Government Survey (1890)," 33.

¹⁹⁶ Baker and Phongpaichit, *A history of Thailand*, 50, citing "Letter dated May 18, 1864," printed in *Sinlapa Watthanatham* 25, no. 3 (January 2004): 85.

¹⁹⁷ Tagliacozzo, "Ambiguous Commodities, Unstable Frontiers," note 15, 358. The Ramkamhaeng Inscription of the thirteenth century is attributed to Northern Siam, and was allegedly discovered by King Mongkut in Sukothai in 1833, when he was a monk. Inscriptions on the stele record a ban on slavery. While some scholars view the stele as a declaration of Sukothai independence from Khmer domination, others view the stele as a clever fake fabricated by Mongkut to prove that Siam had long been a "free" kingdom devoid of slavery, and thus had no need of civilization

social and economic embeddedness of slavery in Siam and the relatively weak control of lowland authorities over activities at the edges of the kingdom made it difficult to enforce a ban on slavery and human trafficking.

Yet Siam eventually responded to Western criticisms and anti-slavery policies. Anna Leonowens later claimed that her instruction of Chulalongkorn and his introduction to *Uncle Tom's Cabin* under her tutelage convinced him to abolish slavery in 1905.¹⁹⁸ Baker and Phongpaichit argue that Chulalongkorn likely formally outlawed slavery to “adapt western practice to ensure dynastic continuity” and to boost the labor necessary to develop a market economy.¹⁹⁹ To placate pro-slavery nobles eager to maintain the basis of their social and economic status, the King proposed a compromise to phase out slavery.²⁰⁰ While some forms of slavery were abolished, debt bondage and the sale of children into slavery were not.

The selective abolition of slavery held few advantages for women. Many women supported their families through debt bondage, and essentially remained enslaved even after reform. Those women freed from slavery were left without the protection of their masters and the norms of the feudal system. One of Chulalongkorn's queens and several bureaucrats warned that women released from slavery needed education in order to survive the socio-economic transition.²⁰¹ But although Chulalongkorn issued an 1875 decree to provide public education, it had little effect. Several government schools were closed for lack of students, as parents feared their sons would be automatically recruited into the military if they enrolled. Budgetary constraints restricted education for girls, and although a campus for an elite girls' school was constructed in the mid-1880s, it never opened because “a suitable headmistress could not be found.”²⁰² Without economic support or educational opportunity, one consequence of abolishing slavery in Siam was the rapid entry of poor women into commercial prostitution.²⁰³

Sex, Borders, and Migration: Guarding Against the Traffic in (White) Women

Prostitution, White Slavery, and the Internationalization of Western Gender Codes

The late-nineteenth century moral and legal reform movements addressing prostitution and the traffic in Western women exemplify the significance of sex, gender, and the “science of sexuality” in the production of “technologies of power” for societal governance.²⁰⁴ Public

by colonial powers. See James Chamberlain, ed., *The Ramkhamhaeng Controversy: Selected Papers* (Bangkok: The Siam Society, 1991); David Wyatt, *Thailand: A Short History* (New Haven, CT: Yale University Press, 1984), 54.

¹⁹⁸ Anna moved in some of the same literary circles as Harriet Beecher Stowe in New York in 1968, finally meeting her in 1872. Morgan, *Bombay Anna: the real story and remarkable adventures of the King and I governess*, 181.

¹⁹⁹ Baker and Phongpaichit, *A History of Thailand*, 52.

²⁰⁰ Baker and Phongpaichit report that an August 1874 order provided that anyone born from 1868 on could not sell herself or be sold into slavery after reaching twenty-one, and that hereditary slaves would become free upon reaching age twenty one. Ibid. However, those in debt bondage and prisoners of war were not freed, and the order allowed children to be sold into slavery. Siam also maintained *corvée*. Ironically, one reason *corvée* was not immediately abolished was due to the need for laborers to accompany mapping parties establishing Siam's borders to protect against further incursions by colonial powers.

²⁰¹ Jeffrey, *Sex and Borders*, 11, citing Suwadee, “Thai Society's Expectations,” 12-13.

²⁰² David Wyatt, *The politics of reform in Thailand: education in the reign of King Chulalongkorn*, (New Haven: Yale University Press, 1969), 123.

²⁰³ Jeffrey, *Sex and Borders*, 11, citing Sukanya Hantrakul, “Prostitutes and Human Rights in Thailand,” (N.p., 1982), 7.

²⁰⁴ Foucault, *The History of Sexuality: An Introduction*.

scandals regarding child prostitution and “white slavery” emerged in Britain in the 1880s, spreading to Europe, the U.S., and South America by the early 1900s. The white slavery panic galvanized transnational social movements, led governments to reform prostitution policies, and spurred a spate of domestic laws and two international agreements aimed to combat the “white slave trade.”²⁰⁵

The campaign against white slavery emerged from women’s activism against the medicalized regulation of prostitution as a “necessary evil.” British reformers’ “abolitionist” approach to prostitution arose from campaigns by Josephine Butler and her colleagues to repeal the Contagious Diseases Acts (CDA) of the 1860s.²⁰⁶ The CDA introduced a military system of regulated prostitution, giving police the discretion to detain any woman suspected of prostitution and force her to submit to an internal medical examination. McClintock argues that the CDA were animated by “blows to male national self-esteem in the arena of empire,” and located “the real threat to the prowess and potency of the national army” in syphilitic prostitutes.²⁰⁷ Viewing prostitutes as victims of male sexual privilege, Butler and her colleagues protested the CDA as violating women’s constitutional rights, validating “instrumental rape” (i.e., a pelvic examination) by medical inspectors, and officially sanctioning the sexual double standard.²⁰⁸ The abolitionist cause gained momentum as feminist repealers were joined (and later eclipsed) by social purity crusaders who sought to cleanse society of vice, promote a single standard of chastity for both sexes, and reform the sexual behavior of youth, particularly that of precocious working-class girls.²⁰⁹

²⁰⁵ See Anne Gallagher, *The International Law of Human Trafficking* (Cambridge: Cambridge Univ. Press, 2010); Jo Doezeema, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (New York: Zed Books Ltd., 2010); Frederick K. Grittner, *White Slavery: Myth, Ideology and American Law* (New York: Garland, 1990).

²⁰⁶ J. Walkowitz, *Prostitution and Victorian Society: Women, Class and the State* (Cambridge: Cambridge University Press, 1980).

²⁰⁷ Anne McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest* (New York: Routledge, 1995), 288. Cordoning off prostitutes in garrison towns was justified as ensuring the purity and genital hygiene of the bachelor army as well as that of respectable middle-class patrons. In addition, the regulation of sexual behavior under the Acts also served to police the unruly working-class population at large. McClintock, *Imperial Leather*.

²⁰⁸ Interestingly, Butler observed that enforcement of the Acts in the form of enforced medical examination actually increased the ability of men and brothel keepers to exploit vulnerable women. As she explained in a lecture she delivered in 1871: “Under the present Acts, a man whose infamous proposals have been rejected by a girl, may inform the police against her, and on his evidence the girl may be subjected to examination and ruined. . . . A like power would be legally vested in the hands of the brothel-keepers. If one of these wretches should mark a young and friendless girl for his victim – and the more innocent and helpless looking the higher her value to them – his course would be easy. A secret information could be given to the sanitary officer that the girl had been ruined and was diseased. She could be brought before the magistrate, and ordered for examination. At once every lodging house would be closed to her; no employer would have her; rude men and women would jeer her. Then the brothel-keeper would have but to meet her, be filled with compassion, take her in . . .” Josephine Butler, *Josephine Butler and the Prostitution Campaigns: The Ladies’ Appeal and Protest*, ed. Jane Jordan and Ingrid Sharp, vol. 2 (New York: Routledge, 2003), 203.

²⁰⁹ Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*, 246. Walkowitz notes that in comparison to earlier moral reform movements of the mid-Victorian era, the social purity crusade as “more oriented to a male audience, more hostile to working-class culture, and readier to use the instruments of the state to enforce a repressive sexual code.” Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*. See also W Coote, *A Vision and Its Fulfillment* (London: National Vigilance Association, 1910). Kristin Luker analyzes the “double edged sword” of prostitution governance in social hygiene movements that emerged two decades later in the American context, noting a turning point in the state control of sexuality during the Progressive Era (1880-1920). Kristin Luker, “Sex, Social Hygiene, and the State: The Double-Edged Sword of Social Reform,” *Theory and Society* 27, no. 5 (1998): 605–606.

In 1885, investigative journalist and anti-vice campaigner W.T. Stead published “The Maiden Tribute to Modern Babylon” in Britain’s *Pall Mall Gazette*. The lurid series graphically depicted stories of rampant child prostitution and sexual abuse, aristocratic vice, and government corruption in Britain. Stead’s sensationalist stories emphasized the youth and innocence of women and girls entrapped in prostitution, framing them as victims rather than “fallen women” in an effort to publicize the abolitionist cause and mobilize support for a law raising the age of consent from thirteen to sixteen. Stead went so far as to procure a thirteen-year-old from her mother and take her to France to illustrate the existence of “white slavery” and the trafficking of British virgins into the licensed brothels of the Continent.²¹⁰ The immensely popular series engrossed large segments of the British population, igniting several protests, drawing brigades of white-robed virgins to parade the capitol, and galvanizing a host of moral reform groups. Public outcry at “The Maiden Tribute” eventually pressured British legislators to pass the Criminal Law Amendment Act, which raised the age of consent²¹¹

The child prostitution and white slavery scandals also reinvigorated the movement to repeal the CDA and provided ammunition for social purity campaigners’ arguments that the system of licensed brothels of Europe and in the colonies stimulated the “white slave trade.”²¹² Although Butler and like-minded feminists denounced male sexual license, they grew critical of the moralistic and repressive policies championed by the social purity movement. As the repeal movement transitioned to a social purity campaign, “moral concerns [became] disconnected from larger feminist issues, and the feminist context of the repeal movement had been subverted.”²¹³ By 1897, Butler warned her political associates to

“ . . . beware of purity workers (who are) . . . ready to accept and endorse any amount of coercive and degrading treatment of their fellow creatures in the fatuous belief that you can oblige human beings to be moral by force, and in so doing that you may in some way promote social purity!”²¹⁴

The movement to combat white slavery spread to other countries, including the United States.²¹⁵ These campaigns were animated by several contemporary political, social, and economic anxieties, particularly regarding immigration, urbanization, and rapidly changing

²¹⁰ In 1880, Alfred Dyer, a Quaker and prominent CDA repealer, published a pamphlet entitled “The European Slave Trade in English Girls,” describing the entrapment of British girls in the brothels of Brussels. Response to the pamphlet led to the creation of the London Committee for Suppressing the Traffic in British Girls, and included members of the abolitionist and feminist movements, including Josephine Butler. Stead’s “The Maiden Tribute” sought to prove the existence of the white slave trade in British virgins to European brothels by purchasing a thirteen-year-old girl from her mother for five pounds and transporting her to France. However, Stead neglected to disclose his involvement in procuring the alleged victim. Although he was later exposed and convicted of assault and abduction, he received a largely symbolic three-month sentence.

²¹¹ Ironically, the Act granted police greater control over poor working-class women and children, something Butler and her feminist allies had always opposed. The law also included a clause against the “perversion” of homosexuality, which was associated with the corruption of youth by upper class men.

²¹² Judith Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago: Univ. of Chicago Press, 1992), 96.

²¹³ Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*, 245.

²¹⁴ Josephine Butler, quoted in *Ibid.*, 252.

²¹⁵ David Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868-1900* (Westport Conn.: Greenwood Press, 1974).

sexual mores that “threatened traditional forms of sexual control and traditional ideas of civilized morality.”²¹⁶ As thousands of European women migrated from Europe and Russia to the Americas, South Africa, Asia, and other colonies, stories emerged warning of the risks of migrating for work, as single young women unmoored from family and community could easily be deceived, exploited, and sexually debauched.²¹⁷ Reformers focused on rescuing and protecting naïve and innocent young (white, European) women from being seduced, lured, or abducted for prostitution by evil traffickers, typically represented by non-western men or other subalterns. The moral and sexual panics characteristic of the movement against “white slavery” were animated by “fears and uncertainties concerning national identity, women's increasing desire for autonomy, foreigners, immigrants and colonial peoples.”²¹⁸ As Walkowitz observes:

[T]he white-slavery and child prostitution scandals had all the symptoms of a cultural paranoia overtaking Britain in the late nineteenth century, as its industrial preeminence was seriously challenged by the United States and other new industrial nations, its military position and imperial holdings by Germany, and its domestic peace and class structure by the spread of labor unrest and the growth of socialism.²¹⁹

The discourse of white slavery achieved popular salience through melodramatic conventions that simplified the complex realities of female migration, economic opportunities, and prostitution, achieved through rhetorical devices that contrasted the villainous trafficker with victims’ “innocence,” youth/virginity, whiteness, and unwillingness to be a prostitute.²²⁰ For example, Jews were demonized as white slavers in France and the United States.²²¹ In parts of Europe and America, the white slave was often an “innocent country girl” lured to the dangerous and corrupt city by black, foreign, or immigrant men.²²² The rhetoric of white slavery in the U.S. reflected

²¹⁶ Nora V Demleitner, “Forced Prostitution: Naming an International Offense,” *Fordham International Law Journal* 18 (1995 1994): 6.

²¹⁷ Bristow, *Prostitution and Prejudice: The Jewish Fight against White Slavery 1879-1939*, 203; Donna J. Guy, “‘White Slavery,’ Citizenship and Nationality in Argentina,” in *Nationalisms and Sexualities*, ed. A. Parker (London: Routledge, 1992); see also Frederick K. Grittner, *White slavery* (Garland Pub., 1990), 40.

²¹⁸ Jo Doezema, “Loose Women or Lost women? The Re-emergence of the Myth of White Slavery in Contemporary Discourses of Trafficking in Women,” *Gender Issues* 18, no. 1 (2000): 27. Due to this amalgamation of political and social anxieties, campaigns against white slavery reflected competing ideas about the relationship between prostitution, trafficking, and crime. For some reformers, all prostitution constituted white slavery; others viewed these as distinct but related phenomena (Olive Malvery and W. N. Willis, *The White Slave Market* (London: Stanley Paul and Co., 1912). Still others distinguished migration within a country for prostitution from traffic into the international market for white slavery. See also Alain Corbin, *Women for Hire: Prostitution and Sexuality in France after 1850*, trans. Alan Sheridan (Cambridge, MA: Harvard University Press, 1990).

²¹⁹ Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*, 247. Walkowitz concludes that mythic international conspiracy that allegedly controlled the white slave trade “encouraged the belief that sinister forces exploiting women existed outside society, and were not fundamental to its basic social and economic arrangements,” thereby serving to “assuage middle-class guilt without really implicating members of the bourgeoisie in the sexual oppression of working-class women.” *Ibid.*, 250.

²²⁰ Doezema, “Loose Women or Lost women? The Re-emergence of the Myth of White Slavery in Contemporary Discourses of Trafficking in Women,” 28. Doezema, *Sex Slaves and Discourse Masters: The Construction of Trafficking*.

²²¹ Bristow, *Prostitution and Prejudice: The Jewish Fight against White Slavery 1879-1939*.

²²² Connelly identified similar themes in the myth of white slavery in the United States:

the political currency of slavery and abolitionism after the Civil War, as well as rising anti-immigration sentiments in the early 1900s.

The white slave panic received extensive coverage in the media; galvanized the mobilization of domestic and international organizations devoted to eradicating the trade; spurred international conferences; and provided fodder for popular (and prurient) novels, plays, and films. It also led to the drafting of new national laws regulating prostitution and trafficking that were used not to assist victims, but rather to enhance state control of prostitutes and working class women,²²³ to arrest prostitutes, persecute Black men, police interracial relationships,²²⁴ and to restrict women's capacity to travel abroad independently or without permits.²²⁵ Thus, national campaigns aimed to protect pure (white) womanhood demonstrate the complex ways in which

Typically, a chaste and comely native American country girl would forsake her idyllic country home and family for the promise of the city. On the way, or shortly thereafter, she would fall victim to one of the swarm of panderers lying in wait for just such an innocent and unprotected sojourner. Using one of his vast variety of tricks – a promise of marriage, an offer to assist in securing lodging, or . . . the chloroformed cloth, the hypodermic needle, or the drugged drink – the insidious white slaver would brutally seduce the girl and install her in a brothel, where she became an enslaved prostitute. Within five years she would end up in a potter's field, unless she had the good fortune to be 'rescued' by a member of one of the dedicated groups fighting white slavery.

Mark Connelly, *The Response to Prostitution in the Progressive Era* (Chapel Hill: University of North Carolina Press, 1980), 116.

²²³ Walkowitz reports that the enforcement of the 1885 Criminal Law Amendment Act of 1885 was used against prostitutes and working class women, rather than "white slavers." Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*. Similar selective enforcement occurred in the United States.

²²⁴ Grittner, *White slavery*, 96–102; David Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago: University of Chicago Press, 1994). Although the United States had prohibited the trafficking of women into the country for prostitution since 1874, earlier laws had focused on the traffic in Asian immigrant women, exemplifying how trafficking policies can operate to protect the purity of the nation-state through interdiction efforts to prevent unwanted migrants. The perceived threat of "white slavery" captured American socio-legal consciousness around 1900, prompting a bevy of laws regulating prostitution. In 1907, the term "white slave" was first invoked in an American forum in *McClure's Magazine*, published by "muckraker" George Kibbe Turner. Hobson, Barbara Meil. Barbara Meil Hobson, *Uneasy Virtue: The politics of prostitution and the American reform tradition* (New York: Basic Books, 1987), 27. The article related the exploits of Chicago prosecutor Clifford Roe, who allegedly recovered a note thrown from the window of a brothel from a young girl describing herself as a "white slave." The sensationalized prosecutions that followed sparked a national wildfire of moral panic, facilitated by popular media such as plays, movies, and cartoons depicting an evil syndicate of swarthy pimps bidding on naked white women sold as slaves at auction. Hobson, *Uneasy Virtue: The politics of prostitution and the American reform tradition*. See also Langum, *Crossing Over the Line: Legislating Morality and the Mann Act*. President Roosevelt signed the international anti-trafficking treaty, which was soon incorporated into U.S. law as the 1910 White Slave Traffic Act (Mann Act, § 6). The Mann Act prohibited white slavery and criminalized the importation and interstate transport of women and girls for "immoral purposes" (including the mere *intent* to do so), regardless of the woman's consent. In the mid-2000s, neo-abolitionist feminists in the U.S. sought to increase enforcement efforts under the Mann Act as a means to combating (male) "demand" in domestic prostitution.

²²⁵ In 1912, Greece passed legislation forbidding women under twenty-one to travel abroad without a special permit. E.J. Bristow, *Vice and Vigilance: Purity Movements in Britain since 1700* (Dublin: Gill and Macmillan; Rowman and Littlefield, 1977), 178.

nativist impulses intersect with deeply held beliefs about race, sexuality, class and gender roles.²²⁶

Despite the extent of the “white slave panic” in Europe and the United States, contemporary studies by feminist and non-feminist historians alike conclude that there were actually very few victims of white slavery.²²⁷ The caricature of the underclass prostitute was “literally and figuratively a conduit of infection to respectable society,” even as she served as an “object of class guilt as well as fear, a powerful symbol of sexual and economic exploitation under industrial capitalism.”²²⁸ However, the trafficked prostitute also provided a convenient figure to legitimize upper- and middle-class women’s increasing participation in political issues. The discourse of white slavery also provided middle-class women with a language to express “the sexual distress, frustration and secret terrors of Victorian marriage,” as the hapless virgin prostitute “entrapped by lascivious aristocratic roués” served as a “projection of middle-class anxieties and hypocrisy.”²²⁹

The growing political influence and size of the women’s and social purity movements in the late Victorian era in Europe and North America soon placed prostitution on the international agenda. The movement against white slavery was formalized at the global level in two international agreements: the 1904 International Agreement for the Suppression of the White Slave Traffic, and the 1910 International Convention for the Suppression of the White Slave Traffic.²³⁰ The 1904 Agreement focused on the creation of surveillance units along travel routes, particularly in railway stations, to detect “persons in charge of women and girls destined for an immoral life” (Art. 2), while the 1910 Convention criminalized the procurement of women and girls “in order to gratify the passions of another,” even if the “victim” gave her consent (Art. 1). The legal status of brothel keepers, however, was deemed to fall under the domestic jurisdiction

²²⁶ Nira Yuval-Davis analyzes four levels of intersections between discourse of nation and gender, each implicated in the construction of the trafficked prostitute: woman as biological reproducers of the nation; women’s role in cultural construction of nations; gender relations, citizenship and difference; and the gendered character of the military and of wars. In the cultural construction of nation and national identity, “women especially are often required to carry this ‘burden of representation’, as they are constructed as the symbolic bearers of collectivities’ identity and honour, both personally and collectively. . . . Women in their ‘proper behaviour, their ‘proper’ clothing, embody the line which signifies the collectivities’ boundaries.” Nira Yuval-Davis, *Gender & Nation* (Thousand Oaks Calif.: Sage Publications, 1997), 45–46.

²²⁷ Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*; Bristow, *Prostitution and Prejudice: The Jewish Fight against White Slavery 1879-1939*; Mary Gibson, *Prostitution and the state in Italy, 1860-1915* (Rutgers University Press, 1986); Corbin, *Women for Hire: Prostitution and Sexuality in France after 1850*; Grittner, *White slavery*; Guy, “‘White Slavery,’ Citizenship and Nationality in Argentina.”

²²⁸ Walkowitz, *Prostitution and Victorian Society: Women, Class and the State*, 4. For an in-depth study of American prostitution at the end of the 1800s, see William Sanger, *The History of Prostitution: Its Extent, Causes and Effects Throughout the World* (New York: The American Medical Press, 1895).

²²⁹ McClintock, *Imperial Leather*, 288.

²³⁰ The International Convention for the Suppression of the “White Slave Traffic,” May 4, 1910, 211 Consol. T.X. 45, 103 B.F.S.P. 244, *International Agreement for the Suppression of “White Slave Traffic,” Mar. 18, 1904*, 35 Stat. 1979, 1 L.N.T.S. 83, n.d. (imposing obligations on signatory states to punish those who, “in order to gratify the passions of another person, has procured, enticed, or led away” a woman or underage girl, regardless of her consent).

While the conspicuous racial discrimination of the treaties was initially debated by some delegates to the 1910 Madrid Conference who feared the “white slavery” label insufficiently narrow to cover women of all colors, the conference ultimately decided to retain the culturally resonant household catchwords of “white slavery.” Demleitner, “Forced Prostitution,” 167.

of each of the thirteen signatories, thereby allowing for continued regulation of prostitution in Europe and the colonies.²³¹

By linking domestic social problems to international processes such as industrialization, migration, and colonial governance, Western women's movements expanded their advocacy efforts into the international arena. Like the licensed brothels of Europe, reformers framed official maintenance of military brothels in the colonies as creating demand for the international traffic in women for "immoral purposes."²³² Indeed, efforts to guard against the entrapment of women in the colonies coincided with campaigns against the white slave trade in Europe.²³³ Issues linking the civilization of sexual practices with the need for moral reform created a political opportunity for imperial feminists. For example, concerns with men's sexual vice in the colonies served to legitimize moral reformers' efforts to save their "fallen sisters" abroad, both white and "native." Feminists soon set their sights on the status of women in colonized countries, campaigning against both military prostitution and official toleration of "native" practices perceived as exploitative to women.²³⁴ By contrasting the emerging bourgeois ideal of restrained male sexuality and companionate marriage with the barbaric sexual treatment of native women (and innocent white girls) by native men, women's advocates re-enforced proper sexual behavior among expatriate men and promoted the civilizing effect that wives and families were thought to bring to the colonies.

Sex and Civilization: Regulating Prostitution in Thailand

The complex renegotiation of economic, diplomatic, and political relations between Western nations and Siam during the early 1900s suggests that legal reforms aimed at improving women's status provided substantial reputational capital and political legitimacy in the international community. Harmonizing domestic regulation with emerging models of Western governance helped Siam avoid international critique and censure for violating women's rights, now viewed as a failure of the (paternal) state to protect vulnerable victims (women-and-children). The issues of polygamy and prostitution became incorporated into Siamese discourse on modernization and development, and became the subject of national debate.²³⁵

Although Western criticism of Siamese sexual behavior and gender roles had primarily focused on polygamy throughout the early colonial period, the issue of prostitution came to the

²³¹ Notably, Britain reserved the right to accede or denounce the 1904 agreement with respect to its colonies.

²³² Providing troops controlled outlets for (hetero)sexual access to prostitutes in regulated brothel system had been justified as a necessary evil to combat venereal disease and curb homosexual activity in the ranks. However, it also helped maintain racialized hierarchy in the colonies by guarding against interracial marriage, concubinage, and mixed-race children fathered by white expatriates. Maintaining sexual and racial purity in everyday social practices was an important way to justify imperial occupation and domination of native peoples. For example, Stoler details how the traffic in female coolies by Dutch managers, foremen and indigenous male workers contributed to the governance of sexual, familial, and domestic arrangements of Dutch colonialists in Java. A. Stoler, *Capitalism and confrontation in Sumatra's Plantation Belt 1880-1979* (New Haven: Yale University Press, 1985). See also Ann Stoler, *Carnal knowledge and imperial power: race and the intimate in colonial rule* (Berkeley: University of California Press, 2002).

²³³ See Frank Mort, *Dangerous Sexualities: Medico-Moral Politics in England since 1830* (New York: Routledge & Kegan Paul, 1987), 126–7.

²³⁴ For example, reformers decried British military authorities' policies regularizing prostitution of Indian women to provide sexual services to British soldiers. C. Ballhatchet, *Race, Sex and Class under the Raj: Imperial Attitudes, Policies and Their Critiques, 1793-1905* (London: Weidenfeld and Nicolson, 1980).

²³⁵ Loos, *Subject Siam: family, law, and colonial modernity in Thailand*.

fore in the early 1900s. Jeffrey suggests that Westerners' general tolerance of prostitution through the 1800s was due to the fact that, while polygamy was characterized as a foreign and barbaric practice, "prostitution struck too close to home for European elites until the new middle-class imperialism of the social purity movement came to restructure sexual and class relationships in the home countries."²³⁶

The influence of international forces in the domestic regulation of commercial sex in Siam, however, did not fall so neatly into colonizer/colonized categories. Traditional marriage arrangements, the association of polygamy with the monarchy, and elite men's license for extramarital sex with concubines and prostitutes complicated Siamese responses to the internationalization of western gender codes and its strategies of representing itself as a civilized nation.

Throughout Thai history, there has been a close association between migrant communities, economic transformation, and prostitution. During the reign of King Rama I (1782-1809), male-dominated Chinese migration into Thailand increased and prostitution flourished, particularly in Sampeng, a Chinese locality in Bangkok. Sampeng was well known for prostitution throughout the reign of Rama IV, and activists report that child prostitutes could be found in the district well through the 1990s.²³⁷ Siamese immigration policies kept out most Chinese women until 1910, creating a large class of single Chinese migrant males that stimulated demand for tea houses and brothels in ports, market areas, and labor centers.²³⁸ Chinese women followed the flow of male migrants, traveling to Siam for marriage, prostitution, or as *mui tsui* (young girls in domestic service). While many women came willingly, the first forms of trafficking in women in Siam followed the mid-nineteenth century influx of Chinese laborers.²³⁹ Many prostitutes were Chinese, and Thai women working in Sampheng would adopt Chinese

²³⁶ Jeffrey, *Sex and Borders*, 9. Conditioning the status of a "civilized" nation on conformance to western organizations of sex and gender does not necessarily effect an improvement in women's social or legal status. Women's rights become a vehicle for justifying colonial rule and governing the sexual and familial relationships of expatriates and locals to preserve the purity of the race. See Ann Stoler, *Carnal knowledge and imperial power: race and the intimate in colonial rule* (Berkeley: University of California Press, 2002); Anne McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest* (New York: Routledge, 1995); Gail Bederman, *Manliness and civilization: a cultural history of gender and race in the United States, 1880-1917* (Chicago: University of Chicago Press, 1995).

Truong observes that from the mid-1890s to 1913 prostitution was regulated in Indonesia for the Netherlands Indies Army to provide soldiers sexual release and reduce the incidence of masturbation and homosexuality. The need to control male sexuality was underscored by the western belief that hot climate and spicy foods increased men's sexual urges. Than-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia* (London: Zed Books, 1990), 80, citing L. Hesselink, "Prostitution: A Necessary Evil, Particularly in the Colonies - Views on Prostitution in the Netherlands Indies," in *Indonesian Women in Focus*, ed. Locher-Scholten and Hiehof (Dordrecht: Forris Publications, 1987).

²³⁷ G.W. Skinner, *Chinese Society in Thailand: An Analytical History* (Ithaca: Cornell University Press, 1957). For an historical overview of prostitution in Thailand, see Boonchalaksi and Guest, *Prostitution in Thailand*.

²³⁸ For example, during the reign of King Rama III (1825-1852), prostitution developed alongside the growing coal mining industry that attracted large numbers of Chinese migrants. *Ibid.*, 3.

²³⁹ Siriporn Skrobaneck, Nattaya Boonpakdi, and Chutima Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade* (New York: Zed Books Ltd., 1997), 8, 17. Between 1919 and 1929, the number of Chinese migrant laborers rose from around 200,000 to 450,000, and the proportion of Chinese women migrants rose from 21% to 29%. *Ibid.*, 17. Van Eseterik notes that traffickers kidnapped and/or purchased young girls from southern Chinese villages for prostitution; they were shipped from China to Bangkok and other Southeast Asian ports, where they were transferred to brothels or to individual Chinese men. Penny Van Esterik, *Materializing Thailand* (New York: Berg, 2000), 173, citing A. Lai, "Peasants, Proletarians, and Prostitutes; Research Notes and Discussion Paper No. 59" (Institute of Southeast Asian Studies, 1986).

names; as new communities of foreigners settled in Bangkok, prostitutes continued to adapt to the characteristics of their new customers; for example, adopting foreign names to identify with their clients.²⁴⁰

A culture of elite male dominance among ethnic Thai (in Siam's bureaucracy) and Sino-Thai (in commerce), in combination with a culture of female labor among the peasant population, created the conditions for a thriving commercial sex industry in Siam by the turn of the century. Domestic demand for sexual services in Siam led to the importation of Japanese women to supplement the local supply in the late nineteenth century.²⁴¹ The most common form of prostitution during the reigns of King Rama IV and V involved "stationed women" in a form of debt bondage or slavery: though they had rights and could redeem their freedom, they were obligated to serve their owners and could be sold or purchased to serve in houses of prostitution. Managers supervised the female prostitutes to ensure they observed proper manners in entertaining clients; reports indicate that the houses were well run, stealing was forbidden, and clients who lost their belongings had them returned.²⁴² Houses of prostitution catered to both Chinese and Thai ethnic groups, and were very profitable: the most famous house in Sampeng during the reigns of Rama IV and Rama V was occupied by a prostitute named Mrs. Fueng, who built a temple called "Wat Kanikapol," which translates as the temple constructed from the profits of prostitutes.²⁴³

After the abolition of slavery in 1905, many women who had formerly been slave-wives or servants drifted into prostitution to maintain themselves and their families.²⁴⁴ The number of houses of prostitution increased throughout the country, and aristocrats who had formerly acquired women for sex through personal slavery turned to commercial sources.²⁴⁵ Further, the modernization of Siam in terms of governance, higher education, and commerce led to a concentration of male students, bureaucrats, merchants, diplomats, and other professionals in Bangkok, which in turn increased demand for commercial sex. By the early twentieth century, street prostitution flourished to the extent that one newspaper correspondent noted: "No matter where you go in Bangkok, you cannot avoid coming across these women."²⁴⁶ Although the sex industry was dominated by Chinese and Thai women, women from Russia, America, Britain, and France also engaged in prostitution in Siam in the early 1900s.²⁴⁷

Siam adopted a regulatory approach to domestic prostitution in the late 1800s. For example, Rama IV levied a "street tax" on brothels, which funded the construction of some of Bangkok's first roads; Rama V taxed prostitution in a number of provinces under the euphemism

²⁴⁰ Boonchalaksi and Guest, *Prostitution in Thailand*.

²⁴¹ Baker and Phongpaichit, *A History of Thailand*, 103.

²⁴² Mettarikanond, "Prostitution and the Policies of the Thai Government from 1868 to 1960"; Boonchalaksi and Guest, *Prostitution in Thailand*, 131.

²⁴³ Boonchalaksi and Guest, *Prostitution in Thailand* citing; T. Tupthong, *Green-lantern women* (Bangkok: Chaophaya Press, n.d.).

²⁴⁴ Sukanya Hantrakul, "Prostitutes and Human Rights in Thailand," *Human Rights in Thailand* 5, no. 3 (1981): 7.

²⁴⁵ Christopher Baker and Pasuk Phongpaichit, *A History of Thailand*, 2nd ed. (New York: Cambridge University Press, 2005), 103; see also Wathinee Boonchalaksi and Phillip Guest, *Prostitution in Thailand* (Nakhon Pathom, Thailand: Institute for Population and Social Research, Mahidol University, 1994), 113.

²⁴⁶ Scot Barmé, *Woman, man, Bangkok: love, sex and popular culture in Thailand* (Lanham: Rowman and Littlefield, 2002), 81.

²⁴⁷ By 1920, western prostitutes were no longer visible in the Bangkok sex industry. See League of Nations, "Siam, Annex II, Extracts from the Traffic in Women and Girls Act, B.E. 2461", 1928, 316.

of a “road tax.”²⁴⁸ By the early 1900s, Siam’s domestic prostitution policy reflected a regulatory licensing and public health approach. Siam passed the Venereal Disease Control Act in 1909, which registered, taxed and licensed prostitution businesses. Brothel operators were required to maintain lists of prostitute employees, and assure that no prostitute was coerced or under age fifteen.²⁴⁹ The 1909 Act required women to register with the government to secure a three-month license, although a woman maintained the right to cancel her license and registration. Women had to submit to medical examinations to assure they were clear of venereal disease and were freely consenting to sex work.²⁵⁰ Some women worked illegally outside the registered brothel houses, seeking out clients at gambling centers, lottery centers, or at the cinema, which became an increasingly popular site for solicitation.

However, governing prostitution through public health interventions tends to serve the interests of clients, rather than improving the lot of women working in the sex industry. As with Britain’s Contagious Diseases Acts, Siam’s 1909 Act was motivated in part to protect the health and vigor of the new standing military, and implemented to guard against the prostitute (rather than unscreened, anonymous male clients) as a vector of disease transmission. This regulatory model laid the institutional and cultural groundwork for the subsequent governance of military prostitution during occupation by foreign troops.

Siam signed the 1910 International Convention for the Suppression of the White Slave Traffic, which entailed *ipso facto* accession to the 1904 White Slavery Agreement. Both agreements reflected gendered assumptions about the nature of “civilized” relations between the sexes, as well as women’s vulnerability and lack of agency (both sexual and economic). Accession to the agreements demonstrated a country’s formal legal commitment to protect women from sexual violation and degradation. Western social conventions about sex, gender, and women’s status served as markers of civilization and preconditions for acceptance in the emerging international community.²⁵¹ By joining the international fight against white slavery, Chulalongkorn signaled Siam’s alignment with the modernizing gender roles of the West.

Although white slavery campaigners had pushed for the abolition of prostitution at home and in the colonies by arguing the licensed brothels abroad stimulated the traffic in women, many imperial powers continued to maintain organized military prostitution in the colonies.²⁵² Colonial administrators’ continuing resistance to international inquiries regarding licensed brothels was still evident in the 1933 Commission of Enquiry into the Traffic of Women and Children in the Far East. The Assembly and the Council of the League of Nations circumscribed

²⁴⁸ Boonchalaksi and Guest, *Prostitution in Thailand*, 4, citing Mettarikanond, “Prostitution and the Policies of the Thai Government from 1868 to 1960.”

²⁴⁹ The Penal Code of 1908 provided that the seduction of minors under twelve years of age and the abduction of any child under ten was punishable by law; however, penalties only applied for children between ten and fourteen if they did not consent to the abduction, for example, for money or immoral purposes. League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. “Siam: Internal Conditions Relating to Traffic,” Report to the Council, 1933, 311; Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 154.

²⁵⁰ Suwadee, “Thai Society’s Expectations,” 12-3. See also, “Summary of the Control and Prevention of Venereal Disease Act R.S. 127, 1909,” in Morris Fox, *Problem of Prostitution in Thailand*, Social Service in Thailand (Bangkok: Mahaadthai Press: Department of Public Welfare, Ministry of the Interior, 1960), 147-8.

²⁵¹ Loos, *Subject Siam: family, law, and colonial modernity in Thailand*, 100-102.

²⁵² Despite the fact that the 1886 repeal of the Contagious Diseases Acts left the British Army in India in noncompliance with Parliamentary efforts at prostitution abolition, colonial administrators reorganized and maintained the system of licensed brothels until World War I. David Pivar, “The military, prostitution, and colonial peoples: India and the Philippines, 1885-1917,” *Journal of Sex Research*, 1559-8519 17, no. 3 (1981): 256-69.

the scope of the investigations to the international level, deeming licensed brothels a matter of domestic politics.²⁵³ Thus, the 1904 and 1910 treaties accommodated a wide range of policies regulating prostitution and the movement of white/western women, while leaving the structure (and demand) of domestic sex industries relatively undisturbed. Adopting a regulatory model legitimized by French and British colonial administrators allowed Siam to signal its alignment with Western countries' concerns about the traffic in (white) women to the colonies while maintaining men's access to commercial prostitution.

The international community again addressed the issue of trafficking in 1921 with the International Convention for the Suppression of the Traffic in Women and Children. Siam ratified the 1921 International Convention, but made a reservation as to the prescribed age limit, insofar as it concerned Thai nationals.²⁵⁴ Seven years later, Siam created its own domestic anti-trafficking provision in the 1928 Royal Decree on Trafficking of Women and Girls. The decree was relatively limited in scope: it failed to protect boys, did not specify a penalty for smuggling women and children out of the country, and fined traffickers 1,000 baht for an offense.²⁵⁵ The 1928 law did, however, give officials the power to "examine all women and girls coming into or departing from Siam" with the discretion to detain women to determine whether they were migrating for prostitution and to deport them back to their countries of origin.²⁵⁶ The enforcement of these laws likely operated to protect against the traffic in and pimping of white women to the colonies and other foreign destinations, rather than protect Chinese women trafficked into brothel prostitution catering to local men and Chinese migrant laborers.²⁵⁷ Unregistered brothels existed alongside above-board businesses, and although the number of brothels registered with the police declined from 1928, the number of women practicing occasional or clandestine prostitution rose.²⁵⁸

²⁵³ League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. "Siam: Internal Conditions Relating to Traffic."

²⁵⁴ Thailand signed the Convention on July 13, 1922, "[w]ith reservation as to the age-limit prescribed in paragraph (b) of the Final Protocol of the Convention of 1910 and Article 5 of this Convention, in so far as concerns the nationals of Thailand." See also, League of Nations, "Siam, Annex II, Extracts from the Traffic in Women and Girls Act, B.E. 2461," 325.

²⁵⁵ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 27–28 citing; Kobkul Rayanakorn, *Special Study on Laws Relating to Prostitution and the Traffic in Women*, Research and Action Project in Women (Bangkok: Foundation for Women, 1995).

²⁵⁶ League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. "Siam: Internal Conditions Relating to Traffic," 325.

²⁵⁷ A 1933 League of Nations report identified Siam as a receiving country for foreign women entering prostitution, estimating that two- to three-thousand female Chinese migrants were trafficked into brothels. In the same era, 126 of the 151 registered brothels in Bangkok were Chinese-owned. See Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 17.

However, the 1933 report surveyed anti-trafficking enforcement, noting that western prostitutes were no longer visible in the Bangkok sex industry by the 1920s. League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. "Siam: Internal Conditions Relating to Traffic," 316. See also Truong, noting that "the largest group of victims of traffic among Asian countries and Asian colonial territories were Chinese women, because of the large number of contract male laborers from China in these areas and the impoverished conditions in China." Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 81.

²⁵⁸ League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. "Siam: Internal Conditions Relating to Traffic," 316.

Post-Absolutist Siam and the Renunciation of Polygamy

In the late-Victorian era, Western critiques of polygamy identified the practice with the sexual decadence and moral inferiority of Siamese men, undermining their ability to rule with gentlemanly reason and restraint. Narratives of women's sexual enslavement in polygamy by barbaric men and backward tradition threatened to legitimate colonial intervention. Siamese royals and elite males interpreted early Western criticism of polygamy as an attack on the monarchical system, and consequently, defending polygamy became associated with national identity and cultural pride.²⁵⁹ For example, Chaopraya Thiphak'orawong's late nineteenth-century tract, "Defence of Polygamy," argued that from a Buddhist perspective, polygamy was not immoral and therefore acceptable within the context of Siamese society.²⁶⁰

However, the popularization of Western gender codes as signs of progress and modernity ultimately changed the social meaning of polygamy in Siam. In 1908, the Siamese government employed French legal advisers to assist in the reform of the legal system, including a code on family law that addressed indigenous marriage customs. A 1912 draft allowed for the continued practice of polygamy, but was criticized by Prince Svasti Sobhon, one of Rama V's brothers who had studied law at Oxford University. He argued that the law should embrace monogamy, not due to concerns for social equality or morality, but because polygamy allowed foreigners to "criticize our morality by saying that our law is not of the same standard as the Western laws, thereby bringing disgrace to our country."²⁶¹ From the 1920s on, both male and female authors in Siam denounced polygamy as "unfair to women, symbolic of Siam's backwardness in international perspective, and contributory to the culture of prostitution."²⁶²

The question of polygamy and multiple wives emerged as a key issue in the national debate about equality between the sexes, when critics identified the law that allowed a man to have more than one wife as "iniquitous, archaic, and uncivilized," as well as the root of various social problems, particularly the spread of prostitution and venereal disease.²⁶³ Elite women began to press for more equitable gender relations through female education, and championed monogamy, romantic love, and sexual reciprocity. Renowned female writers described how women "could turn an indulgent, old-style man into both a good husband and ideal citizen by abandoning the traditionally passive feminine role."²⁶⁴ In 1922, an essay entitled "The Condition of Thai Women" (*Saphap satri thai*) appeared in the women's newspaper *Satri sap*, pronouncing that "it has now reached the stage where men and women should be accorded equal rights [*sit samoe kan*]" regarding marriage. The anonymous author criticized the government as one "of men for men who take advantage of the opposite sex," contrasting the oppressive sexual privilege of the royal-elite who practiced polygamy with "civilized countries" [*araya prathet*] where "men and women have equal rights" and men are permitted only one wife.²⁶⁵ Other commentators connected the issue of polygamy with prostitution and venereal disease, problems viewed as endangering the nation. Ch'o ch'o ch'o, author of an article entitled "The Government should be Deeply Concerned about the Threat of Prostitution," wrote that prostitution "impedes

²⁵⁹ Jeffrey, *Sex and Borders*, 8.

²⁶⁰ Barmé, *Woman, man, Bangkok: love, sex and popular culture in Thailand*, 159.

²⁶¹ *Ibid.*, 81.

²⁶² Baker and Phongpaichit, *A History of Thailand*, 108.

²⁶³ Barmé, *Woman, man, Bangkok: love, sex and popular culture in Thailand*, 156–7.

²⁶⁴ Baker and Phongpaichit, *A History of Thailand*, 109.

²⁶⁵ Anonymous, "The Condition of Thai Women," *Satri Sap*, 1922, quoted in Barmé, *Woman, man, Bangkok: love, sex and popular culture in Thailand*, 165.

national progress and poses a serious threat not only to the family but also to the country's independence and the wealth of the people," as venereal disease might impair men's reproductive capabilities, thereby limiting Siam's future population growth.²⁶⁶

Chulalongkorn's (1868-1910) effort to westernize Thai society in the early 1900s and the growing influence of non-elite classes in Thai politics created new opportunities for groups previously excluded from policymaking to call into question existing social beliefs and practices, and to press for social reforms similar to those advanced in Western nations. Thai women could reflect on the strategies used in earlier women's campaigns against the economic and sexual subordination of women due to unequal status within marriage, the denial of civil and political rights, and the sexual double standard. The seeds of political transformation sowed by Chulalongkorn's political and social reforms grew into a re-visioning of Thai society and the best way to govern the new Thai nation. New ideas about social mobility and equal opportunity for commoners reshaped expectations of the nation-state and the unequal distribution of the economic benefits of "progress" and modernization.²⁶⁷ Further, the expansion of non-elite classes such as bureaucrats, educated urban populations, professionals, mixed Thai-Chinese entrepreneurial families, and the growing middle class began to undermine traditional ideas about the propriety of monarchical governance, "[redefining] the purpose of the nation-state as the well-being of the nation's members."²⁶⁸

Over time, mounting criticisms of the government for its failure to address social problems such as prostitution and venereal disease, combined with political concerns and the global economic depression, contributed to the gradual diminution of royal authority and legitimacy. In 1932, a bloodless coup by the "People's Party," a small group of Western-educated civil servants and military officers converted Siam's absolute monarchy to a constitutional one. The People's Party justified the revolution by appealing to economic nationalism, social justice, humanism, and the rule of law, and gained tremendous popular support from farmers, business, and labor groups. The provisional constitution sought to bring the King and royalty under the rule of law, announcing, "the supreme power in the country belongs to the people"; however, a subsequent "permanent" constitution granted more power to the king, and its 1932 promulgation was "state-managed as gift from the throne."²⁶⁹ The constitution ensured women equal voting rights and the right to run in elections, although no woman was elected to the legislature until 1949 and the number of women politicians remains small today.²⁷⁰ Nevertheless, the shift to a constitutional system altered the Thai political field, created new political and discursive opportunity structures in which women had more room to mobilize for reforms, and facilitated interaction with Western women's groups.

Conclusion

Siam's encounter with European merchants and colonial powers from the 1500s to the early twentieth century transformed the economic, political, and social structures of the Siam.

²⁶⁶ *Sikrungs*, 1927, quoted in Barmé, *Woman, man, Bangkok: love, sex and popular culture in Thailand*, 174.

²⁶⁷ Baker and Phongpaichit, *A History of Thailand*, 105.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*, 119.

²⁷⁰ The number of women elected to office rose from four in 1952 to nine in 1979, 13 in 1983, 15 in 1992, and 24 in 1995. Thongchai Wonghaisuwan and Amporn Tamronglak, "Political Participation of Thai Middle-Class Women," in *Women and Politics in Thailand: Continuity and Change*, ed. Kasuki Iwanaga, Women and Politics in Asia Series (Copenhagen: NIAS, 2008), 240.

The adroit political diplomacy and trade negotiation of Siamese kings and elites allowed the country to remain independent from colonizing forces—the only country in Southeast Asia to do so. Strategic westernization in certain policy realms gave Siam merit in the international community, securing its status as a legitimate, civilized, and sovereign nation. Siam adopted and adapted Western techniques of mapping, governance, organization, and professionalization in a variety of social and political arenas to present an image as a modern state.

The encounter between Siam and Western powers was shaped by a sexualized discourse positioning Siamese men as sensualist, perverse, barbaric polygamists incapable of rational rule, while Siamese women were presented as either sex slaves trapped in a “harem” or common whores. Conforming (at least formally) to Western socio-sexual norms was a key element to signaling Siam’s commitment to “civilization,” thereby preserving the country from direct colonization.

Siam’s prostitution and trafficking policies furthered an array of policy goals. Signing international treaties against white slavery helped to deflect international scrutiny of polygamy and prostitution in Thailand while reducing the number of foreign (Western) women working in the industry. By the 1920s, Russian, British, American, and French prostitutes had disappeared from the Bangkok sex industry (or were pushed underground).²⁷¹ But by creating licensing requirements for brothels and selectively enforcing more stringent “protections” for women traveling across borders, Siam’s prostitution policies and anti-trafficking provisions also facilitated enhanced surveillance and control of both Thai women and migrant women from China who engaged in prostitution. At the same time, regulating the domestic sex industry through a venereal disease control framework preserved the both the health and the sexual prerogative of the male citizen-soldier. Finally, placing prostitution under the rubric of social hygiene created a division of Thai women into two neat categories—the registered public prostitute, a vector of disease, versus the pure, virtuous wife and mother.

However, efforts to modernize Siam by reforming socio-sexual practices to present a civilized image to the international community also worked to erode norms and economic structures that had served to protect many women, as in the abolition of slavery without a social safety net or education for newly freed female slaves. The next chapter analyzes how the transition to modern statehood and elite women’s efforts to govern peasant prostitutes in the post-absolutist era shaped the opportunity structures for the early phases of women’s organizing in the new nation of “Thailand.”

²⁷¹ League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. “Siam: Internal Conditions Relating to Traffic,” 316.

CHAPTER 3 - Militarizing the State, Matronizing the Nation

Introduction

As the previous chapter has argued, women served as representatives of Thai culture during the colonial encounter with the West. This dynamic continued in the state-building years, and the management of gender appearance and sexual practices played a large role in constituting the image of the new nation of “Thailand.” Rapid modernization and westernization of Siam/Thailand from the 1930s to the 1970s generated opportunities to seek progressive change as well as crackdowns to reinstate political order. The military exerted great influence in Thai politics through its involvement in several coups and political crises since 1932.

After the 1932 revolution, the Kingdom of Siam endured sixty years of almost permanent military rule before the brief establishment of a democratic system in the post-absolutist period. The King abdicated the throne in 1935, and Thailand went without a resident, reigning monarch for the next sixteen years. The shift from absolutism to constitutional monarchy was marked by the rising political influence of Siam’s bureaucratic elite. Bureaucrats sought to modernize the state, advocating for efficient administrative governance and Western-style social welfare measures.

Over the course of the 1930s and 1940s, Thai politics were dominated by competing factions of the People’s Party, which had led the 1932 revolution: the civilians, led by Pridi Banomyong (Pridi), who promoted liberal state and economic progress; and the military, led by Plaek Phibunsongkhram (Phibun), who advanced a strong, militarized nationalism. Commoner military leaders from the standing army created by Rama V’s reforms came to dominate Thai politics for decades as the country modernized and negotiated a world divided by clashing nationalisms and ideologies.

With American military and development support through the 1950s and 1960s, Thailand evolved from a subsistence-based agricultural economy to a market-oriented rice economy, and by the 1980s emerged as a rapidly industrializing nation with a growing tourism industry. However, the Americanization of social norms sparked concerns regarding young women’s dress, sexual behavior, and new forms of entertainment as symptoms of foreign influence, cultural decline, and moral decay; changes in gender roles paralleled the changes in Thailand’s political field.

Despite the militarized political field and restricted space for civil society, social movements emerged in the 1970s among students and the peasantry to protest government repression and corruption, and to oppose foreign intervention and influence over Thailand. Anxieties about Americanization crystallized in the figure of the peasant migrant turned prostitute, and animated both nationalist critiques by political dissidents and social purification campaigns by the military government. Over one million American diplomatic, aid, and military personnel were stationed in Thailand from the 1950s to the mid-1970, simultaneously increasing demand for prostitution, stimulating the migration of rural women into the growing sex industry – and fostering public resentment regarding foreign influence and sexual imperialism. These developments laid the groundwork not only for the nationalist critiques of resistance movements, but also for social and military elites who sought to reassert traditional forms of social control to govern the country in a time of rapid economic and political change.

Gendered Nationalism and the (Re)constitution of Thai Identity

In 1938, the government instituted a nationalist program to modernize the country under the authoritarian leadership of Phibun (1938-44, 1948-57). In the late 1930s and early 1940s, Phibun implemented a propagandist program of national social and cultural renewal, suppressing regional cultures and dialects in order to create a “hegemonic model of a national culture and modern values” and inculcate proper Western dress, conduct, hygiene and practices in the Nation.²⁷²

Between 1939 and 1942, the government issued a series of twelve Cultural Mandates or National Conventions (*ratniyom*) to demonstrate the modernity and civilization of the new nation-state. Phibun’s state edicts represented an effort to strengthen Thailand as a modern, unified, sovereign country in the context of a looming global war that the country could not avoid. Conforming to modern social conventions was figured as a key indicator of civilization, necessary to maintain Thai independence and sovereignty in the shadow of Japan’s occupation and its campaign to dominate Southeast Asia during WWII. As one government official explained, if Thai people did not exhibit proper behavior, it risked “foreigners ridiculing Thailand as being uncivilized, possessing no high morality and therefore not qualified to the same sovereign status as other nations.”²⁷³ The edicts represented various themes: a shift away from Siam’s royalist past to a strong nation-state; promotion of national security; reconstruction of diverse citizenry into a united nation of “Thai people”; and progress through proper behavior, hygiene, and public health to guard against international perception of Thailand as anything but civilized.²⁷⁴

For example, to distance Siam from its royalist past and promote a unified citizenry and “Thainess” (*khwam pen Thai*), Phibun issued an edict in 1939 changing the country’s name from Siam to Thailand on grounds that “We are of the Thai race but . . . the name Siam does not correspond to our race.”²⁷⁵ Phibun adopted segregation and discrimination policies with regard

²⁷² Van Esterik, *Materializing Thailand*, 118.

²⁷³ Chief Secretary to the Cabinet to Wichit Wathakan, June 8, 1939 cited in Kobkua Suwannathat-Pian, *Thailand's durable Premier: Phibun through three decades, 1932-1957* (New York: Oxford University Press, 1995), 153-4, note 26.

²⁷⁴ Baker and Phongpaichit, *A History of Thailand*, 132–135.

²⁷⁵ Kobkua Suwannathat-Pian, *Thailand's durable Premier: Phibun through three decades, 1932-1957*, 113.

Renaming the country was part of a broader project of making Thai people truly Thai by assimilating Chinese-Thai, northern Thai (Lanna) and northeastern Thai (Issan/Lao people). Both Lanna and Lao had distinctive dialects, scripts, and artistic traditions that were nearly destroyed in efforts to construct a unified Thai national identity. Although the narrow translation of “Thai” means free, the word also refers to “long-standing, culturally similar groupings of individuals who, through their military capacity and social cohesion, were able to maintain their independence in the face of more powerful and expansive groups.” Scot Barmé, *Luang Wichit Wathakan and the creation of a Thai identity* (Singapore: Institute of Southeast Asian Studies, 1993), 27. Van Esterik observes that “Thainess” (*khwam pen Thai*) is associated with freedom, independence and adaptability; the concept allows for the construction and reconstruction of the past as it is useful in the present. Van Esterik, *Materializing Thailand*, 106.

Thus, the concept “Thai” bears several connotations, such as those holding Thai nationality (*sanchat*), as well as those of the loosely defined Thai race or ethnicity (*chuachat*). Suthasasna described the cultural and nationalistic aspects of “Thainess” as implying

“strongly, and in some occasions exclusively, Buddhist religion and Siamese culture. . . . [A] real Thai . . . is held to be the one who has a Siamese origin and worship[s] Buddhism. Thus, the ‘real’ Thai . . . automatically excludes . . . Muslims and other ethnic groups which fall outside one or both of the criteria.”

to non-Thais. Phibun also encouraged consumer activity to deter communism, calling on the public to “buy Thai” and to develop a “materialistic culture.” Phibun explained that sweeping reforms were necessary because “government is forced to reform and reconstruct the various aspects of society, especially its culture, which here signifies growth and beauty, orderliness, progress and uniformity, and the morality of the nation.”²⁷⁶ The National Cultural Development Act, passed in 1942, employed a similar definition of culture (*wathanantham*), and the National Culture Council was established in 1943 to prevent the spread of Japanese culture in Thailand, according to Phibun.²⁷⁷ The 1942 Act also required all civil society organizations to register with the Ministry of the Interior in an effort to control a potentially threatening sector. Only philanthropic activities were permitted, and organizations had to make an explicit statement that they would not be involved in political activities.

As in the colonial period, the manipulation of appearances – particularly gendered ones – served as a key technique to shape the national image abroad. Western habits were advised, such as using forks and spoons to eat, rather than one’s hands. State edicts required proper dress and manners, with enhanced penalties, fines and arrest for noncompliance after 1942. A national dress code charged Thai men to wear uniforms, hats, shoes, socks, jackets and pants, rather than the traditional *parmuang* wrap. Thai women, who traditionally wore only a sarong and a cloth wrap around their chests, were directed to wear shoes, skirts, hats, and a blouse that covered the shoulders.²⁷⁸ Phibun even instructed bureaucrats to kiss their wives before leaving and upon returning from work, assumed to be common Western practice.²⁷⁹

Women served as the public embodiment of Thai culture, and the promotion of modern but modest womanhood became a key site of governance in the state-building project. During WWII, women were encouraged to mimic European dress to show both Japanese and Europeans that Thai were like Westerners, not like Japanese; women were required to wear hats, and those who failed to do so were subject to arrest for “breaching culture.”²⁸⁰ Older and rural women found wearing traditional *chongkraben*, comfortable draped pants worn by both men and women, were forced to restyle their clothes to a *phassin* skirt on the spot, and officials denied women government services if they failed to appear in Western dress.²⁸¹

National beauty contests became part of the westernization and nation-building strategy since the 1930s, and exemplify how women’s bodies served as icons of Thainess in the state-building project.²⁸² Two years after the 1932 coup ending absolute monarchy, the first

A. Suthasasna, “The Muslims in Thai Polity” (presented at the Regional Workshop on Minorities in Buddhist Politics - Sri Lanka, Burma and Thailand, Chulalongkorn University, Bangkok, 1985), 31–32.

²⁷⁶ Kobkua Suwannathat-Pian, *Thailand’s durable Premier: Phibun through three decades, 1932-1957*, 102.

²⁷⁷ Thamsook Numnonda, “Pibulsongkram’s Thai Nation-Building Programme during the Japanese Military Presence, 1941-1945,” *Journal of Southeast Asian Studies* 9, no. 2 (September 1978): 242. The National Cultural Council was divided into five bureaus to advance spiritual culture, customs, art, literature, and women. In keeping Phibun’s efforts to present an image of modernity and erode the traditional power of the monarchy, the project of cultural nationalism did not draw on royal or court traditions, which were reframed as cultural heritage, but rather adapted Western (invented) traditions, to create unifying cultural symbols.

²⁷⁸ *Ibid.*, 238.

²⁷⁹ Kobkua Suwannathat-Pian, *Thailand’s durable Premier: Phibun through three decades, 1932-1957*, 127.

²⁸⁰ Van Esterik, *Materializing Thailand*, 103. Women were required to “wear a hat for your country” and government propaganda included slogans such as “Hats will lead Thailand to greatness.” *Ibid.* See also Numnonda, “Pibulsongkram’s Thai Nation-Building Programme during the Japanese Military Presence, 1941-1945,” 211.

²⁸¹ Van Esterik, *Materializing Thailand*, 103.

²⁸² Penny Van Esterik, *Deconstructing Display: Gender and Development in Thailand*, Working Paper Series, Thai Studies Project (Toronto: York University, 1989).

government-sponsored contest to select “Miss Siam” was held in as part of the Constitution Day celebrations. National beauty contests put the “flowers of the nation” on display, their beauty, grace, and serenity serving as markers of moral goodness and national pride. Phibun used the contest for political purposes, promoting the new “Thai” nation, and using the contestants as models demonstrating how to wear both Western and Thai clothing “properly,” including women in military uniforms and Western-style hats.²⁸³ The government promoted beauty contests in the late 1940s and early 1950s as an attempt to promote national pride and transform traditional *sakdina* (feudal ranking order) mentality. A woman’s beauty created an opportunity for rags-to-riches social mobility – indeed, many military officers and government officials took beauty queens as wives. In 1965, Apasara Hongsakul was selected as Miss Thailand and won the Miss Universe contest; she became a public celebrity, married (and later divorced) a cousin of the Queen, and was appointed as Cultural Ambassador by the Tourism Authority of Thailand. Rural girls entered beauty contests for the possibility of a status boost and a path to urban society. Local beauty contests became recruiting-grounds for prominent political figures to select consorts as well as for brokers seeking to procure beautiful (light-skinned, Northern) girls for prostitution.²⁸⁴

Mothers of the Nation: Polygamy, Prostitution and Elite Women’s Mobilization During the State-Building Years

The meaning of family, marriage, and sexuality became subject to legal, social, and political wars of definition and reform in the early decades of the 1900s. The display and management of women’s bodies and appearance as representative of nation during the state-building years built on earlier campaigns to signify “progress” and civilization in Siam through reforms to Westernize family law.

Modern Wives: Progress and Polygamy

Under Chulalongkorn in the late 1800s and early 1900s, Siam had reformed its entire legal system except for “native” Buddhist family law. Westerners identified his retention of traditional Siamese polygyny as a “backwards” practice that legitimated the maintenance of unequal treaty systems between Siam and imperial powers to “protect” Europeans (and later, “Asiatics” from European colonies) from the Siamese justice system.²⁸⁵ Polygamy thus was indicative of Siamese status as sovereign but not thoroughly modernized – and therefore unequal to Western powers.

Siamese nobles for years had debated the legal implications of polygamy, and whether Siam was considered to be “on a lower moral plane than . . . Western nations.”²⁸⁶ Siam’s last

²⁸³ Van Esterik, *Materializing Thailand*, 140. Notably, the 1939 Miss Thailand received a kimono from the Japanese Embassy in Bangkok.

²⁸⁴ Pasuk Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, Women, Work and Development 2 (Geneva: International Labour Office, 1982), 37. Pasuk argues that while Issan women and girls from the Northeast were drawn into prostitution as a result of comparative economic opportunities and their experience with prostitution around U.S. military bases during the Vietnam War, “the institution of the beauty contest . . . provided the channel for the girls from the North” into prostitution, as Northern girls are considered “pretty and charming by nature.” Ibid. at 37.

²⁸⁵ Loos, *Subject Siam: family, law, and colonial modernity in Thailand*.

²⁸⁶ Scot Barmé, *Woman, man, Bangkok: love, sex, and popular culture in Thailand* (Lanham: Rowman & Littlefield, 2002), 161.

absolute monarch, King Vajiravudh (1910-1925), considered monogamy reforms to improve Western perception of Siam, although he took four wives in an unsuccessful effort to produce a male heir.²⁸⁷ The next King of Siam, Prajaitiphok (1926-1935), was married to only one woman, reflecting the influence of both foreign and domestic criticism of polygamy. In the 1920s, increasing numbers of men and women – particularly from the growing educated middle class – campaigned against polygamy as uncivilized and representative of an outmoded traditional social order, employing discourses of modernity associating monogamy with ideals of sexual equality.²⁸⁸ However, other groups in society, including some members of the post-coup elected People’s Party, defended polygamy as part of Siam’s Buddhist heritage.

Another factor leading to the reform of Thailand’s family law was a massive backlog of cases in Thailand’s new legal system, which was clogged due to the difficulty of adjudicating cases addressing marriage, divorce, alimony, adultery, rape, and inheritance. The difficulty arose from the ambiguity of earlier Thai law, which classified wives into three categories.²⁸⁹ The legal recognition of polygamy required the determination of “legitimate” wives with legal rights, distinguished from other sexual partners including mistresses, prostitutes and “temporary wives.” In 1935, the National Assembly passed a new law on monogamy, adopting a single standard of marriage. The “modernization” of Siam’s legal code was complete, paving the way for the removal of the last remnants of the unequal treaty system.

Although the official ban on polygamy was responsive to international pressure, it did not necessarily enhance women’s status. The law actually increased a husband’s control over his wife’s business affairs and property. Other provisions in family law unofficially sanctioned polygamy by, for example, making a wife’s adultery – but not a husband’s – grounds for divorce and by allowing men to register all of their children regardless of whether the child was the product of a formal marriage. Moreover, minor wives lost the economic and legal rights to which they had been entitled when polygamy was recognized in law, a change that left many Thai women without any formal claim on family resources. Although Thai Family Law forbids formal polygamous relationships, polygyny continues in practice to this day, as men take *mia noi* (“minor wives”) and elite men acquire several mistresses, young students, and beauty queens as markers of status, wealth, and virility.²⁹⁰ In essence, the 1935 reforms

merely institutionalized a bourgeois form of patriarchy which made it more difficult for women to get a divorce, and required that the husband’s consent be given for any contract entered into on the part of the wife. (Outlawing polygamy legally while it continued socially meant only that second wives no longer had any protection; ironically, women who often controlled significant property could no longer act independently of their husbands: in this way, “modernization” – carried through largely by Sino-Thai

²⁸⁷ Ibid. Some sources suggest that Vajiravudh’s delay of marriage was due to his homosexuality.

²⁸⁸ Loos, *Subject Siam: family, law, and colonial modernity in Thailand*, 11.

²⁸⁹ The Law of Husbands and Wives B.E. 1904, classified wives according to the way they were acquired by the husband: *mia glang muang* was an official wife acquired by a man’s parents for him; *mia glan noi*, was a wife acquired by a man for himself after his official wife; and *mia glang tasee* denoted slave wives purchased by a man from parents or former slave owners. Although registration of marriage was not required, children from all wives were regarded as legitimate.

²⁹⁰ Skrobaneck, Boonpakdi, and Jantakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 78.

legal experts acting on western advice – meant worsening the position of Thai women.)²⁹¹

The need to refigure Thai women as modern wives and mothers transformed the symbolic stakes of polygamy, as well as the conditions and sites of women's mobilization. Elite women were positioned as key agents in the state-building project to promote the upgrading of Thai women to match the modern status of women in Western countries. Phibun's cultural mandates cast women as guardians of Thai culture and mothers of the nation. For example, in 1942 Phibun announced that:

Women are the mothers of every Thai as women are mothers of all things. They are the mothers who give birth to children and they are the mould of the nation. . . . Mothers are the mould of the character of men since childhood. . . . If we have no good mould, we can never build the Thai Nation.²⁹²

Elite women took advantage of this discursive and political opportunity to link (elite) women to the definition of national culture during the state-building years. Phibun's wife, Lady Laiad, proposed and chaired the Women's Department of the National Cultural Council, established in 1942. Laiad also founded a private women's organization, the Women's Cultural Club (WCC), which served as an important non-governmental forum for elite women to mobilize outside state institutions. The WCC set up branches in each province, each led by the wife of the provincial governor, lending the organization semi-official status.²⁹³ Like the Women's Department, the WCC promoted social hygiene and sought to teach Thai women "modern" homemaking skills and gender relations, endeavoring to make women "more compatible partners of their husbands."²⁹⁴ The Women's Department of the National Cultural Council "became a vehicle for upper-class women to proselytize on behalf of the government's nationalist program."²⁹⁵ It promoted a social hygiene rehabilitation agenda, training women in proper dress, housekeeping, child care, and sexual propriety.

As in women's movements in other countries, elite Thai women found a path to political influence by positioning themselves as expert "helpers" and moral educators of lower class women. However, locating women's issues under the rubric of national culture created both discursive opportunities and constraints for women's mobilization in Thailand. Although the institutionalization of women's role in national identity- and culture- building remained tied to the roles of wife and mother, it also created new opportunities, particularly in the emerging profession of social welfare work, providing some elite women a "quasi-official role in

²⁹¹ Gail Omvedt, *Women in Popular Movements: India and Thailand during the Decade of Women*, United Nations Research Institute for Social Development (Geneva: United Nations Research Institute for Social Development, 1986), 44.

²⁹² Wichit Wathakan, "On Propaganda," Feb. 1, 1943 cited in Kobkua Suwannathat-Pian, *Thailand's durable Premier: Phibun through three decades, 1932-1957*, 158, note 79. This sentiment exemplifies Nira Yuval-Davis's observations regarding women's role in the biological and cultural reproduction of the nation. Yuval-Davis, *Gender & Nation*.

²⁹³ Darunee Tantiwiramanond and Shashi Ranjan Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand* (Singapore: ISEAS, 1991), 43.

²⁹⁴ *Ibid.*, 44.

²⁹⁵ Jeffrey, *Sex and Borders*, 57.

governance” that they could not easily obtain through the election process or careers in the bureaucracy.²⁹⁶ The re-construction of Thai women as mothers of the nation and interpreters of traditional culture – and efforts to reform wayward women who threatened this image – exemplifies a key way in which sex and gender can serve as sites of legal, political and cultural contestation and resistance. Like polygamy, social and political resistance to prostitution reform reflected competing understanding of a “modern” approach to the legal organization of social and sexual relations.

Prostitution Reform: From the Regulation of Venereal Disease to Quasi-Abolition

In the 1930s, the prostitute became a symbol of the socio-economic inequities between the rural poor and the urban elite. For example, a widely-read 1937 Thai novel, *Ying khon chua* (variously translated as “The Prostitute” or “An Evil Woman”) presented a sympathetic portrait of a village girl lured into prostitution. Written by the now-famous woman author K. Surangkhanang, the novel emphasized the injustices and inequalities of society that shaped the lives of women in prostitution, challenging Thai conventional wisdom that women who became prostitutes were intrinsically bad.²⁹⁷ Shifting social views of prostitution were reflected efforts to transform the governance of the commercial sex industry.

Officials in the new bureaucracy advanced Western-style social welfare measures, including reformist approaches to prostitution. Military leaders and elite men continuously resisted efforts to abolish prostitution, defending the licensing system as a mechanism for venereal disease control and the protection of the national health. Of course maintaining the practice also preserved male access to extramarital sex. In keeping with this stance, Thailand did not endorse the 1937 League of Nations Draft Convention on the suppression of trafficking and prostitution, which sought “almost immediate eradication of licensed brothels.” Instead, Thailand opted for a “progressive and gradual . . . abolition of the system of licensed houses and the adoption of suitable administrative medical and social measures to accompany the same.”²⁹⁸ This compromise created the need for a new class of bureaucrats, officials, officers and experts to administer this gradual abolition. Significantly, this effort also required professionalized social work, which was a field dominated by women.

Formal legal change, however, had little impact in light of the persistent cultural tolerance of prostitution. The government gradually increased regulation of the sex industry by raising the prices of prostitution licensing, increasing the frequency of medical examinations, and raiding illegal brothels more regularly.²⁹⁹ But by 1939, a member of Thailand’s National Assembly reported that, while only 67 brothels were registered with the police, he had identified 274 in Bangkok; he also discovered four girls in brothels under age thirteen, a violation of the 1909 Venereal Disease Control Act.³⁰⁰ When the representative proposed that unlicensed brothels be subject to a higher penalty, the acting minister of the

²⁹⁶ Ibid., 58.

²⁹⁷ Susan Kepner, *The Lioness in Bloom: Modern Thai Fiction about Women* (Berkeley: University of California Press, 1996), 15–16.

²⁹⁸ “Minutes of the Committee for Considering the Abolition of Licensed Brothels and the Welfare of Women and Children,” 1937 and 1938, cited in Fox, *Problem of Prostitution in Thailand* 41, 49 Exhibit B, “Proposal for Venereal Disease Control in Thailand, B.E. 2481 (1938).

²⁹⁹ Kenneth Landon, *The Chinese in Thailand*, Institute of Pacific Relations (New York: Oxford University Press, 1941), 95–97. These increased taxes and tariffs were part of a broader strategy to burden the Chinese merchant class.

³⁰⁰ Jeffrey, *Sex and Borders*, 15.

interior held that higher fines would be ineffective, and advocated instead a gradual abolition of licensing.³⁰¹

By the mid-1930s, a cadre of elite, foreign-educated women emerged in official and quasi-official roles promoting social hygiene reforms and domesticity training. These women capitalized on the wave of bureaucratic modernization and the professionalization of charity-work as social work, which legitimated women's participation in the public sphere.

The medicalizing discourses of the social hygiene movement also allowed "respectable" women to speak publicly about sexual issues like prostitution and the spread of venereal disease. For example, Dr. Khun Pierra Veijabul, a female Thai doctor educated in France, served in the Venereal Diseases Division of the Ministry of Public Health. Dr. Pierra also sat on the Committee Considering the Abolition of Licensed Brothels in the late 1930s.³⁰² However, continued concern regarding the threat of venereal disease, coupled with social resistance to abolitionist movements, delayed reform of Thailand's prostitution policy. In 1942, the Venereal Disease Prevention and Suppression Committee proposed new legislation combining regulation and abolition, although it was not enacted, likely due to Japan's occupation of Thailand and the establishment of comfort stations within its borders.

In World War II, the Japanese campaign for control of Southeast Asia shattered the myth of European dominance in the region. But as in the colonial era, Thailand attempted to avoid being drawn into the war by balancing its relationships between competing powers to preserve its independence. Thailand took advantage of Japan's invasion of Indochina to reclaim territories lost in the colonial period, in exchange for allowing Japanese troops safe passage. Japan did more than this, however, treating Thailand as an occupied territory rather than an ally, looking down on the Thai as inferior, and exploiting the Thai economy for war supplies.³⁰³ As in other occupied territories, the Japanese Imperial Army set up "comfort stations" for military prostitution in Thailand to maintain morale, limit espionage, prevent the spread of venereal diseases, and prevent anti-Japanese sentiments from fomenting as a result of rapes or sexual violence against women in occupied areas.³⁰⁴ Korean "comfort women" were imported into Japanese military bases in Thailand to service the Japanese troops, and Thai women also engaged in military prostitution.³⁰⁵

³⁰¹ Ibid.

³⁰² Ibid., 20–21., citing National Identity Board, "Thai Life: Thai Women," (Bangkok: National Identity Board, Prime Minister's Office, 1983), 41.

³⁰³ Baker and Phongpaichit, *A History of Thailand*, 135. Japan also coerced Thailand into providing "loans," with the effect of undermining the Thai currency and skyrocketing inflation of over one thousand percent. As a result, many officials whose salaries had not kept pace with inflation were inclined to supplement their earnings off of corruption and bribery.

³⁰⁴ Gay McDougall, *Contemporary Forms of Slavery: Systematic rape, sexual slavery and slavery-like practices during armed conflict*, United Nations Commission on Human Rights (United Nations Commission on Human Rights, June 22, 1998).

In the early years of WWII Japanese women sold into prostitution accompanied the troops into occupied territories. However, brokers began to recruit young native women from occupied territories; others, particularly Korean women, were forced to serve as "comfort women" for Japanese troops. Sidonie Smith, "Belated Narrating: 'Grandmothers' Telling Stories of Forced Sexual Servitude during World War II," in *Just Advocacy? Women's Human Rights, Transnational Feminisms, and the Politics of Representation*, ed. Wendy Hesford and Wendy Kozol (New Brunswick N.J.: Rutgers University Press, 2005), 120-145.

³⁰⁵ Chunghee Sarah Sho, "Prostitutes versus Sex Slaves: The Politics of Representing the 'Comfort Women,'" in *Legacies of the comfort women of World War II*, ed. Margaret Stetz (Armonk N.Y.: M.E. Sharpe, 2001), 72.

Cynthia Enloe estimates that between 100,000-200,000 Asian women from Korea, China, Thailand, Burma, the Philippines, and Taiwan, as well as white women from the Dutch East Indies, were deliberately forced

After WWII, the Ministry of the Interior introduced abolitionist policies by disallowing the opening of any new brothels.³⁰⁶ Even still, according to a report by a UN Social Welfare Advisor, prostitution was “big business” in Thailand from 1905 (when slavery was abolished) through the 1950s, and under-registration of brothels and prostitutes was common.³⁰⁷

The public health approach retained its influence even as some regulated brothels were phased out, and the focus on prostitution as a public health and venereal disease control issue remained strong in Thailand through the 1950s. The persistence of Thailand’s regulatory approach to prostitution through the 1909 Venereal Disease Control Act can best be explained as a technique to ensure local men’s access to extramarital sex and to protect the financial interests of elites and military leaders who had ties to prostitution businesses.³⁰⁸

Trafficking and Post-Colonial Politics

As the international panic over white slavery subsided, so did Thailand’s efforts to address trafficking. Although it was a founding member of the League of Nations, Siam did not become a party to the 1933 International Convention for the Suppression of the Traffic in Women of Full Age, even after a League report identified Siam as a receiving country for Chinese women trafficked into prostitution.³⁰⁹ The Thai delegate to the 1936 League of Nations Bandoeng Conference on the international traffic in women and children in the East reported that trafficking was decreasing, assuring participants that “[t]he numbers of Chinese brothels and prostitutes have become considerably [smaller],” and that in the provinces outside of Bangkok, where “tolerated or licensed brothels exist,” the number of prostitutes “are only to be numbered

by Japanese authorities to work as prostitutes for the Japanese Army during WWII. Cynthia Enloe, *The Morning After: Sexual Politics at the End of the Cold War* (Berkeley: University of California Press, 1993).

Some local advocacy groups in Thailand note that while some Thai women were coerced into prostitution servicing Japanese troops during WWII, other women did so voluntarily. EMPOWER, a Thai sex workers’ organization, reports that Thai women learned to speak Japanese as a “job skill” during WWII, and also learned to use condoms with troops in accordance with military brothel regulations. EMPOWER, “Condoms in our past”, n.d., http://www.empowerfoundation.org/sexy_en.php#. Japanese military authorities supplied free condoms and required all soldiers and sex workers to use them. Brothel rules in 1942 included the following rules: “Visitors must pay at reception to get a coupon and; time allowed 30 minutes; hand coupon to hostess; no alcohol in room; leave when finished; contact without condom prohibited; no violence.” Ibid.

³⁰⁶ Jeffrey, *Sex and Borders*, 20, citing “Prostitution in Selected countries of Asia and the Far East,” *International Review of Criminal Policy* 13 (October 1958), 50.

³⁰⁷ A study by the Thai NGO Foundation For Women found that in the years 1957, 1958, 1959, and 1960, the number of registered prostitutes arrested were 524, 344, 308, and 298, respectively; but during the same years, the number of illegal or unregistered prostitutes arrested was 6747, 8990, 9400 and 7876, respectively. Rayanakorn, *Special Study on Laws Relating to Prostitution and the Traffic in Women*, 10. The majority of women in prostitution during this era were Thai and Chinese, although a smaller number of women of other nationalities were also documented in the Thai sex industry.

³⁰⁸ A mid-1950s study found that prostitution “thrives as a lucrative investment for businessmen and some officials” in Thailand. Wendall Blanchard, *et. al.*, *Thailand: Its People, Its Society, Its Culture*, New Haven: Human Relations Area Files, 1958, cited in S D Bamber, K J Hewison, and P J Underwood, “A history of sexually transmitted diseases in Thailand: policy and politics,” *Sexually Transmitted Infections* 69 (1993): 151. The fact that financial interests influenced the governance of prostitution in the 1950s was plain when a local newspaper reported the Hotels Association request that police allow prostitutes to enter hotels with men (but not live in the hotels), “since the greater part of a hotel’s income is derived from [prostitution].” *Siam Rath Weekly Review*, April 28, 1955, cited in Ibid.

³⁰⁹ League of Nations, *Commission of Enquiry into Traffic in Women and Children in the Far East*. “Siam: Internal Conditions Relating to Traffic.”

by tens.”³¹⁰ He also noted that Thailand had established a Committee Considering the Abolition of Licensed Brothels.³¹¹ The League had begun to view the existence of licensed brothels as a contributing factor to trafficking, and prepared a draft convention in 1937 to consolidate previous international treaties against “white slavery” and the traffic in women and children and to promote international action to abolish brothels and prosecute brothel owners. However, the outbreak of WWII and the dissolution of the League prevented its passage.

In 1947, after the end of WWII, the Economic and Social Council of the United Nations requested the Secretary-General to reassess and propose amendments to the League’s 1937 Draft Convention and propose amendments.³¹² The 1937 draft was resurrected as the basis for the United Nation’s 1949 Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (1949 Convention).³¹³ The 1949 Convention consolidated earlier anti-trafficking agreements and promoted an abolitionist approach to prostitution, urging states to protect women from the “evils of prostitution” by criminalizing acts associated with procuring women to “gratify the passions of another,” regardless of the woman’s consent.³¹⁴ State signatories agreed to abolish laws regulating prostitution (though not prostitution itself); punish brothel owners and third-parties facilitating prostitution; institute rehabilitative regimes for the “social adjustment” of prostitutes; regulate employment agencies; and endeavor to provide shelter and assistance to victims of trafficking.

When the 1949 Convention was presented for signature and ratification, Thailand did not accede to the agreement. (Neither did the United States, the United Kingdom, Germany, the Netherlands, or Sweden). The majority of the early signatories to the 1949 Convention were countries outside of Western Europe.³¹⁵ Although Burma signed the Convention in 1956 and Japan acceded to the agreement in 1958, none of Thailand’s other neighbors became parties until decades later.³¹⁶ Consequently, Thailand had few incentives to sign the 1949 Convention to enhance its international reputation, given the absence of a vocal domestic social movement against trafficking or diplomatic pressure from Western allies. Indeed, Article 6 of the 1949 Convention promoting the repeal of licensing and registration laws ran counter to Thailand’s prostitution policies since 1909.³¹⁷

³¹⁰ Response of the Thai delegate, League of Nations Bulletin, 1 July 1936, quoted in Landon, *The Chinese in Thailand*, 96.

³¹¹ Ibid., 95.

³¹² United Nations Department of Economic and Social Affairs, *Study on Traffic in Persons and Prostitution (Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others)*, ST/SOA/SD/8 (New York: United Nations, 1959).

³¹³ *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, 1949, 96 UNTS 271.

³¹⁴ Art. 1, Ibid.

³¹⁵ In 1950, Ecuador, Liberia, Pakistan, the Philippines, India, Israel and Luxembourg signed the Convention. Brazil, Iran, Cuba, Iraq, Poland, Ukraine, the Russian Federation, Hungary, Bulgaria, Romania, Belarus, Mexico, Argentina signed on within the next six years. Along with Luxembourg (signed 1950, ratified 1983), the Scandinavian countries of Denmark, Norway and Finland were the only Western European countries to sign the 1950 Convention during the 1950s. Denmark signed in 1951; Norway acceded to the agreement in 1952; and Finland signed in 1953, ratified in 1972. France was the first major colonial power to support the 1950 Convention when it acceded in 1960, but it limited the Convention’s applicability to the metropolitan territory of the French Republic.

³¹⁶ Lao PDR acceded to the 1949 Convention in 1978, and Cambodia eventually signed it on in 2004.

³¹⁷ Article 6 of the 1949 Convention obliged state parties to “take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.”

Anti-trafficking agreements drafted during the era of high imperialism presented an opportunity to enhance a country's reputational capital by signaling adoption of "civilized" Victorian gender codes and commitment to guard against (white) woman being trafficked or migrating into prostitution abroad and in the colonies. But by the 1950s, post-WWII political transition, decolonization, and the emergence of nationalist independence movements had transformed the symbolic significance of prostitution and trafficking in domestic politics and in the international community.

The majority of signatories to the 1949 Convention were emerging post-colonial nations from the Global South or socialist countries, suggesting that mid-century international agreements regarding trafficking and prostitution held a very different symbolic political value for different audiences than they had in the early decades of the twentieth century. Local movements in colonies such as Indonesia, India, and Vietnam during the 1920s and 1930s leveraged international scrutiny of prostitution and "uncivilized" sexual arrangements to develop indigenous arguments critiquing traditional sexual norms and to press for domestic social reforms.³¹⁸ One way to throw off the mantle of colonial domination was to abolish the systems established by colonial rulers to monitor "native" women servicing occupying troops. Post-colonial signatories to the Convention revised domestic prostitution laws to reflect the Convention's focus on prostitution as a form of promiscuity that offended public morality "endanger[ed] the welfare of the individual, the family, and the community;" however, the agreements retained considerable legal ambiguity to permit prostitution to continue in practice outside the public eye.³¹⁹ National committees were established to investigate prostitution and create prevention and suppression measures in countries such as India, Sri Lanka, Burma, the Philippines, and Japan in the late 1940s and early 1950s. By the late 1950s, Thailand was the only Asian member of the United Nations to maintain legalized brothels.³²⁰

With polygamy banned in law (if not in practice), the politics of Western sexual morality posed less of a threat to the Thailand's reputation and its standing as a member of the international community than it had previously. The maintenance of licensed brothels was legitimated by Western countries' own example in the colonies, and the medical discourse of venereal disease control justified brothel-licensing schemes as necessary to protect the nation, military, and innocent wives and children from the scourge of venereal disease. However, increasing concerns regarding the Americanization of social and sexual norms – with a particular focus on the promiscuous behavior of young women in urban settings – transformed the meaning of prostitution in Thailand. Coupled with efforts and ultimately led to its criminalization in 1960.

American Military and American Money in Thailand: Authoritarian Rule and "Development" in the Cold War

The succession of military dictators following Pridi's ousting maintained traditional authoritarian rule even as the country modernized and westernized under American influence. America had established its influence in Thailand during World War II. When the tide of the war turned against the Japanese, Thailand began leaking intelligence to the Allies. Pridi, an Allied sympathizer, helped organize various resistance groups. The Seri Thai (Free Thai) formed from groups in Thailand, Britain, and the U.S. to promote an underground resistance movement in

³¹⁸ Than-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia* (London: Zed Books, 1990), 83.

³¹⁹ Preamble, 1949 Convention. See *Ibid.*, 86.

³²⁰ Jeffrey, *Sex and Borders*, 20.

Thailand. Seri Thai was funded in part by the American government, and secretly assisted by the Phibun government, which had retained formal ties to the Japanese during the war.³²¹ When growing public dissatisfaction with Phibun's military government forced him to resign as prime minister in 1944, a member of Seri Thai was chosen to replace him.

Prior cooperation with the U.S. secured Thailand an important patron and protector after WWII. In 1945 the United States intervened against Britain's demands to Thailand as part of a postwar reparations settlement, convincing the British to drop remaining traces of its unilateral control. Thailand was admitted to membership in the United Nations in 1946 after complying with certain demands set forth by Britain, France, China and the Soviet Union relative to a postwar settlement. The U.S. was the only country with U.N. veto power that did not set any conditions for Thailand's admittance.³²²

The post-WWII politics of the Cold War indelibly marked Thailand's political field and its international relations from the 1950s to the 1980s. During this period, Thailand's ability to survive as a free nation was threatened by "the disintegration of colonial administrations in neighboring territories, the resultant political vacuum filled by nascent and assertive nationalism, and the gradual emergence of combative ideological forces."³²³ Many of Thailand's neighbors achieved formal independence from colonial powers in the years following WWII: Britain recognized the Union of Burma in 1948, and Cambodia and Laos formally emerged from French dominance in 1946 and 1949, respectively, although France exercised *de facto* control until their 1954 defeat in Vietnam.³²⁴

Although the U.S. had initially viewed Phibun as a wartime enemy, after Mao Zedong's 1949 revolution in China, the U.S. created a US \$75 million fund for allies in Asia "such as Thailand," and also released funds to cover Japan's substantial debt to Thailand for wartime purchases.³²⁵ During the Cold War, Thai military leaders aligned foreign policy with U.S. efforts to suppress communism in Southeast Asia. Thai cooperation with American-led efforts meant that American involvement in Thailand's military, political, and economic affairs from the mid-1940s through the 1970s proved to be far more intrusive than that of any Western power in the colonial era.³²⁶

Thailand's strategic geo-political location made it a key ally and base for U.S. military operations during the Cold War, and Thai political elites successfully brokered political and military concessions in exchange for millions in international aid, development and military assistance. From the American perspective, the outbreak of the Korean War in 1950 transformed colonial wars in Indochina into possible avenues for communist expansion. Thailand supported

³²¹ Wiwat Mungkandi, "Parallel Features in Thai-American Foreign Policies," in *Thai-American Relations in Contemporary Affairs* (Singapore: Executive Publications PTE Ltd., 1982), 132.

³²² Ibid.

³²³ Hans Indorf, ed., *Thai-American Relations in Contemporary Affairs* (Singapore: Executive Publications PTE Ltd., 1982), 129.

³²⁴ Keyes, *The Golden Peninsula*, 96. True independence in Laos did not come until 1954 after the French defeat by the Viet Minh at Dien Bien Phu and the holding of the Geneva Conference. Keyes also notes that the British instituted "indirect" rule in the Shan states and in Karenni "whereby the local lords were permitted considerable autonomy, although ultimate power laid with British officials." (96).

By 1954, the U.S. had supplied 300,000 small arms and spent one billion dollars in support of the French military effort in Vietnam, approximately 80% of the cost of the war, by the time the French were defeated in 1954. The same year, Washington established the Southeast Asia Treaty Organization (SEATO) in Bangkok; SEATO was modeled along the lines of NATO, and sought to repress communist expansion in the region.

³²⁵ Baker and Phongpaichit, *A History of Thailand*, 144.

³²⁶ Ibid., 119.

the subsequent U.S.-sponsored “Uniting for Peace Resolution” in the UN, which encouraged collective action wherever (Communist) aggression arose.³²⁷ In July 1950, Thailand was the first country in Asia to offer troops and supplies for the U.S. military in Korea as a “token of friendship,” and one month later, the U.S. gave Thailand another US \$10 million in economic aid, supplemented by a US \$25 million loan from the World Bank.³²⁸ The U.S. built a new embassy in Bangkok and the U.S. diplomatic mission to Thailand grew to be one of the largest and most important maintained anywhere in the world by the U.S. government, including a diverse array of officials, institutes, training programs and bilateral projects.³²⁹ In 1954, the U.S. established the Southeast Asia Treaty Organization (SEATO), headquartered in Bangkok, to counter communist expansion in the region. Several UN bodies and international organizations were also established in Bangkok, and by the mid-1950s, the city was host to several UN organizations, and the *farang* (foreigner) population increased rapidly.³³⁰

To ensure Thailand’s national security and continued military cooperation throughout the 1950s and 1960s, the U.S. financially and politically supported the new ruling elite of generals, senior bureaucrats, and influential business interests. Pridi had become the Prime Minister of Thailand in 1946, and was a strong advocate of labor rights. However, this renegotiation of Thailand’s political landscape unsettled relations between elite royalists, militarists, and democratic liberals paved the way for yet another coup. In 1948, a right-wing movement supported by the royal family ultimately reinstated Phibun as Prime Minister, reasserting military control of Thai politics for the coming decade.

To convince the U.S. of its support for the war against communism, Phibun initiated a crackdown on communism and political dissidents, including leftists and Pridi supporters. Threatened by rising Chinese nationalism among the Sino-Thai population, Phibun’s campaign against communism was interlocked with efforts to suppress local Chinese groups.³³¹ Thailand

³²⁷ Mungkandi, “Parallel Features in Thai-American Foreign Policies,” 163.

³²⁸ Baker and Phongpaichit, *A History of Thailand*, 144.

³²⁹ Indorf, *Thai-American Relations in Contemporary Affairs*, 130. Over the past fifty years, the extensive U.S. mission to Thailand has included a Commercial Section, staffed by senior officers from the Department of Commerce; an Agricultural Attaché, which provided expertise to support crop substitution research in northern Thailand; JUSMAG (Joint United States Military Advisory Group), which supports the logistics and training elements of Thailand’s defense force development; AFRIMS, the American component of the joint Armed Forces Research Institute for Medical Science; narcotics program officers cooperating with Thai counterparts in enforcement as well as prevention, treatment and rehabilitation of addicts. The U.S. also established consulates in several Thai cities, and supports Thailand through substantial contributions to the World Bank and the Asian Development Bank, institutions critical to crucial actors into Thailand’s development processes.

³³⁰ Bangkok became the United Nation’s regional center for Asia and the Pacific. By the mid-1950s, UN organizations working in Thailand included the Economic and Social Council for Asia and the Far East (ECAFE), now the Economic and Social Commission for Asia and the Pacific (UNESCAP); the Food and Agriculture Organization (FAO); the UN Children’s Fund (UNICEF); the World Health Organization (WHO); the UN Educational, Scientific and Cultural Organization (UNESCO); the International Labour Organization (ILO), the International Civil Aviation Organization (ICAO); and the UN Technical Assistance Board (UNTAB). In 1971, the development of the Crop Replacement Project became a permanent presence in Thailand, and the first office of what was to become the UN Office on Drugs and Crime was established. Thailand is currently host to thirty-two UN agency offices, including the UN Office of the High Commission for Human Rights; World Bank Group; the UN High Commissioner for Refugees, and the UN Development Fund for Women (UNIFEM), as well as organizations that often collaborate with UN projects, such as the Asian Development Bank and the International Organisation for Migration (IOM).

³³¹ The government also targeted Chinese Thais to repress growing nationalism and support of Communist China, for example by re-imposing restrictions on Chinese schools, slashing enrollment to one third the prior number of students. Jeimin Bao, *Marital Acts: Gender, Sexuality, and Identity among the Chinese Thai Diaspora* (Honolulu:

passed a hastily drafted anti-communism law in one day, giving the government sweeping powers to target any dissidents. Government forces harassed the press and labor organizations, quashing leftists and members of the peace movement throughout the late 1950s. Led by Phao Sriyanond, the director general for the Thai national police and a key player in the 1947 coup that ousted Pridi, Thai police smuggled drugs and assassinated government opponents: police shot a leftist newspaper publisher on his honeymoon; police strangled, burnt and buried political dissidents, including a Member of Parliament and Seri Thai members, strangling another MP and tying his body to a post in the Chaopraya River in retaliation for exposing Phao's corruption.³³² "There is nothing under the sun that the Thai police cannot do," Phao boasted.³³³

Impressed with the fervor of Thailand's crackdown on communism, the U.S. military funded the Thai military, led by career soldier Sarit Thanarat, while the C.I.A. poured money and arms into Phao's police forces. This strategy of simultaneously funding Thai political foes would ultimately create a division within the ruling junta as they vied over aid, control of the opium trade, and political succession after Phibun.³³⁴ By the early 1950s, the CIA had chosen Phao as their contact for carrying out covert missions in Thailand and neighboring countries, providing police forces with training by two hundred CIA advisers, as well as arms, boats, planes, tanks, and helicopters (which Phao used to amass a fortune smuggling drugs from the Golden Triangle for export to the world market). The CIA's sponsorship of the Thai police created an alternative army, and police forces remain militarized today.³³⁵

Social and Political Reform in Phibun's "Democracy Interlude"

Phibun became concerned with presenting a positive international image of Thailand as part of the "free world" by the mid-1950s. In part, this was to ensure continued military aid from the United States, which was coming under increased scrutiny from an American public critical of using foreign aid to support repressive regimes. To counter the growing power of Sarit's and Phao's police and limit the expansion of royalism, Phibun announced that he would "restore democracy" in 1955. He legalized political parties and public discussion of politics, relaxed press censorship, passed a labor act legalizing unions, scheduled elections for 1957, and decreased the presence of military troops and police in Bangkok. During the same period, Phibun and his wife,

University of Hawai'i Press, 2005), 43. Some Chinese men took Thai wives because of the "political security" they could supply, as interethnic marriages could provide the Thai-ness necessary to avoid suspicion of communism. Many interethnic marriages were not registered, due to the fact that a female Thai citizen who married a foreigner lost her Thai citizenship and her right to buy land. In addition, children produced from a registered interethnic marriage would have received the legal classification of "Thai with Thai nationality of Chinese ethnicity." Because any offspring of an unregistered marriage were considered only the mother's child, children of a Thai woman and Chinese man in such a relationship would be legally classified as Thai.

³³² Baker and Phongpaichit, *A History of Thailand*, 146.

³³³ Ibid. Human Rights Watch, *Not Enough Graves: The War on Drugs, HIV/AIDS and Violations of Human Rights*, 2004, 8. See also Robert Harris, *Political Corruption: In and Beyond the Nation State* (New York: Routledge, 2003), 160.

³³⁴ By 1953, the U.S. had provided military aid equivalent to two-and-a-half times the Thai military budget. With C.I.A. support, the police grew to rival the army. Phao and his police units used trucks, boats, and planes provided to the police by the CIA to move opium from the fields of the Golden Triangle in the north to Bangkok for export to the world market. Baker and Phongpaichit, *A History of Thailand*, 146.

³³⁵ Thak Chaloemtiarana, *Thailand: The Politics of Despotism* (Ithaca N.Y.: Southeast Asia Program Publications Southeast Asia Program Cornell University, 2007), 58.

Lady Laiad, also moved to address social order problems such as opium dens and prostitution.³³⁶ The government initiated consultations with the UN Regional Social Defense Officer for advisement on prostitution law reform.³³⁷

The rapid transformation of Thai political institutions during the 1950s reverberated throughout Thai popular culture. Thai traditionalists bemoaned the influence of television, film, and new forms of entertainment on the morals and sexual behavior of Thai youth. The rise of Thai television in the early 1950s helped spread new ideas about modern dress, entertainment and behaviors; it also transformed the romantic and sexual expectations of both men and women.³³⁸ Thai officials blamed this relaxation of cultural mores against female sexual promiscuity on the increasing influence of the West. A 1958 public relations department publication decried the notorious “wildness of Bangkok society girls imitating Western fashions taught by Hollywood films,” thought to be indicative of national moral decline and a precursor to promiscuity and prostitution.³³⁹ The moral and sexual purity of Thai women was threatened by the Western permissiveness and the “liberative influence of American ideas especially regarding dating and dancing.”³⁴⁰ Young women began to engage in concerning new forms of entertainment and socializing in “taxi dance halls,” which were considered sites where young women were seduced and procured for prostitution, as in the U.S.³⁴¹ The 1958 public relations report attributed the lower number of virgin brides in Bangkok as compared to the countryside to the intensification of American influence in the city.³⁴²

In contrast to the dismay regarding young women’s increasing sexual activity, social norms still legitimated the sexual license of Thai men. Morris Fox, a social welfare advisor to the United Nations, was tasked to study the “prostitution problem” in Thailand for the Thai Public Welfare office in 1957. Fox’s report noted that while Thai men viewed prostitution as “an accepted part of life,” women tolerated it as a “necessary evil.”³⁴³ Despite the cultural normalization of sexual access to prostitutes and other forms of extra-marital activity for Thai men, women’s promiscuity in prostitution was constructed as a problem of public disorder and cultural decline. The increasing numbers of single foreign men entering Thailand as members of the military, development projects, or international organizations contributed to these anxieties.

³³⁶ This crackdown on social vice was shaped, in part, by Phibun’s desire to present an image of Thailand as a modern member of the “free world,” as well as his interest in discrediting his rival General Phao, who had been exposed in an opium smuggling scandal.

³³⁷ Morris Fox, *Problem of Prostitution in Thailand*, Social Service in Thailand (Bangkok: Department of Public Welfare, Ministry of the Interior, 1960), 140–1, 163.

³³⁸ Sinith Sittirak, lecturer at the Faculty of Journalism and Mass Communications, Thammasat University in Bangkok, Thailand, describes these phenomena in her work on *The Rise of Thai Television (1950-1957): Its Socio-political and Economic Impacts on Thai Society*. The rise of television also encouraged the immense popularity of beauty contests and the westernization of beauty standards. See also Van Esterik, *Deconstructing Display: Gender and Development in Thailand*. Contemporary commentators, however, are questioning the emphasis on Western standards of beauty (fair skin, long nose, wide eyes, etc.) given the high number of *luk krug* mixed-race beauty queens; new efforts are being made to promote “traditional” Thai beauty.

³³⁹ Vibul Thamavit and Robert Golden, “The Family in Thailand,” *Marriage and Family Living* 16, no. 4 (1954): 8.

³⁴⁰ Ibid.

³⁴¹ Fox, *Problem of Prostitution in Thailand*, 144–145.

³⁴² Ibid.

³⁴³ Fox, *Problem of Prostitution in Thailand*, 143. A 1958 public relations department publication contained a similar acceptance of male sexual license, noting, “to sleep out at night or to stay away from home is neither unusual nor badly regarded for a boy. They generally have their first sexual experience at the age of sixteen or seventeen with a prostitute. There is no stigma attached to the frequenting of prostitutes by either married or unmarried men. Prostitution is legal.” Thamavit and Golden, “The Family in Thailand,” 2.

As a sign of public disorder and lapsing Thai tradition, controlling “promiscuity” in young women became a key site for social and cultural reform – and resistance to “foreign influence” – in the late 1950s.

Cultural anxieties focused on the rapid changes in young women’s sexual and social behavior, eliciting a reformist and rehabilitative approach to promiscuous behavior, thought to lead to prostitution. Increasing newspaper coverage of prostitution presented it as a growing social problem, and expressed “almost universal concern for the young innocent girls who are tricked or ‘seduced’ into prostitution,” as well as the effect of prostitution on children who worked in or around the brothels.³⁴⁴ These concerns were reflected in 1956 revisions to the Thai Penal Code, which increased the age of consent to eighteen years old; provided for strict punishment of procurers and traffickers including one to ten years’ imprisonment and a fine of 2,000 to 20,000 baht; and criminalized the use of deception or coercion for sexual exploitation, including prostitution.³⁴⁵ The law also imposed penalties on anyone above sixteen years of age for subsisting on the earnings of a female prostitute, although it provided an exception for children and dependents in light of the traditional breadwinning role of women.³⁴⁶ Steps were taken to raise young girls’ awareness about procurers, “often older women with promises of work or schooling in Bangkok,” with a warning system set up in provincial railway stations as required by its commitment to earlier anti-trafficking conventions.³⁴⁷ Attempts to protect young women from sexual exploitation in migration aimed to stymie entry into prostitution and keep female migrants in their proper place at home. The police department, the National Institute of Culture, and the Department of Public Welfare (home to the Venereal Diseases division) cooperated in returning “some newly recruited or prospective prostitutes to their homes.”³⁴⁸

By the 1950s, elite women had adopted a decidedly matronizing approach to women in prostitution. Such women were less objects of pity or compassion than subjects to be disciplined, re-educated, researched, and reformed. Drawing on her experience in the venereal diseases section of the Ministry of Public Health, Dr. Pierra initiated a campaign to abolish prostitution and rehabilitate prostitutes. In 1956, she established the Foundation of the Welfare of Women. The Foundation’s Board members were mainly government officials from the National Institute of Culture, the Ministry of Health, the police department, the Department of Public Welfare, and the municipalities of Thonburi and Bangkok.³⁴⁹ Enrolling state officials as board members and authority figures gave women’s organizations a quasi-governmental status, conferring legitimacy on women’s political mobilization. The Board’s mission was to educate prostitutes to “encourage them to return to a normal life” and to raise public awareness to help women out of prostitution.³⁵⁰ The Foundation of the Welfare of Women provided housing, treatment, education

³⁴⁴ Fox, *Problem of Prostitution in Thailand*, 142.

³⁴⁵ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 155, citing Plukspongsawalee, M. (1982) “Women and the Law,” in S. Prasith-Rathsint and S. Piampiti (eds.), *Proceedings of the Seminar on Women in Development: Implications for Population Dynamics* in Thailand, Bangkok, The National Institute of Development Administration. See also Center for the Protection of Children’s Rights, *Case-Study Report on Commercial Sexual Exploitation of Children in Thailand* (Bangkok: Center for the Protection of Children’s Rights, 1996), 12–13.

³⁴⁶ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 155.

³⁴⁷ Fox, *Problem of Prostitution in Thailand*, 145.

³⁴⁸ *Ibid.*, 162. These agencies also provided some vocational training to former prostitutes. Between May and December 1956, the Department of Public Welfare returned twenty-two young women to their homes.

³⁴⁹ *Ibid.*

³⁵⁰ Quoted in Jeffrey, *Sex and Borders*, 21.

and training to rehabilitate prostitutes. It also researched the treatment and prevention of venereal disease and the causes of prostitution. Dr. Pierra's foundation also forged international links with abolitionist organizations abroad.³⁵¹

New legislation was proposed in 1957 to abolish prostitution and establish reformatories under the Department of Public Welfare that would provide medical treatment, vocational training, and job placement.³⁵² The "Prohibition of Prostitution Business Act" called for the punishment of anyone who "treats any girl with deceptive methods or threatens, compels, or forces her in any way in order to attract her for the prostitution business."³⁵³ The proposed law set out penalties up to seven years in prison and/or up to 10,000 baht for an offense; however, these penalties were less severe than those in the 1956 Penal Code.³⁵⁴ New institutions such as rehabilitation centers were built for women seeking to leave prostitution, and the proposed act sought to ensure that the reformatories would remain full by providing that a woman who "willingly avoids going, violates the order [to submit to rehabilitation] or runs away" would face stiff penalties and punishment. Reflecting the contemporary psychoanalytic explanations of women in prostitution during the postwar period, the proposed law identified the prostitute as a deviant and promiscuous woman who "habitually consents" to provide sexual services for money. Constructing prostitution as the result of a problematic personality necessitated psychological treatment, social adjustment, and rehabilitation into "normal" sexual behavior and roles, for example, through training in domestic work in preparation for housewifery.

Although the 1957 law was never passed, key provisions of the law would be revived a few years later. Despite these gestures towards reform of prostitution, Fox's report noted, "only a few persons in official or unofficial circles are working towards its suppression."³⁵⁵ A 1958 public relations report dismissed women's advocacy efforts, quoting a journal article that asserted prostitution was only problematic for the upper class woman who "regards herself as the equal of her husband [and] is offended by his extramarital activity, [and] has the leisure to be upset by her emotional difficulties."³⁵⁶ The normalization of prostitution in Thailand and the continued resistance of elite males to abolitionist reforms worked to undermine the reform efforts of elite women. However, once prostitution came to be framed as an issue of social disorder and crime, the law was finally reformed.

Social Control and Development in Sarit's "Revolution"

Although the U.S. initially welcomed Phibun's move towards democracy, its support waned as press restrictions were relaxed and Bangkok newspapers voiced resentment of American interference in Thailand. Left-wing parties reappeared, and Thai press and citizens began voicing criticism of American military presence and the growth in size and expense of the Thai military. Both Phibun (now allied with Phao) and Sarit used anti-American and pro-Chinese rhetoric to appeal to voters as they campaigned for the 1957 elections.

Although Phibun won the election, he was ousted in a military coup led by career soldier Sarit Thanarat (1957–1963). Sarit fanned the flames of anti-Western resentment even as he

³⁵¹ Ibid.

³⁵² Exhibit G, Fox, *Problem of Prostitution in Thailand*, 162.

³⁵³ Section 13, "Prohibition of Prostitution Business Act," B.E. 2500 (1957). Exhibit F, Ibid., 160.

³⁵⁴ Ibid.

³⁵⁵ Fox, *Problem of Prostitution in Thailand*, 143.

³⁵⁶ Thamavit and Golden, "The Family in Thailand."

continued to cooperate with the United States' anti-communism campaign in exchange for military and development aid. Sarit strategically appointed Pote Sarasin as prime minister, who was U.S.-educated, the former ambassador to the U.S. and the then-secretary-general of SEATO, to ensure continued U.S. patronage. However, leftists in the newly-elected parliament proved troublesome for Sarit, so he ultimately carried out a second coup in 1958, annulling parliament, banning political parties, suspending the constitution, declaring martial law, and arresting leftists, activists, and intellectuals.

Sarit's *pattiwat* ("revolution") and crackdown on the left was supported by the U.S., which granted \$20 million in economic aid; the State Department declared that Sarit's consolidation of power was not a coup, but rather an "orderly attempt by the present ruling group to solidify its position."³⁵⁷ Sarit installed his former military subordinates to command the army and become Cabinet members; thereafter, U.S. funding was channeled through the army.

Now confident that Thailand was a secure base for its anti-communist campaign in Southeast Asia, the U.S. quadrupled military aid over the 1960s, rising to \$123 million by 1972.³⁵⁸ Economic aid also grew, but it was channeled through military and police programs, strengthening Thailand's militarized state, building the capacity of Border Patrol Police, and funding counter-insurgency operations inside Thailand. Tens of thousands of troops were stationed on U.S. bases in Thailand, rising to 45,000 Army and Air Force personnel by 1969. The first air strike on Vietnam was flown from a base in Thailand in 1964, as were covert missions by Air America, the passenger and cargo airline secretly owned and operated by the CIA's Special Activities Division from 1950-1976, supporting America's "secret war" in Laos.³⁵⁹ By 1967, 11,000 Thai troops were fighting alongside U.S. forces in South Vietnam, adding to the Thai troops the U.S. government had secretly hired as mercenaries to fight in Laos since 1960.³⁶⁰

Sarit maintained U.S.-Thai relations as an instrument for developing national power, and justified his autocratic rule by explaining that foreign systems of representation did not work in

³⁵⁷ Daniel Fineman, *A special relationship: the United States and military government in Thailand, 1947-1958* (Honolulu: University of Hawaii Press, 1997), 257. The nationalist propagandist and playwright Luang Wichit deeply influenced Sarit's politics and later social reform campaigns, and Luang's conception of revolution was reflected in later Revolutionary Council pronouncements:

[W]e should make it clear that we cannot confuse revolution with *coup de etat* or rebellion. The work of a revolution not only means the changing of leadership, but involves changes that are important to the lives and thoughts of people – the changing of the social system, the economic system, the path of education, together with the changing of people's habits toward something that is better than before.

Chaloemtiarana, *Thailand: The Politics of Despotic Paternalism*, 118 citing Luang Wichit Wathakan, Kusalobai Sang Kwam Yingyai [The Path Toward Greatness] (Bangkok: Watthanawibun Press, 1952).

³⁵⁸ Baker and Phongpaichit, *A History of Thailand*, 149.

³⁵⁹ Air America's slogan was "Anything, Anywhere, Anytime, Professionally," and civilian and military pilots flew planes carrying a range of cargo, from visiting VIPs like Richard Nixon to spies, refugees, commandos, doctors, war casualties, drug enforcement officers, and (unknowingly?) opium for allied Hmong warlords, in addition to providing logistical support for local tribes fighting the North Vietnamese. Food relief cargo including rice and livestock was also dropped in friendly territory to ameliorate the disruption in food production caused by the widespread distribution of Agent Orange across the Vietnamese countryside. See, e.g., Kenneth Conboy, *Shadow war: the CIA's secret war in Laos* (Boulder Colo.: Paladin Press, 1995).

³⁶⁰ Baker and Phongpaichit, *A History of Thailand*, 149.

Thailand. Sarit's self-representation was critical to establishing himself as a legitimate and independent ruler, even as he continued to cooperate with the U.S. Harkening back to the Thai kings of the Sukhothai period, Sarit aimed to project the image of a *phokhun* ("highest father"), a "strong, benevolent and decisive leader-statesman whose responsibility was to the nation and not to groups of voters." This allowed him to justify the rejection of parliamentary democracy as an obstacle to national development and a source of social division.³⁶¹ Sarit also established legitimacy and consolidated political control by incorporating other powerful factions in Thai society: the bureaucracy and the monarchy.

Sarit embraced *phatanna*, the Thai term for development, developing paternalistic programs administered from the top-down by Bangkok bureaucrats. Rural villagers resented such programs as intrusive, and indeed they often were ineffective and harmful to local communities, economies, and the environment. The U.S. promoted these development projects, emphasizing economic growth through private capitalism to secure Thailand's allegiance in the fight for the free world.

Sarit recognized the role of development as a key concept in the U.S. international agenda, a new iteration of "progress" for the American era that justified a powerful nation-state and buttressed his *phokhun* image. Sarit lectured, "[o]ur important task in this revolutionary era is development which includes economic development, educational development, administrative development, and everything else."³⁶² To achieve development and expand the central government, Sarit created development departments and increased the number of civilian officials to run new administrative districts in distant provinces where central government was displacing rule by the local mafia. Officials supplied public goods like health care and birth control. They also supported agriculture by introducing irrigation systems and providing seeds and fertilizer, in addition to constructing roads. The U.S. took an active role in establishing and running the new bureaucratic infrastructure for development, creating a planning board, budget bureau, investment promotion organizations and a central bank, and educating new Thai technocrats.³⁶³ U.S.-sponsored aid programs in the 1950s and 1960s focused on increasing human resources and the capacity of state institutions, modernizing agriculture, developing a health infrastructure, and promoting major capital projects.³⁶⁴ National development plans emphasized foreign investment, the exploitation of natural resources, and the use of agricultural surplus to promote the urban economy.

The socio-economic costs and benefits for the rural people affected by pro-business development projects soon became evident. As Baker and Phongpaichit observe, "strengthened by the ideology of development and unconstrained by democracy, business was able to exploit both people and natural resources on a new scale."³⁶⁵ This process transformed the countryside

³⁶¹ Chaloeontiarana, *Thailand: The Politics of Despotism*, 226.

³⁶² Baker and Phongpaichit, *A History of Thailand*, 150. President Truman introduced the word 'development' in his inaugural speech in 1947.

³⁶³ *Ibid.*, 151.

³⁶⁴ John Gunther Dean, "The Rich Tapestry of Thai-American Relations," in Indorf, *Thai-American Relations in Contemporary Affairs*, 43–44. Minister of Foreign Affairs Dr. Thanat Khoman signed a 1962 memorandum of agreement providing for the establishment of a United State Peace Corp in Thailand. American volunteers worked in hospitals and rural community development projects; as English, math, science, and physical education teachers; and formed public health projects (including spraying DDT in thousands of homes throughout the country). *Ibid.*, 109–110. The U.S. Agency for International Development (USAID) mission in Bangkok employed around five hundred Americans and seven hundred Thais by the late 1960s. *Ibid.*, 58.

³⁶⁵ Baker and Phongpaichit, *A History of Thailand*, 140.

by expanding agrarian land into the upland forests, home to minority ethnic highlanders, and the transition to a market-based economy disrupted the traditional social and economic balance. The roads and communication projects funded by the Americans for strategic military purposes beginning in the 1950s drew increasing numbers of villagers to labor-poor urban areas in the aftermath of crackdowns on Chinese immigration.

To quell social dissent and promote projects of national discipline, Sarit initiated a conservative nationalization program of “Nation, Religion and King,” increasing the presence of the central state in everyday life through new schools and teachers, government officials, and monks. Reversing Phibun’s attempts to displace the authority of the throne by restricting the King’s public duties and making the government patron of religious institutions and the arts, Sarit promoted a more visible and active role for a revived monarchy.³⁶⁶ The King served as a focal point for national unity and loyalty, and the palace endorsed Sarit, granting his regime increased legitimacy. The King promoted rural development projects and opium replacement schemes through tours to remote (and resistant) villages in the north and northeast, while the Queen promoted handicraft projects among hill tribe communities.

Sarit also engaged in displays of masculinity to enhance his power and popular legitimacy. To present himself as an independent Thai leader, Sarit appealed to a *nakleng* or “hooligan” image based on the gangs of young men that protected villages from official intrusion in the 1890s and those who were recruited by the communist movement against the Thai/American military.³⁶⁷ Sarit also emulated the traditional elite Thai practice of polygyny, adopting a *chaochu* image that “emphasizes a man’s skill at charming women through clever and

³⁶⁶ When Anna Leonowens’ 1860s accounts of life in the palace “harem” resurfaced in American popular culture in the mid-1940s. Margaret Landon, wife of Kenneth Landon, the representative of the US State Department in Thailand, adapted Leonowens’ stories and published them as *Anna and the King of Siam* in 1944. The book was turned into a play and a 1946 movie portraying the culture clash of Imperialist Victorian values with the autocratic, polygamous King of Siam. In 1951, the story was adapted into an immensely popular, Tony Award-winning Rodgers and Hammerstein Broadway musical. The subsequent musical film *Rodgers & Hammerstein’s The King and I* was released in 1956, promoted with the alluring tagline, “More than you’ve ever seen on the screen!” Deborah Kerr played opposite Yul Brynner who portrayed the revered King Mongkut as a strapping, brown, oiled, bare-chested, hypersexualized man with a “harem” of sex slaves. One poster advertisement for the film portrays a stern Brynner standing with his hands on his hips, looking away over a heaving-bosomed Anna leaning forward suggestively in a low-cut pink dress. The film reflected “American pop orientalism” and added a romance between Anna and the King that was not present in the memoirs.

Thai responses to American popular cultural portrayals of the monarchy evidence the importance of appearances in maintaining Thailand’s international image. In 1948, two Thai intellectuals, Seni Pramoj and Kukrit Pramoj, wrote a manuscript in an attempt to set the record straight, sending it to the American politician and diplomat Abbot Low Moffat, who later included the information in his 1961 biography of the King, *Mongkut, the King of Siam*. The 1956 film *The King and I* attracted the ridicule of the Thai press during the Phibun-Sarit election. Possession or screening of the film was (and still is) banned in Thailand, which can be understood in the context of Sarit’s political efforts to revive the monarchy. Reportedly, elite Thai and royalty were not offended by the 1956 version, and in 1985, Queen Sirikit attended the musical in the U.S. and met Yul Brynner who played King Mongkut. Van Esterik, *Materializing Thailand*, 108. Nevertheless, Thai authorities remain sensitive to the potential for American renditions of *The King and I* to disrespect the monarchy. In 1998, Thailand rejected a proposal by Twentieth Century Fox to film a remake of *Anna and the King of Siam* on location in Thailand, objecting that the script portrayed King Mongkut as a “brutal buffoon,” and that its historical inaccuracies and distortions disrespected the monarchy and defamed Thailand. *Bangkok Post*, Nov. 12, 1998.

³⁶⁷ Pasuk Phongpaichit and Christopher Baker, *Thailand, economy and politics* (New York: Oxford University Press, 1995), 77.

witty conversation” and embodies Thai masculinity.³⁶⁸ He collected a tremendous number of beautiful mistresses, taking beauty queens, movie stars, university and secondary school students, and night club hostesses to *sawan sii chompoo*, the “pink heaven” of his bedroom.³⁶⁹ Sarit also selected mistresses to forge political alliances between elites, government officials and business families.³⁷⁰

Sarit’s rule took the form of “despotic paternalism” as he sought to promote social order and national well-being, defined in terms of “wholesomeness, dignity, properness and resourcefulness.”³⁷¹ Reflecting his military background, Sarit’s vision of social and economic progress emphasized environmental cleanliness (*khvam sa-ad*), properness of things (*kwam riaproy*), and material well-being.³⁷² Sarit linked political dissent with social disorder, and sought to clear the streets by cracking down on prostitutes, pedicab drivers (poor, rural migrant men), gangs of young men, and drug users, subjects constructed as symbols of social disintegration and unproductive activity.³⁷³

Despite his personal promiscuity, Sarit also targeted visible forms of prostitution as a sign of national decline and a dark mark against Thailand’s international image. Believing that “uncleanliness and social impropriety . . . led to the erosion of social orderliness (*riaproy*),” Sarit’s social purification campaign culminated in a ban on prostitution that aimed to discipline

³⁶⁸ The term *chaochu* is drawn from the classic Thai story *Khun Chang Khun Phan*, and is used to “characterize a heroic man who is a master of magical arts in warfare and in love.” Bao, *Marital Acts: Gender, Sexuality, and Identity among the Chinese Thai Diaspora*, 69. Men of all classes in Thai society seek to emulate the *chaochu* image through polygyny, philandering, prostitution, and gender-specific socialization, such as business and social dining and drinking, which is customarily followed by a visit to a brothel. Businessmen often pay for meals and brothel visits to reaffirm power and status vis-à-vis male colleagues or to strengthen business ties. *Ibid.*

Thak Chaloemtiarana, suggests that “while the public in general did condemn him for using government funds for his own personal enjoyment, he was widely admired for having the effrontery to acquire mistresses on such a grand scale. Practically no one was immune to his overture – beauty queens, movie stars, night club hostesses, university and secondary school students, young and not so young. His elaborate network of procurers was the envy of many.” Thak Chaloemtiarana, *Thailand: The Politics of Despotic Paternalism*, Social Science Association of Thailand (Bangkok: Thammasat University, 1979), 338–339.

³⁶⁹ Wyatt, *Thailand: A Short History*. See also Penny Van Esterik, “The politics of beauty in Thailand,” in *Beauty Queens on the Global Stage*, ed. Richard Wilk Colleen Ballerino Cohen (London: Routledge, 1996), 212. A 1964 TIME magazine article regarding Sarit’s death described him as “one of the few leaders in Southeast Asia who managed to build a firm, anti-Communist regime,” going on to describe the over one hundred mistresses and minor wives who sought to claim a piece of his fortune. Records revealed that Sarit had owned or held an interest in several companies, automobiles, and over thirty pieces of land, “most of which he had doled out to a score or more of ‘minor wives.’ The extent of Sarit’s amorous activities astounded even philanderophile Thais.” See “Thailand: Sarit’s Legacy,” TIME Magazine, Mar. 27, 1964, available at <http://www.time.com/time/magazine/article/0,9171,938523,00.html#ixzz0tKalAo4k>

³⁷⁰ Charles Keyes argues that Sarit’s affairs served political as well as personal purposes, as he “often chose as one of his mistresses a member of a family or group he wished to control politically.” Charles Keyes, *Thailand: Buddhist Kingdom as Modern Nation-State* (Boulder: Westview Press, 1987), 81. It was revealed that Sarit’s estate was worth more than \$145 million, created in part by Sarit’s use of government funds to invest in businesses and maintain his mistresses. *Id.* at 79.

³⁷¹ Chaloemtiarana, *Thailand: The Politics of Despotic Paternalism*, 108.

³⁷² *Ibid.*

³⁷³ Sarit criminalized the sale and use of opium after July 1, 1959 so that “we will be able to fully state that we are a civilized nation and national prestige will be liberated from international criticism. . . . [The sale and use of opium] is a major crime and whoever resists will be severely punished. Alien offenders will be deported and Thais will be marked as traitors who refuse to make sacrifices for the nation.” Sarit also alleged that communists were attempting to undermine the free world through the promotion of addictive drugs, linking political dissent with the poor and a lack of productive economic activity.

and reform prostitutes to conform to the proper domestic roles of middle-class mothers and wives.³⁷⁴

The 1960 Act for the Abatement of Prostitution

Thailand passed the Act for the Abatement of Prostitution in 1960 (“1960 Act”). The 1960 Act replaced the Venereal Disease Prevention Act of 1908, ending state regulation of brothels and criminalizing prostitution. The transformation from a regulatory to an abolitionist approach to prostitution was animated, in part, by increasing international scrutiny, given the UN’s international campaign to abolish prostitution after the 1949 Convention.³⁷⁵ The 1960 Act defined prostitution as the

indiscriminate acceptance of sexual intercourse or acceptance of any other act or the performance of any act for the satisfaction of the sexual desire of another for hire whether the acceptor of the act and the performer of the act are the same or different sexes.³⁷⁶

Notably, the law punished all parties involved in prostitution, including male and female prostitutes, procurers, and third party profiteers. Customers, however, were exempt from penalty. In practice, however, owners of sex establishments were rarely prosecuted, creating an unequal relationship between owners and workers.³⁷⁷ The law penalized street solicitation as well as brothel prostitution, emphasizing not the consummated exchange of money for sexual services, but rather the promiscuous behavior of women.³⁷⁸ The law’s vague definition of “places of prostitution” enhanced police discretion, meaning that women in public spaces could be convicted of prostitution for loitering or wandering the streets in a “manner or way which appears to be an appeal to communicate for prostitution purposes.”³⁷⁹ Moreover, women arrested for prostitution faced public exposure, as authorities published their names and photos.³⁸⁰

Although the 1960 Act reflected the rehabilitative model advanced in the 1957 proposal, women in prostitution were no longer framed as victims by the law.³⁸¹ Rather, it constructed prostitutes as deviants and criminals in need of punishment, discipline, and moral reform. Indeed, the 1960 law did not exempt from punishment those forced into prostitution, and did not include the provisions of the proposed 1957 law regarding deception or coercion of a person into prostitution. And although they were subject to penalties, the 1960 Act included less severe

³⁷⁴ Sukanya Hantrakul, “Thai Women: Male Chauvinism ‘a la Thai,’” *The Nation* (Bangkok, November 16, 1992).

³⁷⁵ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 155. See also Boonchalaksi Wathinee and Phillip Guest, *Prostitution in Thailand* (Nakhon Pathom, Thailand: Institute for Population and Social Research Mahidol University, 1994), 20 citing Saisawat, S., Attitude of Senator Assembly on Solving Prostitute Problem in Thailand, Thesis submitted to Graduate School, Mahidol University (in Thai).

³⁷⁶ Act for the Abatement of Prostitution B.E. 2003, *Royal Thai Government Gazette* 2, no. 212, November 28, 1960, 562-63. The 1960 Act was the first regulation that formally regulated both male and female prostitution. Fox’s research in the late 1950s cited some incidents of male prostitution in Bangkok. See Fox, *Problem of Prostitution in Thailand*, 143.

³⁷⁷ Boonchalaksi and Guest, *Prostitution in Thailand*, 21.

³⁷⁸ Sukanya Hantrakul, “Prostitution in Thailand,” (presented at the Women in Asia Workshop, Monash University, Melbourne, 1983).

³⁷⁹ Act for the Abatement of Prostitution B.E. 2003, Section 5 (2), 561.

³⁸⁰ Boonchalaksi and Guest, *Prostitution in Thailand*, 21.

³⁸¹ Act for the Abatement of Prostitution B.E. 2003, Section 11, 562.

penalties for owners, procurer and pimps than those provided in the 1956 Penal Code.³⁸² While the 1928 Anti-Trafficking Act clearly distinguished trafficking from what was then legal prostitution, the 1960 Act's criminalization of prostitution blurred this distinction, allowing authorities to ignore exemptions from fines and imprisonment. Moreover, under the 1928 Act, trafficked women and children were remanded to a penal reform institution for not less than thirty days, a period that could be extended at the judge's discretion.

Women convicted of prostitution under the 1960 Act could be imprisoned for up to six months and/or required to pay a fine of up to 2000 baht.³⁸³ The law provided that convicted prostitutes "should be given medical treatment, vocational training or both"; they were to be "committed to an assistance center [for a period] not exceeding one year from the day the person has satisfied the sentence of the court"; and they received an added three months' imprisonment and/or a 1000 baht fine if they attempted to escape the center.³⁸⁴ The 1960 Act also empowered the Director of the Department of Public Welfare to issue disciplinary and work regulations and to punish women who failed to abide by the rules by "(1) confinement for not more than fifteen days . . . or (2) cutting off or reducing benefits or facilities provided by the assistance center."³⁸⁵

In 1960, the Baan Kredtrakarn reformatory was established in a suburb north of Bangkok in the middle of the Chao Praya River. The institution can only be reached by water taxi, and some women confined there have died in attempts to escape by swimming across the river to the shore. Others are too afraid to make the attempt, as stories circulate that there are crocodiles in the water, even fifty years after its establishment. The reform programs at Baan Kredtrakarn focused on vocational training "designed to afford recreation and to keep the trainees occupied with work to such an extent that there is not much time for idle thoughts and emotional disturbances which may lead to the difficulty of administration."³⁸⁶ Inmates received occupational training in traditional weaving, sewing, beauty services, and housekeeping. Before women could be released, they must have completed the following training requirements:

- 1) Training in regard to the proper arrangement of sleeping quarters and methods of child care by officials specializing in health and sanitation.
- 2) Training in regard to proper home care and cooking by officials specializing in home economics.
- 3) Training in regard to proper codes of conduct in relations to morals and mannerisms by qualified personnel.³⁸⁷

³⁸² Under the 1960 Act, procurers were liable on pain of imprisonment for not more than three months or a fine of not more than 1,000 baht or both; and brothel owners could be imprisoned for not more than one year or a fine not more than 4000 baht. Act for the Abatement of Prostitution B.E. 2003 (1960) Sections 8, 9, and 10. Act for the Abatement of Prostitution B.E. 2003, Sections 8 and 9, 562.

³⁸³ Act for the Abatement of Prostitution B.E. 2003, Section 6.

³⁸⁴ Act for the Abatement of Prostitution B.E. 2003, Sections 11 to 16.

³⁸⁵ Ibid.

³⁸⁶ Hantrakul, "Prostitution in Thailand," 19.

³⁸⁷ Ministry of the Interior, cited in Sukanya Hantrakul, "Prostitution in Thailand," in *Development and Displacement: Women in Southeast Asia*, ed. Glen Chandler, Jan Branson, and Norma Sullivan (Clayton, Australia: Centre of Southeast Asian Studies, Monash University, 1988), 125.

Finally, there was a subsequent “follow-up after discharge to ensure resumption of a normal and decent way of life.”³⁸⁸ However, after a year without income left detained women desperate for cash, and many returned to sex work as a result.³⁸⁹

Sarit’s crackdown on prostitution created a need for elite women’s expertise to reform promiscuous and delinquent women. But the re-education programs did not account for the traditional social and economic responsibilities of non-elite women. They failed to prepare women for the few employment options beyond domestic service. Many women targeted by anti-prostitution laws were peasant migrants from rural areas whose work was critical to the economic survival of their families. The traditional economic responsibilities of women to provide for their families and the “sprit of struggle and . . . relatively defiant attitude” of Thai working women ran counter to elite women’s efforts to inculcate proper standards of behavior and occupational roles in their wards.³⁹⁰

The women and girls sent to rehabilitation at Baan Kredtrakarn continue to receive vocational training similar to that mandated in the 1960s, although the programs have also added beauty salon services, traditional Thai massage, hairdressing, weaving cloth, and the production of doilies and woven plastic baskets. The symbolic and disciplinary role Baan Kredtrakarn plays in contemporary efforts to eradicate underage prostitution, reform prostitutes, and rehabilitate trafficked women and girls will be discussed in more detail in subsequent chapters. For now, it is sufficient to note that Baan Kredtrakarn reflected elite Thai women’s concern with policing the femininity of the non-elite prostitutes they sought to reform.

The 1966 Entertainment Places Act

The abolitionist approach of the 1960 Prostitution Act was soon undermined by the passage of the Entertainment Places Act in 1966 (1966 Act), established by Sarit’s heirs to power, Thanom and Praphat (1963-1973). The 1966 Act essentially allowed nearly any massage parlor, tea house, restaurant, club, bar or café to employ women as “entertainers” and “special service” girls to informally sell sex to customers, as long it operated under a license obtained from the local police station. The Act established a minimum age of eighteen for work in such establishments, with a fine of two thousand baht for employing underage women.

Notably, the 1966 Entertainment Places Act was enacted during the same period in which the Thai government sought to increase state revenue through providing “Rest and Recreation” services to U.S. armed forces stationed in the region. The Entertainment Places Act remains in force today, even after the repeal of the 1960 anti-prostitution law and the enactment of the 1996 Prevention and Suppression of Prostitution Act. The 1966 Entertainment Places Act legitimized the entertainment industry and indirect prostitution, but also sought to assuage concerns regarding the impact of commercial sex on public order and morals.

Many informants, both Thai and foreign, noted that these overlapping and competing legal approaches give prostitution a quasi-legal status. The blurring of legal and illegal enterprises in the commercial sex industry allowed Thai officials to formally disapprove of prostitution while accommodating increasing demand for sexual services and profiting from the taxes generated by the growing entertainment and service industries. The system also expanded

³⁸⁸ Ibid.

³⁸⁹ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 32.

³⁹⁰ Sukanya Hantrakul, “The Sprit of a Fighter: Women and Prostitution in Thailand,” *Manushi*, 1983, 32.

discretion among low-level enforcement officials, creating incentives for brothel owners, pimps, and agents to bribe local police to turn a blind eye to illegal “special entertainment” services and to tip-off owners before raids.³⁹¹ This legal ambiguity, and the development of parallel regulatory regimes, facilitated the rapid expansion and diversification of the sex industry in Thailand from the late 1960s and the development of a market catering to foreign clientele in the late 1970s and 1980s.

Rented Wives, Rest and Relaxation: The American Military and the Transformation of Thailand’s Commercial Sex Industry

Over one million U.S. soldiers toured Southeast Asia during the Indochina conflict. Thailand permitted the U.S. to establish military bases throughout the country, which brought the benefits of new roads, communications technologies, and basic infrastructure that facilitated development as well as migration from rural areas to urban centers.

Occupying troops also created substantial markets for entertainment, personal, and sexual services. The markets concentrated around military bases and areas where troops took their leave. Access to prostitution is thought to help maintain order and morale among the troops; prevent rape of local ally women; avoid homosexual acts in the ranks; and to limit the spread of venereal disease. As Cynthia Enloe observes:

A military base isn’t simply an institution for servicing bombers, fighters, aircraft carriers, or a launch-pad for aggressive forays into surrounding territories. A military base is also a package of presumptions about the male soldier’s sexual needs, the local society’s sexual needs, and about local society’s resources for satisfying those needs. Massage parlors are as integral [to military bases] . . . as its dry docks.³⁹²

Several countries signed agreements to create “Rest and Relaxation” (R & R) centers for American troops deployed in South Vietnam, Hong Kong, and the Philippines.³⁹³

A 1967 agreement between the Thai government and the U.S. military allowed U.S. servicemen stationed in Vietnam to come on R & R leave in Thailand.³⁹⁴ Thousands of combat troops visited Thailand on R & R leave, and the number of military personnel on U.S. Air Force bases stationed in Thailand grew tremendously from the mid-1960s.³⁹⁵ The growing presence of

³⁹¹ Gail Pheterson, *A Vindication of the Rights of Whores* (Seattle, WA: Seal Press, 1989), 13–14.

³⁹² Cynthia Enloe, “Bananas, Bases, and Patriarchy,” in *Women, militarism, and war: essays in history, politics, and social theory*, ed. Jean Elshtain and Shiela Tobias (Savage, MD: Rowman & Littlefield, 1990), 200.

³⁹³ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*; Cynthia Enloe, *Does khaki become you?: the militarisation of women’s lives* (London: Pluto Press, 1983).

³⁹⁴ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 161. The R & R agreement was negotiated by an Air Force officer and a general of the Thai Royal Air Force whose wife was a co-director of “Tommy Tours,” one of the earliest sex tourism agencies. U.S. Secretary of Defense Robert McNamara reportedly helped broker the military R & R agreement. Melissa Dittmore, *Encyclopedia of prostitution and sex work* (Westport, CT: Greenwood Press, 2006), xxxvi.

³⁹⁵ From 1965 to 1967, the number of military personnel grew in several key bases in Northeastern Thailand. For example, in 1965, 201 servicemen were stationed at the base in Korat, growing to 5922 by 1967. A similar increase occurred at other bases from 1965 to 1967: Don Muang (798 to 1266); Nakhon Phanom (45 to 2261); Takhli (186 to 4406); Ubon (89 to 3230); Udorn (402 to 2910). 2838 military personnel were also stationed at U Tapao base in

American military forces in Thailand from the 1950s-1970s increased demand for sexual services exponentially, and, to the concern of Thais, commercial sex became more visible and garish. While there were an estimated 20,000 women working in the Thai sex trade in the 1950s, a 1964 police department report identified over 426,000 “special service girls,” of whom 171,000 of were “clearly engaged in prostitution related activity.”³⁹⁶ The 1966 Entertainment Places Act legitimized the expansion of the sex industry under the guise of above-board businesses. Between 1967 and 1971, the Thai government collected 360 million baht in taxes paid by massage parlors, nightclubs, hotels and restaurants.³⁹⁷

Most of the American bases in Thailand were located in the poor northeastern provinces bordering Laos. American military officials made arrangements with local officials in communities near military bases to create a service industry catering to the troops. Enterprising business owners established a variety of (indirect) commercial sex establishments, including massage parlors, beer bars, and go-go clubs to entertain the troops. Although prostitution was formally illegal, the rapid increase and diversification of “entertainment” venues providing indirect commercial sex services raised fears about the spread of venereal disease, and local officials created a system of registration, medical checkups, and VD cards.³⁹⁸ The development of Civic Action Programs facilitated public relations between the bases and the local population by providing medical services, organizational support, and consumer goods.³⁹⁹ These services also facilitated the development of a quasi-regulated prostitution industry.

In addition to the short-term sexual services available at the many massage parlors and bars in nearby camptowns catering to the military base, many troops took on *mia chao*, or “rented wives,” during their tours in Vietnam. This system was similar to the “temporary wife” system of early colonial-era Siam, where women offered their domestic and sexual services to Western merchants and seamen in exchange for financial support. As in the colonial era, Western norms about sex and prostitution constructed the *mia chao* arrangement in terms of prostitution, although women themselves did not necessarily do so. American troops commonly viewed Thais as amoral for accepting prostitution and cohabitation, and some servicemen adopted a racist and sexist attitude towards women, considering both Vietnamese and Thais as “gooks.”⁴⁰⁰

American presence and the demand for sexual services from Thai companions became problematic for villagers due to the corruption of young women and the increasing number of *luk krung* mixed-race children.⁴⁰¹ The rapid expansion of the sex trade and the increasing number of women drawn into it was another cause for concern among local communities as well as

Pattaya by 1967, site of a growing Rest & Relaxation port. See Thomas Sturm, *USAF Oversea Forces and Bases, 1947-1967* (Washington, D.C.: Office of Air Force History, 1969).

³⁹⁶ A 1964 report from the Thai Police department found that “there were 426,908 ‘special service girls’ of various occupations out of which 171,973 persons or about 40.28 percent of this group were clearly ‘prostitutes.’” See Saisuree Chutikul, *Children in Especially Difficult Situations: I (Thailand)*, Report to UNICEF (Bangkok: National Youth Bureau, Office of the Prime Minister, June 1986), 38.

³⁹⁷ Van Esterik, *Materializing Thailand*, 254 citing. Walter Meyer, *Beyond the mask: toward a transdisciplinary approach of selected social problems related to the evolution and context of international tourism in Thailand* (Saarbrücken: Breitenbach, 1988), 71.

³⁹⁸ Jeffrey, *Sex and Borders*, 38.

³⁹⁹ Malee Pluksponsawalee, “Women and the Law,” in *Women in Development: Implications for Population Dynamics*, ed. Suchart Prasith-rathsint and Suwanlee Piampiti (Bangkok: National Institute of Development Administration, 1982), 158.

⁴⁰⁰ Nigel Brailey, *Thailand and the Fall of Singapore* (Boulder, CO: Westview Press, 1986), 235.

⁴⁰¹ Jeffrey Glasser, *The Secret Vietnam War: The United States Air Force in Thailand, 1961-1975* (Jefferson, NC: McFarland, 1995), 236.

American politicians. For example, Senator J. William Fulbright warned that the skyrocketing demand for prostitution in South Vietnam due to the U.S. military occupation and R & R leaves threatened to destroy traditional Vietnamese culture. Fulbright called Saigon an “American Brothel,” as thousands of Vietnamese began to put their wives and daughter to work as bargirls to earn American dollars.⁴⁰²

A similar dynamic developed in Thailand: R & R was big business, and political and military leaders were actively involved in creating the new service industries to accommodate the influx of American troops. Sex districts were created in to cater to American troops on leave. New hotels with swimming pools, bars, air-conditioning, 24-hour coffee shops, and massage parlors accommodated the approximately 70,000 soldiers on seven-day leaves in Bangkok in 1968-1969.⁴⁰³ In 1967, U.S. servicemen on R & R in Thailand spent approximately five million dollars, rising to twenty million by 1970.⁴⁰⁴ The Bangkok Bank estimated that in the late 1960s, short-term visitors to Thailand spent about 400 million baht annually, an amount equivalent to one-fourth the total value of rice exports for the year or the average income of a quarter of a million Thai people.⁴⁰⁵ Local investment in entertainment businesses flourished, boosted by incentives to private businesses and by loans provided by the Industrial Finance Corporation of Thailand, a consortium of international private and public financial capital that included American and German banking institutions.⁴⁰⁶

The opportunities to make substantial earnings as masseuses or bar girls drew women to work in commercial sex services near military bases in the Northeast of Thailand; many women later migrated to work in the R & R and sex entertainment areas in Bangkok and the naval port of Pattaya. The infamous Patpong area of Bangkok became an entertainment district crowded with go-go bars, nightclubs and sex shows catering to U.S. troops stationed in Thailand and Southeast Asia during the Vietnam War.⁴⁰⁷ Ironically, the Patpong area had served as the headquarters of the Japanese during its occupation of Thailand in WWII. More than five thousand women from all over Thailand and other areas such as Hong Kong journeyed to the red-light district in Patpong, a short crowded street in the middle of Bangkok’s financial district.⁴⁰⁸ Touts shout to draw men inside, advertising a wide range of entertainment, including “ping-pong pussy” shows, girls who can pull out chains of razorblades, throw darts into balloons,

⁴⁰² Randall Woods, *Fulbright: a Biography* (New York: Cambridge University Press, 1995), 418., citing “Fulbright Calls Saigon ‘An American Brothel.’” *Saigon Post*, May 9, 1966.

⁴⁰³ Alan Dawson, *Patpong: Bangkok’s Big Little Street* (Bangkok: Thai Watana Panich Press, 1988), 40.

⁴⁰⁴ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 161 citing Bangkok Bank, *Monthly Review*, Aug. 1967, 266; Bangkok Bank, *Monthly Review*, Oct. 1973, 666.

⁴⁰⁵ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 5 citing Bangkok Bank, *Monthly Review* XIV, 10 (1973), 666.

⁴⁰⁶ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 162 citing Permtanjit (1982) *Political Economy of Dependent Capitalist Development: Study on the Limits of the Capacity of the State to Rationalize in Thailand*, Bangkok, Chulalongkorn University, Social Research Institute. The IFCT includes the Bank of America Corporation, the Chase Manhattan Corporation, the International Finance Corporation, and the Deutsche Bank AG. Between 1960-1972, the IFCT lent nearly \$4 million to seven companies providing “personal services.”

⁴⁰⁷ Ibid. Truong notes that in 1969, an American made an initial major investment in Patpong entertainment places, renovating an existing tea house into a night club. *Bangkok Post*, Feb. 5, 1984. Another district of clubs and bars catering to sex tourists is “Soi Cowboy,” nicknamed for the Cowboy Bar set up by a retired US Air Force officer. *Bangkok Post* Nov. 28, 1983.

⁴⁰⁸ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 28.

smoke, or make change with their vaginas; there are shower dances, “soapy-massage” parlors, blowjob bars, and live sex shows. Patpong remains a sex district today, but it also has a market where tourists can peruse souvenirs and fake Rolexes, sneaking a peek at the go-go dancers while senior citizens’ tour buses drive by, cameras flashing.

As the American military pulled out of Southeast Asia in 1975-1976, many G.I.s left their “Thai wives” behind, compromising the status of women who had worked in the sex industry and leaving single mothers without financial support.⁴⁰⁹ In addition, Northeastern cultural norms placed a greater restraint on remarriage, which discouraged development of new relationships and encouraged women’s transition from hired wife to sex worker. As the local service economies around the bases dried up, increasing numbers of Issan women were migrated to find work in urban areas. Many traveled to now-established sex districts in Bangkok, Phuket and Pattaya, where the clientele shifted from troops to civilian tourists.⁴¹⁰ These social, economic, and cultural forces laid the groundwork for women’s increased migration for sex work in the period after the Vietnam War, discussed in more detail in the next chapter.

Emerging Civil Society, Coalescing Social Movements, and Authoritarian Repression

Sarit’s heirs to power, Thanom and Praphat, ruled from 1963-1973 and continued the tradition of military dictatorship and cooperation with the U.S. military. However, the Thai public grew resentful the American military occupation and its influence over Thailand’s government. The early 1970s in Thailand were tumultuous years marked by increasing popular resistance to military authoritarianism, government corruption and foreign influence, culminating in social protest movements that united Thai students, workers and rural peasants.

Rural villagers grew increasingly alienated from Bangkok politics, as the commercialization of agriculture and the development of the urban manufacturing sector intensified rural inequalities. Bangkok grew from a city of 2.6 million in 1960 to 4.6 million in 1970 and 5.9 million in 1975, as thousands of men and women migrated to the metropolis from the rural countryside. The swelling numbers of migrants in Bangkok and growing worker discontent eventually erupted in urban resistance such as illegal strikes and protests against bus fare increases.⁴¹¹

After the Thai government’s crackdowns on communism in the 1950s, the Chinese-dominated Communist Party of Thailand (CPT) shifted tactics from efforts to instigate a working-class revolution in urban areas and began focusing on a rural revolution in the north. Resentment over the U.S. military domination of Thailand and its campaign to curb the spread of communist insurgency in Southeast Asia mobilized local revolts, expanding from an estimated six Thai provinces in 1960 to forty in 1975, nearly two-thirds of the country, with 6,000 villages

⁴⁰⁹ The Pearl S. Buck Foundation (PSB I) was founded in 1964 in response to poverty, intolerance and discrimination against “Amerasian” children, known locally as *luk krung*. Through education, nutrition, health care, and other programs to address HIV/AIDS, PSBI seeks to “[facilitate] self-reliance, self-help, and sustainable human progress and development so as to avoid dependency.” See

http://www.psbi.org/site/PageServer?pagename=PSBI_AboutUs_History (accessed December 15, 2011).

The Foundation opened an Opportunity Center and Orphanage in South Korea in 1965, and established a branch office in Thailand in 1967; PSBI currently works in the cities of Bangkok, Chonburi, and Ubon Ratchathani. The foundation had assisted children fathered by Americans in Vietnam before the war, but shut down operations in 1975 until it was reopened in 1989.

⁴¹⁰ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 8.

⁴¹¹ Omvedt, *Women in Popular Movements: India and Thailand during the Decade of Women*, 45.

and a total population of four million under some degree of CPT influence.⁴¹² Workers, farmers, intellectuals, and thousands of students, including most elected campus representatives, joined the CPT.⁴¹³ By the early 1970s, the CPT became the second largest communist movement in Southeast Asia, after Vietnam; its rural membership is estimated to have included at least four million people, with military support of 10-14,000 armed fighters. The CPT maintained strongholds in the Northern provinces and along Thailand's borders with Laos, Cambodia, Burma and Malaysia, contending against the power of military-controlled Bangkok.⁴¹⁴ With logistical support from China and Vietnam, communist fighters intensified their operations from 1970 onwards, including attacks on U.S. Air Force bomber bases in Thailand. At its political peak, the party effectively acted as a state within the state.

The Thanom-Praphat military regime sought to repress communists through violent search-and-destroy operations. Soldiers and police "tortured suspects, raped women, and carried out summary executions of supposed communists"⁴¹⁵ Thousands of acres of pristine forests were felled to remove settlers from the forest and to identify and destroy CPT jungle bases. However, these anti-communist crackdowns further alienated villagers and ultimately served to increase rural support for the communist resistance movement.

Increasingly evident setbacks for the U.S. military campaign in Southeast Asia, emergent economic crisis, and mounting criticism from the press and the public against corruption and foreign domination fostered an environment amenable to mobilization by several different social movements in Thailand.⁴¹⁶ In addition to the guerrilla war raging in the countryside, the urban middle class began to mobilize against the authoritarian government.

Improving education had been a key component of Thailand's development process, and increasing numbers of young people entered higher education, many going overseas, growing the educated class beyond the old elite. During their studies abroad, Thai students were exposed to leftist intellectuals and social movements in the U.S. and protests against the Vietnam War. Thai students began to analyze the political economy of Thai society, focusing their criticism on the Americanization of Thai culture, the inequities of the traditional social order, the corrupt military dictatorship, and the exploitation of the rural peasantry by domestic elites and foreigners, particularly Japan and the U.S.

By 1969, civil society and business groups finally pressured Thanom and Praphat into calling elections. Those elections seriously undermined their dictatorship. Forty-six percent of the new parliament was composed of businessmen and women, twenty percent were professionals, and only twenty-one percent were civil/military bureaucrats.⁴¹⁷ The parliament was increasingly critical of corruption and military arms spending, and, in 1971, Thanom

⁴¹² Baker and Phongpaichit, *A History of Thailand*, 184.

⁴¹³ While some recruits received political and military training for guerrilla warfare, many students were placed in "liberated villages" in groups of five to ten to organize community support for the movement. The entry of leftist intellectuals into the CPT increased the movement's capacity to pursue united front policies. However, internal divisions within the movement eventually resulted in its decline.

⁴¹⁴ Paul Battersby, "Border Politics and the Broader Politics of Thailand's International Relations in the 1990s: From Communism to Capitalism," *Pacific Affairs* 71, no. 4 (Winter 1998-1999): 473-488.

⁴¹⁵ Pasuk Phongpaichit and Chris Baker, *Thailand: Economy and Politics* (New York: Oxford University Press, 1995), 294.

⁴¹⁶ Sydney Tarrow's concept of "cycles of protest" theorizes the patterns of rising and falling action of individual movements and the tendency of movements to generate other movements in waves of activity and latency. Sydney Tarrow, *Struggle, Politics, and Reform: Collective Action, Social Movements, and Cycles of Protest* (Ithaca, NY: Cornell University, Center for International Studies, 1989).

⁴¹⁷ Jeffrey, *Sex and Borders*, 35.

executed a coup against his own government, dissolved parliament, and revoked the constitution. As Benedict Anderson observes, the volatility of the early 1970s in Thailand was due to

the rising expectations of the growing petite bourgeoisie—a product of massive American investment—were thwarted by the withdrawal of American troops, the inability of the bureaucracy to take on many of the newly educated students, a sudden onset of inflation, and the exclusion of this class from political power.⁴¹⁸

The nationalist student movement invoked the image of the Thai peasant woman prostituted to American troops to gain popular legitimacy and to personify their campaign to pressure the government to negotiate the withdrawal of US military forces from Thailand. Jeffrey observes that prostitution and prostitutes became symbolic of both “the systematic degradation of the countryside that occurred in tandem with the drive for development and security and . . . the Westernization of Thailand through the arrival of American troops.”⁴¹⁹ Reorienting earlier discourses positing Thai women as “flowers of the nation” and symbols of national purity, the prostitute represented the poisonous effect of Americanization on Thai culture and the subjugation of the nation by a foreign power. In 1972, students at Thammasat University attacked US imperialism in Thailand with a pamphlet entitled *Phai kao* (“White Peril”). Subsequent protests demanded the end of American use of Thailand as a base for the conflict in Vietnam.⁴²⁰

One song from the student’s movement called women to protest using Maoist themes and narratives of women’s sexual oppression by political elites and foreign occupiers:

They say you are flowers, you are slaves,
Slaves in the kitchen
Slaves for the feudalistic state

We say – arise Thai women, we are great
Unite Thai women
Defeat the feudals’ bed
Fight to change the feudalistic state.⁴²¹

Peasant women thus served as a site to for students to reconstruct Thai national identity. As the carrier of traditional Thai values, the plight of rural women reflected both the pillage of the countryside by domestic elites and the social and moral disintegration accompanying foreign domination and sexual imperialism.

Phleng luk thung (literally, “child of the field”) songs popular in the 1960s and 1970s also reflected criticism of elites’ subordination of the poor and the exploitation of migrant

⁴¹⁸ Benedict Anderson, “Withdrawal Symptoms: Social and Cultural Aspects of the October 6 Coup,” *Bulletin of Concerned Asian Scholars* 9, no. 3 (1977): 17–18.

⁴¹⁹ Jeffrey, *Sex and Borders*, 29.

⁴²⁰ Baker and Phongpaichit, *A History of Thailand*, 185.

⁴²¹ Omvedt, *Women in Popular Movements: India and Thailand during the Decade of Women*, 46.

women.⁴²² *Luk thung* stars sang about their rural roots and the difficulties of living new urban lives as truck drivers, waitresses, factory laborers, and sex workers; many songs addressed prostitution, warning young migrant girls about predatory urban men.⁴²³

Nationalist critiques of prostitution as representative of foreign domination and the exploitation of poor migrant women provided fodder not only for progressive movements, but also for elites striving to reestablish authority through appeals to a disciplinary discourse of national identity, gender, and authentic Thai culture. Elite women again invoked the prostitute as a sign of cultural upheaval and disorder, positioning themselves as the proper authorities to reassert correct cultural identity. During the brief democratic period, groups including the Association for the Promotion of Status of Women (APSW) and the Committee for the Promotion of the Welfare of Women (CPWW) endorsed measures to legalize prostitution in order to improve working conditions and to prevent the spread of venereal disease from promiscuous husbands to mothers and children. These groups sought reforms to register and tax sex establishments, develop regular police inspections for underage or forced women, and provide prostitutes social workers and doctors to take care of them. Other elite women, however, did not support legalization for fear that it would make prostitution acceptable and thereby damage the image of Thai women.⁴²⁴ Although a bill to legalize prostitution passed through Parliament in 1974, it was not promulgated before the 1975 dissolution of the house and the return of military dictatorship.⁴²⁵

Encouraged by the King to oppose corruption in the military dictatorship, the student movement came to a head in October 1973, when police arrested a group of Thammasat University students for passing out flyers advocating constitutional government. The subsequent protests by the entire student body swelled into a crowd of nearly half a million people who marched the streets of Bangkok. The protests snowballed into mass demonstrations, as students, workers' unions, and peasants' organizations coordinated a rapid and militant mobilization.⁴²⁶ The uprising ultimately toppled the military regime and replaced it with a civilian government.

Although the military dictatorship had sought to repress the revolt, the King intervened, directing Thanom and Phraphat to resign and voluntarily exile themselves. One of the King's favored officials, Sanya Thammasak, a liberal Supreme Court judge, was then appointed as prime minister. The King picked a National Convention, which elected a National Assembly to serve as interim parliament and constitutional convention modeled on a similar body established by Pridi in 1946. The new government was dominated by technocrats and members of the business elite who pressed for a reformist agenda. Kukrit Pramoj (1975-1976), a minor royal, became the new prime minister, and promoted "free-market capitalism, elitist democracy,

⁴²² Baker and Phongpaichit, *A History of Thailand*, 163. The booming popularity of *luk thung* songs was made possible by the creation of a national radio network, the development of infrastructure and roads that facilitated road tours, and the creation of the audiotape.

⁴²³ Ibid., 164. Female star Phumphueng Duanjan, a former child laborer, sang one song expressing a young girl's plight in the city: "Mum and dad, help me, or else I'm dead this time. My youth and beauty ruined because of a city slicker's sweet talk. Mum and dad, help me to go back home." Ibid. A study of *luk thung* songs in the late 1980s found "as many as one-fifth dealing with prostitution, including sympathetic treatment by male singers"; the songs often presented prostitution as a way to earn money to help rural families. Phongpaichit and Baker, *Thailand: Economy and Politics*, 78-79.

⁴²⁴ Tantiwiranond and Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand*, 125.

⁴²⁵ Jeffrey, *Sex and Borders*, 65.

⁴²⁶ Omvedt, *Women in Popular Movements: India and Thailand during the Decade of Women*, 46.

exemplary monarchy and paternalist government” to balance predatory military forces against the revolutionary left.⁴²⁷

In 1975 the Americans lost the war and South Vietnam, and Laos and Cambodia fell under communist rule. United Nations projects and international nonprofit organizations established refugee camps in Thailand to assist those fleeing conflict and persecution. Thailand shifted its approach to regional relations, initiating diplomatic relations with the People’s Republic of China the same year. However, the parliamentary democracy proved to be short-lived, as right-wing forces began a campaign of anti-communist military propaganda and terrorized labor organizers, student activists, progressive politicians, and rural guerilla forces.⁴²⁸

The right-wing military campaign against political activism and progressive reform came to a head in the fall of 1976. Thanom, one of the military dictators sent into exile after the 1973 student protest, returned to Thailand as a monk. After students protested his return, an army radio station began broadcasting calls for citizens to kill students in Thammasat University. The Border Patrol Police and rightist organizations joined with the military and police, and on October 6, 1976, conservative right-wing forces launched an attack against students in the university. Some students who tried to escape were lynched, raped, and burned alive. Officially, 43 students were killed, although other sources estimate that hundreds were murdered.⁴²⁹ Three thousand students were arrested and jailed without trial on October 6, and five thousand more were arrested in the subsequent days.

After the October 6 massacre, many students, activists, and intellectuals fled to the northern jungles seeking refuge with guerrilla communist forces. The arrival of students, leftists, and activists in the rural north increased support for the Communist Party of Thailand (CPT), and its numbers swelled with new recruits including workers, intellectuals, farmers, and cadres of the Socialist Party of Thailand. The military government arrested and imprisoned activists and political dissidents as “elements dangerous to society” and national security, branding them as “un-Thai,” communists, and treasonous “enemies of nation, religion, and king.”⁴³⁰ Leaders of the Peasants Federation of Thailand and socialist parties were murdered; those who voiced dissent or sought peaceful solutions were threatened with violence. Even military officers were suspected of communist leanings if they questioned official policy to quash the guerilla resistance by force. The army coup installed Thanin Kraivixien, a right-wing, anti-communist Supreme Court judge, as Prime Minister; Thanin had previously attacked “the inseparable trio of communism, student activism and progressive politics” as the host of a radio show.⁴³¹ The space for political organizing retracted suddenly and violently, as the military dictatorship burned books, forbade political meetings, and threatened publishers. Corruption and in-fighting between different military factions resulted in further repression and three more coups between 1977 and 1980.

Eventually, the quiescent Thai revolution foundered as students grew frustrated with the Maoist philosophy of peasant warfare, people learned about fallout of the Khmer Rouge regime in Cambodia, and factions emerged within the CPT between supporters of China and Vietnam. Increasing numbers of students defected from the movement, and most left the jungle between 1979-1981. The centrist government re-emerged, and under the leadership of General Prem

⁴²⁷ Baker and Phongpaichit, *A History of Thailand*, 190.

⁴²⁸ *Ibid.*, 194.

⁴²⁹ *Ibid.*, 194.

⁴³⁰ *Ibid.*

⁴³¹ *Ibid.*

Tinsulanond, adopted a joint military and political strategy to quell communist insurgency by attacking military bases, channeling USAID money into rural development, and granting amnesty to defectors. By 1987, the remaining members of the CPT had been arrested: Thailand's communist revolution was over.

Students and activists emerged from exile with a new appreciation for the challenges facing rural people. Peasants and farmers struggled to cope with the transition to a market-based economy, and traditional socio-economic structures eroded as increasing numbers of young people migrated to the city in search of wage labor. Leaders of the student movement and returnees formed new organizations to work on rural and urban development, seeking to shift from growth-centered to human-centered development.

Conclusion

A middle-class Thai women's movement emerged in the aftermath of violent repression of the student's movement and progressive politics. In the 1950s and 1960s, women's organizing had been limited to elite and educated upper-class women, including legal and business professionals, whose mobilization focused on family law reform – particularly women's rights to manage marital property and to issues related to “minor wives.” Elite women lobbied judicial figures and officials at high policy levels, campaigning at academic institutions and professional associations rather than targeting public institutions.⁴³² Although these campaigns failed to “link up with lower income, rural women or academics,” elite women's mobilization did begin to question Thai constructions of fatherhood, masculine authority, and economic inequities, paving the way for mobilization around other issues by a broader range of women's organizations.⁴³³

The middle-class and student activists from the 1973-76 uprising were closely monitored and repressed by the state, and civil society organizations were required to register with the government, their work restricted to philanthropic activities. As a result, post-coup social activism had to be unobtrusive, apolitical, and enacted through non-threatening institutions such as development programs or community cooperatives among peasants and workers.⁴³⁴ While elite women's groups maintained welfare- and charity-oriented approach to improving Thai women's status, a group of progressive, middle-class women's activists emerged to promote strategies to address the socio-economic consequences of inadequate rural development projects and the plight of the urban poor. Rural women migrating to urban areas became a key target group for women's advocacy organizations as increasing numbers of young women entered Thailand's expanding sex industry.

The closure of Thailand's political opportunity structure to domestic advocacy groups, elites' desire to protect Thailand's international image, and hostility towards political dissent would ultimately reorient the trajectory of the Thai women's movement towards the international arena, as increased availability of foreign funding supported the re-emergence of social movement organizations and the growth of NGOs in the 1980s.⁴³⁵ Chapter 4 examines the

⁴³² Virada Somswasdi, “The Power of Law and Women's Presence in the Thaksin Era” (presented at the Cornell Law School Berger International Speaker Papers. Paper 5, Cornell Law School, 2005), 4, http://scholarship.law.cornell.edu/biss_papers/5. Virada notes that women's mobilization was “not extensively publicized since [their campaigns] only found expression in the form of a few debates and speeches, and very few documents.” Ibid. at 3.

⁴³³ Ibid.

⁴³⁴ Omvedt, *Women in Popular Movements: India and Thailand during the Decade of Women*, 48.

⁴³⁵ Ibid. citing Jon Ungphakorn, “A Summary of the Situation and Problems of the Thai Development NGOs,” in *Thai Development Newsletter* (1984), 2.

economic, political, and social background conditions that gave rise to Thailand's reputation as "brothel of the world" and galvanized the mobilization of women's advocacy groups addressing prostitution and sex tourism.

CHAPTER 4 - “Smooth as Silk”: Development, Tourism, and the Sex Sector

Introduction

After the political turmoil of the early 1970s, a new cadre of business leaders set Thailand on the trajectory for rapid economic development. “Open economy” approaches to development in the 1970s and 1980s stimulated mass rural-urban migration, exacerbated rural poverty, and threatened traditional socio-economic support structures of villages in the Thai countryside. As increasing numbers of rural women migrated to urban centers in search of work, some were drawn into the sex trade. The following chapter explains how economic transformation and development policies created background conditions that incentivized migration for sex work and served to diversify Thailand’s sex industry for both local and foreign clientele. In addition, the chapter explores how the complex interplay of economic, political, and legal forces shaping the sex industry and women’s work within it produced multiple, overlapping, and sometimes competing constructions of migration and prostitution in Thailand. Eventually, this complexity would be reduced and rearticulated under the rubric of “trafficking” by advocates as well as domestic and international policy elites.

Poverty, Migration, and Consumption: Widening Urban-Rural Divisions Spur Migration

Thailand’s economic and development policies in the 1960s-1980s exacerbated income inequalities between rural and urban areas, creating incentives for men, women, and young people to migrate within Thailand and to foreign countries seeking work. The 1980 Thai census reported that only fifty-six percent of Thai families engaged in agriculture, down from over eighty percent in the 1960s.⁴³⁶ The country’s efforts to transform its agricultural economy to an industrialized one were influenced by both internal and international interests, marked by the rise of a new class of business elites that challenged military dominance of Thai politics. Under the leadership of Prem Tinsulanonda (1980-88), Thailand entered a period of “guided democracy” that sought to demobilize and neutralize radical activism and political dissent to create sufficient stability for economic growth.

Thai authorities rejected a planned economy, as economic policies were shaped by interests adverse to such a statist solution: the government’s suppression of communism; American military-related investment and development aid policies; and the desire to attract Japanese business investments.⁴³⁷ Instead, Thai development policies emphasized private enterprise to promote economic growth by exploiting Thailand’s comparative advantages. Thailand minimized restrictions on international trade and provided incentive packages to foreign and local investors for urban projects and manufacturing export.

Thailand’s “open economy” approach required maintaining a low price for local products and labor for Thailand to remain competitive. The government relied on an agricultural surplus to provide capital for urban investment and channeled aid funds into communications and infrastructure development to bolster urban growth. At the same time, the government restricted

⁴³⁶ A. Thomas Kirsch, “Text and Context: Buddhist Sex Roles/Culture of Gender Revisited,” *American Ethnologist* 12, no. 2 (1985): 314.

⁴³⁷ Pasuk Phongpaichit, “The Open Economy and Its Friends: The ‘Development’ of Thailand,” *Pacific Affairs* 53, no. 3 (1980): 440-460.

social investment in rural areas, in part to avoid “[raising] the expectations or the bargaining power of the farmers, [and] not allowing the rural interests to develop any real political torque.”⁴³⁸ The shift in emphasis from agricultural to industrial exports and the focus on urban investment led to increasing development disparities between rural and urban areas throughout the 1970s. Rural poverty was three times higher than urban poverty in the 1970s, and became five times higher than urban areas by the 1980s.⁴³⁹ By 1988, the average annual per capital income in Bangkok was approximately U.S. \$2300, compared to \$100 - \$300 in rural areas.⁴⁴⁰

Thailand’s economic and development policies relied on the exploitation of agriculture and national resources to power urban expansion, resulting in significant environmental degradation in rural areas. The lack of regulations on timber companies, expansion of agricultural lands into the hillsides, combined with government efforts to expose and destroy jungle bases by felling forests slashed the range of forested areas from 90 million acres in 1947 to 42 million acres by 1977.⁴⁴¹ Forestry management policies re-categorized rural and highland people who lived in the newly designated protected forest regions as illegal “squatters,” further exposing vulnerable, indebted, and landless families to the pressures of market capitalism. Many families struggled to make ends meet by collecting forest products to sell at market, often at a low price given decreased demand for traditional products in light of the growing popularity of new consumer goods. Government restrictions on access to forests further eroded this survival strategy.

Economic growth boomed during the 1970s, due in part to the high price of agricultural goods on the world market. But by the late 1970s, agricultural surplus declined as the price of oil rapidly escalated, depressing the Thai economy and prompting the Thai government to apply for World Bank structural adjustment loans.⁴⁴² The World Bank promoted the expansion of industrial exports as well as the development of a service sector to support mass tourism. Thai labor was advertised as docile and cheap to attract local and foreign companies producing manufactured goods for export:

While the minimum daily rate in Bangkok is proposed to be 54 baht (US \$2.70), it will be only 47 baht (U.S. \$2.35) in the Central and Southern regions and a mere 44 baht (U.S. \$2.20) in the North and Northeast . . . Thai workers have been found by many companies to be willing, dexterous, remarkably quick learners, and conscientious, dependable workers . . . [Further,] Thai labour is . . . is not militant. There have been many strikes, of course, but in general most disputes are settled amicably and indeed, this year,

⁴³⁸ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 72.

⁴³⁹ Wathinee Boonchalaksi and Phillip Guest, *Prostitution in Thailand* (Nakhon Pathom, Thailand: Institute for Population and Social Research, Mahidol University, 1994), citing Suganya Hutaserani, “The Trends of Income Inequality and Poverty and a Profile of the Urban Poor in Thailand,” *TDRI Quarterly Review* 5, no. 4 (1990): 14-19.

⁴⁴⁰ Margorie A. Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” *Social Science & Medicine* 35, no. 7 (1992): 892.

⁴⁴¹ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 74.

⁴⁴² See, e.g., Narongchai Akrasanee, David Dapice, and Frank Flatters, *Thailand’s Export-Led Growth: Retrospect and Prospects* (Bangkok: Thailand Development Research Institute (TDRI), 1991); Chaipat Sahasakul, *Lessons from the World Bank’s Experience of Structural Adjustment Loans (SALs): A Case Study of Thailand* (Bangkok: Thailand Development Research Institute (TDRI), 1992); See, e.g., William Brummitt and Frank Flatters, *Exports, Structural Change and Thailand’s Rapid Growth* (Bangkok: Thailand Development Research Institute (TDRI), 1992).

some of the country's labour leaders have said publicly they will accept whatever wage increases the Government deems suitable. The reason for this stand is that the labour leaders understand the present situation in the country and have decided that unity is more important than large wage increases.⁴⁴³

Export-led industrial growth was concentrated in Bangkok and the Central regions, increasing the relative poverty of the already-poor Northeast and Northern regions, where greater agricultural productivity had decreased opportunities for wage employment, particularly for women.⁴⁴⁴ The promotion of export manufacturing expanded female labor opportunities, as women were perceived as less prone to labor agitation, more fungible, and willing to accept low wages for repetitive and detail-oriented tasks in light manufacturing.⁴⁴⁵

In combination, these political, economic, environmental, and development policies created incentives for people to migrate from the countryside to urban centers in search of work to support rural families. Drought, landlessness, and debt led many young women to migrate to Bangkok to find work in factories, in construction, and in the service industry. Remittances became critical to the survival of rural households. Thailand also began to encourage emigration of Thai labor in the 1970s, as remittances injected foreign exchange into Thailand's economy helped to fill the trade gap, reduce the deficit, and blunt the poverty afflicting rural communities.⁴⁴⁶ In 1976, remittances totaled 485 million baht; twenty years later, they had risen ninety times to over 45 billion baht.⁴⁴⁷ The government-supported and -supervised job placement agencies, sending many Thai men abroad to work in the Middle East and neighboring countries; by the mid-1980s, women began to follow men, migrating abroad (often unofficially) for work as domestics or in the service sector.⁴⁴⁸ The Thai government's failure to create programs to assist and protect female migrants compounded the risk of Thai women's exploitation abroad, a governance gap that would ultimately stimulate advocacy activities on behalf of migrant women by middle-class activists.

***Rural Women's Migration: "From Peasant Girls to Bangkok Masseuses"*⁴⁴⁹**

Loy migrated from Issan to Bangkok, and initially worked in a textile factory. Her mother began to take all her earnings, so Loy decided to work as a masseuse. She sat behind a glass window on display . . . Loy was a fresh face and she slept with [the police sergeant posted outside the parlor], so he directed many customers

⁴⁴³ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 73, citing "The labour situation," Bangkok Post, Supplement, 4 Aug. 1980, p. 21.

⁴⁴⁴ Youngyuth Chalamwong, "Future Regional Performance in Thailand," *TDR Quarterly Review* 7, no. 3 (1992): 26-29.

⁴⁴⁵ Douglas Porpora and Mah Lui Lim, "The Political Economic Factors of Migration to Bangkok," *Journal of Contemporary Asia* 17, no. 1 (1987): 76-89.

⁴⁴⁶ Pasuk Phongpaichit and Samart Chiasakul, "Services," in *The Thai Economy in Transition*, ed. Peter Warr (Cambridge: Cambridge University Press, 1993), 166-167.

⁴⁴⁷ Pasuk Phongpaichit, Sungsidh Piriyarangsarn, and Nualnoi Treerat, *Guns, Girls, Gambling, Ganja: Thailand's Illegal Economy and Public Policy* (Chiang Mai: Silkworm Books, 1998), 161.

⁴⁴⁸ Skrobaneck, Boonpakdi, and Jantakeero, *The Traffic in Women: Human Realities of the International Sex Trade*.

⁴⁴⁹ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*.

her way. She moved to several different bars before becoming a bar-tender in Patpong; she later moved back and forth to Germany for sex work. Loy is forty years old, and still works in Patpong.⁴⁵⁰

Women's migration from rural areas in North and Northeast Thailand increased significantly from 1960 to 1970. The sex industry became a major objective of migrants in the late 1960s, coinciding with the growth of the service and sex entertainment industries in Bangkok and the south of Thailand. The enormous gap in income opportunities between the city and the countryside and the disruption of traditional village economies and social support structures created the context for the migration of peasant women and girls into the sex industry. The limited job opportunities available to rural women with little to no education created incentives to work in the sex industry, offering women the opportunity to earn significantly more money faster than they could in factory work, domestic work, or construction. Masseuses and sex workers earned high wages relative to rural budgets, and "a couple of years of work would enable the family to build a house of a size and quality which few people in the countryside could hope to achieve on the earnings of a lifetime."⁴⁵¹ Moreover, women could engage in sex work on an occasional or seasonal basis, returning home to help with planting and harvest on the family farm.

The sex industry provided a lucrative option in light of the limited employment opportunities available to poor, uneducated migrant women. A 1980 survey by researchers from Thammasat University found that sex workers could earn approximately twenty-five times more than women laboring as housemaids, waitresses, in beauty salons, construction, factory, or clerical work: while a factory employee earned between 200-500 baht per month, a prostitute or masseuse earned around 10,000 baht, plus the possibility of substantial bonuses and tips.⁴⁵² Another survey of 1,000 massage girls reported that some women working in prostitution were moonlighting from government jobs to supplement their low income.⁴⁵³

The rapid growth of prostitution exposed the social consequences of Thailand's development policies that relied on private and foreign investment, cheap, docile labor for the manufacturing export sector, and channeled aid funds into communications and infrastructure development while restricting social development in rural areas. Unequal distribution of benefits from pro-business development and "open economy" policies stimulated mass migration of both men and women from the economically depressed rural regions to urban areas, and remittances from migrant workers continued to sustain rural communities. By the early 1990s, the average

⁴⁵⁰ Paraphrased from Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 38.

⁴⁵¹ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 74.

⁴⁵² Ibid., 7–8. Occupations and average income in baht per month range as follows: housemaid (150-450 baht); waitress (200-500 baht); construction laboring (200-500 baht); factory employee (200-500 baht); beauty salon (400-600 baht); clerical work (600 – 1,000); and "services" (800 - 1,500). Ibid. Phongpaichit notes that "by way of comparison on income levels, a university lecturer (government employee) with Ph.D. publications and several years of teaching experience receives a salary of just over 4,000 baht a month." Ibid., 78.

⁴⁵³ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, citing Thempanom Muangman et al., "Report of a study on education, attitude, and work of 1,000 massage girls in Bangkok with special reference to family planning, pregnancy, abortion, venereal disease, and drug addiction," (unpublished paper in Thai, Bangkok: Mahidol University, 1980).

Dr. Thepanom undertook a survey of the health conditions of massage girls for the United Nations Population Fund, and was assisted in interviews by high-ranking police and army officers, who submitted letters to the owners of massage parlors to request their collaboration with the study.

remittances from commercial sex workers were 3,000 baht per month – nearly three times the average monthly wage in agriculture.⁴⁵⁴ The millions of baht in remittances from commercial sex workers to rural households eclipsed the budgets of development programs; one estimate suggested that remittances from sex workers were eight times the amount allotted for the government’s rural job creation programs that attempted to prevent migration to Bangkok.⁴⁵⁵

Culture, Imperialism, and Variation in Patterns of Migration for Sex Work

By the late 1970s, increasing numbers of young women migrated to Thailand’s urban centers and tourist destinations intending to work in the sex trade. In the early 1990s researchers from the Thai NGO Foundation for Women and a Dutch anti-trafficking organization found that trafficking was “more established and systematic” from the North, as the general labor migration of both men and women from the Northeast made trafficking from that region “both superfluous and less lucrative.”⁴⁵⁶ Informal networks facilitated Northeastern women’s migration into sex work, like other forms of non-village employment; many Issan women first worked in factories, later moving into the sex industry.⁴⁵⁷ By contrast, brokers reportedly began directly recruiting Northern women into the sex industry as early as 1971, and by 1976, women were migrating from the village to foreign countries.⁴⁵⁸ Thailand’s response to a 1974 INTERPOL survey assessing the traffic in women reported that ninety percent of the prostitution cases recorded in Thailand involved women from the North.⁴⁵⁹ Thus, regional cultural differences within Thailand shaped women’s migration patterns, paths into the sex industry, and clientele serviced, while cultural constructions of beauty and exotic sexuality shaped customers’ preferences and contributed to the diversification of Thailand’s sex industry.

⁴⁵⁴ *Thailand Economic Information Kit* (Bangkok: Thailand Development Research Institute (TDRI), 1993).

⁴⁵⁵ Boonchalaksi and Guest, *Prostitution in Thailand*, 38.

⁴⁵⁶ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 30. By contrast, other researchers speculated that the predominance of Northern women in prostitution was due, in part, to the development of communications and rail transportation between Bangkok and Chiang Mai under King Rama V, in addition to a cultural preference for lighter skinned Northern women. Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution” note 39.

⁴⁵⁷ Chris Lyttleton, “The Good People of Isan: Commercial Sex in Northeast Thailand,” *The Australian Journal of Anthropology* 5, no. 1-2 (1994): 260–261.

⁴⁵⁸ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 11.

⁴⁵⁹ INTERPOL Report, “Traffic in Women: Recent Trends,” Document prepared by the General Secretariat of the International Criminal Police (INTERPOL) in 1974 for the United Nations Division of Human Rights, reproduced as “Appendix A” in Kathleen Barry, *Female sexual slavery* (New York: New York University Press, 1979).

The INTERPOL report was the product of a call for research at its 1971 meeting into the traffic in women, identified as “most widespread form” of “international proxenetism.” The INTERPOL General Secretariat sent out a questionnaire to all the Organization’s National Central Bureaus to collect information and statistics on the traffic in women. In light of a poor response rate, there was a follow up project in 1974. The study defined trafficking by combining the provisions of previous international anti-trafficking conventions including the 1904, 1910, 1933, and 1949 Agreements and Conventions against the “white slave” trade and the “traffic in women” for “immoral purposes.” The INTERPOL questionnaires distinguished between the “traffic in women proper” and “disguised traffic,” identifying the former as the indictable offense of hiring or inducing any woman to engage in prostitution outside her country of origin, regardless of her consent. “Disguised traffic” was identified as the hiring of women for employment in another country (e.g., as “dancers, cabaret artistes, barmaids”) “and in conditions in which they are subjected, incited, or exposed to prostitution.” *Ibid.*, 293.

Interestingly, the Thai government claimed that police records had been “destroyed by fire in 1973,” and only reported statistics from 1974, identifying cases involving 83 procurers, 34 pimps, and 767 prostitutes; in the 471 cases examined, 90% of the women hailed from the Northern region of Thailand.

As Thailand's open economy and development agenda exacerbated the vulnerability of rural households to the market, it also increased the pressure on young women to fulfill their traditional responsibilities to support their families. Rural women's migration for work in urban areas must be understood in light of traditional gender roles and socio-economic arrangements of village life in the Northern and Northeastern regions, which differed from the norms of elite and upper-class (Siamese) culture. In the North and Northeast, families are structured around female members. Although both men and women are expected to contribute to household earnings, women are traditionally responsible for the management of family finances.⁴⁶⁰ The matrilineal structure of many rural communities, particularly in the North, meant that the youngest daughter traditionally inherited the family's agricultural holdings and was expected to support her parents.⁴⁶¹ The obligations to parents felt by daughters in the North result from an interplay of local customs and a matrilineal society, as inheritance norms create added incentives for daughters to support parents.⁴⁶²

Our family was poor, Mom and Dad were suffering. We wanted to help them by making the burden lighter. (Rim Mon village, Chiang Rai Province)⁴⁶³

Nobody forced me to go into prostitution. I have never felt fed up. My parents could not afford to educate me. Commercial sex was my only option. In the old days, my family and I lived in a shack. My parents could not earn enough to keep all of us. Some days I had nothing to eat. I didn't even have a piece of land to live on. (Rim Mon village, Chiang Rai Province)⁴⁶⁴

The deeply-rooted cultural expectation that Thai daughters contribute to support their parents by any means necessary was a key factor in both Thai and foreign explanations of rural women's migration into prostitution.⁴⁶⁵

Thai women from lower socio-economic classes, particularly in rural areas, enjoyed a relatively high degree of autonomy and a high rate of participation in the labor force; rural Thai women's labor capacity was a prized attribute. However, the "expansion of upper-class values" regarding femininity and service to men, spread by the growth of national and provincial beauty

⁴⁶⁰ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*.

⁴⁶¹ Sulamith Heins Potter, *Family Life in a Northern Thai Village: A Study in the Structural Significance of Women* (Berkeley: University of California Press, 1977).

⁴⁶² Boonchalaksi and Guest, *Prostitution in Thailand*, 7 citing Apa Pamornbutr, "Northern girls in aspects of psycho-analysis," *Rachthan* 24, No. 3 (1976) 41-46 (in Thai).

⁴⁶³ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 30.

⁴⁶⁴ Ibid.

⁴⁶⁵ The Boonchalaksi and Guest report *Prostitution in Thailand* cites examples from several Thai researchers who explored the cultural expectation of Thai daughters to support parents, including Chai Podhisita, "Peasant Household Strategies: A Study of Production and Reproduction in a Northeastern Thai Village" (Dissertation, University of Hawaii, Department of Anthropology, 1985); Bencha Yodduumnern-Attig et al., *Changing Roles and Statuses of Women in Thailand: A Documentary Assessment* (Bangkok, Thailand: Mahidol University: Institute for Population and Social Research, 1992); Anthony Pramualratana, "Changing Support Systems of the Old in a Rural Community in Thailand" (PhD Dissertation, Australian National University, Department of Demography, 1990).

contests, “created an ideology in which a woman’s beauty is considered her major asset.”⁴⁶⁶ The pursuit of these new Bangkok-centered and upper-class ideals of femininity, beauty and domesticity were complicated by the indigenous norms, social structures, and cultural traditions of rural communities, particularly in light of increasing economic vulnerability and rapid social change.

For women from the North, beauty contests were the primary channel into prostitution, often in Bangkok massage parlors catering to Thai men.⁴⁶⁷ While foreigners found the indigenous beauty of Issan women attractive, many Thai men in Bangkok despised the “ugly women of Patpong,” as Issan women tend to have darker skin and were perceived as more aggressive, failing to live up to the (Bangkok-centered and Western-oriented) Thai notion of feminine beauty. Northern women had been favorites in national beauty contests since the 1940s; as described in the previous chapter, beauty contests provided an opportunity for upward mobility – as a model or a consort of an elite man – or the possibility of urban adventure, a path that led many into the sex industry.⁴⁶⁸ As Muecke notes, “almost every article in the Thai media and academic literature that mentions the prior residence of prostitutes cites the Northern Region,” and the informants she interviewed in the late 1980s explained Thai clients’ preference for (and higher rates commanded by) Northern women in prostitution due to “the greater beauty and whiter skin of Northern than other Thai girls, as well as their being more easily influenced (*jai öön*) and more interested in having a good time.”⁴⁶⁹ Entire villages, such as Dok Kham Tai in Phayao Province, gained notoriety for beautiful, fair-skinned girls who “went South” to work in Bangkok sex establishments and later set themselves up as agents to provide “guaranteed Dok Kam Tai” girls for sex establishments in Bangkok.⁴⁷⁰ Yot estimated that 70% of the young women in a nearby Northern village had entered the sex trade by the early 1990s; by contrast, in two Northeastern villages studied by Lyttleton in the same period, each with a population of 900, only thirteen women had been or were still working in prostitution.⁴⁷¹

Northeastern women experienced the first phases of Thai women’s migration into sex work. Significantly, the development of the sex trade in the Northeast occurred in the context of American military occupation in Issan and the rapid expansion of the service industry around military bases and in Bangkok and Pattaya. In one 1980 study, two sisters from a poor, landless family traveled to work as mistresses for a group of GIs in Udon Thani, where the girls “cooked for them, looked after their house, and catered [to] their personal needs”; within a year, the girls earned enough money to build their parents a new home, saving enough to build another home to sell for cash in their second year of work, and by the third year, the girls bought 15 acres of land

⁴⁶⁶ Boonchalaksi and Guest, *Prostitution in Thailand*, 6 citing; Yot Santasombat, *Women Trafficking: Community and Prostitution in Thai Society* (Bangkok: Local Development Institute, 1992) (in Thai).

⁴⁶⁷ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*; Van Esterik, *Materializing Thailand*.

⁴⁶⁸ Dave Walker and Richard Ehrlich, “*Hello, my big big honey!*”: love letters to Bangkok bar girls and their revealing interviews (San Francisco, CA: Last Gasp Eco-Funnies, 2000), 26.

⁴⁶⁹ Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” 894, note 39 citing S. Skrobanek, “Krabuan kaan khaa ying nai prathet thai,” [“The trade in women in Thailand”] in T. Thajjiin and P. Trakunsatjijawat, eds., *Panhaa Kaan Khaa Ying Lae’ Yutthasaat Kaan Kae Panhaa*, [*The Problem of Selling Women and Strategies for Solving the Problem*], Social Research Institute (CUSRI), Chulalongkorn University, Bangkok (1984), 1–33.

⁴⁷⁰ Lisa Rende Taylor, “Dangerous Trade-offs: The Behavior Ecology of Child Labor and Prostitution in Rural Northern Thailand,” *Current Anthropology* 46, no. 3 (2005): 415. See also Phongpaichit, *From Peasant Girls to Bangkok Masseuses*.

⁴⁷¹ Santasombat, *Women Trafficking: Community and Prostitution in Thai Society*, 204; see also Lyttleton, “The Good People of Isan: Commercial Sex in Northeast Thailand,” 260.

and sent their younger siblings to school, later moving on to Bangkok and Pattaya after the GIs left the Northeast.⁴⁷² Thousands of Thai women moved to Bangkok to work in beer bars, go-go strip clubs, and massage parlors of Patpong and the seaside resort and navy port of Pattaya.⁴⁷³ In the early 1990s, NGO activists interviewed women who migrated for sex work in this era, who explained that they began sex work primarily to alleviate family poverty.⁴⁷⁴ Some women from Issan migrated to work in sexual entertainment establishments in Bangkok after their experiences as *mia chao* (rented wife) or after working as “special service” girls around American military bases.

The development of roads and other infrastructure projects built by the Americans to support military bases throughout the Issan region in northeast Thailand increased access to markets and facilitated the migration of both men and women to Bangkok and abroad. Issan women followed their husbands and male family members to the Middle East and Singapore to work as domestic servants; some supplemented their income with occasional prostitution.

Development, Tourism, and Sex: Achieving an “Economic Miracle” on the Backs of Thai Women

Part of the reason that the sex industry was so lucrative was that demand increased as the Thai economy was increasingly oriented toward industry and tourism. Industrial growth affected domestic consumption of sexual services; increased tourism triggered foreign consumption. Both affected the nature of the Thai sex industry.

Domestic Demand for Sexual Services

Higher urban salaries and expendable income among Thai men of all classes contributed to increased local demand for commercial sex, reflecting the historical and cultural association of wealth with increased sexual access to women. By the early 1980s, urban earners across a range of social classes could buy the services of sex workers at a relatively cheap price; even men at the bottom end of the market, including taxi drivers and laborers who had migrated from the countryside, could afford 15 baht at a low-end massage parlor/brothel.⁴⁷⁵ Increased spending power and disposable income promoted new practices of sexual consumption among local men, and also stimulated the development of new forms of sex-and-entertainment establishments.

Thailand’s sex industry diversified to meet the demands of new niche markets determined by socio-economic status, nationality, the type of sexual services and entertainment desired, and later, perceived lower health risks to attract clients.⁴⁷⁶ In Bangkok, the sex industry had long been restricted to particular enclaves, with many pockets concentrated in Chinese-dominated areas of the old city. In the 1970s, however, outlets for commercial sex began to appear throughout Bangkok and adopted new forms. The first massage parlor, reported to have appeared in Patpong in 1951, was an imitation of a Japanese steam bath.⁴⁷⁷ By 1980, one study identified

⁴⁷² Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 50–51.

⁴⁷³ Skrobanek, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 30, 38.

⁴⁷⁴ *Ibid.* 30.

⁴⁷⁵ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 74.

⁴⁷⁶ Boonchalaksi and Guest, *Prostitution in Thailand*, 39.

⁴⁷⁷ Margorie A. Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” *Social Science & Medicine* 35, no. 7 (1992): 892 citing Wibbon Nakornjarupong, “Patronage and the night queens,” *Business in Thailand*, (1981) 40-52.

“119 massage parlors, 119 barbershop-cum-massage and tea-houses, 97 nightclubs, 248 disguised whore-houses and 394 discos-cum-restaurants” providing sexual services for male customers.⁴⁷⁸ Visiting sex establishments as a group became a social as well as a sexual experience, occurring as part of an evening of drinking, business, or social gatherings. The phrase *pai thiaw* (“going around” or “to go out for fun”), traditionally used to describe young men’s ability to leave their natal village to seek fun, adventure, and excitement, became a euphemism for visits to a brothel.

By the 1970s, Northern women predominated the massage parlors that serviced Thai men. Women sit behind a glass wall in a “fishbowl” with numbers pinned to their clothes for customers to select their choice. Migrants, wage laborers, drivers, and other low-income Thai men patronized low-end parlors that charged 40-60 baht per hour, varying on a girl’s beauty; while some women were freelance and earned more money per encounter, other women were bonded by agents or their parents to work off cash advances.⁴⁷⁹ Members’ clubs and upscale parlors catered to Thai businessmen and tourists and charged 80-350 baht per hour (with options for one masseuse or two in the “sandwich course” (the local term, spoken in English), and women earned a percentage of the hourly fee as well as negotiated payments for additional services.⁴⁸⁰ Some establishments had over four hundred rooms, complete with different designs and décor (marble baths, fountains, mirrors on walls and ceilings).⁴⁸¹ Although prostitution was officially illegal, massage parlors registered their businesses as bars and entertainment places, and were protected by local police, who rarely raided parlors unless there was a dispute over protection fees.⁴⁸² Interestingly, police readily acknowledged their selective enforcement practices, and willingly served as liaisons for researchers studying the health and working conditions of the massage parlors in the 1980s.⁴⁸³

Although sex tourism certainly contributed to the diversification and visibility of Thailand’s sex trade (and certainly stimulated the interest of international researchers, feminists, and media), other researchers have emphasized that local demand generates the most income from prostitution. As Boonchalaksi and Guest observed, based on a conservative estimate of a number of sex workers, even if each international male tourist visited a sex worker every day they were in Thailand, tourists did not constitute the majority of the total number of clients in

⁴⁷⁸ Phongpaichit, *From Peasant Girls to Bangkok Masseuses.*, citing Thempanom Muangman et al., “Report of a study on education, attitude, and work of 1,000 massage girls in Bangkok with special reference to family planning, pregnancy, abortion, venereal disease, and drug addiction,” (unpublished paper in Thai, Bangkok: Mahidol University, 1980).

⁴⁷⁹ Phongpaichit described one example of a “bonded girl . . . said to be 18 years old, brought to Bangkok by an agent who ‘loaned’ her parents 1,500 baht on the condition that their daughter would work at the parlour until the debt was cleared. Such girls live in the upstairs section of the parlour, and are heavily guarded to make sure that they do not run away before the indenture has been cleared. The parents of this particular girl came to visit her soon after she came to Bangkok in order to make sure she was in a good place. They were happy to find that their daughter was living in a concrete building with air-conditioning in the middle of town. Although the building is tucked away down a rather grotty lane, it seemed quite posh enough to the visitors from the rural North.” Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 9-10.

⁴⁸⁰ Ibid. 11.

⁴⁸¹ Ibid.

⁴⁸² Phongpaichit, *From Peasant Girls to Bangkok Masseuses.*, citing Thempanom Muangman et al., “Report of a study on education, attitude, and work of 1,000 massage girls in Bangkok with special reference to family planning, pregnancy, abortion, venereal disease, and drug addiction.”

⁴⁸³ Ibid.

Thailand's sex industry.⁴⁸⁴ Though tourist-oriented prostitution was indeed the most “flamboyant and excessive” aspect of Thailand's sex industry, sex tourism likely transformed the social awareness and political significance of prostitution in Thailand more than the incidence of prostitution.⁴⁸⁵

Promoting Development Through (Sex) Tourism

Mass tourism emerged after WWII, a product of increasing disposable income in industrialized countries and the construction of leisure as a wage good. In the 1950s, most travel occurred within and between North America and Western Europe, but by the mid-1970s, eight percent of all tourists were North Americans and Europeans traveling to holiday in Third World Countries; this figure grew to seventeen percent within the next decade.⁴⁸⁶ International organizations and governments from the global North promoted tourism as an opportunity to advance educational and internationalist values.⁴⁸⁷ In the global South, foreign investors and international financial institutions touted tourism as a path to development through infrastructure creation and the growth of service industries. The development of international tourism (and tourism-as-development) involved a network of economic dependencies linking the civil aviation industry, hotel chains, and restaurants, down to car rental agencies, taxi cab companies, and local tour guides.⁴⁸⁸ In Thailand, the U.S.'s promotion of civil aviation, its legacy of military occupation and the infrastructure built to support American diplomatic and military operations over the previous twenty-five years facilitated the transformation of the “Rest & Relaxation” service and entertainment industry into a massive tourism industry in the wake of the Vietnam War.⁴⁸⁹

⁴⁸⁴ Boonchalaksi and Guest, *Prostitution in Thailand*, 16, note 2.

⁴⁸⁵ Lenore Manderson, “The Pursuit of Pleasure and the Sale of Sex,” in *Sexual nature, sexual culture*, ed. Paul Abramson and Steven Pinkerton (Chicago: University of Chicago Press, 1995), 306.

⁴⁸⁶ Cynthia Enloe, *Bananas, Beaches and Bases: Making Feminist Sense of International Politics* (Berkeley: University of California Press, 2000) citing Peter Stalker, “Going Places: Westerners Invade Paradise,” *The New Internationalist*, December 1984, excerpted in *Utne Reader*, July/August 1987, p. 104.

⁴⁸⁷ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 101.

⁴⁸⁸ *Ibid.*, 102. Truong identifies the interests of the civil aviation industry as the “main motor” pushing the development of international tourism. The end of WWII drastically reduced demand for airplanes, creating a need to absorb secondhand planes elsewhere. The partially or fully state-owned airlines in Western European countries could use existing fleets to extend international air routes to former colonies, and military aircraft were also used as charter flights for European visitors to the Mediterranean as early as the 1950s.

Although private commercial airlines in the U.S. faced stiff competition for air routes, continuing military and humanitarian activities abroad such as the Korean and Vietnam Wars initially absorbed military planes. The U.S. led the field of international civil aviation as demand from the defense sector for new technology and better planes combined with an air policy that subsidized civil aeronautics at home and abroad. U.S. international air policy was designed by the Department of Defense (International Security Affairs), the Budget Bureau, and the Agency for International Development, and policies were advanced through multilateral aid programs and financing institutions. Than-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia* (London: Zed Books, 1990) citing H. Heymann, *Civil aviation and U. S. foreign aid: purposes, pitfalls, and problems for U. S. policy* (Rand Corp., 1964).

The U.S. spent billions to advance research to develop microelectronics and computer technology that ultimately facilitated the integration of the civil aviation industry with the accommodation and service sector. Computerized reservation systems helped create the “package deal,” integrating the market by interlocking tour operators, charter airlines, car rental agencies, and hotels. Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 107.

⁴⁸⁹ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*.

In the 1960s, the Thai government began to promote the rapid expansion of the service and tourism industries as a path to development and job creation. One of the key elements to the successful growth of tourism in Thailand was the quasi-legal sexual entertainment industry that catered to predominantly male tourists. Although prostitution was still officially illegal under the 1960 Act for the Abatement of Prostitution, as noted earlier the 1966 Entertainment Places Act facilitated indirect prostitution in discos, beer bars, nightclubs, restaurants, tea houses and massage parlors catering to local men and tourists. The social geography and meaning of prostitution in Thailand transformed as sex entertainment establishments became increasingly visible, profitable, and diversified in the 1970s and 1980s.

The expansion of Thailand's service and tourism industry in the 1970s-1980s was buttressed by World Bank policies identifying tourism as a key to development. In 1960, the Tourism Organization of Thailand (TOT) was established as an independent office within the Royal Thai government to promote inbound travel. The first Director-General of the TOT, Lieutenant-General Chalermchai Charuvastr, sought to put Thailand on the world tourism map and convince the Thai public that tourism was important to the nation.

In 1961, the United States Ministry of Commerce and the Pacific Tourism Association hired a private company to evaluate tourist potential in the region; the recommendations of the study promoted a rapid expansion of the Thai tourist industry.⁴⁹⁰ General Prapas Charusathiarana, a powerful figure in Thai politics who served as Ministry of the Interior in the 1960s, sought to expand the sex service industry on the grounds that it was good for the economy and attracted tourists.⁴⁹¹ Local investment in hotel construction shot up by eighty percent in 1967, and the U.S. advanced over three million dollars in loans for the construction and expansion of Hilton and Sheraton hotels in Bangkok, both U.S.-based hotel chains. However, with the end of the Vietnam War, Thailand faced a significant oversupply of rooms and personal services.

In 1971, during a visit by Robert McNamara, former president of the World Bank, the Thai government and the Bank brokered a mutual agreement to initiate a study to plan the development of Thailand's tourist industry.⁴⁹² The World Bank promoted increased public sector investment in travel infrastructure, and recommended that Thailand pursue development through mass tourism to repay its debts for agricultural development loans. Thai officials recognized that expanding the "entertainment" industry was critical to attracting tourists and supporting Thailand's economic growth. At a national meeting of governors in October 1980, Boonchu Rojanasathien, the Deputy Prime Minister, declared:

Within the next ten years, we have a need of money. Therefore I ask all governors to consider the *natural scenery* in your provinces, together with some forms of entertainment that some of you might consider *disgusting and shameful because they are forms of sexual entertainment that attract tourists*. Such forms of entertainment should not be prohibited if only because you are morally fastidious. Yet explicit obscenities that may lead to damaging

⁴⁹⁰ Boonchalaksi and Guest, *Prostitution in Thailand*, 14, citing H. Clement, "The Future of Tourism in the Pacific and Far East." Report prepared by Checci and Company under contract with the United States Department of Commerce and Co-sponsored by the Pacific Area Travel Association (1961).

⁴⁹¹ Andrew Harris, *Bangkok After Dark* (New York: McFadden Books, 1968).

⁴⁹² Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 162-163.

moral consequence should be avoided within a reasonable limit. We must do this because we have to consider the jobs that will be created for the people.⁴⁹³

The Tourism Authority of Thailand (TAT) declared 1980 and 1987 “Visit Thailand Year.”⁴⁹⁴ Promotional campaigns advertised historic and national attractions using sexualized representations of Thai women. Invariably beautiful, exotic, smiling, and attentive, Thai International Airways stewardesses beckoned tourists to “the land of smiles” dressed in elaborate traditional outfits and hired for their looks and demeanor. Commercials for Thai Airways promised, “‘Smooth as Silk’ is a beautifully prepared meal served by a delicious hostess.”⁴⁹⁵

Evidence of the effect of tourism on Thailand’s economy is abundant. In 1960, profits from tourism in Thailand were approximately 200 million baht; by 1986, tourism provided over 37 billion baht.⁴⁹⁶ Tourism provided eleven percent of Thailand’s foreign exchange earnings by 1973, and was vying with sugar for second place behind rice by the late 1970s.⁴⁹⁷ The number of tourists visiting Thailand grew from 212,000 in 1964 to 630,000 in 1970, expanding from 1,107,00 in 1975 to 1,370,000 in 1978; during this period, the sex ratio for tourists was 2:1 male.⁴⁹⁸ Tourism continued to expand throughout the 1980s and 1990s, from 2,800,000 in 1986 to over 5.1 million in 1991, sixty-five percent of whom were male.⁴⁹⁹ Truong observes that the vested interests of Thai elites and foreign investors in entertainment and hotel facilities incentivized the integration of tourism into the overall strategy of economic growth, and “tourism became incorporated into the export-diversification strategy...[that] widened the R & R market to a more international market.”⁵⁰⁰

Sex Tourism and the Thai Sex Industry

The quasi-legality of prostitution in Thailand, the variety of venues where one could procure sex, and the availability of large numbers of women who sold sex at a low cost attracted a growing number of foreign men seeking sexual adventure during their holiday. Though the majority of commercial sex catered to local clientele, by the 1990s, academics, advocates, and media commentators proclaimed that sex tourism dominated by men from Japan, Europe, the Middle East, and America contributed significantly to Thailand’s “economic miracle” in the 1990s.

Sex tourism agencies in Japan, Europe and the U.S. marketed services by emphasizing both the number of women available and the low price they charged for sex, promising men they

⁴⁹³ Matichon, October 18, 1980 (Thai-language newspaper). See also Sukanya Hantrakul, “The Sprit of a Fighter: Women and Prostitution in Thailand,” *Manushi*, 1983. (Emphasis added).

⁴⁹⁴ Today, there are two institutions dedicated to Thai tourism: the Tourism Authority of Thailand (TAT) and the Ministry of Tourism and Sports. The TAT website notes that “tourism success has also brought the Kingdom of Thailand much international recognition and worldwide fame, with the Thai tourism industry and individual tourism operators winning several international awards each and every year.

See http://www.tatnews.org/tat_governor/3743.asp

⁴⁹⁵ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 167.

⁴⁹⁶ Ibid., 160-161, 163.

⁴⁹⁷ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 5.

⁴⁹⁸ Ibid. Ibid.

⁴⁹⁹ Boonchalaksi and Guest, *Prostitution in Thailand*, 15, citing Bangkok Post, Feb. 21, 1993.

⁵⁰⁰ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 167.

could “live like a king” in Thailand, even on a tight budget. The availability of large numbers of women selling sex for a cheap price gave Thailand a comparative advantage in the global sex tourism market, particularly in light of the relative power of foreign currencies over the Thai baht and growing wealth in surrounding Asian countries during the 1970s and 1980s. The concentration of commercial sex workers catering to tourists in Bangkok and vacation destinations – and the openness with which the tourist-oriented sex trade operated – reshaped both local and international understandings of prostitution in Thailand.

The commercial sex industry helped drive the growth of tourism and the service sector in Thailand. The sex tourism industry diversified throughout the 1970s and 1980s to cater to new wave of sex tourists from Europe, Japan, and the Middle East that flocked to developing countries like Thailand, Korea, and the Philippines in organized tours for cheap sex. A substantial portion of Thailand’s GDP was funded by the booming commercial sex industry and associated “networks of dependencies,” including airlines, hotels, restaurants, and tourism agencies and operators controlled by “a growing number of vested and powerful interests” both domestic and foreign.⁵⁰¹ Police, politicians, foreign investors, and *phu mi itthipon* (“influential persons” or mafiosos) maintained ownership interests in the commercial sex industry and/or received bribes. By 1998, researchers observed that Thailand’s “economic miracle” was a success because tourism, heavily dependent on the sex industry, brought in \$4 billion per year.⁵⁰²

The concentration of tourist-oriented commercial sex venues in Bangkok in districts such as Patpong and several streets in the Sukhimit area (e.g., Nana Entertainment Plaza and “Soi Cowboy,” a strip of beer bars and go go clubs founded by a former U.S. military official) led some critics and Thai media commentators to link foreign tourists to the existence of the sex industry.⁵⁰³ Although the existence of the Thai sex industry cannot be credited solely to the presence of foreign patrons, there is no doubt that foreign demand for sexual services affected the manner in which the Thai sex industry developed.

In the early 1990s, researchers from a Thai women’s NGO interviewed rural women who had migrated to work in Bangkok’s sex industry since the 1960s. The women who worked in tourist-oriented prostitution in Bangkok came from a variety of backgrounds. Some migrated voluntarily or had been recruited into the sex industry by friends or relatives, and women voiced different motivations and feelings about their experiences:

Patpong gives uneducated women the same chance to earn as educated ones. I will stay here because I want a lot of money. Even though there are risks, I think it’s worth it. I’m not a virgin, so I have nothing to lose.

Ann came to Patpong to support herself through school when her family could no longer do so.

⁵⁰¹ Lim, *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*.

⁵⁰² Ryan Bishop and Lillian S. Robinson, *Night Market: Sexual Cultures and the Thai Economic Miracle* (New York: Routledge, 1998).

⁵⁰³ See Truong Thanh-Dam, “The Dynamics of Sex Tourism: The Case of Southeast Asia,” *Development and Change* 14 (1983): 533-553; Sudarat Sereewat-Srisang, *Migration, Tourism and Women* (Bangkok: Women’s Information Centre, 1987).

The first time Jieb sold sex to a foreigner in Patpong, she earned 10,000 baht with which she bought a rice field for her mother.

Jad moved from working as a chicken cleaner to go-go dancing, and she introduced her sister to the work.

Noi first sold sex to her uncle in return for a two-way ticket to Bangkok. [Noi explained that] compared to other labor, working in Patpong is much better, because we can dress up beautifully, we get more money to spend, and we are independent. No one treats us badly here. I choose this work because it does not require any previous experience. Even so, I don't like sex shows, because it is shameful in Thai society, and it is morally wrong.⁵⁰⁴

It appears that most of the women who migrated to work in the tourist-oriented beer bars, massage parlors, and strip clubs of Patpong were not coerced into doing so. However, the conditions of sex work and the circumstances that led women to engage in prostitution varied. Some girls ventured from the village to Bangkok intending to work in the service industry as waitresses, receptionists, or bar tenders, but club owners pressured them into having sex with customers. Others decided to begin sex work after seeing how quickly they could earn money. Some women were willing to go-go dance and engage in off-site prostitution, but were coerced into performing live sex shows or services they found obscene and immoral. And while some women and girls had initially been coerced into prostitution, they later chose to migrate to Patpong and continue sex work under better conditions and for better pay. Many women were drawn into the sex trade after marriage failure or abandonment.⁵⁰⁵

Women working in tourist bars and coffee shops are predominately independent operators. Bar hostesses flirt with potential clients, urge them to buy weak, overpriced drinks, and negotiate with clients to pay a "bar fine" to take a woman offsite for sex; tourists' hotels often charge a "guest fee," and the woman keeps any tip money the tourist gives her.⁵⁰⁶ Tourism-related prostitution tends to be "open-ended," as bar girls emphasize emotional attachment and care and deemphasize the mercenary aspects of the relationship.⁵⁰⁷ Tourist-oriented sex workers strategically stage attraction and emotion to enhance their position within the relationship and secure more benefits from their "boyfriends."⁵⁰⁸ For sex tourists, however, the de-

⁵⁰⁴ Skrobaneck, Boonpakdi, and Jantakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 38–39.

⁵⁰⁵ Boonchalaksi and Guest, *Prostitution in Thailand*, 62.

⁵⁰⁶ Erik Cohen, "Open-ended prostitution as a skillful game of luck: opportunity, risk and security among tourist-oriented prostitutes in a Bangkok soi," in *Tourism in South-East Asia*, ed. Michael Hitchcock, Victor King, and Michael Parnwell (New York: Routledge, 1993), 158.

⁵⁰⁷ By comparison, in "closed" prostitution in brothels and massage parlors, fees are paid up front for short time sexual service and workers receive only a fraction of the payment. See Khin Thitsa, *Providence and Prostitution: Image and Reality for Women in Buddhist Thailand* (London: Change, International Reports, 1980).

⁵⁰⁸ Cohen, "Open-ended prostitution as a skillful game of luck." Cohen created a four-part typology of relationships between Thai sex workers and *farangs*, based on different combinations of economic interests and emotional involvement:

- 1) mercenary – based on an emotionless "economic exchange"

commercialization of the exchange is one of the primary attractions of Thai sex workers – they appear to “naturally” enjoy sex and generally do not explicitly demand money up front for their companionship.

Thai women in tourist-oriented prostitution became adept at “staging attraction” for their clients, as they “understate the mercenary aspect of the relationship and emphasize the emotional one.”⁵⁰⁹ Erik Cohen’s ethnographic research in the early 1980s documented the complex negotiations of intimacy, fidelity, and financial support between Thai women in tourist-oriented prostitution and their *farang* (foreign tourist) boyfriends. Cohen utilized participant observation, interviews, life histories, urban ethnography, and analysis of love letters to explore the cultural, psychosocial and economic dynamics at play in these relationships. Letters between “lovelorn *farangs*” and Thai sex workers evidence sex tourists’ “ambivalent feelings of trust and uncertainty” about the seriousness, sincerity, and faithfulness of their Thai “girlfriends,” as they attempt to maintain a long-distance relationship between holiday visits.⁵¹⁰ A remote *farang* boyfriend presents a sex worker with a “source of potential financial and emotional support, and offers a possible counterbalance to the uncertainties and fortuitousness of her daily existence.”⁵¹¹ Although the Western sex tourist may be economically and sexually dominant while living as “king for a day” in the sexual playground of Thailand, his feelings for a Thai “girlfriend” may increase in intensity after returning home, where “his sexual opportunities are typically much more limited as he resumes the routine life in his home environment, or returns to work at a

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- 2) staged – also based on “economic exchange, but accompanied by faked or staged emotions on the part of the woman
 - 3) mixed – based on both ‘economic exchange’ as well as emotional involvement on the part of the woman; and
 - 4) emotional – based primarily or exclusively on emotional involvement or love.

However, relationships that fall within these patterns are complicated by both Western and Thai cultural patterns. “Staging” emotion is an entrepreneurial strategy, precisely because many Western men seek out sexual experiences in Thailand because they are less obviously commercialized. However, Thai sex workers’ accommodating approach to Western men may simultaneously be an expression of Thai cultural custom obliging those lower in the social hierarchy to please those higher up on it.

“Mixed” relationships involving both material interests and emotional attachment are also shaped by both Western and Thai cultural patterns and assumptions; Cohen observes that from a Western perspective, “economic remuneration and emotional attachment are *substitutive*,” e.g., “love cannot be bought. From a Thai cultural perspective, “economic remuneration and emotional attachment are often seen as *additive*,” and women assimilate “mixed” relationships with *farangs* to the cultural model of the Thai mistress to her master, where a woman’s emotional investment is related to the amount of material benefits provided as a token of her value.

Similarly, although material benefits are no longer primary in an “emotional” arrangement, imported Western models of “romantic love” can co-exist with culturally approved Thai models of marriage, where a wife is selflessly devoted to her husband. Ibid.

⁵⁰⁹ Erik Cohen, “Thai girls and Farang men: The edge of ambiguity,” *Annals of Tourism Research* 9 (1982): 415–416.

⁵¹⁰ Erik Cohen, “Lovelorn Farangs: The Correspondence Between Foreign Men and Thai Girls,” *Anthropological Quarterly* 59, no. 3 (1986): 115. Cohen surveyed letters from European, American, Australian, and New Zealand, as well as some letters from Middle Eastern men who had received a Western education; over three years of study, Cohen did not encounter letters from Japanese sex tourists. One letter from a New Zealander expresses a *farang*’s concern that his Thai girlfriend is not faithful: “[I hope you are] not angry at me when I joking ask you [during a long-distance telephone conversation] if you have someone with you, but Darling, before you start to speak to me, some guy count some numbers on the line, in Germany, maybe another telephone operator, right?” Ibid., 121.

⁵¹¹ Ibid., 116; see also Cohen, “Thai girls and Farang men: The edge of ambiguity,” 422–423.

lonely job in a foreign country.”⁵¹² Thai women became “adroit at manipulating their absent boy-friends” for financial support through “expert management” of correspondence, for example, by hiring go-betweens and scribes to translate and compose letters.⁵¹³ Some sex tourists make annual trips to visit their Thai “girlfriends,” accepting her continued sex work as her only means to support her poverty-stricken family, while others send periodic payments to support a “Thai wife” in return for her fidelity. Tourist-oriented sex workers have become adept at sustaining long-term relationships with multiple men, and strategically plan trips to ensure that different boyfriends visit at different times of the year.⁵¹⁴

The diversification of Thailand’s sex industry resulted in different sectors, characterized by a range of contexts of sex work and variability in women’s control over their working conditions. Freelance workers in open-ended prostitution in tourist-oriented bars exercised a greater ability to screen and select clients. Although foreign men had an unconscionably greater bargaining power, bar girls often earned significantly more than women in closed brothels or massage parlors. Some high-end establishments catering to Thai businessmen, politicians, and officials offered beauty queens, and a few women became consorts or mistresses to elite men. Other women worked in cheap, back alley brothels, servicing low-wage men under highly exploitative conditions. Consequently, women who worked as freelancers or bar girls expressed feelings of superiority to “local” prostitutes because the working conditions were generally better and most of their clients were foreigners that pay more than Thai clients.

Indeed, different words evolved to describe women who accept sell sex to connote different meanings about the context and conditions of the work: for example, tourist-oriented sex workers identify themselves as *tham ngan kap*, “working with foreigners,” rather than *sophenee*, which is considered to be a more insulting term by both bar girls and their *farang* customers and boyfriends.⁵¹⁵ Some Thai women work the sex tourist bars seeking elderly clients who “pay for a long time, but only take a short time,” and who are more willing to take a Thai “girlfriend” along with them for companionship as a guide-cum-mistress during their vacation.⁵¹⁶ Some women engage in opportunistic sex work, for example, during holidays, in the agricultural off-season, or to make money for unanticipated expenses. Others developed relationships with *farang* customers; for example, some women lived with *farang* expatriates, but later returned to sex work if the relationship soured or became unprofitable.

[Noi] had lived with an English man working as a technician on an oil rig. But he left her and went back to England. [Noi] said she was not working when she was with him, but returned to her job after some months since he failed to send her money and it was impossible for her to keep such an expensive flat. “What else can I do? After all, these men are good business.”⁵¹⁷

⁵¹² Cohen, “Lovelorn Farangs,” 119.

⁵¹³ Ibid., 115. Letters are often standardized, particularly those from women who maintain correspondence with multiple “boyfriends,” and routinely address the following topics: happiness at receiving a letter; inquiries as to health and recent activities; details about the woman, her family or children; declarations of love, desire, and (sometimes) faithfulness; current problems, typically financial in nature, and overt or covert requests for support; requests to return to Thailand and the desire to reunite. Ibid. 119.

⁵¹⁴ Cohen, “Lovelorn Farangs,” citing Sihatut, “Love letters from Pattaya,” *Bangkok Post*, July 17, 1983:21.

⁵¹⁵ Cohen, “Thai girls and Farang men: The edge of ambiguity,” 412.

⁵¹⁶ Conversation with bar worker in Nana Entertainment District, Bangkok, January 2005. Field notes January 2005.

⁵¹⁷ Enloe, *Bananas, Beaches and Bases: Making Feminist Sense of International Politics*, 36.

Tourist-oriented sex work is also attractive for some women because it presents the possibility for travel abroad with a client and potentially meet a foreign husband.⁵¹⁸ International sex tourism also fostered a bi-directional dynamic that facilitated women's migration abroad. After sex tourists returned home from their holidays, demand grew for Southeast Asian women in the Japanese and European sex industries and as "mail-order brides." Women from Patpong and Pattaya became the "pioneers" of international migration for sex work, traveling to Europe, Malaysia, Singapore, Hong Kong, Japan and beyond.⁵¹⁹ The tension between exploitation and entrepreneurialism in sex tourism was also reflected in Thai women's migration abroad and the conditions of sex work they encountered in foreign sex industries. The next section examines the political economy of migratory prostitution, and the socio-legal factors that contributed to a growing awareness of the "sexploitation" of migrant women that ultimately fostered the resurgence of "trafficking" as a key advocacy issue for the emergent international women's movement.

Pioneer Sex Workers or Imported Sex Slaves? International Migration, Trafficking, and Sexual Commerce

Women's migration for commercial sex work took place within the broader context of the international migration of Thai labor. Thailand's National Social and Economic Development Plans prioritized the export of labor in the 1970s, as remittances injected significant amounts of foreign currency into the Thai economy. General labor migration patterns determined the destination and labor sector to which women from different regions of Thailand migrated. Women from each region used different agent/broker networks, followed different routes, and often migrated into different forms of work. The intense competition among sex workers in Thailand's sex industry and the opportunity to earn significantly more money abroad encouraged migration for prostitution in economically advanced countries.⁵²⁰

A participatory action research project carried out in the early 1990s by the Thai anti-trafficking organization Foundation For Women with rural women identified three waves of women's migration for sex work. The first wave of migration by "pioneer" sex workers occurred from 1967-1977; the second involved a period of "germination" from 1978-1987; and third, the expansion of migration from 1988-1996, during Thailand's economic boom.⁵²¹ Routes for women's migration into sex work emerged from all regions of Thailand to the former R&R sex entertainment districts in Bangkok and tourist destinations; from the north to the southern provinces bordering Malaysia; and from all regions to several European countries, Malaysia, Singapore, Japan, Taiwan, and Hong Kong.⁵²² Germany became a key destination for Thai sex workers in Europe, as prostitution was legal and it was relatively easy to migrate to other European countries from Germany.

⁵¹⁸ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 38.

⁵¹⁹ *Ibid.*, 31.

⁵²⁰ Siriporn Skrobaneck, "Laws Relating to Traffic in Women - Case of Thailand," in *Combating Traffic in Persons: Proceedings of the Conference on Traffic in Persons, held from 15-19 November 1994 in Utrecht and Maastricht*, Studie-en Informatiecentrum Mensenrechten (SIM) 17 (Utrecht, Netherlands: Netherlands Institute of Human Rights, 1995), 53-57.

⁵²¹ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*.

⁵²² *Ibid.*

Researchers found that the first wave of migration for sex work abroad was characterized by two-step migration—women traveled from villages to the city to work in factories or in the sex industry, and subsequently migrated from Bangkok to overseas destinations. Sex workers often moved between urban areas within Thailand, traveling to sex tourism destinations and back up to the bars in Bangkok in response to seasonal fluctuations in tourism and to look for better wages and working conditions. Women moved between urban centers within Thailand, “to satisfy the brothel and bar owners, to stay ahead of the law, or to find better wages and conditions as the sex industry expanded in some areas and contracted in others.”⁵²³ In Pattaya, the former American R&R port transformed into a beachside paradise and sex tourism destination, sex workers developed an informal network to share information about migration to Europe.⁵²⁴ By the early 1980s, Thai women traveled to Europe “on their own” to work in the entertainment industry.⁵²⁵ Thai sex workers were particularly sought after in Germany, favored among employers and clients because they charged much less than local sex workers; although Thai women earned fifty percent less than their German counterparts, they could save substantial sums of money more quickly than they could working in Thailand’s sex industry.⁵²⁶

In addition to demand for Thai sex workers in German and Dutch brothels, European men began seeking Thai brides. The open-ended nature of tourism-oriented sex work in Thailand sometimes evolved into longer-lasting relationships, and women traveled abroad or accompanied their clients home as girlfriends, fiancés, or wives. Despite language barriers – many Thai sex workers in the early 1980s spoke Northern Thai or Lao dialects, and could not read or write (central) Thai, while many foreign sex tourists could only speak and write rudimentary English – women working the tourist bars developed skills to transform casual encounters into long-term relationships that provided financial support and often facilitated international migration.⁵²⁷

The complexity of the continuing relationships between “lovelorn *farang*” and Thai sex workers described above blurred the line between sexual commerce and companionate love, and the development of the international “mail-order bride” industry reflected this ambiguity. For Western men, mail-order brides presented the opportunity to have a “traditional” marriage with (presumably) less demanding women untainted by feminist demands for equality, who happily and “naturally” subordinated themselves to male desire and authority.⁵²⁸ For Thai women, particularly those who had worked in the sex trade, the opportunity to marry a (presumably) wealthy foreigner provided a potential avenue out of prostitution and financial security for herself, her family, and her children. Sex tour operators also began to provide “marriage tours” for men seeking to sample a variety of potential mates before selecting their bride. Marriage agencies offered catalogs for clients to peruse the pictures of potential wives, categorizing women by age and measurements and advertising the women’s docility and eagerness to please a husband. While some Thai women migrated abroad as willing brides, others left on the promise of marriage to a foreign man, and were sold into prostitution on their arrival.

In response to these problems, Thailand developed protectionist legal responses to regulate women’s migration and marital opportunities. The Immigration Act of B.E. 2522 (1979)

⁵²³ Ibid., 31.

⁵²⁴ Ibid., 33.

⁵²⁵ Siriporn Skrobaneck, “Human Trafficking: From Vertical to Horizontal Journey,” *Foundation for Women*, 2003, <http://www.womenthai.org/eng/trafficking.html>.

⁵²⁶ Siriporn Skrobaneck, “The Transnational Sex-Exploitation of Thai Women” (1983).

⁵²⁷ Walker and Ehrlich, “*Hello, my big big honey!*”: love letters to Bangkok bar girls and their revealing interviews.

⁵²⁸ Nicole Constable, *Romance on a Global Stage, Pen Pals, Virtual Ethnography, and “Mail Order” Marriages* (Berkeley: University of California Press, 2003).

prohibited entry of foreigners with the purpose of engaging in prostitution or in the trafficking of women and children. In addition, Cabinet Decisions in 1978 and 1982 attempted to prevent trafficking of women by charging the Foreign Ministry and the Public Welfare Department to screen passport applications made by women aged 14-36, as well as creating new procedures requiring foreigners seeking to marry Thai women to obtain an affidavit from his country's embassy denoting occupation, income, marital status, and two references who live in his country of origin. Authorities also took action against unscrupulous job placement agencies, as increasing numbers of women migrated voluntarily for work abroad, but were subsequently forced into bonded prostitution in foreign sex industries.⁵²⁹ In 1985, Thailand passed the Job Seeker Protection Act, requiring job placement agencies to register with the government to obtain a license, and placing agencies under the purview of the Labor Department.⁵³⁰

However, women's activists criticized such rules and regulations, noting that laws making it more difficult for women to migrate internationally will not stop them from attempting to do so, but rather will increase women's dependency on recruiting agents and traffickers.⁵³¹ Indeed, the exacerbation of rural poverty resulting from Thailand's development policies and declining returns from agricultural work increased pressures on young women to migrate for work, as families increasingly relied on remittances for survival.⁵³² As in the first wave of migration for work in the sex industry, researchers found that poverty, debt, family illness, and marital problems were significant factors in the second wave of women's migration for sex work from 1978-1987. The second wave of migration for sex work was characterized by a younger age of entry into the sex industry, a growing number of brokers, and increasing rates of debt bondage. Extensive recruitment networks spread further into rural areas, facilitating a shift from a two-step to a one-step migration process in which women and girls traveled directly from their village to foreign countries.⁵³³ Recruiting became more systematic and self-sustaining, as successful sex workers returned to the village and became agents for sisters, cousins and friends; some massage parlors and brothels in Bangkok became known for offering girls from a specific region or village.⁵³⁴

NGO activists researching migratory prostitution found that the shift to one-step migration involved younger women and girls who lacked the experience, skills, and networks older sex workers had developed to protect themselves from deception and exploitation. As more agents became involved in recruitment in the late 1970s and early 1980s, competition emerged and unscrupulous brokers increased the costs—and the risks—of migration. While Northeastern women who entered the sex trade did so as part of the general flow of migrant laborers, in the North, procurers would travel to villages and “solicit indebted families with adolescent

⁵²⁹ Skrobanek, “Laws Relating to Traffic in Women - Case of Thailand.”

⁵³⁰ *Ibid.*, 56.

⁵³¹ *Ibid.*, 57.

⁵³² In 1979, one postmaster from a district in Northern Thailand estimated that remittances by postal order into a village known for sending large numbers of women and girls South to work in the commercial sex industry totaled 76 million baht; the influx of remittances caused significant problems for the postal service, as it was only allotted an annual drawing capacity of 3.6 million baht. (1 baht equaled approximately U.S. 5 cents in the late 1970s). Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 46–47.

⁵³³ Skrobanek, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 29.

⁵³⁴ Phongpaichit's 1980 ILO study of fifty Bangkok massage parlor workers found that the majority of young women came from the North, with fewer from the Northeast; sixty-four percent came directly from the village to work as masseuses, and most of these direct recruits secured their jobs through friends and relatives already working in the sex trade. Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 14-15.

daughters”; agents developed the practice of giving parents “advance booking” payments in exchange for the commitment to send their daughters to work off the advance plus interest in the sex industry upon completion of compulsory education.⁵³⁵ In the 1980s, advances reportedly ranged from 3,000 to 7,000 baht (US \$125-\$292), but the debt young women were required to repay through prostitution inflated to nearly twice the amount of the advance.⁵³⁶ Moreover, changes in community perception of sex work created new push factors, as girls who had “gone South” returned to their villages with money to build their families new houses, dig new wells, and put siblings through school. In the North, parental pressure to support the family through prostitution reportedly became more pronounced as young women’s virginity and work in the sex industry became increasingly profitable.

Demographic shifts in foreign sex industries also created incentives for migratory sex work. Although Filipinas had been the first migrant sex workers in Japan, crackdowns by the Philippine government and stricter policing by Japanese immigration officials in airports increased the difficulty for agents. Consequently, more Thai women were recruited and/or trafficked into Japan from the 1980s onwards. The conditions of women’s migration and capacity to control the conditions of work upon arrival demonstrate the blurry line between agency and coercion in this period. Many women willingly migrated for sex work in Japan because of the potentially lucrative income: one researcher found that of 100 Thai women deported or repatriated from Japan, even trafficked women had saved at least 100,000 baht, and many sex workers earned an amount comparative to the gross yearly income of a professor at a leading Thai university.⁵³⁷ However, other women who agreed to migrate to Japan were not told the nature of their “service work” in restaurants and bars, and assumed they could choose between domestic and sex work, as they or their female friends and relatives had in Singapore and the Gulf. Upon arrival, some women discovered they had been sold into prostitution and were expected to work off a substantial debt; the amount owed was often inflated, as women were re-sold before their first debt was paid off.

The agent told me I could do [another] job; there was no need to work in commercial sex service. But when I arrived I was sold like the others. It was made worse, because I worked without pay. I was to live in the [Japanese] countryside. I thought I could choose the job when I got there, but I was denied the right to do so. If I didn’t work, I was ill-treated. If anybody told them lies, and it was found out, she was punished. And some were killed.

Migrant woman from Issan, trafficked into Japan⁵³⁸

Women who managed to work off their debt and become freelancers were often deported after Japanese bar owners reported them to police or immigration officials, as freelancers were less profitable to establishment owners.

⁵³⁵ Lyttleton, “The Good People of Isan: Commercial Sex in Northeast Thailand,” 260.

⁵³⁶ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 31.

⁵³⁷ Phongpaichit, Piriyaarangsana, and Treerat, *Guns, Girls, Gambling, Ganja: Thailand’s Illegal Economy and Public Policy*, 169–70.

⁵³⁸ Skrobaneck, Boonpakdi, and Janthakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 33.

But even after reports reached the village warning that migrant women had been trafficked, exploited, murdered, or committed suicide, many women still chose to migrate abroad.⁵³⁹ Some trafficking survivors returned to Japan after a bad experience their first trip, poorer but wiser to deception. Other returnees recruited friends and family to Japan, some becoming agents or *mamasans* (madams) after gaining experience in the trade or marrying bar-owners or *yakuza* gang members who ran trafficking operations and controlled much of the Japanese sex industry.⁵⁴⁰ Thai *mamasans* in Japan were often abusive to the prostitutes they managed; in the early 1990s, there were several murder cases involving Thai women who killed their Thai *mamasans* to recover their passports and escape. Yet despite the risks, women continued to migrate into the Japanese sex industry. By 1993, the *Bangkok Post* estimated that 70,000 Thai women were working as prostitutes in Japan; Japan was viewed as the primary destination for Thai migrant sex workers, and the Thai government allocated five million baht to discourage women from entering prostitution in Japan in 1993.⁵⁴¹

The evolving nature of Thai women's migration into domestic and international sex industries demonstrates the blurry continuum of agency and exploitation in the migration process and the variability of women's experiences in the sex industry. While some women and girls were duped, sold, or coerced into prostitution, others migrated knowing they would work in the sex industry, and still others first worked in exploitative factories and construction jobs before moving into sex work. A "self-sustaining" cycle of migration emerged as sex workers who returned to their villages "with money and a touch of glamour provided a model which their younger counterparts were anxious to follow."⁵⁴² Other sex workers returned to their villages and became brokers or agents – some shared their knowledge to assist friends and relatives to find safe, lucrative working conditions in the sex industry, while others deceived them into bonded brothel prostitution. These complex dynamics in migration and "recruitment" processes reflect the difficulty of creating clear-cut categories between exploitation and entrepreneurialism, agency and coercion, and the transformation of "victims" of the sex trade into "traffickers." The practical consequences of this indeterminacy continue to be reflected in the selective enforcement of prostitution suppression and anti-trafficking laws by police and immigration officials.

As young women's migration grew increasingly risky and the sex industry expanded and diversified in the late 1970s and 1980s, women's groups formed to assist Thai women migrating abroad as well as those returning to Thailand as deportees or trafficking victims. Efforts to address the exploitation of "peasant" women migrating from the countryside to work in the commercial sex industry ultimately grew into a social movement against sex tourism and the traffic in women and children. The following sections explore how activists, academics, and

⁵³⁹ Ibid.

⁵⁴⁰ Women's involvement in the sex trade as procurers, brothel owners, agents, and *mamasans* complicates the villain/victim dichotomy of prostitution and trafficking narratives. In the first phases of Thai women's migration into the Japanese sex industry, many *mamasans* were Taiwanese, reflecting previous trends of Japanese sex tourism in Taiwan and the subsequent migration of Taiwanese women to work in the Japanese sex trade. As women developed the ability to freelance or became more experienced (and less profitable), agents sought out migrant women who were poorer and more vulnerable to exploitation and control. However, after initially working as prostitutes, some Thai women became *mamasans*, agents, or managers, and began profiting from the migration and prostitution of younger and more inexperienced Thai women.

⁵⁴¹ Wathinee and Guest, *Prostitution in Thailand*, 13 citing Bangkok Post, March 19, 1993, and Bangkok Post, Dec. 12, 1993.

⁵⁴² Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 48.

journalists debated the role of Buddhism, “traditional” practices and beliefs of (non-Central Thai) groups, and the significance of foreign economic and cultural influence to explain the perceived expansion of Thailand’s sex industry and the phenomenon of migratory prostitution.

Guesstimating the Scale of Prostitution in Thailand

One of the key sites of contestation with regard to the construction of Thailand’s “prostitution problem” and the development of policies and advocacy strategies to address it involves efforts to gauge the size of sex industry and to count the number women working in it. Estimating the scale of the sex industry or the number of women and children in prostitution (and the smaller but oft-neglected populations of male and transgender individuals working in the sex trade) is notoriously difficult for a host of reasons: the diversity of sexual entertainment establishments where indirect prostitution takes place; the underground operation of non-registered establishments; as well as the fact that many individuals who engage in prostitution do so clandestinely, seasonally, opportunistically, or on an intermittent basis (and may not self-identify as a prostitute/sex worker or be recognized as such by public health and welfare officials).

Nevertheless, advocacy materials, government reports, and journalistic texts all document efforts to quantify the number of brothels, the number of sex workers, the number of trafficked women and children, the number of ancillary workers employed by the industry, and the income generated by the “sex trade.” As one UN official explained when relating the inestimable nature of Thailand’s sex industry, advocacy groups and public officials have to “play the numbers game” to frame prostitution as a problem worthy of government intervention and develop appropriate policy responses; to ensure the group’s services are seen as necessary; to buttress applications for grants and provide benchmarks for donor organizations; and to attract media attention (even though media stories often focus on individuals). However, the methodological challenges, sampling bias, and the iterant nature of sex work in Thailand have produced a vast range of estimates with regard to Thailand’s “prostitution problem” and trafficking into the sex industry, ranging from a low of 65,000 to a high of 2.8 million.⁵⁴³

In 1964, the Thai police department reported over 400,000 women working as prostitutes and “special service” girls; in the early 1990s, the police estimated the number of prostitutes to range between 150,000 to 200,000. A 1980 ILO-sponsored research project estimated approximately 500,000 sex industry workers, equivalent to ten percent of girls and women between 14-24.⁵⁴⁴ In the 1990s, the estimates from the Thai police ranged from 150,000 to 200,000 to 500,000, based on the number of registered entertainment establishments; however, establishments may hold more than one license (and reopen under another license if they are closed by police).⁵⁴⁵ By contrast, the Venereal Disease Section of the Ministry of Health estimated a rise from approximately 40,000 sex workers in 1979 to approximately 85,000 in 1989-1990.⁵⁴⁶ The Ministry of Health surveys sex establishments twice yearly, identifying establishments by asking women and/or men who test positive during VD checks which establishments they work at or patronize. Ministry officials acknowledge that such methods

⁵⁴³ Phongpaichit, Piriya-rangan, and Treerat, *Guns, Girls, Gambling, Ganja: Thailand’s Illegal Economy and Public Policy*, 197.

⁵⁴⁴ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 7.

⁵⁴⁵ Boonchalaksi and Guest, *Prostitution in Thailand*, 31.

⁵⁴⁶ *Ibid.*, 31-33, citing figures provided by the Thai Ministry of Health.

likely underestimate the number of women who engage in “indirect” sex work in restaurants, discos, and bars.

Scholars and researchers have also attempted to estimate the numbers of women working in Thailand’s sex trade during its perceived expansion in the 1980s and 1990s. A 1980 study by a public health researcher from Mahidol University estimated the total number of prostitutes to range between 500,000 and 700,000, the lower figure accounting for 3.3 percent of the total population of women aged eleven or older.⁵⁴⁷ In 1990, Muecke cited a range of studies that estimated between 500,000 to 1 million women in prostitution.⁵⁴⁸ Godley produced a commonly-cited figure estimating around 700,000 Thai women in prostitution in 1991, based on interviews and comparison of several sources; Godley’s estimation would constitute approximately 8.5% of all women aged 15-29, and about 25% of urban women in that age range.⁵⁴⁹ Sittitrai and Brown (1991) utilized ethnographic research methods and arrived at an estimated 150,000-200,000 prostitutes, a number that would constitute 2.1% of all women aged 15-29 and approximately 7.3% of urban women in that age range.⁵⁵⁰

Despite the vast range of these “guesstimates” of sex workers and the difficulty of establishing the number of customers purchasing sexual services, both Thai and international commentators have attempted to explain the perceived increase in the numbers of women in prostitution and the expansion of the sex industry through explanations grounded in “traditional” culture and Buddhist ideology. The next section highlights how politics, culture, tradition, and religious ideologies are variably invoked to explain the migration of predominantly rural women and girls to work in the sex industry.

Divergent Discourses on “Trafficking” and Thailand’s “Prostitution Problem”: (Re-)Constructing the Thai Sex Industry

The perceived expansion of the sex industry in the 1970s-1980s led many different commentators to attempt to identify the factors contributing to women’s migration into prostitution. Although the majority of women in Thailand’s sex industry were employed in brothels and massage parlors catering to a local clientele, the overt nature of sex tourism and the increasing visibility of prostitution in urban spaces raised concerns among a host of observers. Activists, reporters, social commentators, public welfare officials, and international agencies began to study Thailand’s “prostitution problem,” viewed variously as a moral, health, economic or human rights problem. In the 1980s, gender roles became a key issue in academic debates regarding the social mechanisms fostering women’s migration into commercial sex work, focusing on the extent to which women were predisposed to enter prostitution because they were

⁵⁴⁷ Sukanya Hantrakul, “Prostitutes and Human Rights in Thailand,” *Human Rights in Thailand* 5, no. 3 (1981): 5-17, citing the study by Dr. Tephanom of the Public Health Faculty at Mahidol University.

⁵⁴⁸ Marjorie Muecke, “The AIDS Prevention Dilemma in Thailand,” *Asian and Pacific Population Forum* 4, no. 4 (1990): 1-8.

⁵⁴⁹ Boonchalaksi and Guest, *Prostitution in Thailand*, 29-33, citing Jenny Godley, “Prostitution in Thailand,” in *NIC: Free Zone of Prostitution*, IPSR Publication Number 148 (Bangkok: Institute for Population and Social Research, Mahidol University, 1991), 84 -101 (in Thai).

⁵⁵⁰ Boonchalaksi and Guest, *Prostitution in Thailand*, 29-33, citing Weerasit Sittitrai and Tim Brown, *Female Commercial Sex Workers in Thailand: A Preliminary Report* (Bangkok: Thai Red Cross Society, 1991). By comparison, a survey by the Ministry of Public Health in 2004 found 12,874 establishments sheltering 60,172 sex workers countrywide. See “Post-Yokohama Mid-Term Review of the East Asia and the Pacific Regional Commitment and Action Plan Against Commercial Sexual Exploitation of Children: Thailand – Country Progress Report,” Nov. 8-10, Bangkok, at 2.

(ostensibly) devalued, “second class citizens” or by virtue of their traditional economic responsibilities to support their families.

It is impossible to identify an overarching institutional or cultural explanation for prostitution in Thailand, given the complexity of Thailand’s sex industry, its internal differentiation, and the diverse experiences and motivations of the men, women, youth, *kathoey* (“lady-boys” or male-to female transgendered people), and transsexual individuals who participate in sexual commerce, dance in cabaret shows, serve as girlfriends, companions or “temporary wives” to tourists on holiday, or engage in occasional or opportunistic prostitution. Class differences shape community perception of young women’s migration and economic responsibilities, and divergent regional cultures inform the moral and social consequences of extramarital sex and commercial sex work.

Discourses on prostitution and trafficking in Thailand issue from a range of sources both local and international. Explanations of the growth of the sex industry and the emergence of trafficking in Thailand reflect competing constructions of the social and cultural factors that facilitate Thai women’s entry into the sex industry; the relationship between agency and coercion in sex work/prostitution; the moral and legal status of sexual commerce; and the construction of hierarchies of respectability along axes of class and ethnic identity. Efforts to identify the “type” of women who engaged in prostitution, the number of women who do so, and to characterize the nature of their labor produced competing constructions of prostitution and proposed interventions. Over the course of nearly thirty years’ ethnographic field work in Thailand, anthropologist Van Esterik identified a host of competing and co-existing views on sexual commerce in Thailand from both Thai and foreign commentators: middle-class Thai women who believe Thai men’s greater sex drive necessitates prostitution to protect “good women” from rape; wives who prefer their husbands to visit prostitutes rather than take on *mia noi* (minor wives), as prostitutes drain fewer resources from the household and pose less of a threat to the marriage; Thai policymakers and police who view prostitutes as criminals deserving punishment and fines; social workers who seek to rehabilitate “socially handicapped women” and retrain sex workers to become “good women”; other Thai policymakers and business leaders who view the sex industry as necessary to tourism and economic growth; the Tourist Authority of Thailand who advertise the “service advantages” and “nightlife” of Thailand, while chastising women’s groups protesting sex tourism as giving the country a “bad image”; lawyers who argue that prostitution itself should be decriminalized, but seek to prosecute rape, kidnapping, and trafficking to address exploitation in the sex industry; young, uneducated, and poor rural women and girls “who are devastated by not being able to help their parents and siblings financially or to donate generously at the temple, but are not embarrassed or devastated by taking up prostitution as a source of income”; and urban women who engage in occasional sex work to supplement their income, pay university fees, buy expensive consumer goods, or because they seek to meet (and possibly marry) a foreigner.⁵⁵¹ Some social critics viewed prostitution as a natural consequence of Buddhism and “traditional Thai values,” while others attribute prostitution to the loss of those values due to the “Westernization” of Thai culture.⁵⁵²

A variety of competing narratives regarding the nature of prostitution and its political and economic significance emerged throughout the course of the 1980s. The status of women in prostitution reflected the link between women and Thai national identity as Thailand developed

⁵⁵¹ Penny Van Esterik, “Thai Prostitution and the Medical Gaze,” in *Gender and Development in Southeast Asia*, ed. Penny Van Esterik and John Van Esterik (Montreal: Canadian Asian Studies Association, 1992), 133–35.

⁵⁵² Van Esterik, *Materializing Thailand*, 165–166.

the reputation of “brothel of the world”: as early as 1966, *TIME* magazine characterized Thailand as a land of “instantly available women,” and by the 1970s advertisements of sex tour operators in Europe detailed the low cost and range of sexual delights available to even the most thrifty tourists.⁵⁵³

The existence of plural discourses on prostitution and the complex political economy of Thailand’s sex industry have complicated efforts to define, measure, and create policies to regulate sexual commerce. The lack of an ideologically unified women’s movement and the promotion of different interventions to address excesses and exploitation in the sex industry have blunted the potential for some forms of collective action. However, the unwillingness of different groups within the Thai women’s movement – and other social critics – to commit to a single ideology has facilitated “strategic alliances among women and men occupying very different positions in society.”⁵⁵⁴ The following sections highlight some of the key interpretive frameworks that characterize efforts to explain the apparent expansion of prostitution in Thailand and propose solutions to Thailand’s “prostitution problem.”

Bound by Tradition: Buddhism, Patriarchy, and the “Status” of Thai Women

Academics, journalists, and women’s advocates have attributed to Buddhism different roles in explanations of the social bases of prostitution in Thailand and the motivations of women who migrate to work in the sex industry. Theravada Buddhism permeates lowland Thai culture and formed the foundation of Thai law until the turn of the twentieth century, and Buddhism constitutes one of the three cornerstones of Thai national identity. Than-Dam Truong claims the intersection Buddhism and law in the feudal period, particularly the ranking of wives, “karmically conditioned” Thai notions of gender, which is “translated into various forms of legal categorization, regulation and control over the female sex” that results in a “psycho-structure of female subjects marked by the acceptance of their social conditions as a result of *karma*.”⁵⁵⁵

⁵⁵³ Cohen, “Thai girls and Farang men: The edge of ambiguity,” 407–408, citing “Holder of the Kingdom. Strength of the Land,” *TIME* Magazine 87(21) (1966), 18.

⁵⁵⁴ Van Esterik, *Materializing Thailand*, 235–36. Van Esterik describes a complex array of discourses regarding prostitution in Thailand. While some Thai feminists engage the discourse of “sex work,” emphasizing the agency of migrant women and viewing sex workers as independent and entrepreneurial women, other feminists reject the concept of “sex work,” instead viewing prostitution as sexual exploitation exemplifying the subordination of women in Thailand’s patriarchal society. Other women’s advocates celebrated sex workers’ “flouting sexual mores and rejecting the image of passive, subservient Thai women,” while other women created rehabilitation programs to instill virtues of decorum, modesty and sexual restraint. Van Esterik, *Materializing Thailand*, 165.

Some NGOs support the legalization of prostitution to improve working conditions, promote safe sex, and decrease the marginalization of sex workers, but different groups adamantly oppose legalization, viewing it as degrading to all Thai women. Still others express concern that legalization would impose registration requirements, increasing the stigma against women in the sex industry, increase police control over sex workers, and create barriers to exiting the trade. Thai academics, key resources for civil society groups, analyze prostitution as a cultural practice, while others focus on prostitution as an economic phenomenon and a consequence of uneven development within the country and the global economy, viewing Thai women’s employment in sexual commerce as a temporary phenomenon that will subside with increasing educational and occupational opportunities. Finally, some social critics call attention to the significance of indigenous demand in the domestic sex industry, while other commentators in the Thai media downplay the role of local men in prostitution, instead attributing the prevalence of prostitution to the demand of foreign sex tourists and the susceptibility of poor women and families to the lure of consumer goods. *Ibid.*

⁵⁵⁵ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 149.

Concepts of karma (*kam*) and merit making (*kaan tham bun*) and suffering as a consequence of demerit (*baap*) inform interpretations of prostitution and the social identity of women who engage in sexual commerce. In some interpretations of Buddhism, a woman in prostitution may be thought to have had imperfect *karma* in a previous life. While sex itself is not a sin, the worldly desires of sex decrease one's karma; therefore, "the status of a prostitute is not considered as a result of sexual impurity, but karmic impurity."⁵⁵⁶ Thus, prostitutes "rank low on karma because they are women and come from poor families," and "the more a prostitute suffers, the poorer her karma is said to be."⁵⁵⁷

However, women can accumulate merit to improve their karma by devoting themselves to the responsibility to procreate and to their families, and by having a son ordained as a monk. These acts may allow the woman to be reborn in a higher social status or as a man.⁵⁵⁸ As such, a woman who works in prostitution can improve her *karma* through social acts of self-sacrifice and merit-making, for example by almsgiving, gifts to temples, or sponsoring an ordination of a monk. Muecke's 1988 interviews with senior monks and *mae chait* (unordained nuns) in Northern Thailand suggested that though it was unlikely a woman could counterbalance the demerit of engaging in prostitution, if she did so solely to help others (rather than for pleasure), the "karmic outcome depended upon the prostitute's 'intention' in prostituting herself."⁵⁵⁹ Similarly, Thai philosopher Somparn Promta suggests that voluntary sex work by adult women is neutral in terms of Buddhist social ethics, as the evil of prostitution stems from poverty that necessitates immoral vocations (*akusala*).⁵⁶⁰

Anthropologists in the 1970s and 1980s debated the relationship between Buddhism values, sex roles, and sexuality. Kirsch's 1975 study noted a "sexual division of labor" in Thai society, where women specialized in "economic-entrepreneurial activities" and men specialized in "religious and political-bureaucratic activities."⁵⁶¹ On this view, women's enhanced "worldly attachments" afford them lower status in the Buddhist hierarchy, arguably evidenced by the limited development of women's religious roles in Buddhism, the specialization of women in merit-making activities, and women's involvement in economic activities.⁵⁶² Other scholars critique this binary account of sex roles, noting that over the course of Thailand's rapid economic transformation in the 1960s-1980s, men dominated the transport and manufacturing sectors as both laborers and business owners, and fewer men became monks; thus, participation in "worldly" affairs and "attachment" exist for both sexes and consequently shape the path to Buddhist salvation in different ways.⁵⁶³

One early Thai critic of prostitution, Sukanya Hantrakul, reasoned that because *karma* determines one's sex, being born a woman indicates a lack of merit from previous

⁵⁵⁶ Ibid., 137.

⁵⁵⁷ Muecke, "Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution," 893.

⁵⁵⁸ Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*, 137.

⁵⁵⁹ Muecke, "Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution," 894.

⁵⁶⁰ Van Esterik, *Materializing Thailand*, 171, citing Promta, S. "A Buddhist Approach to the Contemporary Thai Prostitution Problem," Paper presented at the Fifth International Conference on Thai Studies, SOAS, London (1993).

⁵⁶¹ A. Thomas Kirsch, "Economy, Polity and Religion in Thailand," in *Change and Persistence in Thai Society: Homage to Lauriston Sharp*, ed. William Skinner and A. Thomas Hirsh (Ithaca: Cornell University Press, 1975), 172-196.

⁵⁶² Ibid.

⁵⁶³ Charles Keyes, "Mother or Mistress but Never a Monk: Buddhist Notions of Female Gender in Rural Thailand," *American Ethnologist* 11, no. 2 (1984): 225-226.

lives, and “*karma* pacifies the despised and leads to [a] prostitute’s fatalized acceptance of her profession.”⁵⁶⁴ Hantrakul argued that the inferiority of women in Thai culture resigns them to support their families through prostitution:

...[T]raditional Thai culture, partly rooted in the Buddhist concept of the accumulation of merit and the Law of Karma, encourages Thai women, particularly those living in rural areas, to view men as their superiors. Women see themselves as disadvantaged and less worthy. They need money as a means of showing gratitude to their parents for bearing and raising them, as a way of taking care of their younger siblings and giving them a wider range of opportunities, including education.⁵⁶⁵

Khin Thitsa, a Burmese woman and scholar of Thai culture, issued a similar feminist critique of Buddhist ideology as relegating women to a lowered status characterized by worldly attachments and sexual degradation, thereby facilitating women’s entry into prostitution. Her 1980 work *Providence and Prostitution* concluded that Buddhism serves as an ideology of oppression for women in Thailand that preconditions them to become prostitutes:

[T]hai women’s remarkable economic productivity has had little effect in improving her status in the hierarchy vis-à-vis men and their status. . . . It has enhanced her “materialistic” image and tainted her more in traditional Buddhist minds. It is a vicious circle, as far as woman and her image is concerned. I believe that prostitution is where women most fulfill their role expectations, that being woman’s image as lustful, seductive, corrupting, greedy. . . . With the low value attached to the female body and the female spirit by Buddhism, she has been sufficiently degraded already to enter prostitution. . . . If historically woman has served men helping him as a wife, minor wife or mistress, it is not such a big step to become an actual prostitute. . . . In prostitution, women and money, the two “evils,” come together: the all-consuming female sucks up not only a man’s vitality but also his money.⁵⁶⁶

Other scholars criticize this position, arguing that Thai women do not become prostitutes due to an ingrained cultural pattern or religious system. Keyes explains the large number of Thai women in prostitution and the emergence of woman as sex symbols is a new cultural phenomenon driven by poverty and the urban, secularized, marketization of sexual relations, and is thus “unassociated with any tempering Buddhist message.”⁵⁶⁷ Keyes suggests that rural Thai women who migrated to work in prostitution viewed themselves not as sex objects or demanding mistresses, but rather made sense of their lives by drawing on “the traditional image of woman as

⁵⁶⁴ Hantrakul, “Prostitution in Thailand,” 37.

⁵⁶⁵ Hantrakul, “Prostitution in Thailand.”

⁵⁶⁶ Thitsa, *Providence and Prostitution: Image and Reality for Women in Buddhist Thailand*, 23.

⁵⁶⁷ Keyes, “Mother or Mistress but Never a Monk: Buddhist Notions of Female Gender in Rural Thailand,” 234–235.

nurturing [Buddhist] mother,” or *mae*, justifying sex work as self-sacrifice necessary to the survival of the family.⁵⁶⁸ Erik Cohen’s interpretation of “open-ended” prostitution in sex tourism takes the middle path, noting that regardless of women’s status in Thai Buddhist ideology, the actual standing of women in the Thai social hierarchy is fairly low, which may “inculcate young rural Thai women with a diffuse service-orientation, which facilitates their acceptance of such inferior roles as prostitution.”⁵⁶⁹

The women’s advocates I interviewed in Thailand in 2005 and 2007 offered complicated and often contradictory explanations about the role of Buddhism in defining women’s status in Thailand. Some emphasized that Buddhism legitimizes patriarchal structures in Thai society, reinforcing the socio-economic factors that pressure some women to enter prostitution. Others suggested that although prostitution is “immoral” work, most women participate in sexual commerce for the well-being of their families, thereby mitigating the moral failing of engaging in extramarital sex. A few interviewees explained that successful sex workers gained merit and respect in their rural communities by making large donations to the local *wat* (temple). One woman built the first temple in her village with her earnings from prostitution, and thereby became an honored member of the community.⁵⁷⁰ In Bangkok, bar girls and masseuses can be seen making offerings at Erawan Shrine outside the Grand Hyatt Erawan Hotel, before heading to the bars in the nearby tourist sex districts in the hopes of a successful night; some make merit by inviting friends and clients to participate in a *thoot phaa paa* ritual, traveling to a village temple to give money and gifts as a group.⁵⁷¹ Yet even as sex workers attempted to gain merit through their donations, elites and government officials reportedly cracked down on Thai authors and researchers for defiling religion by linking prostitution with Buddhism. Muecke reports that authorities warned Mattani Rutnin to censor parts of her early 1980s documentary on child prostitution that addressed “the role of monks in encouraging donations from prostitutes to build extravagant temples,” national security council members “circulated rumors that [the] videotape was an instrument to destroy Buddhism,” and plainclothes police officers from the Crime Suppression and Inspection Bureau investigated Mattani to determine whether she had “any negative intention to destroy national security in provoking reactions against high institutions.”⁵⁷²

Thus, class, social standing, and the relative success of sex workers influenced understandings of the relationship between prostitution and Buddhism and its karmic consequences. Yet while the social and religious context of Buddhism may shape expectations as to women’s sexual purity or degradation as well as the responsibility to sacrifice for her family, women’s status in Buddhism alone is insufficient to explain the pervasiveness of Thailand’s sex industry and the motivations of the women who work in it. Indeed, the range of opportunities and respect for Buddhist nuns has grown throughout the same time period in which the Thai sex

⁵⁶⁸ Ibid., 237.

⁵⁶⁹ Cohen, “Open-ended prostitution as a skillful game of luck: opportunity, risk and security among tourist-oriented prostitutes in a Bangkok soi,” 163–64.

⁵⁷⁰ Interview with Porntip, sex worker’s rights activist July 1, 2005.

⁵⁷¹ Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” 894 citing S. Praphot, “Meesa kamsaruan khabuankann ung nua khuun thin” [The orchids of the north go home], *Matichon* 8, 16–17 (1985).

⁵⁷² Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” 894 citing Mattani Rutnin, “The role of Thai women in dramatic arts and social development: Problems concerning child prostitution in Thailand: a case study accompanied by a videotape on the lives of child prostitutes,” in *Customs and Tradition, the Role of Thai Women*, Chulalongkorn University, Thai Studies Program, Bangkok (1984), 6.

industry expanded.⁵⁷³ Furthermore, efforts to explain prostitution as a consequence of women's low status in Buddhist ideology also fail to acknowledge that Buddhism is not monolithic and adopts different forms and meanings in the rural regions from which many women in prostitution hail.

The role Buddhism plays in the cultural dynamics of sex work is more complex than simple patriarchal oppression, and is shaped by local values and interpretations of Buddhism. For example, the blend of Buddhism with traditional animist beliefs that position women as guardians of the spirits affords some women high status in the rural communities of the North. The following section describes how indigenous beliefs in the North and Northeast shaped the meaning of prostitution in rural communities, and how elites and urban Thai interpreted the migration of rural young women who "went south" to engage in sexual commerce.

Dutiful Daughters, "Traditional Values," and the Social Construction of Migrant Sex Workers

Explanatory accounts of rural women's entry into prostitution in Thailand must be understood in a context of economic transition, changing social norms, regional differences in sexual norms, and the continuing salience of "traditional values" associated with village life. Thai women are responsible for economic maintenance of the household and the management of family finances. As rural communities experienced increasing economic instability in the 1970s and 1980s, prostitution served as one of the few employment opportunities available for young women to satisfy cultural expectations for daughters to repay their filial debt to their parents and to support younger siblings. The traditional concept of *bun khun*, the debt of gratitude that children owe to their parents for their existence, creates a relationship by which "parents are 'moral creditors' (*phu mii phra khun*) because of their presumably self-sacrificing labour of bearing and rearing children . . . while children are moral debtors."⁵⁷⁴ Muecke observes that "whereas mothers of lower socioeconomic sector families have traditionally sold food to meet their family's subsistence needs, daughters can now sell their bodies to meet the same needs, but, the parents hope and fantasize, on a gratifyingly grander, almost grandiose scale."⁵⁷⁵

The complex relationship between money and morality is also evident in Pasuk's 1980 study of "peasant girls" working in Bangkok massage parlors, who viewed themselves as breadwinners by providing their families not only with material needs and modern consumer goods, but also by making merit and increasing family status. Young women "went south" not to escape family ties, but rather engaged in prostitution as "an entrepreneurial move designed to sustain the family units of a rural economy" under increasing pressure throughout the 1970s.⁵⁷⁶ As one 24-year old sex worker explained:

⁵⁷³ Van Esterik, *Materializing Thailand*, 172. Van Esterik argues that although Buddhist schools traditionally taught males almost exclusively, women's access to spiritually fulfilling roles increased during the same period as prostitution increased in Thailand, concluding that "it is the Thai state and not the Buddhist *Sangha* that has created conditions driving rural and urban women into prostitution." Ibid.

⁵⁷⁴ Tantiwiramanond and Pandey, "The Status and Role of Women in the Pre-Modern Period: A Historical and Cultural Perspective," *Sojourn* 2, no. 1 (1987): 125-147, at 134. See also P. van Esterik, "Nurturance and Reciprocity in Thai Studies," in *State, Power and Culture in Thailand*, ed. E. P. Durrenberger, Princeton 1996.

⁵⁷⁵ Muecke, "Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution," 897.

⁵⁷⁶ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*.

Most [women in prostitution] have worked some 5-10 years, but they don't have the money they've earned because they sent it home. They sent it home as a way to give the family status (*mii naa mii taa*). Their parents built one house after another (*pluuk baan pen lang lang*). It wasn't just for themselves that the girls worked.⁵⁷⁷

Interviewing the families of Northern girls who “went south,” *Bangkok Post* reporter Sanitsuda Ekachai described how the new concrete houses paid for with the remittances of sex workers became “evidence of a daughter’s virtue: her readiness to sacrifice herself, her gratitude to her parents, and, more importantly, her success.”⁵⁷⁸ The houses served as “monuments of temptation that constantly remind other peasants of what might have been – or what might be,” while young women returning from the city “with a new life-style and a new-found confidence, of the kind [villagers] so admire in city people.”⁵⁷⁹ By contrast, Lyttleton’s research in Northeastern villages found that new houses in Issan indicated that a family member had found work overseas as a laborer; there was little evidence of the “material display associated with prostitution” in the North, suggesting “Issan women who do make money from prostitution have not felt at ease bringing it home for display.”⁵⁸⁰

Researchers found that community perception of sex workers depended on their relative success as well as differences in regional norms regarding extramarital sex. In some cases, the ability to provide wealth and family security can surmount moral demerit of selling sex. Muecke found a difference between “justified” and “unjustified” prostitution among Northern villagers: young women able to send large remittances and donations “tacitly [earns] them the privilege of hiding their identity as prostitutes from their families and villagers” and removes the stigma of prostitution, whereas sex workers who made little money were viewed as failures, “stigmatized as sluts and called ‘street side toilets’ (*suam thanon*).”⁵⁸¹ Lyttleton reported widespread acknowledgement of regional differences with respect to community acceptance of sex work. While “prostitution is considered a customary occupation (*than achiip than praphenni*) in the North,” and the Northern prostitute-as-entrepreneur works to save money to support her family of origin, Issan women who engaged in commercial sex work often did so after marriage failure and worked to support themselves or their children, in part due to social norms restricting remarriage in Issan culture.⁵⁸² Two Issan women explained their motivations for engaging in sex work as follows:

I hardly ever send money home to my family. I still have a sister at home who works in the rice fields, so I just work for myself. I am happy that I am not a burden on my parents. I get money myself and I use it myself. I hardly ever save money.⁵⁸³

⁵⁷⁷ Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” 897.

⁵⁷⁸ Sanitsuda Ekachai, *Behind the Smile: Voices of Thailand* (Bangkok: The Post Publishing Co., Ltd., 1990), 171.

⁵⁷⁹ *Ibid.*

⁵⁸⁰ Lyttleton, “The Good People of Isan: Commercial Sex in Northeast Thailand,” 261.

⁵⁸¹ Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” 898.

⁵⁸² Lyttleton, “The Good People of Isan: Commercial Sex in Northeast Thailand,” 261.

⁵⁸³ *Ibid.*, 275.

My older brother is furious because I decided to sell myself and he is terrified other villagers will find out. He said he wants to slit my throat for working like this but I told him, “it’s everyone for themselves, who else is going to take care of me now my marriage is dissolved.”⁵⁸⁴

By contrast, parents or older brothers of some Northern women urged their sisters to work in prostitution, surviving off her savings; some family members even visited the brothel to collect their daughters’ earnings.⁵⁸⁵

In addition to economic necessity-based rationales and norms regarding financial support for parents, regional norms regarding sex outside of marriage shaped community perception of sex workers. The more stringent morality, restraints on remarriage, and stronger sanctions against disclosure of sex work in Issan was reflected in the stigmatization of returned sex workers, whereas a sex worker from the North could return home and marry a fellow villager who regarded her as successful and worldly.⁵⁸⁶ Interestingly, sexual relations before marriage were traditionally viewed as an offense to the matrilineal familial spirits in the North, which could be ameliorated through an offering of gifts from the couple to the woman’s familial spirits in a *phit phii* (wronging of the spirits) ceremony wherein a young man compensates the woman’s family or marries her.⁵⁸⁷ Some commentators interpreted this particular ceremony as the cultural groundwork for the link between women’s sexuality and money that has made prostitution more acceptable in the North.⁵⁸⁸ However, Muecke suggests that in light of the erosion of the ancestral spirit system (*phii puu ya*), which “designated unmarried daughter’s sexual behavior as the barometer of the family’s moral and social standing, and cause of sickness in the family,” accepting cash advances to send daughters into prostitution supported the Northern tradition of parental regulation of daughters’ sexual activity.⁵⁸⁹ While traditionally matrilineal spirit cults afforded women control over resources such as house and land, promoting marriage and the acquisition of additional male labor for the family (and allowing remarriage after death or separation), the *phii pu ya* system declined as Northern Thailand became increasingly modernized, lending greater importance to women’s relationship with men than with her own kin.⁵⁹⁰

Yet despite regional differences in the means of migration, the social construction of sex work, and the relationship between sex and money, women from both Issan and the North were increasingly drawn into global migration flows as the domestic sex industry transformed and

⁵⁸⁴ Ibid.

⁵⁸⁵ Ibid., 274–275.

⁵⁸⁶ Yot Santasombat, Prologue in Walker and Ehrlich, “*Hello, my big big honey!*”: love letters to Bangkok bar girls and their revealing interviews, 23; Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 47. See also Lyttleton, “The Good People of Isan: Commercial Sex in Northeast Thailand,” 259 citing Prapot Sriithet, “Resisting the Process of Sexual Exploitation of Thai Women,” *Sangkhom Pattana* [Social Development] 1, no. 6 (1987): 56-71.

⁵⁸⁷ Margorie A. Muecke, “Make Money not Babies: Changing Status Markers of Northern Thai Women,” *Asian Survey* 24, no. 4 (1984): 463.

⁵⁸⁸ Cohen, “Thai girls and Farang men: The edge of ambiguity,” 405. Cohen argues that the relationship between monetary exchange and sex is more fluid than in the West, and that “there is often no crisp separation in Thai society between emotional and mercenary sexual relationships.”

⁵⁸⁹ Muecke, “Mother Sold Food, Daughter Sells Her Body: The Cultural Continuity of Prostitution,” 898.

⁵⁹⁰ Margorie A. Muecke, “Changes in Women’s Status Associated with Modernization in Northern Thailand,” in *Southeast Asia: Women, Changing Social Structure and Cultural Continuity*, ed. Geoffrey Hainsworth (Ottawa: University of Ottawa Press, 1981), 53-65.

new opportunities arose for sex work overseas. As discussed above, the transition from two-step migration of experienced sex workers to the recruitment of younger women for one-step migration from village direct to foreign destinations enhanced the likelihood of exploitation in the migration process and in the working conditions women experienced upon their arrival.

Migration, Sex Work, Trafficking, and “Sexual Slavery”

The mode of entry into prostitution in Thailand was not a homogenous phenomenon, and the social meaning and practice of sex work varied in light of regional norms regarding extramarital sexual activity, expectations for daughters to support their families of origin, and community responses to rapid economic and social transitions. However, as Thailand gained notoriety as the “brothel of the Asia” and increasing numbers of young Thai women migrated abroad into foreign sex industries throughout the 1980s, the multiplicity of economic, social, and political background conditions that informed the context of women’s migration and the diversification of the sex industry came to be understood under the resuscitated rubric of “trafficking.”

In my interviews with activists, social workers, and government officials in 2004-5 and 2007, urban informants deployed discourses that reflected the complex economic and cultural rationales described above to explain the emergence of “trafficking” of Thai women and girls in the late 1970s and early 1980s. The narratives my interviewees used to describe the nature of Thailand’s sex industry, the causes of trafficking, and the role of the government in addressing commercial sexual exploitation exposed differences among interviewees in social position, as well as norms regarding regional ethnic identity, class, and morality.

Every interviewee prefaced her or his description of trafficking in Thailand by identifying the presence of American GIs during the Vietnam War as the driving force behind the expansion and transformation of Thailand’s sex industry. Elite women in particular emphasized the corrupting influence of “foreign values” and the “Americanization” of social and sexual norms among rural women as legitimating and incentivizing migratory prostitution. When I asked about indigenous forms of prostitution pre-dating the arrival of Americans, Thai interviewees admitted that although many Thai men visit brothels and massage parlors, the visibility of sex establishments and the forwardness with which women solicited clients had changed significantly since the Vietnam War and the subsequent rise in sex tourism. By contrast to Thai interviewees, foreign interviewees working in Thailand for the UN or international NGOs were highly critical of the sex industry catering to local clientele as presenting the most exploitative conditions, particularly with regard to child prostitution; some informants represented Thai men as amoral, oversexed, and/or complicit in the sale and pimping of young Thai women and children. The emergence of international critiques of the Thai sex industry, described in more detail in the subsequent chapters, grew out of a combination of indigenous exposure by local activists, academics and reporters and international campaigns against the exploitation of children.

When I asked Thai interviewees to describe the emergence of “trafficking,” informants repeated a similar story with common motifs, reflecting the journalistic style of media reports that focused on individual cases of victimization and collapsed complex economic and cultural background conditions that fostered migratory prostitution. The “beginning of trafficking” narratives assumed the following form: a naïve young girl, from ten to thirteen years old, innocent and unspoiled, is living in a remote village in the North of Thailand. Her family is poor

and indebted. The father is invariably a drunk, heroin addict, or gambler. One day a male broker or an “auntie” comes to the village from the city, alluring in their modern city clothes and sophisticated style. The agent offers the father an advance of \$25–\$500 in exchange for finding the daughter a good job in the city—typically promising work in a restaurant or as a domestic servant. The father takes the money and fritters it away on consumer items, gambling, or drugs. Interviewees varied the amount of the transaction based on variables such as a girl’s age, the value of her virginity, dependent on her beauty and the lightness of her skin, and the relative ignorance or desperation of her parents. The girl, unaware of the fate that awaits her, is put in a van and taken to a dark brothel, where her virginity is sold to a Japanese or Chinese sex tourist who thinks sleeping with a virgin will enhance his health and vitality. The brothel keeper receives a tremendous sum for her virginity, forces the girl to service multiple men per day until she is racked with disease, and discards her when she fails to bring in enough money. She is ultimately resold to a low-scale brothel or kicked out when she becomes infected with HIV.

These trafficking narratives reflected the construction of a gap in modernity, knowledge, and civilized culture between the “upcountry” villagers who ignorantly or callously “sold” their daughters into bonded prostitution and the modern and educated urban professional classes who aim to correct improper development and instill appropriate Thai culture by rescuing and reforming young girls in prostitution. Class differences between “upcountry” families, lowland Northern city-dwellers, and officials, researchers, and reporters from Bangkok shaped the representation of migratory prostitution and contributed to its socio-legal construction as “trafficking” during the 1980s and 1990s, themes which were reflected in my interviews with activists, social welfare workers, and women policymakers in the 2000s.

Middle-class and well-educated people in the North reportedly “looked down upon the masseuses” who migrated to urban areas to engage in sexual commerce. Bangkok-based reporters and researchers eager to pinpoint the “causes” of migration into the sex industry described migrant sex workers as “uneducated country girls”⁵⁹¹ who came from “relatively backwards areas” of the North and Northeast.⁵⁹² Urbane and educated women investigated the phenomenon of migratory prostitution from the North by examining the economic and social dislocations that pressured parents to “sell” their daughters into the “flesh trade.” For example, *Bangkok Post* reporter Sanitsuda Ekachai visited Northern villagers to determine whether parents who receive advance payments for bonding their daughters into sex work were motivated by “hunger, ... poverty, or greed.”⁵⁹³ Sanitsuda focused on the plight of individual girls and their families to describe how rural families managed the increasing difficulty of surviving on subsistence farming combined with concerns regarding status in the village. As Sanitsuda explained to the English-language readers of the *Bangkok Post*, “[it takes] a girl or two to break the rigid cultural taboo. When everyone sees the immediate improvement in living standards that the girls bring to their families, all hell breaks loose, and everyone wants to go.”⁵⁹⁴ In contrast to urban dwellers or villagers in Issan, Northern villagers tended to adopt a more relaxed and sympathetic attitude towards sex workers, viewing migratory prostitution as an issue of economic necessity and filial duty rather than a moral failing. Northern parents interviewed by Thai and Western researchers and anthropologists challenged the dominant narrative of parental exploitation and instead emphasized daughters’ desire to alleviate family suffering by “going

⁵⁹¹ Ekachai, *Behind the Smile: Voices of Thailand*, 170.

⁵⁹² Phongpaichit, *From Peasant Girls to Bangkok Masseuses*, 46.

⁵⁹³ Ekachai, *Behind the Smile: Voices of Thailand*, 168.

⁵⁹⁴ *Ibid.*, 177.

south.” As outsiders from the city came to the village to pry into private family matters (with a significant risk of “losing face”), villagers resisted the characterization of indenturing their daughters for cash advances as callously “selling” their daughters into prostitution for a pittance. Instead, parents in the North often stressed the virtuous and dutiful nature of their daughters and structural inequalities that incentivized migratory prostitution: “I didn’t sell my daughter. She saw me suffer. She saw the family suffer. And she wanted to help. . . . I couldn’t stop her. I have nothing better to give her.”⁵⁹⁵ Other parents rationalized accepting money in exchange for allowing their daughters to enter sex work by noting that they invest the money in houses and rice fields that will be passed on to their children.⁵⁹⁶

By the late 1980s, a host of sources including sex tourists’ advertisements, domestic and international media exposes, and women’s and children’s advocacy campaigns generated a mythologized account of Thailand’s “prostitution problem” and the trafficking that fueled the sex trade. Despite early analyses reflecting the complex political economy of migratory prostitution, Thai and Western commentary began to focus on the “innocents” sacrificed to the sex industry and the sweaty embraces of pederast tourists. Popular narratives regarding the Thai sex trade reflected repeated motifs and a recursive narrative structure that assumed the following form:

[E]xtreme poverty forces parents to surrender their children to prostitution; foreign tourists sustain the demand for commercial sex with very young girls and boys; the Thai economy is dependent upon tourism; the government is not prepared to restrict or control prostitution for this reason and is unable to redress the economic and political problems which have resulted in rural poverty. The circle is complete.⁵⁹⁷

Reflecting a composite of a variety of academic, policy, activist, and journalistic texts that generated competing constructions of the “prostitution problem” in Thailand, many of these narratives have been reproduced, rearticulated, and reified in contemporary anti-trafficking campaigns, the evolution of which will be explored in the following chapters.

Interestingly, the economic and cultural determinism characteristic of early analyses of migratory prostitution-cum-trafficking issued by academic researchers and reporters were rearticulated by foreign sex tourists themselves, whose explanatory accounts of Thailand’s sex industry naturalized prostitution as an integral component of (a monolithic) Thai culture and rationalized their own role in sexual commerce. For example, one Australian sex tourist interviewed in the late 1980s for the film *The Good Woman of Bangkok* explained:

They are prostitutes and we feel sorry for them. They’re very poor, but we love ’em. I feel sorry for them because they have to resort to what they do. I think that it’s best that we do go with them because . . . if it helps them, it’s not so wrong. The oldest girl comes to Thailand [i.e., Bangkok], they try to get a job and this is all they can really get because they haven’t got an education. So to break a vicious cycle they send the money home to get an

⁵⁹⁵ Ibid., 170–171.

⁵⁹⁶ Ibid., 173.

⁵⁹⁷ Manderson, “The Pursuit of Pleasure and the Sale of Sex,” 305–306.

education for the younger ones, which is good, because eventually there won't be this, they won't need to do this."⁵⁹⁸

The competing constructions of Thailand's "prostitution problem" in the 1970s-1980s and the rationales invoked to explain the motivations of women and girls who migrated to work in the sex industry reflect a highly diversified discursive field around the meaning and practice of sexual commerce. The multiple, overlapping, and sometimes conflicting, interpretations of prostitution in Thailand in this era reflected the pragmatic orientation of Thai advocates, shaped both by Thai political culture and the constrained opportunity structure within which women's advocates operated in the 1970s and 1980s.

Women's Status, Development, and the Politics of Sexual Victimhood

"I come here because Thai girls are pretty and gentle."⁵⁹⁹

"Girls here are much cheaper than in Japan: they are poor, that's why they need customers, isn't it?"⁶⁰⁰

"I don't feel immoral to come here, because I'm sort of contributing to the Thai economy."⁶⁰¹

"It's the last place on earth where you can be a white man."⁶⁰²

The expansion of the sex industry and the number of rural women drawn into the trade sparked the emergence of groups that mobilized to address what they viewed as Thailand's growing "prostitution problem." The increasing numbers of foreign men visiting Thailand for sex tourism in the late 1970s provoked the ire of feminists in Japan and women's organizations in sex tourist destinations throughout Asia. As sex tourism shifted to Thailand, so too did the attention of its feminist critics. Critics abroad and within Thailand drew on many of the same narratives that characterized more generalized discussions of sex work there – narratives based on politics, economics, tradition, and culture.

Sex Tourism and Women's Advocacy in the International Arena

Some of the earliest sex tours were operated for Japanese businessmen, who received all-expense-paid vacations – including sexual entertainment – as a company benefit. Reflecting earlier rationales for military prostitution, corporate prostitution aimed to boost the morale of male employees via sexual conquest of women in poorer / occupied countries. Organized sex

⁵⁹⁸ *The Good Woman of Bangkok* (O'Rourke and Associates Filmmakers in association with the Australian Film Commission and Channel 4, 1991).

⁵⁹⁹ Quote of a Japanese sex tourist in Bangkok in response to questions from the Japanese Men's Group Against Prostitution in Asia in 1991. See Yayori Matsui, "The Sex Tourist's Yen," *New Internationalist*, 1993, <http://www.newint.org/issue245/sex.htm>.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid.

⁶⁰² Conversation with bar owner in Chiang Mai, describing Thailand as a sexual paradise for Western (white) men. Field notes October 2004.

tourism. The scope, organization, and visibility of sex tour operations mobilized coalitions of church groups and women's advocates who began to protest the practice in the early 1970s.

Taiwan was the original destination for Japanese sex tourists, but direct flights between Tokyo and Taipei were grounded after Japan reestablished diplomatic relations with China in 1972. Sex tour agents began to offer packages to South Korea, and ninety-five percent of the half million Japanese tourists to Seoul in the following years were men.

Korean Church groups were critical to raising awareness about sex tourism in other regions as organized tours expanded in Southeast Asia in the 1970s. Groups of Korean churchwomen spoke out against sex tourism as "a shameful act by Japanese men who take advantage of their economic power and dehumanize our countrywomen."⁶⁰³ In 1973, Korean women's organizations and church groups began protesting sex tours arriving at the airport with signs reading "Don't make our country a brothel for Japanese men."⁶⁰⁴ In Tokyo, the Women's Group Opposing *Kisaeng* Tourism was established in December 1973, and approximately fifty Japanese students, housewives, and workers of all ages demonstrated at Tokyo's Haneda Airport on Christmas Day. They handed out pamphlets and wore slogans on their shirts including, "Go to hell, sex animals!," coining the term "sexual imperialism" to describe Japanese men's sexual and economic exploitation of women in less developed countries. Although the Japanese police suppressed the small demonstration, such protests built international solidarity grew between Japanese and South Korean organizers.⁶⁰⁵ These connections would contribute to the development of transnational women's advocacy networks against sexual violence and exploitation in the following decade.

By the mid-1970s, the Philippines emerged as a favored destination for sex tours in light of the availability of many young women offering sexual services at a relatively low price for foreign tourists.⁶⁰⁶ After NGOs in Japan and the Philippines began to protest sex tours and authorities in the Philippines stepped up policing of Filipinas' emigration to Japan to work in its sex industry, tour operators expanded into other developing countries in Southeast Asia.⁶⁰⁷ As the Vietnam War wound down, Thailand's established service industry infrastructure and the availability of many women willing to sell sex at a low cost made the country a premier destination for sex tourism. Tourism development projects expanded alongside the Thai government's promotion of policies favoring Japanese investment firms, the relocation of Japanese factories to Thailand, and the construction of new hotels and golf courses – with female caddies – to welcome Japanese businessmen and sex tourists.

Activists began to protest the blatant sexualization of Thai women in the Thai government's tourism-promotion campaigns. They decried Deputy Prime Minister Boonchu's charge to provincial governors to exploit the "natural resources" of their region by promoting sexual entertainment to better attract tourists. In 1980, the newly organized Friends of Women

⁶⁰³ Matsui, "The Sex Tourist's Yen."

⁶⁰⁴ Ibid. See also Kathleen Barry, Charlotte Bunch, and Shirley Castley, *International Feminism: Networking against Female Sexual Slavery*, Report of the Global Feminist Workshop to Organize Against Traffic in Women, April 6-15, 1983 (Rotterdam, the Netherlands: International Women's Tribune Centre, Inc., 1984).

⁶⁰⁵ Ibid.

⁶⁰⁶ Phongpaichit, Priyiarangsan, and Treerat, *Guns, Girls, Gambling, Ganja: Thailand's Illegal Economy and Public Policy*, 165. In 1981, a Japanese tourist spent approximately \$70 USD for sexual services in the Philippines; of this amount, the sex worker received \$5-7 USD.

⁶⁰⁷ Ibid. In the 1980s, Primer Minister Aquino of the Philippines began to restrict women's emigration to Japan by enforcing stricter policing at the airport and by targeting corrupt immigration officials who cooperated with trafficking agents.

(FOW) took up the issue of sex tourism, banding together with other Thai NGOs. As one FOW member recalled:

We were very upset [by Boonchu's speech encouraging sex tourism]. It was like forcing women to carry the economic burden. He was concerned only with the balance of trade without considering how such a proposed solution would affect women's lives. Therefore, we came forward to protest Boonchu.⁶⁰⁸

On behalf of "Thai women," the coalition sent Boonchu an open letter attacking his promotion of sex tourism. They also staged a rally in front of the Japanese Embassy in Bangkok and delivered a carefully drafted open letter to the Japanese Prime Minister. The letter detailed statistics demonstrating the conspicuous percentage of male Japanese tourists to the Philippines, Thailand, Taiwan, and South Korea drawn to the "overwhelming and overt existence of sex services."⁶⁰⁹ But the letter sought to avoid placing sole responsibility for sex tourism on Japanese men by also faulting Thailand's male-dominated society where women are "shamefully considered as 'second class' citizens."⁶¹⁰ The sexual and economic exploitation of Thai women by Japanese men in sex tourism was presented as a product of inequalities in the international economic systems based on "unequal exchange between developed and under-developed countries." The complicity of Japanese men themselves was softened by that the rationale that "both buyers and sellers are victims of the system of exploitation, injustice and violence that is perpetuated merely and purely for economic aims, for which the political and economic elites must be held responsible."⁶¹¹

Although Thai authorities and reporters chastised the protestors, accusing them of being man haters, following Western feminism, and ruining the country's image, the shaming techniques employed by advocates' protests ultimately pressured the Japanese government to address sex tourism as a national issue. However, sex tour agents simply began to operate more discreetly and use euphemisms in their advertisements. In addition, demand for Thai sex workers began to grow in Japan's domestic sex industry, and agents began recruiting Thai women who sought to migrate in hopes of earning yen to send back home. Increasing numbers of Thai women were smuggled and trafficked to work in Japan's sex industry during its boom in the late-1980s and early-1990s.⁶¹²

European sex tourists followed the Japanese, and the Thai sex industry diversified into separate clubs, brothels, bars, discos, tea shops, and massage parlors catering to the entertainment, leisure, and sexual practices preferred by men of different nationalities. Sex tour operators marketed Thailand as a sexual playground for foreign men where exotic and submissive women untainted by feminist demands for equality catered to their every whim. Blatant marketing of organized tours to developing countries – including sex with local women and girls – galvanized women activists in Asia, the U.S., and Europe to launch coordinated campaigns against sex tourism that contributed to the development of transnational advocacy networks. One veteran anti-trafficking activist who had migrated to Europe in the 1980s from

⁶⁰⁸ Tantiwiramanond and Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand*, 95.

⁶⁰⁹ *Ibid.*, 176, Appendix D, "An Open Letter to the Japanese Prime Minister from Thai Women," January 19, 1981.

⁶¹⁰ *Ibid.*

⁶¹¹ *Ibid.*

⁶¹² Skrobaneck, Boonpakdi, and Jantakeero, *The Traffic in Women: Human Realities of the International Sex Trade*; Boonchalaski and Guest, *Prostitution in Thailand*.

Southeast Asia explained that sex tourism represented “imperialism, sexism, and racism rolled into one; the issue symbolized for us the total exploitation of womankind – sexual, economic, and cultural.”⁶¹³

For feminists in the U.S., the plight of Thai prostitute was particularly salient given the growth of Thailand’s commercial sex industry out of the R&R service sector established for American troops during the Vietnam War. The marketing of sex tours for men to escape to a sexual paradise free of “liberated women” and strident feminists – coupled with the increasing visibility of women “imported” from developing countries to serve men as prostitutes or “mail order brides” – reflected, they believed, deep cultural resistance to the women’s movement and its challenge to patriarchal social and sexual norms at work and in the home. Sex tourism provided Western men the opportunity to engage in masculinity shows and reassert male sexual and economic privilege through the sexual conquest of submissive, exotic, “Oriental” women respectful of traditional gender roles and male superiority. Indeed, military troops returned to Thailand as tourists to pursue the sexual services they had become accustomed to in Southeast Asia.⁶¹⁴

Reorienting Development: The Peasant Prostitute and Advocates’ Mobilization to Improve Thai Women’s Status

The devastating socio-economic consequences of Thailand’s open economy policies and the rapid expansion of market-based values into the countryside spurred the mobilization of elite and middle class women in the late 1970s. In the wake of the violent suppression of the student movement and continuing governmental hostility to overt political activism, an organized women’s movement was slow to emerge in Thailand. The women’s movement in Thailand did not initially form distinct groups dedicated to equal rights or “women’s issues.” Instead, women’s advocates adopted pragmatic and instrumental approaches to improve women’s societal position through a range of activities to promote women’s participation in development projects, expand life options, and change social ideas about women. The pragmatic orientation of Thai organizations and advocates committed to improving “women’s status” – combined with the absence of a coherent or unifying feminist ideology – facilitated a political environment that could accommodate many competing interpretations of prostitution in Thailand and conflicting views regarding what sorts of interventions women’s groups should pursue.

Emerging after a period of widespread social dissent and brutal military crackdowns on social movement organizers, advocates sought to depoliticize issues affecting women by framing advocacy projects as facilitating national economic development. Ironically, perhaps, Thai authorities had promoted the discourse of development for decades by the time the women’s movement emerged, and the social consequences of development policies were becoming uncomfortably evident. Since the Sarit administration, the Thai military government’s political and rhetorical investment in *pattana* (development) as the path to progress and national unity legitimized the bureaucratic discourse of development. Women’s advocates took advantage of this discursive opportunity structure, framing projects to address the needs of rural women not in

⁶¹³ Lin Chew, “Reflections by an Anti-trafficking Activist,” in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, ed. Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik (Boulder, Co: Paradigm Publishers, 2005), 65–66.

⁶¹⁴ C. D. Bryant and C. Palmer, “Massage Parlors and Hand Whores: Some Sociological Observations,” *Journal of Sex Research* 11 (1975): 227-241.

terms of rights or equality, but rather as a way to bring them into the development process. Women in Development (WID) programs were couched in bureaucratic discourse rather than feminist ideology, and focused on planning and implementation of projects, evaluative procedures, measurability, and efficiency, well-crafted for government reports and donor agencies.⁶¹⁵ Indeed, women's issues were only included in Thailand's fourth five-year development plan, when they were included as part of human resource development (1977-81).⁶¹⁶ Advocates strategically engaged the discourse of development to embed programs for women within broader programs benefiting families and the community at large. Women were presented as vessels for the (controlled) (re)production of Thai families (and the nation), and thus needed and deserved "protection" in the form of programs to improve the "status" of women. Yet poor women in agriculture were not targeted as a specific group to be beneficiaries of government services until the fifth five-year development plans, initiated in 1982 – years after many rural women had abandoned agriculture to migrate to urban areas or abroad in search of more remunerative work, often in the sex industry.⁶¹⁷

Unfortunately, many attempted WID programs were not grounded in the local lived experiences of rural Thai women. The elite women and government officials who planned WID projects often failed to take into account cultural and lived differences between Bangkok and the rural North and Northeastern provinces that affected project implementation – in particular, the difficulty of inculcating "proper Thai values" in rural women.⁶¹⁸ Further, because the problems facing lower-class and laboring women are often related to their families and children, researchers found that development interventions were more successful if men are also recruited to help strengthen the projects.

The subsequent shift from "Women in Development" to "Gender and Development" highlighted the challenges advocates faced in promoting projects focusing on women, and the ways in which traditional gender relations affected the implementation of development projects at the local level.⁶¹⁹ Framing programs to improve women's status through the discourse of community development benefiting husbands, wives, and children was an effective way to achieve practical results during "pre-democracy" in Thailand's authoritarian political field in the late 1970s and early 1980s, despite the severely constricted space for grassroots organizing. The diverse crises facing women and their families allowed advocates to use umbrella issues to press for change indirectly. This tactic deflected potential criticism of women's civil society organizations by linking advocacy programs for women to community development aid projects

⁶¹⁵ Van Esterik, P. (1987). "Ideologies and Women in Development Strategies in Thailand," International Conference on Thai Studies, Australian National University, Canberra.

⁶¹⁶ The first two five-year development plans (1961-1971) emphasized rapid economic growth through import substitution; the role of women in development remained unaddressed despite their increasing participation in the labor force. In the third plan, women were identified as a target group but only with respect to family planning. This focus reflected the 1970 promulgation of an official population policy in response to studies in the 1960s by the World Bank and other institutions reporting that the high Thai growth rate would adversely impact the country's economic development. See Muecke, "Make Money not Babies: Changing Status Markers of Northern Thai Women," 467.

⁶¹⁷ See Van Esterik, *Materializing Thailand*, 50.

⁶¹⁸ As discussed in the previous chapter, elite women championed conservative social values; the social outreach programs of the largest Thai women's organization, the NCWT, focused their efforts on programs that aimed for all Thai women to adopt "proper Thai values." Tantiwiramanond and Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand*, 51–52.

⁶¹⁹ Virada Somswasdi and Sally Theobald, *Women, Gender Relations and Development in Thai Society*, ed. Sally Theobald (Chieng Mai: Ming Muan Navarat Co., Ltd., 1997).

in a politically palatable way. As such, progressive WID/GID planners initially did not raise controversial social issues like women's increasing migration into prostitution in order to avoid alienating elite women and important government groups.⁶²⁰ Consequently, some of the negative consequences and dynamics of development remained unacknowledged and unaddressed by government officials.

The pragmatic orientation of women's advocates also inhibited theorizing about the nature of women's subordination and tactics to ameliorate it. Reviewing the work of Thai NGOs and activists addressing women's issues in the 1980s, Tantiwiranond and Pandey suggested that there was "no feminist movement in Thailand as a unified theory," in part due to negative connotations of the Western idea of "feminism," including an "impression of confrontation (male-hatred), or individual pursuits (often related to 'bra-burning', free sex)."⁶²¹ The individualistic emphasis of liberal feminism lacked resonance in Thai political culture, as it did not reflect the reality most Thai women's lives, particularly those from rural areas whose identities were oriented around family responsibilities. Class divisions among women, combined with competing understandings of effective women's advocacy and the meaning of feminism (e.g., as welfare, autonomy choice, or justice), facilitated the coexistence of multiple readings of prostitution as a economic issue, a moral failing, or a consequence of patriarchal social and/or religious norms. Assessing the rise of the women's movement in Thailand in the 1980s, Van Esterik observes that a diverse range of Thai women's groups were able to work together "by virtue of the fact that they do not present a single unified critique, theoretical stance, or model of gender relations in Thai society," as contradictions between different interpretations of women's status, gender, feminism, and development are tacitly ignored and not considered important.⁶²² Further, the cultural emphasis on avoidance of conflict and observance of *kalatesa* (a sense of propriety and appropriateness of behavior in context) provides a "code for smoothing over differences across class, ethnicity, age and interests," allowing diverse women's groups to cooperate to pursue long-term strategies despite the lack of consensus regarding ideology or advocacy agendas.⁶²³ Older elite women clung to a charity-based model of advocacy, remaining reluctant to engage a discourse of women's rights and gender justice, as such "leftist" concerns had in their pasts been "defined as unThai, and by extension, dangerous, subversive, and destabilizing."⁶²⁴ Thus, the conditions of local advocacy and the Thai cultural repertoire favored the retention of a complex, plural discourse on prostitution.

Thai women's groups with a more activist agenda emerged in the early 1980s to critique the growth of the sex industry and challenge the government's promotion of sex tourism. These groups "[chose] for pragmatic reasons to focus attention on exceptional groups such as prostitutes and victims of rape rather than on gender analysis of the life experiences of ordinary women," addressing the immediate problems facing poor and exploited women rather than developing Thai feminist theory.⁶²⁵ Sex tourism and exploitative prostitution provided a key target for progressive Thai activists to challenge gender norms and the sexual double standard, as the plight of "peasant girls" turned "Bangkok masseuses" could be framed in terms of the

⁶²⁰ Van Esterik, P. (1989). *Deconstructing Display: Gender and Development in Thailand*. Thai Studies Project. Toronto, Women in Development Consortium in Thailand, York University: 28.

⁶²¹ Tantiwiranond and Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand*, 10.

⁶²² Van Esterik, *Materializing Thailand*, 53.

⁶²³ *Ibid.*, 36, 53-54

⁶²⁴ *Ibid.*, 54

⁶²⁵ *Ibid.*

politics of rural development, the dearth of employment options for women, and the by-now obvious socio-economic crises facing poor female migrants. By the end of the decade, progressive Thai women's groups would begin to press for issues of social justice and gender equity, and these interests "coincided with those of external donors and the UN women's agenda," opening up a multi-level opportunity structure that would transform both domestic politics and the international women's movement.⁶²⁶

For an emerging cadre of middle-class women's advocates and activist-academics in Thailand, sex tourism and the increasingly evident exploitation of migrant women in local and foreign sex industries reflected cultural imperialism, racism, and economic inequalities between developing and industrialized nations – inequalities exacerbated by the political and economic policies of Thai elites and policymakers.

For Western feminists, the appearance of foreign women working in the local sex industries and the growing market for "mail-order brides" represented a rejection of the women's liberation movement, and exemplified the interconnected forms of women's exploitation including sexual abuse, rape, domestic abuse, and women's economic dependency in marriage. The trade epitomized male dominance and sexual privilege, reinforced patriarchal views of marriage, and advertised "third world" women's sexual accessibility and submissiveness—challenging the political and social change demanded by Western feminists on their own turf. The combined dynamics of sex tourism and the traffic in women for prostitution and servile marriage ultimately galvanized a transnational advocacy network that aimed to eradicate "female sexual slavery" at home and abroad. The diverse background conditions that motivated Thai women to migrate for sex work and shaped narratives about Thailand's "prostitution problem" were collapsed and rearticulated under the rubric of "trafficking."

The next chapter explains the key role emergent transnational advocacy networks played in deploying the trafficking narrative, and how it came to have such purchase over diverse groups of people in Thailand and in the international arena.

⁶²⁶ Ibid., 53

CHAPTER 5 - Bridging the Local and the Global: Rooted Cosmopolitans, Transnational Advocacy Networks, and the Rise of the Anti-Trafficking Movement

Introduction

Chapter 5 demonstrates how a few small women's organizations were able to pressure the Thai government to address forced prostitution and trafficking, despite social tolerance of prostitution and the state's interest in maintaining economic growth and development through tourism—particularly the booming trade in sex tourism. Women's advocates in both the industrialized and developing worlds mobilized against sex tourism, mail-order brides, sex trafficking, and the commercial sexual exploitation of children during the 1980s and 1990s, creating the foundation for transnational advocacy networks. Thai advocates used these networks to produce a “boomerang effect,” leveraging key moments of negative international publicity and censure by foreign governments to pressure the state to address trafficking and exploitation in the commercial sex industry.⁶²⁷

The explosion of international mobilization around children's rights, human rights, and the HIV/AIDS epidemic allowed Thai women's NGOs to strategically “draft” behind other movements, exploiting the pressure created by these movements to reduce political and social resistance to women's organizing around prostitution and trafficking. Women's advocates also leveraged the increasing political currency of “rights” in the international arena, strategically mobilizing human rights and women's rights in advocacy frames and as grant-writing catchwords to attract the attention of the international aid community. The formation of this multi-level strategy, designed to exploit the political and discursive opportunity structures available, served both to pressure Thai officials to enact reforms and to situate women's NGOs as service providers for the state and as critical partners in the governance of prostitution and trafficking.

International Opportunities: Thailand, Prostitution, and the (Sexual) Politics of Representation

As discussed in Chapter 4, the influx of American men stationed in Northeast Thailand or on Rest & Relaxation leave from Vietnam changed the economic and social context of commercial sex in Thailand. After the troops went home, men from Japan and Europe began arriving as sex tourists, contributing significantly to the Thai economy in the late 1970s and 1980s.⁶²⁸ Although the majority of Thailand's sex industry caters to local men, sex tourism and

⁶²⁷ As noted in previous chapters, Keck and Sikkink describe the “boomerang effect” as a way local NGOs can leverage transnational advocacy networks to create international pressure to which a recalcitrant government responds. See Keck and Sikkink, *Activists Beyond Borders*.

⁶²⁸ Figures from the Tourism Authority of Thailand show that in 1960, 81,340 people visited the Kingdom, staying an average of three days. By 1996, 7,192,145 persons arrived as tourists and stayed an average of 8.23 days. Tourism revenues grew from \$10 million in 1960 to nearly \$8.7 billion in 1996, and in 1996 was the largest source of foreign exchange, earning nearly eight times the value of Thailand's rice exports in 1996. Although many visitors, such as businessmen, enter on tourist visas for ease of entry, between 1.8 and 2.2 million are tourists, 62% of which were male in 1996. As Feingold observes, “easily available, relatively inexpensive commercial sex has long been one of the appeals of Thailand as a tourist destination, and Thailand has certainly reaped rich economic rewards because of it.” David Feingold, “The Hell of Good Intentions: Some Preliminary Thoughts on Opium in the

the subsequent demand for Thai women in foreign sex industries played a role in changing the dynamics of migratory prostitution – and the tactics women’s groups used to mobilize around the issue. A limited space in Thai civil society was reserved for social welfare- and charity-oriented work predominated by elite-run organizations. Middle-class organizations and activists were subject to accusations of being communists, competitors, and antagonists of government officials; many authorities viewed NGOs as threats to national security.⁶²⁹ In light of the constrained domestic political opportunity structure, the international women’s movement proved to be a critical ally for the developing middle-class advocacy organizations, providing both material and discursive resources to advance reforms in Thailand.

Elite Representation and the International Women’s Movement

From the mid-1970s through the 1980s, the development of the Thai women’s movement was greatly influenced by the recognition of International Women’s Year and Women’s Decade and activities promoted by the UN. Because the Thai government had not established a formal institution to address women’s issues, representatives from the National Council of Women, an organization dominated by upper-class Thai women and the wives of military and provincial governors, were invited to attend the First World Conference on Women in Mexico City in 1975. After the Conference, Thai women pressed to form a national mechanism to address women’s issues in Thailand. The secretariat of the Women’s Commission was formed under the rubric of a “consultative body” to the National Economic and Social Development Board; it was later transferred to the Department of Community Development under the Ministry of the Interior. The Thai government did not officially approve the establishment of a state organization for women until 1985, after Thailand’s participation in the Nairobi Third World Conference on Women. The Office of the National Commission on Women’s Affairs (NCWA) was not formally established until 1989, ultimately finding a home in the Office of the Permanent Secretary in the Office of the Prime Minister.⁶³⁰

Political Ecology of the Trade in Girls and Women,” in *Where China meets Southeast Asia: Social & Cultural Change in the Border Regions*, ed. Grant Evans, Christopher Hutton, and Kuah Khun Eng (New York: St. Martin’s Press, 2000).

⁶²⁹ Amara Pongsapich, *Democracy and Human Security in Thailand*, 25th ISIS Country Papers Series (Bangkok: Chulalongkorn University, n.d.), 6.

⁶³⁰ The 1989 establishment of the National Commission on Women’s Affairs created a “permanent national machinery for the advancement of women.” The NCWA advises the government on women’s issues; submits policy proposals; monitors discrimination against women in state agencies; and lobbies for legislation and reforms. NCWA presents Thailand’s CEDAW country report and monitors Thailand’s laws to ensure compatibility with its legal obligations under international treaties. It also translates key documents concerning women, such as the Beijing Declaration and Platform for Action. The NCWA has established ten national committees on women’s issues, one of which is the National Committee for the Elimination of Involuntary Prostitution. See <http://web.sfc.keio.ac.jp/~thiesmey/ncwacomm.html> (accessed March 20, 2010).

The NCWA is chaired by the Prime Minister or Deputy Prime Minister, and is composed of thirteen government agencies, representatives of women’s NGOs, and ten individual experts. The Promotion and Coordination of Women’s Activities, a subdivision of the NCWA, serves as a coordination center for the protection of women’s rights. Its programs reflect the development-focus of elite women’s organizations; “women’s rights” projects include community awareness-raising activities about women’s contributions to national development. The subdivision also submits studies on the use of “gender-based analysis in the development process” and conducts related trainings for development agencies. Interestingly, one NCWA program is entitled “Improvement and Solution of the Problems of the So-Called Commercial Sex Workers.” Ibid.

The international women's movement generated new ideas and pressure for reforms at the domestic level. Thai women's groups selectively engaged and deployed feminist concepts, adapting them to Thailand's political field in an attempt to frame women's concerns in a culturally resonant way. The liberal legal equality/discrimination themes of the early conferences for the United Nations Decade for Women allowed the elite women representing Thailand to advance concerns regarding women's subordination without a full frontal assault on patriarchy and demands for social change. Unlike the more confrontational approach of radical/dominance feminists that emerged in the U.S. in the late 1970s, elite Thai women embraced an understated, incremental approach to reform efforts, reflected in the 1980 Thai report to the Second World Conference on Women in Copenhagen: "[I]n the past, Thai women have been admired for their subtlety. Thai women of the present day can learn something from this tactic so that equality and participation can be achieved harmoniously and happily."⁶³¹

The continuing resistance to integrating women's rights reforms and the persistence of patriarchal norms in Thailand's political field were reflected in the government's response to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Adopted by the UN General Assembly in 1979, CEDAW constitutes an international bill of rights for women and identifies several different forms of discrimination against women.⁶³² State Parties to the Convention are obliged to reform discriminatory laws and develop institutions to eliminate discrimination against women. CEDAW is the only human rights treaty that affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. Article 6 calls on governments to suppress the traffic in women and the exploitation of the prostitution of others, the first mention of trafficking in international agreements since the 1949 Convention. On August 9, 1985, two months after the Nairobi Third World Conference on women, Thailand acceded to CEDAW.⁶³³ Although Thailand pledged to promote men and women's equality before the law, several reservations barred women from equal access to the primary routes to political power: the military and the civil bureaucracy.⁶³⁴ Other reservations regarding the rights of women in marriage and family

⁶³¹ Vipa Chulachart, "Introduction," in *Aspects of Thai women today*, by Thailand National Commission on Women's Affairs (Bangkok: Thailand National Commission on Women's Affairs, 1980), 5.

⁶³² Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), United Nations, *Treaty Series*, vol. 1249, p. 13. Discrimination against women is defined as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

⁶³³ The Royal Thai Government preserved the primacy of its national laws, declaring that it understood that the purposes of CEDAW were to "eliminate discrimination against women and to accord to every person, men and women alike, equality before the law, and are in accordance with the principles prescribed by the Constitution of the Kingdom of Thailand." The complete text of the declaration and reservations are published in United Nations, *Treaty Series*, vol. 1404, p. 419.

⁶³⁴ Thailand's first reservation provided that "in all matters which concern national security, maintenance of public order and service or employment in the military or paramilitary forces, the Royal Thai Government reserves its right to apply the provisions of [CEDAW], in particular articles 7 and 10, only within the limits established by national laws regulations and practices. See http://www2.ohchr.org/english/bodies/ratification/8_4.htm. Article 7 calls for the elimination of discrimination against women in the political and public life of the country and Article 10 requires state parties to eliminate discrimination against women in education, sports, or access to family planning education, among other things. Thailand did not withdraw its reservations concerning Articles 7 and 10 until August 1996 during a period of significant government reform and the drafting of the "People's Constitution."

relations preserved many of the discriminatory laws elite women had been fighting against for the previous fifty years.⁶³⁵

Nevertheless, the increasing legitimacy of women's rights and human rights in the international arena during the 1980s and 1990s, coupled with the Thai government's concern with maintaining a positive international image, allowed Thai advocates to use CEDAW as a reference point by which to gauge Thailand's treatment of women. By acceding to CEDAW, Thailand was legally bound to put its provisions into practice and submit national reports on measures taken to comply with treaty obligations.⁶³⁶ Over time and with the support of elite women in government, such as Khunying⁶³⁷ Dr. Saisuree Chutikul, CEDAW's monitoring mechanism became instrumental in pressuring the government to change its laws and make some efforts to reform. Dr. Saisuree served as a Cabinet Minister in Thailand in 1991 and 1992, when Thailand began withdrawing its reservations to CEDAW; during this period, she also worked to revise Thai law to create stricter penalties against proprietors, pimps, and parents involved in child prostitution. Saisuree was simultaneously a member of the United Nations Commission on the Status of Women, serving from 1989-2000. Dr. Saisuree is today recognized as a key figure in both the Thai and international movements against trafficking and the commercial sexual exploitation of children and women.

But despite Thailand's formal recognition of women's rights, actual practices within government and social institutions were not so quickly changed. Resistance to substantive implementation of women's rights reforms and the limited access non-elites had to both discursive and political opportunity structures at the domestic level led many grassroots advocates to seek alliances and build networks with international organizations and UN programs. The increasing connections between women's advocates across the globe opened up a new advocacy channel for progressive organization outside Thailand's restricted political field.

⁶³⁵ The Thai government also made a reservation regarding Article 9(2), which dealt with women's equal right to acquire, change or retain their nationality. The Thai government limited the provision granting equal rights with men with respect to the nationality of their children to application by national law, regulations and practices; this reservation was not withdrawn until October 1992. Thai law provided that if a Thai man marries a foreign woman, their children have Thai nationality, but if a Thai woman marries a foreign man, their children do not have Thai nationality. This was in keeping with Thailand's refusal to sign on to the 1957 Convention on the Nationality of Married Women. See <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXVI/treaty2.asp>.

Further, Thailand also made reservations to Articles 16 and Article 29 (1). Article 16 requires states to take all appropriate measures to eliminate discrimination against women in marriage and family relations. For example, the same right to enter into marriage, to freely choose a spouse and enter marriage consensually; voluntary motherhood and access to family planning resources; equal personal rights (e.g., the right to choose a family name, profession, and occupation); and equal property rights and parenting rights and responsibilities (regardless of marital status). In 1991, Thailand withdrew its reservations made upon accession, but only to the extent that they applied to Article 11(1(b)) (rights to the same employment opportunities) and Article 15(3) (forbidding contracts or legal agreements from restricting women's legal capacity).

⁶³⁶ Distinguished law professor Vitit Muntabhorn authored Thailand's first report for CEDAW in 1987; he would soon emerge as an internationally-recognized expert on human rights, and was also involved in the international movement for children's rights, serving as UN Special Rapporteur on the sale of children, child prostitution, and child pornography from 1990-1994.

⁶³⁷ "Khunying" is a conferred, non-inheritable lifetime title for a married non-royal woman, roughly translated as Dame or Lady.

“Rooted Cosmopolitans”: Bridging the Global and the Local

Non-elite civil society women’s groups faced a hostile domestic political field, with constrained space for organizing until the mid-1980s, when the Thai government began to acknowledge the important role of civil society organizations in rural development activities.⁶³⁸ Thai scholar Amara Pongsapich observes that during this period, political conditions became more favorable for non-elite organizing, which she attributes to two conditions: first, an increasing awareness of problems related to development in Thailand and the situation of the poor, and second, a sense that the top-down approach of government agencies in addressing development problems was not always successful or sensitive to local needs.⁶³⁹ Consequently, “non-political,” development-oriented civil society organizations were created as an alternative means to address the problems of governance.⁶⁴⁰ The advocates I interviewed described the groups that emerged as “Thai-style NGOs,” meaning organizations that worked to advocate the interests of an oppressed group while supplementing inadequate government services.⁶⁴¹

Diverging from the charity- and welfare-oriented approach of elite women advocates, progressive middle-class Thai activists and academics formed these Thai-style NGOs to address the needs of the majority of lower-class Thai women, whom they viewed as ill-served by the existing governmental and non-governmental organizations headed by elite women. The government women’s organizations were associations of military wives that sought to “perpetuate values already existing in the society. Instead of focusing on people’s needs, they emphasized the importance of sacrificing for the nation.”⁶⁴² Similarly, the National Council of Women of Thailand (NCWT), which had represented Thailand at early international women’s conferences, was criticized as an association of “socialites busy in arranging gala parties and fairs,” rather than focusing on activities that actually benefited poor Thai women.⁶⁴³ Resistance to women’s organizing, suspicion of middle-class organizations as communist sympathizers, and the need to avoid antagonizing conservative elite women and male leaders made it difficult for non-elite women’s NGOs to gain political traction at the domestic level. Further, the limited success of legal mobilization by elite women at the domestic level—and the limited relevance of such reforms to most Thai women’s lives—made the growing international women’s movement a much more welcoming space for advocates seeking to improve the lot of rural women through rights-based advocacy.

The development and operation of organizations in the Thai women’s movement addressing commercial sexual exploitation and trafficking underscore the complex political and discursive terrain on which Thai women’s organizations mobilized. Direct confrontation of the

⁶³⁸ The government’s decreasing hostility to NGOs as political threats is evidenced in a section of the Sixth National Development Plan (1986-1990) promoting the role of local organizations in rural development. Thai women’s organizations participated in the 1985 Third World Conference on Women in Nairobi, including the Foundation for Women (FOW), a middle-class organization targeting low-income and rural women, participated in Nairobi as part of the NGOs’ Forum. FOW advocates would go on to form key anti-trafficking organizations. Thai women’s advocates incorporated the Nairobi Forward-Looking Strategies for the Advancement of Women to use as a guideline to monitor and evaluate women’s programs in Thailand.

⁶³⁹ Pongsapich, *Democracy and Human Security in Thailand*, 6.

⁶⁴⁰ Amara Pongsapich et. al., *Public-Interest Organizations in Thailand* (Bangkok: Chulalongkorn University Social Research Institute, 2003).

⁶⁴¹ Frank Munger, Renee Rivas, and Julie Kottakis, “Trafficking in Law: How a Thai Human Rights Lawyer Negotiates Means and Meaning” (presented at the Law and Society Association, Chicago, 2010).

⁶⁴² Tantiwiramanond and Pandey, *By Women, For Women: A Study of Women’s Organizations in Thailand*, 93.

⁶⁴³ *Ibid.*

government to demand women's rights would foster resistance, resentment, and accusations that NGOs were inappropriately pushing Western or foreign perspectives onto Thai issues. As one advocate observed, the Thai government remained unconcerned about the status or well-being of Thai women until international pressure, stimulated by the research and personal connections of Thai NGO activists, pushed the issue forward and threatened the country's international image.⁶⁴⁴ Given the interests of powerful military, police, and government officials in maintaining the sex industry (for state tourism-development policies and/or personal economic interests), an international loss of face was one of the few mechanisms activists could leverage to prod the government to reform its policies.

In the early 1980s, a cadre of progressive female activists, academic researchers, and journalists began to raise awareness about the government's indifference or failure to improve the situation of rural women, many of whom were migrating to support their families through work in the sex industry. These "rooted cosmopolitans" bridged the global and the local, and developed a new repertoire of strategies to translate international rights-based movements in the domestic political field.⁶⁴⁵

Activists framed many of their concerns in the discourse of development, a rhetoric that had been legitimized by the government over the previous two decades. The involvement of international organizations and academic figures lent further credibility to activists' claims. The presentation of economic research on the sex industry as unbiased, factual analysis with statistics, charts, and graphs made it difficult for male politicians to dismiss. In addition, economic analyses illustrated the role of foreign capital and tourism in the expansion of Thailand's sex industry, deflecting the full force of the critique by spreading the blame between Thailand's own policies and global economic processes.

Academic exchanges, conferences, joint research projects, and leadership training programs were critical to forging links between women's activists in Thailand, the U.S., and Europe, particularly the Netherlands. Women who would rise to become key actors in the anti-trafficking movement made connections with women's organizations through academic programs. The location of the Asian UN headquarters in Bangkok meant that Thai activists and academics often worked in the same circles as UN program officials. Further, the resources and connections of international organizations – particularly the ILO – and funding support for research projects initiated a surge of research and advocacy activity around issues of prostitution in Thailand.

Pasuk Phongpaichit, a sociologist/economist and human rights activist at Bangkok's prestigious Chulalongkorn University, also worked with the ILO, which published her research on the migration of "peasant girls" to become Bangkok "masseuses" in 1982.⁶⁴⁶ Her research was presented to the emerging international movement addressing the commercial sexual exploitation of children at the Ecumenical Coalition on Third World Tourism in 1983.

Sukanya Hantrakul, a journalist and freelance writer focusing on women's and cultural issues, was another key figure in raising the profile of migrant prostitution and the government's

⁶⁴⁴ Interview with Pii Nok, women's rights advocate and academic in Bangkok, March 10, 2005.

⁶⁴⁵ Tarrow, *The New Transnational Activism*. Tarrow describes the emergence of "rooted cosmopolitans" as a feature of transnational activism stimulated by "the growth of a stratum of individuals who travel regularly, read foreign books and journals, and become involved in networks of transactions abroad," which link individuals in webs of interest, values, and technology. Rooted cosmopolitans are domestic-based activists that "use both domestic and international resources and opportunities . . . [to] move outward to form a spectrum of "rooted cosmopolitans" who engage in regular transnational practices. *Ibid.*, 35.

⁶⁴⁶ Phongpaichit, *From Peasant Girls to Bangkok Masseuses*.

failure to address the needs of poor rural women. Sukanya wrote several articles and gave presentations at academic workshops abroad, critiquing the social and economic bases of women's exploitation in Thailand's sex industry.⁶⁴⁷ Sukanya continued to write opinion and social commentary columns in *The Nation*, one of Thailand's two English newspapers. She challenged social attitudes deriding women in prostitution as immoral or hapless victims, instead drawing attention to the transformation of soft-spoken rural girls into independent, entrepreneurial women with "the spirit of a fighter."⁶⁴⁸

Siriporn Skrobanek, who would become a central figure in both the Thai and international anti-trafficking movements, was one of the coordinators of Friends of Women (FOW). FOW is a diverse group of women and men, including university lecturers, researchers, legal advocates, politicians, journalists, social workers, trade unionists, and individual activists, established in 1980 to address the problems facing women—they named their organization to imply that neither elite women nor the government had proved to be a true friend to Thai women.⁶⁴⁹ FOW and similar organizations engaged transnational resources through advocacy networks, international organizations and academic programs, which proved key to the development of a strong anti-trafficking campaign in Thailand.

Siriporn personal experience reveals the importance of transnational networks in the development of advocacy groups on behalf of Thai women. Siriporn received a scholarship from the Government of the Netherlands to study at the Institute of Social Studies in The Hague. She exposed the "Transnational Sex-Exploitation of Thai Women" in her 1983 Master's thesis at the Institute of Social Studies at The Hague.⁶⁵⁰ During her studies abroad, Siriporn became increasingly aware of the international characterization of all Thai women as prostitutes; once, while waiting at the bus stop at night, a German man asked Siriporn how much she charged for the night.⁶⁵¹

After returning from her studies in 1984, Siriporn initiated a project called the Women's Information Centre (WIC) with financial assistance from the Dutch Embassy, setting up a women's-only café to raise women's consciousness, promote safe migration, and create a space for them to express themselves. Originally part of FOW, WIC eventually split off into a new organization because some women members of FOW opposed a "women only" ideology for fear of being labeled foreign, radical, or lesbians.⁶⁵² Siriporn and three of her colleagues left FOW and started an independent office for WIC; the group later expanded its activities to provide shelter services, produce media and teaching modules, and publish research studies. WIC eventually became one program among many, and the organization was renamed and registered as the Foundation for Women (FFW) in 1987. FFW soon became the center of anti-trafficking

⁶⁴⁷ Hantrakul, "Prostitution in Thailand."

⁶⁴⁸ Hantrakul, "The Sprit of a Fighter: Women and Prostitution in Thailand."

⁶⁴⁹ Tantiwiramanond and Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand*. Siriporn Skrobanek, who would become a central figure in both the Thai and international anti-trafficking movements, was one of the coordinators charged to develop FOW's organizational structure and strategy. FOW was to serve as an umbrella organization to coordinate and facilitate women's groups working on discrimination in different areas or professions; however, because there were few groups dedicated solely to women's issues, the organization was formed of some groups and individual members, who were then to form their own professional- or issue-specific organizations.

⁶⁵⁰ Skrobanek, "The Transnational Sex-Exploitation of Thai Women."

⁶⁵¹ Tantiwiramanond and Pandey, *By Women, For Women: A Study of Women's Organizations in Thailand*, 110.

⁶⁵² Ibid.

activity in Thailand and proved critical to the formation of transnational advocacy networks for migrant women in domestic work and sex work in the 1990s.

Another important organization to address the rights and empowerment of sex workers in Thailand was established by Chantawipa Apisuk in 1985. Like Siriporn, Chantawipa benefited from time abroad and exposure to international norms on women's rights. After graduating from the Faculty of Sociology and Anthropology at Thammasat University, Chantawipa moved to New York to further her research at the Southeast Asia Resource Center, where she learned about human rights and social movements for women's and children's rights.⁶⁵³ When she returned to Thailand in 1984, she began working with women from beer bars, massage parlors, and brothels in the Patpong district of Bangkok. Soon after, she started the EMPOWER Foundation (Education Means Protection Of Women Engaged in Re-creation).⁶⁵⁴

EMPOWER began by offering sex workers English lessons to improve their communication and negotiation skills with customers. As one sex worker advocate explained, language lessons help "women [working in entertainment] to take care of themselves and avoid exploitation or abuse when they can communicate with their customers. They can also make more money when they can talk and joke with the *farang* [foreign] sex tourists!"⁶⁵⁵ Moreover, English skills allowed sex workers to engage ideas from the burgeoning international human rights movement and express their views in new forums, spreading the pro-rights, pro-sex-work approach to prostitution as captured by the organization's slogan, "Good girls go to heaven, bad girls go everywhere." Since the mid-1980s, EMPOWER has continued its adult education and employment training for sex workers, and also provides health services, HIV/AIDS prevention, and legal assistance. The organization has established centers in other Thai cities, including the sex tourist destinations of Chiang Mai, Chiang Rai, and Phuket, as well as border towns such as Mae Sai. EMPOWER has also expanded its programming to address the needs of diverse sex workers, including teaching Thai reading and writing to Burmese migrants and ethnic minorities, training in computer skills, cooking, and other occupational training, and encouraging sex workers to engage in advocacy. Because of EMPOWER's stance towards sex work, it received little financial support from the Thai government, although the government provided some funds for HIV/AIDS-prevention work; thus, international funding and networking was critical to the operation of the organization.

The slowly enlarging space for civil society organizing in Thailand was infused by the international research and advocacy contacts and new funding opportunities tapped by rooted cosmopolitans. These transnational connections began to transform the domestic political opportunity structure, as activists linked into a global web of advocacy networks that exerted political and economic influence over the Thai government.⁶⁵⁶ The following sections highlight

⁶⁵³ Tunya Sukpanich, "Empowering 'bad girls'," *Bangkok Post* (Bangkok, March 11, 2007).

⁶⁵⁴ The organization's original Thai name, *Soon Pitak Sitti Ying Borikarn* translates as "center for the protection of rights of women in the entertainment sector." However, the Office of the National Culture Commission did not allow EMPOWER to register under this proposed name, suggesting that its meaning was inappropriate; it eventually approved the more modest "Foundation to Promote Opportunity for Women" ten years later (as is wryly noted on EMPOWER's English flyers and organizational history, on file with author). In 1994, Empower Foundation officially registered under the name "Moonniti Song Sern Okard Puying," the Foundation to Promote Opportunity for Women.

⁶⁵⁵ Interview with Ratana, sex worker's rights activist, June 20, 2005.

⁶⁵⁶ Pongsapich observes that the Thai government's recognition of the role of civil society organizations in development activities is evidenced by the inclusion of a section on promoting local organizations in rural development in the Sixth National Development plan (1986-1990). Pongsapich, *Democracy and Human Security in Thailand*, 6. The international movement against commercial sexual exploitation grew out of advocacy networks,

how the figure of the exploited Thai prostitute animated anti-trafficking activism at the international level in the early to mid-1980s, and how ideological debates between different factions of Western feminists regarding prostitution shaped the trajectory of the anti-trafficking movement in Thailand.

Transnational Networking Against Trafficking and “Female Sexual Slavery”

Radical feminist Kathleen Barry’s 1979 *Female Sexual Slavery* is a critical work that sparked the contemporary international social movement against sex tourism, commercial sexual exploitation, and trafficking. Barry raised international awareness of the harmful effects of prostitution by documenting the physical and psychological abuse, domination, and deception of prostituted women and girls from various countries in Asia, Latin America, and Africa to show how these situations “fit the most rudimentary definition of slavery.”⁶⁵⁷ Incensed by the emergence of agencies in the U.S. in the late 1970s promoting sex tourism and offering mail order brides, American feminists drew attention to how men “fed up with the ‘liberated American woman’” contributed to the traffic in women by engaging in sex tourism. Barry indicted sex tourists’ desire to buy “docile” and “submissive” women as a practice “built upon the most racist and misogynist stereotypes of Asian and Latin American women.”⁶⁵⁸ American feminists sought to build upon the successful campaigns of Asian NGOs in Japan and the Philippines to confront and reduce sex tourism, forming the International Feminist Network Against Female Sexual Slavery in 1980.⁶⁵⁹

Increasing feminist agitation on the international stage with regard to prostitution and sex tourism in the late 1970s and early 1980s, in addition to women’s calls for investigations and interventions regarding violence and exploitation in prostitution from the NGO Forum at the Mid-decade Conference on Women in Copenhagen, eventually provoked the UN to reassess the status of trafficking.⁶⁶⁰ The 1983 Study by the Special Rapporteur on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others marked the reentry of prostitution into international discussion; the Study held that “prostitution is slavery” and framed trafficking in terms of sexual abuse and exploitation in prostitution.⁶⁶¹ One month after the

including groups of activists and academics in Thailand, provides another example of increasing influence of civil society in Thailand’s political field. The emergence of these social movements and the Thai government’s response thereto will be discussed in subsequent chapters.

⁶⁵⁷ Barry, *Female sexual slavery*, 14.

⁶⁵⁸ *Ibid.*, xiii.

⁶⁵⁹ Barry cites the work of the Asian Women’s Association in Japan and the Third World Movement Against the Exploitation of Women in the Philippines as launching the battle against sex tourism and mail-order bride traffic. According to Barry, the success of their work in reducing sex tourism resulted in the appearance of sex tour agencies in the United States. *Ibid.* at xiii.

⁶⁶⁰ Kathleen Barry, Charlotte Bunch, and Shirley Castley, *International Feminism: Networking against Female Sexual Slavery*, Report of the Global Feminist Workshop to Organize Against Traffic in Women, April 6-15, 1983 (Rotterdam, the Netherlands: International Women’s Tribune Centre, Inc., 1984), 9. American anti-prostitution feminist Kathleen Barry and Uri Konodo of the Asian Women’s Association led five sessions at the NGO Forum in Copenhagen on female sexual slavery, trafficking and women, and sex tourism. The sessions were jointly sponsored by ISIS and Quest: A Feminist Quarterly in the International Feminist Networking section of Vivencia, which had been organized by the International Women’s Tribune Centre.

⁶⁶¹ J. Fernand-Laurent, *Report of the Special Rapporteur on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, delivered to First Regular Session of the Economic and Social Council of 1983, N. 12 of the Provisional Agenda (Activities for the Advancement of Women: Equality, Development and Peace)* (United Nations, 1983).

release of the report, advocates from twenty-four countries around the world, including Thailand, gathered at the 1983 Global Feminist Workshop to Organize Against Trafficking in Women, held in Rotterdam.⁶⁶² Shirley Castle, Kathleen Barry, and Charlotte Bunch, a pioneering lesbian feminist who went on to galvanize the women's human rights movement in the 1990s, were the central organizers of the workshop. Participants and activists addressed a number of issues relating to women's oppression under the rubric of "female sexual slavery," broadly defined as "any situation a woman is in, in which she cannot get away, and in that situation is physically abused and sexually exploited."⁶⁶³ Thus, the broad frame of "female sexual slavery" linked discussions of the sexual enslavement of Korean "comfort women" by the Japanese military, the promotion of sex tour packages in Japan and Europe, mail-order brides, child trafficking, pornography, prostitution, sexual harassment, rape, sexual mutilation, and the sexual torture of female political prisoners.

Motivated by diverse interests and facing different constraints in their domestic political fields, workshop participants compared and debated the best ways to introduce reforms in their respective countries. The women's movements in each nation represented at the conference were at different stages; some were fighting against discrimination in customary and colonial law, while others felt that women's issues were marginalized by male leaders of social movements or sidelined in a political context of growing nationalism. Some participants were more interested in securing fundamental property rights and just development programs (pragmatic concerns) than in waging ideological battles against patriarchy (feminist concerns). Barry co-edited the volume documenting the workshop, and surmised that the participants created a common understanding

A 1983 Economic and Social Council Resolution (E/1983/30) on the "Suppression of the traffic in persons and of the exploitation of the prostitution of others" encouraged states to sign, ratify and implement the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, as well as the 1923 International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications.

The Resolution recommended that states prevent prostitution "by moral education and civics training, in and out of school" (3a), increase women in state agencies dealing with prostitution (3b), and to facilitate occupational training (3f) and "[eliminate] discrimination that ostracizes prostitutes and makes their reabsorption into society more difficult" (3c). The positioning of prostitutes as *outside* of society and the need to reintegrate them reflects the greater traction of anti-prostitution feminism in the international arena during the early 1980s, as does the Resolution's invitation to the world Tourism Organization to address "sex-oriented tourism" (12).

The Resolution also goes on to encourage cooperation between Member States to address procuring and trafficking (4), as well as promotes the involvement of the Division of Narcotic Drugs in such efforts, foreshadowing the most recent anti-trafficking campaign. The Resolution also identified several institutions within the UN to address trafficking, suggesting that the Secretary-General designate the Working Group on Slavery in the Center for Human Rights as a focal point for the issue to centralize information from the UN Children's Fund, the UN High Commissioner for Refugees, the International Labour Organization, and the World Health Organization. See also Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia*.

⁶⁶² Barry, Bunch, and Castley, *International Feminism: Networking against Female Sexual Slavery*. The Workshop was funded by the U.S. United Methodist Church; various Ministries of the Netherlands government; Erasmus University (which also hosted the Workshop); the Ford Foundation; the Unitarian Universalist Service Committee in Boston; and the L.J. Skaggs and Mary C. Skaggs Foundation for Social Change, based in San Francisco, where Laura Lederer worked as a program officer. Lederer began her career as an anti-pornography and anti-prostitution activist, and rose to become a leading figure in the anti-trafficking movement in the 1990s and 2000s; she founded the Protection Project organization, and also served as a Senior Advisor on Trafficking in Persons in the U.S. Department of State.

⁶⁶³ Kathleen Barry, "Opening Paper," in *International Networking Against Female Sexual Slavery, Global Workshop to Organize Against Trafficking in Women*, ed. Kathleen Barry, Charlotte Bunch, and Shirley Castle (Rotterdam, the Netherlands: International Women's Tribune Centre, Inc., 1983), 22.

by recognizing the universality of women's sexual subordination and their economic dependency on males, drawing parallels between marriage and prostitution.⁶⁶⁴ The 1983 Workshop exemplified the struggle within the international women's movement to construct a common advocacy frame that encompasses the experiences of all women in the North and South and account for the "commonality of patriarchal oppression experienced by all women."⁶⁶⁵

Although workshop discussants presented a wide range of women's rights violations, the central focus of the conference and the subsequent report emphasized sex tourism and the traffic in women from developing countries into industrialized ones for the purposes of prostitution. The Thai case figured prominently in this discussion.

Siriporn Skrobanek represented FOW at the 1983 Workshop, reporting on the complicity of the Thai state and sex tourists in the trafficking and forced prostitution of Thai and women girls. Conference participants indicted the American military as responsible for the rapid growth of Thailand's sex industry, providing the oft-cited statistic that the expenditures of the 700,000 GIs that visited Thailand for "Rest & Relaxation" during the Vietnam War exceeded forty percent of Thailand's exports.⁶⁶⁶ Advocates also decried the practice of GIs "buying young girls from poor families" to serve as *mia chao* ("rented wife") to provide domestic and sexual services.⁶⁶⁷

Thai advocate Sudarat Sereewat presented research on sex tourism in Thailand and West Germany, representing the World Council of Churches Project against Sex Tourism.⁶⁶⁸ Sudarat would later assume a prominent role in the campaign against child prostitution in Thailand, founding an organization to monitor criminal cases against child sex tourists. Finally, Lin Lap Chew from Concerned Asian Women addressed the situation of Asian migrant women trafficked into the Dutch sex industry; she distributed a Dutch brochure advertising sex tours to Thailand for approximately \$160 USD. Picturing nude women wearing numbers, the brochure described Bangkok as "one big brothel!" where "beautiful girls (little SLAVES)" who "have to earn money for the poor family" could be procured "as easy as buying a pack of cigarettes."⁶⁶⁹ The Workshop publication included the text of the brochure in an Appendix to exemplify the "deeply racist and sexist mythology about Thai women and Thai customs to further entice the men . . . and to relieve them of any guilt they may have about the tours."⁶⁷⁰ The contacts established at

⁶⁶⁴ Barry writes that "marriage is the institutional structure which, in requiring economic, personal and sexual dependency of woman on man compels women outside of marriage into either the exploitation of prostitution or as cheap and degraded laborers which may also lead to their exploitation in prostitution. . . . [these are] interrelated inseparable issues: marriage and dependency is central to both the devaluation and marginalization of women's labor and the exploitation of women in prostitution." *Ibid.*, 34.

⁶⁶⁵ *Ibid.*, 53.

⁶⁶⁶ *Ibid.*, 39, quoting Siriporn Skrobanek.

⁶⁶⁷ *Ibid.*

⁶⁶⁸ Interestingly, Barry's commentary regarding the Conference proceedings chastised the World Council of Churches as insufficiently anti-prostitution, as the organization separated child from adult female prostitution and focused its efforts on sex tourism in Asia (rather than focusing on Asian prostitution in general, or prostitution in the rest of the world). Barry critiqued this position as "confusing the issues," arguing "it reveals a different set of standards are employed to determine what is exploitative for different groups. It consequently introduces benevolence toward particular groups . . . instead of asserting a human rights standard that is applied to each individual subjected to degrading, dehumanizing and exploitative practices in female sexual slavery. Consequently, the structure of male domination, the power of economic interests remain masked behind many benevolent efforts." Barry, "Opening Paper," 24–25.

⁶⁶⁹ Barry, Bunch, and Castley, "International Feminism: Networking against Female Sexual Slavery," 123–125.

⁶⁷⁰ *Ibid.*, 123. The brochure reflects orientalist assumptions regarding Thai culture, naturalizing the eroticization and sexual use of minors. The brochure describes alleged traditional practice of poor Thai parents selling their children

the conference between Thai and foreign activists would later serve to facilitate the “boomerang effect” by which the advocacy and publicity generated by allies convinced governments in Europe and Japan to place diplomatic pressure on Thailand to change its policies.

The notoriety of Thailand’s sex tourism industry, its history of American military prostitution, and the traffic in Thai women for prostitution and marriage connected many of the forms of women’s subordination at issue in the 1983 Workshop. The construction of the paradigmatic “suffering third world prostitute” crystallized the worst forms of women’s sexual, economic, and racial oppression, serving as a powerful symbol to mobilize sympathy and public support for women’s causes. The presentations from Thai advocates provided an empirical basis for Western feminists’ critique of the social consequences of patriarchal values and Western men’s sexual exploitation of their sisters in the developing world. Radical feminists drew on the victimist narratives of grassroots activists in Asia to marshal ammunition for their campaigns against sexual violence, pornography, prostitution, and male sexual entitlement back home—and to garner support for interventions abroad.

However, while the meeting brought women’s advocates together from several different countries, the conference was not successful in igniting a strong transnational advocacy network. Recognizing the scale and social acceptance of prostitution in Thailand and the economic exigencies facing poor rural women, pragmatically oriented Thai anti-trafficking NGOs tended to provide information and assistance to women in the sex industry, rather than campaigning to eradicate the institution of prostitution itself. For example, even as they exposed the “sexploitation” of Thai women by foreign men and demanded an end to the trafficking and abuse of women and children in the sex industry, Siriporn and her colleagues developed a Women’s Information Center to assist women migrating abroad, recognizing that many sought to work in foreign sex industries.

Thus, the 1983 Workshop and its emphasis on trafficking marked one battlefield in the ongoing feminist “sex wars,” evidenced by the friction between women’s advocates who sought to combat trafficking by abolishing prostitution and those who sought to reduce trafficking by advancing prostitutes’ rights as workers.⁶⁷¹ For example, although the workshop was co-organized by radical anti-prostitution American feminists including Kathleen Barry, who would go on to found the aggressively abolitionist Coalition Against Traffic in Women, it was also

for approximately \$20 USD to send girls to sex clubs and boys to factories. The brochure also intimates that it is normal for young girls to have sex with older men by explaining a “custom” in Thailand by which a “ripe” girl, around 12 years old, becomes a woman when her father “takes his daughter, by which she loses her virginity.” Ibid., 124. The beautiful girls/”pussycats”/little SLAVES offered on the tour are advertised as 16-24 years old, although men could buy a “special very young girl” for three hours for an additional \$1.60. Ibid., 125.

⁶⁷¹ The conference took place a year after the 1982 Barnard Conference on Sexuality, one of the events triggering the American “feminist sex wars” of the 1980s that mobilized anti-pornography and anti-prostitution feminists as well as those who questioned the singular association of sex with danger, and who came to serve as feminist allies to the sex workers’ rights movement. See Carole S. Vance, ed., *Pleasure and Danger: Exploring Female Sexuality* (Routledge & K. Paul, 1984).

Feminist legal theorist Kathryn Abrams explores the “sex wars,” wherein dominance feminists such as Catherine MacKinnon articulated accounts of “unmitigated sexual subjugation” were challenged by “sex radical” critiques emphasizing women’s agency and the “possibilities of women’s sexual exploration and pleasure.” Kathryn Abrams, “Sex Wars Redux: Agency and Coercion in Feminist Legal Theory,” *Columbia Law Review* 95 (1995): 306–307. Abrams’ work aims to reframe these two positions on a continuum to “formulate feminist theories that highlight both women’s oppression and the possibilities of women’s agency under oppression,” a position that continues to elude feminists on both sides of the prostitution/sex work debates, particularly with regard to trafficking.

attended by Margo St. James, self-identified whore and one of the foremothers of the U.S. movement for prostitutes' rights in the 1970s.⁶⁷² St. James had founded one of the earliest prostitutes' rights organizations, COYOTE (Call Off Your Old Tired Ethics), in 1973 in San Francisco.⁶⁷³ No other sex workers were among the representatives at the Workshop; indeed, they were excluded from panel sessions that were not otherwise open to the public. Although St. James had been one of the two intended invited representatives from the U.S., her status was changed from participant to resource person, and she was only allowed to attend one session to give her report on prostitutes victimized and exploited by police.⁶⁷⁴ In addition, a televised round-table discussion including Barry, Bunch, St. James, and Priscilla Alexander, co-director of the U.S. National Task Force on Prostitution, had been planned to explore the "tension between feminist struggle *against male violence* and feminist struggle *for female self-determination*" by investigating both "sexual slavery or involuntary prostitution" and the "right of women to work voluntarily as prostitutes."⁶⁷⁵ However, Barry declined to discuss these issues with prostitutes at the Workshop or on television, explaining that the conference was "feminist" and thus did not support the institution of prostitution.⁶⁷⁶ Ultimately, a compromise television program dubbed "The Madonna and the Whore" aired, with Barry and Bunch speaking separately from St. James and Alexander.⁶⁷⁷

The widening rift between approaches to prostitution came to a head in the mid-1980s. In the contemporary anti-trafficking movement, this rift has broadened into a chasm.

"Whores of the World, Unite!" The Emergence of "Sex Workers" and the Movement for Prostitutes' Rights

At the same time some women's groups were organizing to oppose prostitution, trafficking and sexual subordination, organizations dedicated to the promotion of prostitutes' rights emerged in France, England, the Netherlands, Canada, Australia, and the U.S. in the 1970s and 1980s.⁶⁷⁸ In the 1970s and 1980s, prostitutes rose up to demand an end to imprisonment,

⁶⁷² Barry founded the Coalition Against Trafficking in Women (CATW) in 1988. CATW identifies itself as the "first international [NGO] to focus on human trafficking, especially sex trafficking of women and girls," and promotes a prostitution abolitionist approach to trafficking. CATW obtained Category II Consultative Status with the United Nations Economic and Social Council in 1989. See <http://www.catwinternational.org/index.php> (accessed December 3, 2011).

⁶⁷³ COYOTE garnered financial support by holding public social events and conventions, such as the "Hooker's Ball," an annual gala event in San Francisco that continues today.

⁶⁷⁴ Gail Pheterson, "Not Repeating History," in *A Vindication of the Rights of Whores* (Seattle, WA: Seal Press, 1989), 18–19.

⁶⁷⁵ *Ibid.*, (emphasis original).

⁶⁷⁶ *Ibid.*, 19.

⁶⁷⁷ "The Madonna and The Whore," Humanistisch Verbond, TV broadcasting on June 3, 1983; interviews by Jeanne Wikler; transcript available in Dutch or English from Humanistisch Verbond, Postbus 114, 3500 AC Utrecht, Netherlands, cited in Pheterson, *A Vindication of the Rights of Whores*, 19, 29.

⁶⁷⁸ For an overview of the history of the sex workers' rights movement, see Melissa Ditmore, *Encyclopedia of prostitution and sex work* (Westport, CT: Greenwood Press, 2006). See also Pheterson, *A Vindication of the Rights of Whores*.

One of the earliest organized protests in the movement for prostitutes' rights emerged in Lyons, France, where prostitutes sent a formal protest to the authorities and press, demanding an end to police harassment and inertia in the investigations of the murder of several sex workers by a serial killer. Notably, Nid, an activist organization that "rehabilitated" prostitutes, joined the protest. When these demands were ignored and police increased fines, around 150 prostitutes occupied a church to stage a press conference on June 3, 1975, calling for a

police abuse, and violence, particularly the low prioritization of criminal assaults or murders of prostitutes. San Francisco's "Scarlet Harlot" Carol Leigh first coined the term "sex worker" in the early 1970s, shifting from the victimist rhetoric of prostitution to a discourse emphasizing worker rights. Margo St. James' COYOTE, discussed previously, pushed for the decriminalization of prostitution. In 1979, St. James and feminist Priscilla Alexander founded the U.S. National Task Force on Prostitution in an attempt to unite the emerging advocacy groups throughout the country.⁶⁷⁹

In 1985, an alliance of Dutch sex workers and COYOTE members organized the first "World Whores' Congress" in Amsterdam, where they formed the International Committee for Prostitutes' Rights (ICPR). The idea to hold the Congress was motivated, in part, by the exclusion of prostitutes' voices from the 1983 Workshop in Rotterdam. Sex workers and their allies mobilized to challenge anti-prostitution feminists' framing of prostitution as sexual slavery and their dismissal of pro-prostitution views as the product of false consciousness, abuse, or poverty.⁶⁸⁰ Congress organizers made an active effort to give voice and priority to "whores' concerns" and to build alliances between feminists and prostitutes.

Approximately seventy-five participants attended the first World Whores' Congress, including prostitutes and allies from six European countries, three Southeast Asian countries, the United States, and Canada.⁶⁸¹ Congress organizers acknowledged that their movement was not yet representative of the global situation of sex workers; for example, only a few Asian countries were represented, and only by activists rather than the prostitutes themselves. However, participants crossed different class, race, sexuality, and work divides, and "feminist migrant women . . . [emerged] as a strong base for networking with prostitutes in as yet unrepresented world regions."⁶⁸² The diverse backgrounds and political interests of Congress participants revealed themselves in the different approaches to prostitution: the ideological approach advocated by European socialist feminists versus the individualist, rights-based, grassroots approach of the ICPR and its membership of organizations formed by prostitutes. The ICPR indicted socialist and communist women's movements as "[opposing] the institution of prostitution while claiming to support prostitute women," chiding feminists for their "hesitation or refusal to accept prostitution as legitimate work and to accept prostitutes as working women."⁶⁸³ The ICPR noted that although many sex workers identify with "feminist values such

response to their demands from prominent parliamentarians. The women hung a banner reading, "Our Children don't want their Mothers in Gaol." Although the women occupied the church for a week, police bearing batons drove them from the church.

⁶⁷⁹ The US National Task Force on Prostitution had achieved non-governmental status with the United Nations; the same was hoped for ICPR.

⁶⁸⁰ Pheterson, *A Vindication of the Rights of Whores*, 20–21. To demonstrate the exclusion of prostitutes' own experiences in Barry's ideological framework, Pheterson quotes Barry's opening essay of the publication documenting the 1983 Workshop:

When the question of 'choice' is taken beyond how it is determined by previous sexual exploitation and violation or by poverty, it brings us to an examination of the validity of the institution from the standpoint of women's responsibility. *We do an injustice to our sex if we do not ask women to be socially responsible for the choices they make.*

Barry, "Opening Paper," 27, in Barry, Bunch, and Castley, "International Feminism: Networking against Female Sexual Slavery."

⁶⁸¹ Hundreds of journalists attended the press conference for the Congress, and its activities were disseminated widely among newspaper audiences in Western Europe and Asia. Pheterson, *A Vindication of the Rights of Whores*.

⁶⁸² *Ibid.*, 26.

⁶⁸³ "Prostitution and Feminism," Lori Gruen and George E. Panichas, eds., "World Whores' Congress Statements," in *Sex, morality, and the law* (New York: Routledge, 1997), 128.

as independence, financial autonomy, sexual self-determination, personal strength and female bonding,” the traditional anti-prostitution stance of women’s movements alienates prostitutes, rather than engaging them as partners for change for the broader liberation of all women. Despite these ideological debates, the Congress successfully drafted the “World Charter for Prostitutes Rights,” including as its main objectives decriminalization, respect for human rights, self-determination in working conditions, health control by sex workers, and public education.⁶⁸⁴

The Second World Whores Congress took place in the European Parliament in Brussels in 1986. Nearly 150 people attended the three-day sessions, over three-quarters of whom were prostitutes, representing sixteen countries in Europe, North and South America, Asia, and the South Pacific. The Second Congress compared the conditions of sex work in the various countries and sought to develop solidarity and ratify the above charter. Panel sessions focused on human rights, legal harassment, health, and HIV/AIDS prevention, as well as a discussion to address the relationship of prostitution and feminism, to “give voice to whores,” and to create alliances across divides including race, class, nationality, and prostitute/non-prostitute.⁶⁸⁵

The Women’s Information Center (WIC), the precursor to the Thai Foundation For Women, sent two representatives to the Second Congress; “Mae” was an activist for prostitutes’ rights studying the situation of Thai women in the Dutch sex industry, and “Sai” was a go-go dancer and prostitute in a sex tourist area of Thailand.⁶⁸⁶ The WIC representatives presented as part of the panel dedicated to human rights issues, sharing information about forced, free, and migratory prostitution of Thai women. Sai spoke about her experiences in the Thai sex industry; she had begun work at fourteen doing voluntary, occasional prostitution at a restaurant, and was later deceived and sold into a brothel until she escaped with the help of a customer, later working as a go-go dancer in a bar catering to sex tourists.⁶⁸⁷ Notably, Sai did not describe her situation as “trafficking,” but rather expressed her frustration with poor working conditions.⁶⁸⁸

Mae spoke as an activist regarding WIC’s work with women in the sex industry. She explained the legal framework that formally criminalized prostitution in Thailand even as it facilitated indirect prostitution in “entertainment” establishments. Evidencing the global notoriety of Thailand’s sex industry by the mid-1980s, Mae noted that the illegality of prostitution “may sound unbelievable because everyone must have heard about Thailand as a paradise for sex.”⁶⁸⁹ Mae explained that Thai prostitutes were subject to arrest, fines, and three months’ imprisonment; she criticized government policies that allowed officials to send women

⁶⁸⁴ *World Charter For Prostitutes’ Rights*, 1985, published in Pheterson, *A Vindication of the Rights of Whores*, 40–43.

⁶⁸⁵ The ICPR called for “alliance between all women within and outside the sex industry and especially affirms the dignity of street prostitutes and of women stigmatized for their color, class, ethnic difference, history of abuse, marital or motherhood status, sexual preference, disability, or weight. The ICPR is in solidarity with homosexual male, transvestite, and transsexual prostitutes.” International Committee for Prostitutes’ Rights, “Statement on Feminism and Prostitution,” European Parliament, Brussels, October 1-3, 1986, in *Ibid.*, 194.

⁶⁸⁶ “Contributors” in *Ibid.*, xiii, xv.

⁶⁸⁷ Sai, “Human Rights: ‘Simple Human Respect,’” in *Ibid.*, 64–65. At fourteen, Sai began working at a restaurant doing off-site prostitution “only when I wanted to”; at fifteen, a “friend of a friend” told her he would take her to the beach, but instead sold her to a brothel, where she had to service fifteen men a day.

⁶⁸⁸ *Ibid.*, 64-65. In her presentation to the Congress, Sai explained the mechanics of bar work, the commissions per drink, “bar fees” to take dancers off site for prostitution, and the poor treatment girls endure from club owners. As Sai explained, “If you don’t have ten men [pay a bar fee] in one month, the bar owner cuts our salary for that month. The boss never takes care of us when we are sick, or when we have problems in the hotel, the boss never cares for us. . . . Also the police never help us. Most people think we are whores and so never worry and never care.” *Ibid.*

⁶⁸⁹ Mae, “Human Rights: ‘Simple Human Respect,’” in Pheterson, *A Vindication of the Rights of Whores*, 66.

to rehabilitation programs without their consent, concluding that “[the rehabilitation] house is more like a prison than a helping place.”⁶⁹⁰ Mae distinguished between three groups of prostitutes: “forced prostitutes,” “so-called free prostitutes,” and Thai women who had migrated abroad for prostitution. She characterized forced prostitutes as girls “from the countryside” who were “deceived by agents or sold by their parents” and suffered poor working and living conditions, little to no freedom of movement, and beatings if they refused to receive clients or obey the owner.⁶⁹¹ Mae recounted one example of forced prostitution in the tourist destination of Phuket in 1984; five women were burned alive in a brothel fire “because they were sleeping after working the whole night and after taking sleeping pills. They were locked in behind iron gates and some of their bodies were chained.”⁶⁹² The case raised alarm in Thailand and international community, and stimulated debates among the emerging NGO community regarding appropriate responses to sex work in Thailand.⁶⁹³ This incident has been recounted, repeated and revised by anti-trafficking activists over the subsequent decades; the victims change from adult women to children ages 9-14 chained to their beds, as indicated on an awareness-raising flyer distributed in night markets and beer bar areas frequented by sex tourists.⁶⁹⁴ Several of my informants who adopted competing views on prostitution/sex work mentioned the galvanizing effects of the 1984 fire. The deployment of these narratives by different NGO groups reveal how exploitation in the sex industry can be strategically used to support both anti-prostitution and sex worker’s rights perspectives – as evidence of forced prostitution or to illustrate the need to address poor working conditions in the sex industry.

For sex workers like Mae and their advocates, the experiences of women forced into exploitative brothels contrasted with the experiences and needs of “free prostitutes” working with sex tourists. Mae explained that tourist-oriented sex workers face different challenges and forms of exploitation, for example tourists who pay bar fees to take a woman out for offsite prostitution, but do not understand that they are to pay the sex worker as well; no time off; pressure from bar owners to accept unwanted clients; and no provisions or compensation for health and welfare needs. Finally, Mae explained WIC’s work with women migrating abroad to work as prostitutes or in the hopes of marrying European men. She indicated that WIC was responding to the emerging phenomenon of Thailand-European migration by making women aware of the possibility of exploitation and deceit “so that they can really succeed in getting what they want.”⁶⁹⁵ Mae concluded by describing an attempt by “free prostitutes” to organize a kind of union called the “Thai Night Guard” in March of 1984. The organization ultimately disbanded due to police harassment, resistance from bar owners, and because women were “pressured by

⁶⁹⁰ Ibid., 65-67.

⁶⁹¹ Ibid., 66.

⁶⁹² Ibid.

⁶⁹³ Global Alliance Against Traffic in Women, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World* (Bangkok: Global Alliance Against Traffic in Women, 2007), 174.

⁶⁹⁴ Child sex tourism awareness-raising flyer, on file with author. The 1984 fire in Phuket, Thailand likely destroyed several sex establishments, and could therefore include brothels with adults as well as child prostitutes.

A Progress Report on the Status of Implementation of the EAP Regional Commitment and Action Plan Against CSEC noted that “the problem of CSEC in Thailand became a public concern and awareness [*sic*] in 1984 when five girls who had been trafficked domestically . . . died in a fire in a brothel in one of the southern provinces. The girls were chained to the iron window bars and – during the fire – had no way to escape and were burnt beyond recognition.” See “Post-Yokohama Mid-Term Review of the East Asia and the Pacific Regional Commitment and Action Plan Against Commercial Sexual Exploitation of Children: Thailand – Country Progress Report,” Nov. 8-10, Bangkok, 2.

⁶⁹⁵ Sai, “Human Rights: ‘Simple Human Respect,’” in Pheterson, *A Vindication of the Rights of Whores*, 64–67.

their families to stop being active because the family would lose face and the stigma was too much.”⁶⁹⁶

In light of growing international attention to trafficking, the Second Congress issued a “Statement on Prostitution and Feminism,” addressing trafficking under a heading entitled “Migration of Women through Prostitution/Trafficking.” The “trafficking of women and children” was identified as “an international issue among both feminists and non-feminists,” and was understood to refer to “the transport of women and children from one country to another for purposes of prostitution under conditions of force or deceit.” While the ICPR was firmly against child prostitution “under any circumstances,” the group demanded recognition of women’s right to choose to migrate as prostitutes, who should not be “assumed to be victims of abuse,” but should be afforded worker rights and protections.⁶⁹⁷ The ICPR defined trafficking as “the transport of women and children from one country to another for purposes of prostitution under conditions of force or deceit.” Although against child prostitution “under any circumstances,” the ICPR objected to trafficking policies that “give women the status of children and which assume migration through prostitution among women to be always the result of force or deceit.”⁶⁹⁸ Rather, the ICPR argued, “it must be acknowledged that [adult] prostitution both within and across national borders can be an individual decision to which an adult has a right. . . . Women who choose to migrate as prostitutes should not be punished or assumed to be victims of abuse.”⁶⁹⁹

The World Whores Congresses served as a forum to inform governments around the world and the public about the abuse of prostitutes’ rights; it also fostered the development of new advocacy frames and movement demands. The connections forged between Thai and Dutch women’s advocates in the early 1980s proved critical to the mobilization of sex workers’ rights organizations and the emergence of an empowerment-based approach to prostitution. The Dutch Foundation Against Trafficking in Women (STV) was officially formed in 1987, funded by the Directorate for Coordination of Emancipation within the Ministry for Welfare and Work Opportunities. STV pursued a campaign to reform legislation, litigate cases, and draw publicity to trafficking. The personal contact between anti-trafficking advocate Lin Lap Chew of STV and Siriporn Skrobanek in Thailand’s FFW grew into a network of organizations addressing trafficking in Asia and destination countries. Bilateral coordination facilitated the channeling of aid from Dutch- and Oxfam-funded research projects and organizations that would otherwise have received no government support. With outside allies and financial backing, progressive social movement organizations were not beholden to the Thai government and could adopt a somewhat more aggressive advocacy strategy, enhancing their ability to navigate between different political fields and appeal to more sympathetic audiences at the international level. As

⁶⁹⁶ Ibid., 67.

⁶⁹⁷ “Statement on Prostitution and Feminism,” in Ibid., 196-197.

⁶⁹⁸ Ibid., 197. The Statement acknowledged the structural dynamics of economic necessity that contribute to migratory prostitution, but in contrast to anti-prostitution feminists at the Rotterdam Workshop, called for increased worker protections and compensation for trafficking victims, rather than rescue and the abolition of prostitution: “For many women, female migration through prostitution is an escape from an economically and socially impossible situation in one country to hopes for a better situation in another. The fact that many women find themselves in another awful situation reflects the lack of opportunities for financial independence and employment satisfaction for women, especially for ‘Third World’ women, throughout the world. Given the increased internationalization of industry, including prostitution, the rights and specific needs of foreign women workers must be given special attention in all countries. . . . Women who are transported under conditions of deceit or force should be granted compensation and choice of refugee status or return to their country of origin.” Ibid.

⁶⁹⁹ Ibid. 196-197.

advocacy networks expanded through the 1980s and more Thai women migrated abroad for sex work, FFW expanded its activities, research, and legal advocacy for trafficked women pursuing prosecution. The group became a center of anti-trafficking activity, and increased its collaboration with organizations abroad to facilitate trafficking prosecutions and assist victims of trafficking through the repatriation process.

The connections forged between key actors and activist-academics at international conferences demonstrate the critical role of rooted cosmopolitans and transnational advocacy networks in the mobilization of the anti-trafficking movement at the domestic, regional, and international levels. The early 1990s proved to be fertile times for the development of Thailand's anti-trafficking movement, and the country would soon become a hub of international networking for anti-trafficking groups promoting the rights of sex workers and migrant women, rather than rescue- and rehabilitation-based interventions. Although debates regarding the nature of prostitution and the "feminist sex wars" continued to rage in the West, Thai advocates recognized the limitations of liberal, individualist rights-based frames. The scale and diversity of Thailand's sex industry, economic reliance on (sex) tourism, and continued resistance to reforms that threatened male sexual privilege made confrontational feminist demands for the abolition of prostitution a politically marginalized and practically unworkable position.⁷⁰⁰ Yet, the emerging discourses in international arena regarding "sex workers' rights" and empowerment lacked both political traction and cultural resonance in Thailand's domestic political field. Consequently, women's advocates avoided ideologically charged strategies in lieu of pragmatic ones. Many activists working to improve the situation of Thai women in the sex industry allied themselves with related social movements, reducing resistance to reforms by strategically "drafting" behind other social movements to reduce social and political resistance to movement claims and to minimize the effort required to maintain the momentum of an advocacy campaign.

Social Movement Drafting: Weaving a Web of Political Opportunity

As explained in Chapter One, the concept of drafting is drawn from racing, where one racer stays close behind another to take advantage of the reduced air pressure created by the leader. Social movement campaigns that are unpopular, threaten the status quo, or advocate claims that do not resonate with local political culture can mobilize in the slipstream of related or allied movements to decrease the effects of political and discursive resistance and exploit the gains of those movements. Drafting is one means by which "frame diffusion" takes place, and it illuminates how strategic framing can reshape the dynamics of domestic political fields.⁷⁰¹ I argue that social movement drafting allows activists to take advantage of the framing and meaning-making work of other movements—and that of activists operating in other political contexts—recuperating and reorienting frames to transform once radical "borrowed ideologies"

⁷⁰⁰ Van Esterik, *Materializing Thailand*. Van Esterik notes that the "moralizing values of Western middle-class oppositional thinking about sexuality and prostitution provide little guidance for interpreting the complexities of the situation in Thailand." Ibid. 195. Instead, "[t]he Thai variant on the global practice of prostitution flourishes partly because of the incredible Thai capacity for tolerance and the high value placed on non-involvement in the business of others. It flourishes because of its importance in the definition of Thai masculinity, and its place in Thai males' nonexclusive options of sexual relations. . . [and] because of the place of sex-work in the economic miracle of Thailand." Ibid., 175-176.

⁷⁰¹ See Snow & Benford's 1999 study of cross-national diffusion in the social movement arena. David Snow and Robert Bedford, "Alternative types of cross-national diffusion in the social movement arena," in *Social Movements in a Globalizing World*, ed. Hanspeter Kriesi, Donatella Della Porta, and Dieter Rucht (New York: Macmillan, 1999), 23-39.

into culturally resonant ideas in the domestic political field. Strategic drafting also exemplifies how networks of rooted cosmopolitans and the transnationalization of social movements can create a global web of connections between different political fields, thereby shifting the distribution of power.

Drafting is a particularly useful tactic where advocates can advance domestic campaigns in the slipstream of international movements, increasing access to resources as well as enhancing the efficacy of pressure strategies by invoking multiple institutions and political opportunities. Where organizations confront political and discursive marginalization, or where activists are mobilizing in a political field that is hostile or resistant to change, drafting behind social movements that have already constructed related campaign issues as politically significant can be a powerful movement strategy.

Two international movements—child rights and the global campaign against HIV/AIDS—formed political and discursive opportunities that facilitated the development of the anti-trafficking movement in Thailand and positioned activists as experts and resources for subsequent state campaigns. The shelter provided by these campaigns afforded Thai women’s groups additional networks of transnational allies on which they could rely and additional frames they could employ to generate change. The experience of Thai women in drafting on these campaigns also illustrated one of the principal risks of that strategy: co-optation and/or alteration of reforms to make them more closely follow the lead movement.

Commercial Sexual Exploitation of Children and the Child Rights Movement: Benefits of Drafting

The rapid expansion of the Thai sex industry in the 1980s and increasing local and international concern regarding the commercial sexual exploitation of children (CSEC) created strategic opportunities for Thai women’s organizations addressing trafficking and prostitution. While adult sex tourism could be explained away as an indirect, if inevitable, consequence of tourism, the trafficking and prostitution of young children meant that Thai policy makers could no longer ignore the threat its extensive sex industry posed to its international reputation. Advocates in Thailand recognized the limitations of pressing for *women’s* rights in the domestic political context. The groundswell of support for *children’s* rights in the 1980s created an opportunity for Thai women’s organizations to “draft” their issues behind larger and better-resourced social movements.

Despite the limited currency of rights in Thailand’s political culture, growing international consensus around the rights of children throughout the 1980s, coupled with increasing exposure of children exploited in forced labor and the sex trade, legitimated “rights” as a vehicle to draw attention to social injustice, advocate for reforms, and claim protection for vulnerable groups. For example, a former prosecutor founded the Center for the Protection of Child Rights (CPCR) in 1981. Initially formed to assist neglected or abused children, CPCR’s mandate expanded in 1985, when the Center began to assist child victims of abuse, trafficking and commercial sexual exploitation. CPCR worked to coordinate a network of state agencies and professionals to address cases of trafficking and child sex abuse, forming the first “multidisciplinary teams” that linked NGO advocates, doctors, lawyers, psychologists, and social workers to plan rescues, assist child-witnesses during criminal prosecutions, and provide rehabilitative services.⁷⁰² The strategy of networking different professionals to facilitate the

⁷⁰² “Structure of CPCR,” <http://www.thaichildrights.org/en/node/13> (accessed November 22, 2011).

investigation, rescue, and protection of abused children eventually served as the model for the Thai government's contemporary anti-trafficking campaign.

In the early 1980s, faith-based organizations began to publicize the exploitation of both natural and human resources in mass tourism. The Ecumenical Coalition on Third World Tourism (ECTWT) was founded in 1982 in Bangkok. Throughout the 1980s, ECTWT commissioned research programs on the social impacts of tourism, and in 1987, it launched an advocacy and action study project focusing on child sex tourism in Thailand, Sri Lanka, and the Philippines. In Thailand, a consulting committee was formed by three core NGOs: the Center for the Protection of Children's Rights, the Foundation for Women, and Friends of Women.

While the Bangkok-based PCR focused on combating the exploitation of young children in tourism-oriented prostitution, organizations formed in the North in response to increasing rates of trafficking of ever-younger girls from ethnic minority communities.⁷⁰³ The sex industry in Thailand had historically been dominated by ethnic Thai and Thai-Chinese women. However, as increasing numbers of Thai women migrated to work abroad, stayed in school longer, or moved into a growing range of alternative occupations, recruiters began to target ethnic minority women and girls.⁷⁰⁴

Anti-trafficking programs and projects to prevent ethnic minority girls' migration into the sex industry emerged among child rights NGOs, women's groups, and faith-based organizations.⁷⁰⁵ One key shelter and rehabilitation program in the North of Thailand is the New Life Center (NLC), an organization that continues to play a critical role in anti-trafficking interventions today. Dr. Paul and Elaine Lewis, American Baptist missionaries who had ministered to tribal people in Northern Thailand for over forty years, became increasingly concerned in the mid-1980s about the increased migration of young hill tribe women to the cities, many of who were tricked or forced into abusive labor situations.⁷⁰⁶ Because the Thai government does not recognize hill tribe people as citizens, hill tribe members lack land tenure and do not have access to secondary education, health care, or legitimate work opportunities. Approximately half of all hill tribe people have received no formal Thai education, and many speak only their tribal language. As such, young hill tribe women migrating to the cities for work are at high risk for trafficking and labor exploitation.⁷⁰⁷ In 1987, the Lewises developed a

⁷⁰³ One early anti-trafficking organization in Northern Thailand is the Daughters Education Programme formed in 1989 by Sompop Jantraka near the Thai/Burma border to "prevent vulnerable girls being forced into the sex industry by funding their education." The organization evolved into the Development and Education Programme for Daughters and Communities, reflecting a broader mandate and new programs protecting boys. See "FAQs," Development and Education Programme for Daughters and Communities, http://www.depdc.org/eng/FAQ/FAQ.html#DEP_1 (last visited Sept. 24, 2011).

⁷⁰⁴ David Feingold, *Trading Women* (Ophidian Films, 2003); Feingold, "The Hell of Good Intentions: Some Preliminary Thoughts on Opium in the Political Ecology of the Trade in Girls and Women." See also Phongpaichit, Piriya-rangsarn, and Treerat, *Guns, Girls, Gambling, Ganja: Thailand's Illegal Economy and Public Policy*, 176. Pasuk observes that though virtually all recruits into prostitution used to be young Thai women, recruiting agents sought *dek nok* "outside" or "foreign kids") to supply demand for very young girls, and by the early 1990s, targeted migrant women from Burma, Southern China, and Laos. *Ibid.*

⁷⁰⁵ Christina Arnold and Andrea Bertone, "Addressing the sex trade in Thailand: Some lessons learned, Part I," *Gender Issues* 20, no. 1 (2002): 26-52.

⁷⁰⁶ New Life Center Foundation, "History," available at <http://www.nlcfoundation.org/history/index.html> (last visited Mar. 10, 2010).

⁷⁰⁷ Feingold, "The Hell of Good Intentions: Some Preliminary Thoughts on Opium in the Political Ecology of the Trade in Girls and Women." Feingold ties the trafficking and prostitution of increasing numbers of ethnic minority women in Thailand's sex trade to socio-economic breakdown due to the Thai government's (U.S.-sponsored) war on drugs: as opium suppression and crop replacement programs diminished supply, highlanders no longer grew enough

residential center to house the first eighteen young tribal women rescued from situations of abuse at home and in the sex industry, giving them the opportunity to attend government-sponsored adult education and vocational training programs.⁷⁰⁸ Several of the residents have since become counselors and staff members at NLC after graduating from vocational school or college, and continue working with communities and girls of their own ethnic group. The NLC's connections to American faith-based groups (and church collection plates) proved to be critical in raising the international profile of sex trafficking in Northern Thailand in the 1990s, ultimately altering the trajectory of the anti-trafficking movement, as we shall see in the following chapter.⁷⁰⁹

The exploitation of children in Thailand's sex industry figured prominently in the international movement for child rights. In 1990, researchers at a tourism consultation in Chiang Mai, Thailand, met to assess the escalating phenomenon of commercial sexual exploitation of children in many Asian tourist destinations. Distinguished figures in Thailand's child rights movement attended the conference as resource persons and keynote speakers, including Professor Vitit Muntarbhorn, UN Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography from 1990 to 1994 and Executive Director of Child Rights Asianet; and Dr. Saisuree Chutikul, Advisor to the Office of Permanent Secretary in The Prime Minister's Office and Thailand's representative to UN Commission on the Status of Women. Both Dr. Saisuree and Professor Vitit are Western-educated Thai who returned to their homeland to assume highly visible posts in political- and academic-activist circles. Bridging political and NGO worlds, these rooted cosmopolitans served as links between domestic and international social justice movements and significantly raised the profile of children's rights, women's rights, and human rights in Thailand's domestic political field.⁷¹⁰

After the 1990 conference, a three-year campaign to address the commercial sexual exploitation of children (CSEC) in Asia was developed in the form of End Child Prostitution, Child Pornography & Trafficking of Children for Sexual Purposes (ECPAT).⁷¹¹ Based in

for their own use, and turned to buying heroin, which was relatively cheaper but more potent. Cultural constraints regarding drug use also broke down, and governmental detoxification programs placed highland opium smokers in treatment with lowland heroin users. Previously rare among hill tribe members, heroin use – first through smoking and subsequently through injection – facilitated “the transmission of HIV at the same time as the need for cash pushed more daughters into the sex trade who are likely [to] return infected to the villages.” Ibid. Imprisonment for drug offenses and the growing number of people living with HIV/AIDS further decimated the economic and social stability of hill tribe families, in turn pushing young women and girls vulnerable to trafficking and labor exploitation to migrate to urban areas to find work.

⁷⁰⁸ The NLC opened a Chiang Rai house in May 1997 to provide housing and education for girls at-risk of trafficking, prostitution, or abuse. The Center is supported by the Royal Thai Government Department of Education, which provides teachers for the adult school. The school is also funded from Dutch organization Beter-uit Reizen; it remains the only full-service non-formal education available in the Chiang Rai province.

⁷⁰⁹ New Life Foundation, “About Us,” <http://www.nlcfoundation.org/aboutus/index.html>. Today, the NLC has redefined its mandate to recognize a broad range of exploitative labor and migration including, but not limited to, abusive domestic labor situations, factories, fisheries, forced begging, arranged marriages, and/or the sex trade industry.

⁷¹⁰ Vitit Muntarbhorn is a graduate of Oxford University, a barrister of the Middle Temple in London, and is Professor of Law at Chulalongkorn University in Bangkok. Professor Vitit has taught at a number of human rights institutions around the world, including in the United Kingdom, France, Canada, Switzerland, Denmark and Austria. He is recognized as an expert on human rights issues in Asia, and is also a member of the academic advisory board for the Asia Pacific Forum of National Human Rights Institutions. Interestingly, Professor Vitit wrote Thailand's first report for the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

⁷¹¹ Key figures in the ECPAT campaign include Dr. Koson Srisang, the Executive Secretary of ECTWT at that time, who initiated the study “Tourism and Child Prostitution in Asia”; the Reverend Ron O'Grady, who had

Bangkok, ECPAT began to develop relationships with the media, police authorities, state institutions, and international organizations. The work of ECPAT laid the foundation for future anti-trafficking campaigns, as it agitated for countries to redraft extraterritorial laws and extradition agreements that hindered efforts to prosecute foreign child sex offenders in Thailand. The first international consultation to address CSEC was held in Thailand in 1992, including children as active participants in the discussions. The conference concluded that given the lack of government action, advocacy targets should not be limited to national laws, but should emphasize the international scope of the problem to press for coordinated enforcement. ECPAT expanded its network to include European NGOs and international organizations including the ILO, the WTO, and Interpol. Sudarat Sereewat, director of the original study project, served as the head of ECPAT; in 1995, she formed her own organization, FACE (Fight Against Child Exploitation), to monitor prosecutions of foreign child sex abusers, oppose extradition, and demand convictions in Thai courts.

After the consultation on CSEC NGOs began to engage the legal system as both watchdogs and victim/witness assistance and service providers. As the Thai government's tolerance of child prostitution was documented and publicized by Thai NGOs, faith-based organizations, and international organizations, it became increasingly responsive to the issue to repair its international image. In 1992, Thailand acceded to the 1989 Convention on the Rights of the Child (CRC), but with reservations regarding Article 7 (the right to acquire a nationality), Article 22 (child refugees), and Article 29 (child education). These reservations allowed Thailand to avoid providing social welfare assistance and protection to innumerable refugee children and to preserve its policies governing hill tribe communities living within its borders. Ultimately, the Thai government's inadequate response to the trafficking and commercial sexual exploitation of vulnerable children would provide NGOs a political opportunity to utilize shaming techniques to pressure the state for substantive reforms in the coming years.⁷¹²

As key movement actors formed new NGOs and collaborated with other foundations and rooted cosmopolitans to form advocacy networks, they cross-fertilized both the child protection and women's movements. Organizations developed an informal division of labor—some provided victim services to both women and children, while others worked to prevent trafficking through education programs in villages or to provide information to women migrating abroad. In Thailand's hierarchical and status-oriented political field, the recruitment of elites, respected academics, and high-ranking police, prosecutors, and politicians to serve on the executive boards of organizations addressing the prostitution and trafficking of children attracted public attention and legitimized reform efforts. Women's organizations strategically drafted behind the moral mandate of the less controversial child's rights movement, expanding the identity of the child sex abuse victim to encompass young, naïve women trafficked into the sex industry. Connecting

worked on tourism issues for several years and was a committee member of ECTWT; and Sudarat Sereewat (Srisang), a director of the original study project and the researcher on Thailand. Sudarat and June Rogers, co-pastor of the International Church of Bangkok, were co-directors of the study on "Tourism and Child Prostitution in Asia." See ECPAT, "Who We Are," http://www.ecpat.net/EI/Who_We_Are/History/index.asp

⁷¹² In response to the reservations of Thailand and similar reservations by Myanmar (regarding freedom of association and peaceful assembly, and preserving the power to arrest, investigate, detain, and imprison children to protect the "supreme national interest"), the government of Ireland announced that it considered such reservations as "seek[ing] to limit the responsibilities of the reserving State under the Convention, by invoking general principles of national law," asserting that the reservations "may create doubts as to the commitment of those States to the object and purpose of the Convention." See CRC,

<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty19.asp#N32>.

complex social problems through the image of the innocent, sexually exploited Thai child created an issue cluster around the rights of victimized women-and-children. Newly formed Thai women's groups collaborated with organizations in the child rights movement, effectively challenging the naturalization of prostitution and official tolerance of exploitation in the broader sex industry.

Strategic frames focusing on the sexual abuse of young children by foreign men cleared a political path to challenge the status quo by exposing the harmful social consequences of the government's promotion of sex tourism.⁷¹³ Although the largest demand for child prostitution was actually among local Sino-Thai men, emphasizing the perverse desire of sex tourists for young Thais projected the problem onto foreigners and made it easier to generate domestic support for reform. As one legal activist explained, "We could only get the government to pay attention [to exploitation in prostitution] when I started talking about the rape of *boy* prostitutes by foreign pedophiles. The prostitution of young girls was so common that it was normal—the politicians, police, and court officials didn't even see it as a problem."⁷¹⁴ Foreign sexual predators preying on Thai children became politically significant when framed as outside the ambit of "normal" prostitution practices, particularly when presented as a serious violation of boys' rights and bodily integrity.⁷¹⁵ Activists also appealed to male policy makers' sense of social responsibility and protectionist sentiments, reframing social movement demands regarding prostitution reform not as a frontal assault on male privilege, but as an opportunity for politicians to demonstrate their commitment to the protection of Thai families, morals, and national integrity from degradation by prurient foreigners.

By reorienting social norms regarding sex, gender, age, and ethnicity, advocates were able to draw enough attention to trafficking and exploitative prostitution of women and gain the political support necessary to launch national campaigns to address the issue. "Thai-style" NGOs advocated for the interests of poor, rural women and girls at risk of trafficking even as they provided services to ameliorate the government's incapacity (or lack of political will) to respond to trafficking and commercial sexual exploitation.⁷¹⁶ For example, the Foundation for Women (FFW), initiated as an information and assistance center for Thai women migrating abroad, expanded its activities by launching a community-based education project in 1988 called the Kamla Project. The project informed rural communities of the problem of child prostitution and the conditions of work in the sex industry, countering the misinformation and propaganda spread by agents working for national and international trafficking networks. Schoolchildren in the North and Northeast were targeted as at risk for entering prostitution and vulnerable to

⁷¹³ Interview with Pornpit, women's and children's rights activist, June 14, 2005.

⁷¹⁴ Interview with Suchada, legal advocate and child rights activist, June 16, 2005.

⁷¹⁵ A pamphlet by the National Commission on Women's Affairs highlighted the Thai government's commitment to eradicate the involvement of children in the commercial sex industry as a state party to the Convention on the Rights of the Child. The pamphlet highlights several cases of foreign child abusers who had been arrested on child sex abuse and child pornography offenses, documenting cooperation between Thai and European authorities to catch offenders who had skipped bail and try them in their home countries. The pamphlet notes that although there are a number of children involved in commercial sex in Thailand, they are "not willing victims," and reminds the reader that "giving money to children in exchange for sexual favours is no way to help them. It harms the children both psychologically and physically." *NCWA Pamphlet*, on file with author.

⁷¹⁶ Amara Pongsapich notes that work of "Thai-style" NGOs to address gaps in governance and services to marginalized constituencies may in fact serve to legitimate governmental inadequacy or lack of political responsiveness to movement demands. See Amara Pongsapich, "Thai Political Space for Advocacy," in *Breaking Through: Political Space for Advocacy in Southeast Asia*, ed. Joel Paredes, Marisa de Guzman, and Eltheodon Rillorta (Quezon City, Philippines: SEACA Secretariat, 2007).

trafficking, so the Kamla project created a cartoon textbook to educate them about the dangers of trafficking. Ostensibly based on the true story of one of the four girls to die in the 1984 Phuket brothel fire described above, the cartoon traces the life of Kamla, a thirteen-year-old girl from a poor peasant family who was lured into prostitution and subsequently sold from one brothel into another, where she was locked up, brutally beaten, and forced to have sex. The story concludes with her tragic death and her broken-hearted family.

Anti-trafficking organizations' efforts to raise awareness about trafficking and forced prostitution in at-risk communities ultimately provided a significant service for the state, as advocates could reach communities that were isolated, alienated, or mistrustful of the government. The sympathetic figure of the young girl trafficked into forced prostitution not only served to raise awareness among children and parents in rural areas, but also posed a challenge to the state by highlighting the inadequacy of the government's response to the problem of child prostitution. Thus, NGOs positioned themselves as governance-service-providers and key partners in government reform efforts. The advocacy efforts of domestic NGOs, combined with the momentum of the international child rights movement and the emergence of the HIV/AIDS epidemic, eventually pushed the Thai government to take steps to address trafficking and child and forced prostitution.

Repressive Implementation: The Downside of Drafting on the Child Rights Movement

“[From 1960 to 1991, many Thai governments have] tried to stem the tide of prostitution but much has also resulted in lip service. More often than not, they seem to wait for a catalytic incident . . . before pushing the authorities to take action and where action is taken the fervor dies down after a period.”⁷¹⁷

Vitit Muntabhorn, law professor and child rights activist

By 1990, Thailand had at least four separate legal regimes governing aspects of trafficking and prostitution: the 1928 Trafficking in Women and Girls Act; the 1960 Suppression of Prostitution Act; the Entertainment Places Act of 1966; Penal Code provisions criminalizing procurement, rape, and sex with minors; and certain provisions of the 1979 Immigration Act.⁷¹⁸ In 1991, Dr. Saisuree Chutikul, in her position as Minister to the Office of the Prime Minister for Women, Children, Youth, Education and Social Development, introduced a bill seeking to legalize prostitution by women over eighteen years of age who were working voluntarily and regularly checked their health. In so doing, Dr. Saisuree hoped to focus law enforcement efforts on forced and child prostitution and trafficking. Although the bill lapsed at the close of the Anand administration, Saisuree was able to achieve some reforms, including the creation of an anti-prostitution unit within the Crime Suppression Division with national jurisdiction, tasked with rescuing those forced into prostitution, particularly children.

⁷¹⁷ Vitit Muntabhorn, “A Scourge in Our Midst,” *Bangkok Post*, November 13, 1992.

⁷¹⁸ In 1990, the Immigration Act provided that any person who “brings or takes an alien into the Kingdom...shall be imprisoned for not more than ten years or fined not more than 100,000 baht (\$4000).” The Act also provides that any person who is aware of an alien’s illegal entry into Thailand, but “despite such knowledge provides accommodations, hiding place or assistance . . . shall be imprisoned not more than five years and fined not more than 50,000 baht [\$2,000].”

Under pressure from the U.S. and the European Union, Prime Minister Chuan Leekpai announced a national campaign to eradicate child labor exploitation on November 3, 1992.⁷¹⁹ Almost immediately thereafter, a young woman was found dead outside the Social Welfare Department in Songkla, where she had sought help after her escape from a brothel. The government's campaign against child labor shifted to focus almost exclusively on child prostitution.⁷²⁰

Chuan pledged to get "concrete results" within three months and, for the first time, publicly committed to crack down on official involvement in trafficking and forced prostitution among corrupt police, border guards, and military personnel.⁷²¹ Days after the announcement, the Minister of Interior, General Chavalit Yongchaiyudh, announced that he wanted all brothels shut down in two months.⁷²² The crackdown was a response to political and economic pressure from foreign governments, in addition to the increasing domestic public awareness generated by local and international child rights organizations.

Referring to threats by the U.S. Congress to deny trade preferences to countries making use of child or forced labor, Chuan explained to Thai journalists, "Thailand's trading partners would boycott our products if these two problems continue to exist."⁷²³ However, Chuan made sure to distinguish between the crackdown on child prostitution and forced prostitution, and official toleration of the broader sex industry: "I won't talk about what is impossible, if the problem cannot be solved, I won't order the authorities to tackle it."⁷²⁴

The task force faced significant barriers to implementing its mandate: in addition to lack of cooperation from local police, Police Colonel Bancha Charusareet, head of the former unit, explained that the taskforce was "supposed to raid every brothel that has child prostitutes or detains unwilling girls for prostitution anywhere in the country, but it has a staff of only six people and one vehicle."⁷²⁵ Other officials, including a high-ranking police chief, were reluctant to disrupt the status quo, arguing that sex-related crimes would rise if brothels were closed, as men would suffer "a lot of pent-up sexual aggression" with no place to satiate their "sexual desires."⁷²⁶

The *Bangkok Post* reported nine brothel raids by the police in 1991, and a series of high profile raids continued through 1993; most of those rescued were women and children from Burma, exposing the presence of migrant sex workers, often in highly exploitative brothel

⁷¹⁹ Chuan charged provincial governors that they must "take responsibility and give special attention to child prostitution and child labor abuse," noting that in some areas of Thailand these problems were caused by police and military officers and that Thailand's "problems . . . will be less if the ones who have the weapons and enforce the law are not the sources of the involvement." See "Chuan Demands End To Child Exploitation," *Bangkok Post*, November 3, 1992.

⁷²⁰ Global Alliance Against Traffic in Women, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*, 175.

⁷²¹ "PM Gives Himself 3-Month Deadline To Curb Child Sex," *The Nation*, November 14, 1992.

⁷²² "Chavalit Wants All Brothels Closed," *Bangkok Post*, November 7, 1992.

⁷²³ The FY 1994 U.S. Appropriations Act for the Department of Labor directed the U.S. Secretary of Labor is directed to identify foreign industries that utilize child labor in the manufacture or mining of products exported to the U.S.

⁷²⁴ Prime Minister Chuan Leekpai quoted in "PM Gives Himself 3-Month Deadline To Curb Child Sex," *The Nation*, November 14, 1992.

⁷²⁵ Police Colonel Bancha Charusareet, *The Nation*, November 11, 1992.

⁷²⁶ "Police Chief Links Brothel Ban with Rise in Sex Crime," *Bangkok Post*, November 11, 1992.

conditions.⁷²⁷ Women and children were either summarily deported or transferred to the Immigration Detention Center for three to six months before deportation, and upon their return to Burma, many deported women were arrested for prostitution or illegal immigration by Burmese authorities. During one 1992 raid in Ranong, fully armed police stormed a brothel in the middle of the night and released one hundred fifty Burmese women. However, the women were initially sent to a police detention cell and locked in “cramped and frightening conditions,” while all the personal possessions of the women were confiscated and never returned.⁷²⁸

As an alternative to summary deportation or immigration detention, Dr. Saisuree attempted to divert rescued girls and women to the penal reform institution of Pakkret to await official repatriation in cooperation with Burmese authorities. Despite criticism of the repatriation plan from some anti-trafficking activists, including ECPAT, Dr. Saisuree, now an advisor to the new Chuan Administration, argued that repatriation was appropriate because Burmese women and girls were not classified as refugees and were in Thailand illegally without a legal right to remain. She claimed that authorities of the Burmese military regime had assured Thai officials that the repatriated women would not be harmed and could be visited for follow-up assessments of their well-being.⁷²⁹ “Rescued” victims of trafficking were in fact arrested, fined, and deported for illegal immigration and prostitution offenses, in violation of Thai domestic law and international anti-trafficking norms.⁷³⁰

The well-publicized police raids did little to address the core problems facing underage and migrant sex workers. The Foundation for Women observed that while the crackdown did work to raise the average age of sex workers in open sex establishments, most child prostitution went underground or became disguised as indirect prostitution out of restaurants or tea houses.⁷³¹ Moreover, despite the objections of Thai NGOs, in late 1992 the Chuan Administration disbanded the Crime Suppression Division’s anti-prostitution taskforce, which had authority to override local police to address child and forced prostitution directly. The taskforce was replaced by the Coordination Center for the Prevention and Suppression of Child Prostitutes and Child Labor Abuse, which was required to maintain a database on brothels and to coordinate raids and rescues with local police—many of whom were suspected of being “actively involved in the sex trade or on the payroll of the brothel owners.”⁷³² Consequently, the majority of recruiters, pimps, and brothel owners were largely unaffected by the campaign, and not a single law enforcement or immigration officer was prosecuted or punished for involvement in trafficking or the sex industry.⁷³³ The crackdown also had the effect of raising the requisite bribes for police “protection,” which served to increase the fee to customers for short-term services; the increased

⁷²⁷ Global Alliance Against Traffic in Women, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*, 174.

⁷²⁸ Ibid.

⁷²⁹ “Saisuree Defends Plan To Repatriate Burmese Women,” *The Nation*, August 20, 1992.

⁷³⁰ See Human Rights Watch, “Trafficking of Burmese Women and Girls into Brothels in Thailand,” January 31, 1994. New York. Available at http://hrw.org/english/docs/1994/01/31/thaila4171_txt.htm

⁷³¹ Phongpaichit, Piriyaarangsang, and Treerat, *Guns, Girls, Gambling, Ganja: Thailand’s Illegal Economy and Public Policy*, 177–8. Drawing on reports from a Foundation for Women social worker based near the Thai/Burma border, Pasuk notes that the crackdown effectively raised the average age of sex workers in open sex establishments in Chiang Rai to 18-20 years old; in Ranong, the age of sex workers in “rented houses” raised to 20-40.

⁷³² *The Nation*, December 26, 1992, cited in Human Rights Watch, “A Modern Form of Slavery,” note 80.

⁷³³ Dorothy Thomas, Asia Watch Committee (U.S.), and Women’s Rights Project (Human Rights Watch), *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand* (New York: Human Rights Watch, 1993).

overhead was defrayed by requiring both voluntary and involuntary women in prostitution to work harder and accept more clients, creating incentives to submit to unsafe (but more lucrative) sex practices.

Officials also ignored calls for reforms from local women's NGOs seeking to increase penalties for trafficking and procurement, end the remand of prostitutes and trafficking victims to penal reform institutions, and increase prosecutions of statutory rape. However, in 1991-1992, after a series of high-profile cases involving women trafficked to Japan and a decade of campaigning by women's NGOs, the Thai government became increasingly responsive to efforts to assist trafficked Thai nationals.⁷³⁴ The government had also pledged to prevent the entry of Thai children into the sex trade by increasing education and social services.⁷³⁵ Thus, local NGOs succeeded in pressuring the government to reform by creating a sympathetic victim—publicizing stories of the commercial sexual exploitation of innocent Thai children and the trafficking of dutiful Thai daughters migrating abroad to support their families, only to fall prey to the *yakuza* and suffer sadistic sexual abuse from Japanese men.

Inconsistencies, overlapping mandates, contradictions in the legal status of prostitution, and the complicity of immigration and local officials in trafficking and the sex industry encouraged selective enforcement and corruption among enforcement officials.⁷³⁶ The frames that had worked so well to motivate the government to assist Thai children who were victims of trafficking did not resonate the same way when the victims were ethnic minorities or Burmese.

The Chuan administration's campaign against forced and child prostitution was dominated by a law enforcement approach that legitimated the arrest and deportation of migrant

⁷³⁴ Between September 1991 and June 1992, trafficked Thai women were involved in nine murder cases in Japan, six of which involved Thai mamasans. Phongpaichit, Piriyarangsan, and Treerat, *Guns, Girls, Gambling, Ganja: Thailand's Illegal Economy and Public Policy*, 171.

⁷³⁵ In an attempt to prevent the migration of Thai children and deter entry into prostitution, Prime Minister Chuan pledged to increase poor children's access to education and to extend compulsory education to grade nine in its Eight National Development plan (1996 – 2001). Chuan charged the Department of Public Welfare with finding a solution to the problem of child prostitution. The Department developed two projects, Female Youth Education to Prevent Exploitation, and Creating New Life for Rural Women. The programs attempted to reduce the trafficking of young Thai women by extending vocational training scholarships to girls who finished six years of compulsory education. Amara Pongsapich and Nitaya Katalaeradabhan, *Thailand Nonprofit Sector and Social Development* (Bangkok: Chulalongkorn University Social Research Institute, 1997), citing CUSRI 1996.

In 1993 – 1996, the budget was 180 million baht. The Ministry of Education initiated a similar program in 1992 called *Sema Phatthana Chiwit* (Sema Life Development Project) to provide scholarships for day school and boarding schools, targeting young girls from Northern provinces at high risk of entering the sex trade. Some of the girls selected for the program had already been sold to an agent for prostitution, and teachers had to convince the girls' parents or guardians to persuade them to allow the girls to return to school.

Interestingly, the Sema Life Development Project also involved UNICEF, in collaboration with the Ministry of Education and Dusit College of the Dusit Thani Hotel, to support a two-year training course in hotel hospitality to recipients of Sema scholarships who complete their lower-secondary education.

⁷³⁶ Thomas, Asia Watch Committee (U.S.), and Women's Rights Project (Human Rights Watch), *A Modern Form of Slavery*. some of the legal inconsistencies as follows: “[T]he Penal Law severely penalizes persons who have sex with minors, the Anti-Prostitution law does not; the Anti-Trafficking law exempts women trafficked into prostitution from imprisonment or fines; the Anti-Prostitution law makes no such exemption; the Suppression of Prostitution Act penalizes prostitution, the Entertainment Places Act, at least indirectly, regulates and even taxes it.”

The report cites the 1992 U.S. State Department Country Reports on Human Rights Practices, which found that “senior [Thai] government officials have cited corruption as a major factor in police willingness to turn a blind eye to the problem. Reliable sources report that police can earn \$120-200 per month in protection fees.” United States Department of State, *Country Reports on Human Rights Practices 1992* (Washington D.C: U.S. Government Printing Office, 1993), 667.

women and children under the guise of “rescues.” A widely circulated Asia Watch report on the situation of Burmese women and girls held in captivity in some Thai brothels observed, “the main target of [Thailand’s] highly publicized crackdown on forced and child prostitution has been the victims themselves.”⁷³⁷ The report emphasized that the Thai government’s treatment of Burmese trafficking victims “contrasts sharply with its efforts on behalf of Thai women trafficked into Japan and subsequently arrested as illegal immigrants,” where Thai officials urged Japan not to imprison Thai migrants for illegal entry, to protect Thai women from “gangster bosses,” and to pay for the costs of repatriating victims back to Thailand.⁷³⁸ However, this protection came at a cost, as the Thai government also began to institute measures to restrict Thai women’s freedom of movement.⁷³⁹

The HIV/AIDS Epidemic: Drafting Behind the Health of the Nation

Although Thai women from poor areas of the North and Northeast continued to enter the sex trade, many were able to take advantage of the alternative foreign employment, factory work, while other sex workers moved into the upper end of the sex trade in Bangkok, Japan, and Hong Kong. At the same time, demand for commercial sex grew as economic expansion in Thailand increased the tourist trade as well as Thai men’s disposable income, resulting in the need to expand the pool of recruits outside of the Thai and Chinese women who traditionally predominated in the sex industry.

Thailand recorded its first HIV case in 1984, surfacing among brothel sex workers in the North and spreading with particular virulence in brothels stocked primarily with Burmese women along the Thai/Burma border. Women’s activists in the North explained that as clients—both local men and foreign sex tourists—became wary of the disease, demand rose for younger, more inexperienced sex workers in an attempt to avoid contracting the virus. Several informed participants whom I met attributed the increase in child sex trafficking and prostitution directly to clients’ fears of contracting HIV. Virgins and young ethnic minority girls from remote hill tribe communities were especially sought after by the late 1980s, as clients assumed them to be less likely to be infected than experienced Thai prostitutes who had worked in the sex industry longer.⁷⁴⁰ Brothel agents and traffickers expanded recruitment into the borderlands of Northern Thailand and into Burma. Migrant women and girls were attractive because they were cheaper and easier to control than local sex workers, as they had often entered Thailand illegally, lacked language skills, and had no local contacts. Young and underage migrant girls had difficulty

⁷³⁷ Human Rights Watch, “Trafficking of Burmese Women and Girls into Brothels”, January 30, 1994, http://hrw.org/english/docs/1994/01/31/thaila4171_txt.htm.

⁷³⁸ Ibid. After the Japanese government announced a planned crackdown on illegal immigrants in August 1993, the Thai officials urged Japan to “waive the use of jail as a punishment for all Thais facing arrest and secure reliable measures to protect Thai women from harassment by their Japanese gangster bosses.” Kyodo News Service, July 27, 1993 in Foreign Broadcast Information Service FBIS-EAS-93-143, July 28, 1993, p. 78.

⁷³⁹ The U.S. Department of State’s 1996 Thailand Report on Human Rights Practices for 1996, released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997, noted that the Thai government had re-instituted enforcement of a statute dating to the previous century that required a woman to obtain her husband’s permission before traveling outside Thailand. In addition, female passport applicants under the age of thirty-six were required to submit to a series of interviews to determine their employment records and finances, and passport applications by single women and children under fourteen were subject to the approval of the Department of Public Welfare. Thus, protectionist regulations aimed to reduce trafficking in women and children for the purposes of prostitution were implemented so as to infringe on their rights to travel freely.

⁷⁴⁰ Interview with Lek, child rights activist with faith-based organization, April 13, 2005.

finding work in open prostitution in bars, so many resorted to engaging an agent and were often sold into brothel prostitution, working in extremely risky conditions and servicing many clients each day. NGO activists found that ethnic minority girls brought to agents were on average fourteen to nineteen, but some were very young.

A girl from the Akha hill tribe was sold for 2,000 baht (US \$80) when she was 10. She was later sold to a brothel in the south for 40,000 baht (US \$1600). She worked in the brothel for six years before being helped by the police.⁷⁴¹

In addition to the increased trafficking of young ethnic women into urban areas, “trekkers” and sex tourists began to go directly to the villages to find young women for one-off or transactional sex. Others bought young girls to keep as temporary or seasonal “wives,” paying parents to reserve their daughter for future visits to the village. According to the Foundation for Women, some businessmen from Hong Kong arranged for local agents to find young virgins.⁷⁴² Japanese and Chinese sex tourists, in particular, created demand for young virgins (often sold as “virgins” many times over), as deflowering a girl was thought to restore man’s vitality.⁷⁴³

Other tourists traveled to highland villages in pursuit of the “natural” sexuality presumed to be traditional among hill tribe people. A shelter operator explained the conditions of the sex industry during the period by telling me about one of her cases involving a nine-year-old Akha girl: an America trekker traveled to a remote hill tribe village and paid the equivalent of two dollars to have the girl perform oral sex on him, paying slightly more than the usual fee so that she would wear her traditional costume and coined headdress to create a more “authentic” cultural experience with “clean” native girls free from HIV.⁷⁴⁴ Unfortunately, children in prostitution and young, inexperienced sex workers were actually *more* susceptible to HIV infection, due to the increased likelihood of tearing and vaginal lesions and an inability to negotiate condom use with brothel owners and clients. In addition to early entry into the sex trade, being non-Thai was a primary risk factor in contracting HIV.⁷⁴⁵

The Thai government initially resisted efforts to raise awareness about HIV/AIDS, fearing that official campaigns would hurt the tourist industry and arguing that it was a foreigners’ disease. The 1987 “Visit Thailand” international tourism campaign included efforts

⁷⁴¹ Skrobanek, Boonpakdi, and Jantakeero, *The Traffic in Women: Human Realities of the International Sex Trade*, 34.

⁷⁴² *Ibid.*, 34–35.

⁷⁴³ Feingold, “The Hell of Good Intentions: Some Preliminary Thoughts on Opium in the Political Ecology of the Trade in Girls and Women.”

Note that government advisor Dr. Saisuree Chutikul, acting in her capacity as inspector general on women, youth, and education of the Office of the Permanent Secretary, the Prime Minister’s Office, stated that the majority of demand for virgins comes from wealthy Sino-Thai, not foreign (or Western) sex tourists; as Saisuree explained, “Chinese men have an idea that sleeping with young girls will keep them young, so they will seek out young girls. This was happening long before the tourists came.” *Quoted in* “PM plays down American TV programme,” *The Nation*, June 10, 1990.

⁷⁴⁴ Interview with Noi, ethnic minority activist at a faith-based organization, April 2, 2005.

⁷⁴⁵ In a study of 800 commercial sex workers, the overall prevalence rate of HIV-1 was 22%. The infection rate was 36% among those who were 12-15 when they entered the sex trade, while the prevalence of infection dropped to 11% for those who began sex work at age 21 or over. GJP van Griensven et al., “Socio-economic and Demographic Characteristics and HIV-1 Infection Among Female Commercial Sex Workers in Thailand,” *AIDS Care* 7 (1995): 557-565.

to deny and repress news about HIV.⁷⁴⁶ NGOs were the first to raise awareness about the issue; EMPOWER foundation first began its “safe sex” programs in 1986, distributing AIDS flyer in Patpong and publishing the first community AIDS education book in Thailand in 1987.⁷⁴⁷ EMPOWER’s AIDS education campaign “allowed EMPOWER to go inside many more bars, and established relationship[s] with owners as well as promote ... [its] education program.”⁷⁴⁸ Despite the Thai government’s reluctance to jeopardize the tourism industry, by the late 1980s, the HIV/AIDS problem was too large to ignore. Although the initial spread of HIV was largely attributed to injection drug practices, by the late 1980s, increasing numbers of people had been exposed to the virus through commercial sex and heterosexual transmission.⁷⁴⁹ One 1989 study found that forty-four percent of sex workers in the northern city of Chiang Mai had been infected with HIV; the virus spread from sex workers to their clients, and then to clients’ wives and finally children.⁷⁵⁰ In hill tribe and Burmese villages unprepared for the public health crisis, HIV spread unchecked as a result of injection drug users and infected girls and women sent home from Thai brothels when they were too ill to continue working.⁷⁵¹

Frustrated with the government’s refusal to acknowledge the looming HIV/AIDS crisis, Senator Mechai Viravaidya, Cabinet member and former Secretary General of the Planned Parenthood Association of Thailand, launched a personal crusade against the spread of HIV/AIDS. Mechai had founded the highly successful Population & Community Development Association in the 1970s to curb Thailand’s population growth. In the face of government resistance to a full-fledged anti-AIDS campaign, Mechai sought an ally in the military. He persuaded General Chavalit Yongchaiyudh, who controlled 126 military-run radio stations and two of the country’s five television networks, to air public service announcements and spearhead a three-year campaign. Mechai’s candid and joking style made it possible to talk openly about

⁷⁴⁶ EMPOWER Foundation, <http://www.empowerfoundation.org/sexytalk.html>. On June 25, 1987, the Thai Department for the Control of Communicable Diseases reported eleven cases of AIDS and thirty HIV carriers; its Director General was reported to comment that “The situation is not serious,” quoted in “Government cover-up or just ignorance?,” *The Nation*, September 13, 1987. By contrast, the Ministry of Public Health in Thailand produced figures for World AIDS Day in 1988, indicating a total of 27, 279 deaths from AIDS since the first case was discovered in Thailand.

⁷⁴⁷ EMPOWER Foundation, “Empower Story,” http://empowerfoundation.org/sex_enphp (accessed November 29, 2010).

⁷⁴⁸ Ibid.

⁷⁴⁹ See generally, J. Mann, D. Tarantola, and T. Netter, eds., *AIDS in the World* (Cambridge, MA: Harvard University Press, 1992).

⁷⁵⁰ The UNAIDS/WHO epidemiological Fact Sheet states that in Bangkok, HIV prevalence among sex workers tested (combining both direct prostitution (e.g., brothel workers) and indirect prostitution (e.g., bar workers who engage in off-site prostitution)) has ranged from 7 to 18 percent between 1990 and 1996. Outside of Bangkok, HIV prevalence among sex workers tested (both direct and indirect) increased from 5 percent to 20 percent. HIV prevalence rates are highest in the Northern provinces ranging from 16 to 57 percent among direct sex workers. Since 1988, HIV prevalence among IV drug users tested has remained between 20 and 45 percent both in and outside of Bangkok. Among antenatal clinic attendees tested in Bangkok, HIV prevalence increased from 0.2 percent in 1990 to 2 percent in 1994. In 1997, 1 percent of antenatal clinic women tested were HIV positive. Outside Bangkok, HIV prevalence among antenatal clinic attendees increased from no infection detected in 1990 to 2% in 1994. HIV prevalence among this group has reached as high as 10% in provinces in the North. See P. S. DaGrossa, “Kam phaeng din: A study of the all-Thai brothels of Chiang Mai City,” *Crossroads, An Interdisciplinary Journal of Southeast Asian Studies* 4, no. 2 (1989): 1-7.

⁷⁵¹ B. Litner and Hseng Nong Litner, “Blind in Rangoon: AIDS epidemic rages, but the junta says no to NGOs,” *Far Eastern Economic Review* (August 21, 1996): 21. Anthropologists and field workers reported that women found with condoms was taken, *prima facie*, to be a prostitute in the early 1990s. Feingold, “The Hell of Good Intentions: Some Preliminary Thoughts on Opium in the Political Ecology of the Trade in Girls and Women.”

sex and condom use in Thailand; he led condom-blowing contests in villages and distributed safe sex information with condom-related souvenirs.⁷⁵² Now known as “Senator Condom” or “The Condom King,” the success of Mechai’s public awareness campaign is evident, as condoms are now commonly called *mechai* in Thai slang.

Projected economic losses from decreased tourism due to HIV/AIDS were likely the most significant reason the Thai government changed its policies. Mechai finally convinced government officials that addressing the problem frankly and openly would make tourists more comfortable, and strategic recruitment of high-level officials like the Prime Minister to head anti-AIDS committees gave credence and legitimacy to the campaign.⁷⁵³ In 1991, Thailand launched an aggressive nationwide 100% Condom campaign, and the U.S. Centers for Disease Control and Prevention was one of its key supporters. Projected models estimated that ten percent of Thailand’s population would have become infected by 2000 without the intervention, but by 1994 infection rates began to decline. The Thai government’s open and progressive approach to HIV/AIDS meant that tourism remained largely unaffected by the epidemic.⁷⁵⁴ During this era, brothels posted signs reading “No condom, no sex, no refund,” while police officers ran a “Cops and Rubbers” campaign.⁷⁵⁵ Public health workers and NGO activists were welcomed in brothels as well as restaurants and other “special entertainment” establishments, providing free condoms and HIV tests and instructing sex workers in correct condom use.⁷⁵⁶

Frames emphasizing the need to protect the “health of the nation” legitimized organizing specifically targeted at sex workers, allowing organizations such as EMPOWER to draft behind the 100% Condom Use campaign to advocate for improved working conditions. As one health-and-development NGO activist explained, “brothel owners were happy to have us coming in there—it provided health benefits for sex workers and economic benefits for owners, because it reduced turnover costs and attracted clients anxious to avoid contracting HIV.”⁷⁵⁷ Another sex worker advocate stated that the 100% Condom campaign gave sex workers more leverage with clients who had formerly refused to use condoms.⁷⁵⁸ Further, women’s organizations addressing issues of trafficking and forced prostitution were able to expand their advocacy efforts, capitalizing on the government’s willingness to collaborate with NGOs in campaigns against

⁷⁵² Mechai also founded a non-profit restaurant named “Cabbaged and Condoms,” where guests receive condoms in lieu of after-dinner mints. The name of his restaurant refers to his goal to make condoms as common as cabbage in Thailand. Mechai’s combination of non-governmental work and business strategies was recognized by a UN best practices analysis.

⁷⁵³ Mechai’s tactics in inculcating anti-AIDS campaigns within the government demonstrate both symbolic and operational components of Thailand’s political field. Mechai strategically established anti-AIDS committees with influential members of key Ministries to raise the profile of the issue, for example, by moving the committee into the Prime Minister’s office, and insisting that the Prime Minister himself chair the country’s national HIV/AIDS taskforce rather than himself. The institutional location of the anti-AIDS program and the preeminence of its leader immediately raised awareness about the issue and quickly secured substantial government funding from 1992 to more than USD \$80 million by 1996.

⁷⁵⁴ Mann, Tarantola, and Netter, *AIDS in the World*, 730.

⁷⁵⁵ Thailand: One Person Made a Difference,

<http://www.pbs.org/wgbh/pages/frontline/aids/countries/th.html> (accessed December 14, 2011).

⁷⁵⁶ Abolitionist campaigns against trafficking have resulted in decreased willingness for owners to openly identify their businesses as sex establishments. Allowing public health workers into the business is now seen as an admission that sex is sold there.

⁷⁵⁷ Interview with Thomas, health and development advocate, May 24, 2005.

⁷⁵⁸ Interview with Lulu, sex workers’ rights activist, July 8, 2005.

HIV/AIDS to push for prostitution reforms under the auspices of protecting Thai families—particularly to avoid the spread of HIV to (innocent) mothers and their unborn children.

The Double-Edged Sword of Drafting Behind Disease: HIV/AIDS Prevention Movements and the Governance of Prostitution

The public health model proved to be a double-edged sword for women's advocates and sex workers' rights organizations. The ideological neutrality of health interventions and the support of key political figures in the fight against HIV/AIDS further legitimized women's organizing around issues of prostitution, allowing NGOs to publicize the wretched conditions under which many sex workers labored. However, public health frames also pose the threat of reifying identity-based risk *groups* as opposed to risk *behaviors*⁷⁵⁹ Ironically, public health frames can serve to reinforce the idea that sex workers are vectors of disease and risk, rather than potential partners in efforts to educate their customers about condom use. The 100% Condom Use Programme also had some drawbacks: the threat to close brothels in which workers were found to have sexually transmitted disease drove brothels underground, and enforcement efforts alienated some sex workers because it employed a system of entrapment, whereby undercover health officials would test women's insistence on condom use.⁷⁶⁰

The implementation of the HIV/AIDS campaign also had detrimental effects on the thousands of Burmese women and girls trafficked into brothels in the lowest rungs of the sex industry. Although the Thai government eventually banned mandatory testing in the 1992-1996 National AIDS plan, brothel workers arrested or rescued from brothels were repeatedly tested without informed consent—by brothel owners, doctors, police, and shelter workers after rescue; by social workers at Baan Kredtrakarn during detention; and by officials from the Burmese military regime after deportation.⁷⁶¹ Many women were denied the right to know their status, as testing primarily served to allow state officials to take the necessary precautionary measures to protect themselves when working with HIV-positive detainees, rather than to ensure the provision of health services for those infected. A migrants' rights advocate who worked with Burmese sex workers in Northern Thailand during the early 1990s told me that

Thai officials would 'rescue' the 'trafficked' Burmese sex workers, stick them in the back of a van, and deport them. They'd just dump the women at the border. The Burmese border guards used to kill single women coming back from Thailand because they assumed they were sex workers and had AIDS. That was their anti-AIDS policy.⁷⁶²

⁷⁵⁹ For a description of some of the problematics of the construction of anti-HIV programs for target groups like Burmese migrants, see Doug Porter, "A Plague on the Borders: HIV, Development, and Traveling Identities in the Golden Triangle," in *Sites of Desire, Economies of Pleasure*, ed. Lenore Manderson and Margaret Jolly (Chicago: University of Chicago Press, 1997).

⁷⁶⁰ Global Alliance Against Traffic in Women, *Collateral Damage*, 175.

⁷⁶¹ Thomas, Asia Watch Committee (U.S.), and Women's Rights Project (Human Rights Watch), *A Modern Form of Slavery*.

⁷⁶² Interview with Jane, Burmese migrants' rights NGO activist, June 7, 2005. Such reports are (unsurprisingly) unconfirmed by the government, but were frequently repeated in different activists' oral histories of prostitution and trafficking in Thailand. Whether fact, NGO folklore, or exaggeration for dramatic effect, such reports circulate in the advocacy community and help to generate collective anger within the sex workers' rights movement. It certainly

In one case, the Director-General of the Public Welfare Department of Myanmar received a group of women and girls deported from Thailand at the border in Chiang Rai; immediately thereafter, a rumor circulated (allegedly started by Thai general) that the deported girls had been killed in Burma using cyanide.⁷⁶³ Although the reports could not be substantiated and a subsequent investigation by a Swiss-based NGO searched and found some, but not all, of the women, the possibility that such human rights abuses occurred after deportation generated concern in Thailand regarding the safety of women returned to a country ruled by a repressive military dictatorship.⁷⁶⁴ The complex ways in which ethnicity and nationality shaped the enforcement and rehabilitative interventions in Thailand's campaign against HIV/AIDS also appeared in the government's crackdown on child prostitution; the rights violations that characterized these well-publicized initiatives are echoed in Thailand's contemporary "war on human trafficking," discussed in Chapter Seven.

International Shaming and Policy Change

The ability of Thai activists to engage transnational advocacy networks proved critical to creating drafting opportunities in Thailand's political field. Activists raised awareness about trafficking and commercial sexual exploitation with international partners, who in turn lobbied their own governments to pressure the Thai state to take action. As discussed in previous chapters, (Western) exoticized representations of sex and suffering are imbued with political significance, and Thai officials are sensitive to the potential reputational (and fiscal) costs of "losing face" in the international arena by resisting campaigns to reform "uncivilized" sexual practices. Despite the government's efforts to limit the spread of HIV/AIDS its preliminary steps to reduce the recruitment and trafficking of children into the sex industry, Thailand continued to represent the most egregious forms of commercial sexual exploitation in the international imagination.

A series of key media events in the late 1980s and early 1990s tainted Thailand's international reputation by exposing trafficking and exploitation in the Thai sex industry to a global audience. NGOs, emboldened by their connections to international women's groups and other domestic movements, took advantage of the government's need to "save face" and recuperate its international image. They pressured officials to move beyond mere crackdowns to seek substantive legal reforms to address trafficking and commercial sexual exploitation.

The growing heat of the international spotlight on Thailand as a haven for child-sex tourists – along with the increasing exposure of trafficking and forced prostitution in Thailand and the visibility of Thai women trafficked and/or working in foreign sex industries – gave

has a mobilizing effect on the listener. When sex workers and their advocates around the world share stories of police harassment, sexual assault, and discriminatory treatment by public health officials, it serves to create a common advocacy frame around which sex workers from diverse settings can rally.

⁷⁶³ Global Alliance Against Traffic in Women, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World* (Bangkok: Global Alliance Against Traffic in Women, 2007), 174 citing "Cyanide Jab Reports Halt Deporting of Burmese Girls," *The Nation*, April 2, 1992. Interestingly, NSWP, a global network of sex work projects that promotes health and human rights, was formally established in 1992 and held its first demonstration to draw attention to the "hushing up" of the Burma incident. NSWP staged a "die-in" at the entrance to an HIV/AIDS conference following the human rights plenary; the die-in sought to protest human rights abuses against sex workers across the world. See Network of Sex Work Projects, "NSWP History,"

<http://www.nswp.org/timeline/nswp-formally-established-network>.

⁷⁶⁴ Global Alliance Against Traffic in Women, *Collateral Damage*, 174-175.

women's NGOs additional ammunition to problematize official tolerance of commercial sexual exploitation. Eventually, NGOs leveraged a "boomerang effect" that capitalized on the Thai government's susceptibility to international shaming to press for substantive legal reforms.

In 1988, British Channel 4 aired a television documentary, *Foreign Bodies*, which exposed sex tourism in Thailand, including interviews with *farang* bar owners and the by-now common story of Vietnam-era "Rest and Relaxation" and the sale of young girls sold into brothels.⁷⁶⁵ Although the film included some misleading information – for example, implying that young virgins sold into brothels were the same as those servicing Western sex tourists in resort areas – it was the first Western documentary to highlight the threat posed by the Thai government's inaction regarding the emergence of HIV. The documentary filmed Thai professionals stating that the government repressed the true picture of AIDS infection to avoid disrupting the tourist industry.⁷⁶⁶

Activists exploited public concern over the film to open discussion of the broader sex industry, claiming that such exposés understated the abuse and exploitation in prostitution— notably, because many foreign representations of the Thai sex trade focused on prostitution catering to foreign sex tourists, rather than the larger industry of (less photogenic) backstreet brothels and tea houses that catered to local men.⁷⁶⁷ Foreign attention raised the profile of exploitative prostitution, allowing activists to discuss the problem without accusations of being "unpatriotic" for smearing Thailand's international image. Vitit Munthabhorn and Siriporn Skrobaneek both sought to parlay the public furor around *Foreign Bodies* into a challenge of the normalization of prostitution, reframing it as a rights violation and raising awareness of abuse in the sex industry among children and the public at large.⁷⁶⁸ Siriporn Skrobaneek observed that "we

⁷⁶⁵ Tim Cooper and Alison Porteus, "Foreign Bodies" (Channel 4, September 6, 1988).

⁷⁶⁶ Notably, the government accused the filmmakers of misleading officials as to the nature of their documentary. One government spokesman complained that the documentary's focus on prostitution, police corruption, and AIDS implied criticism of the Thai government's tourism policy. "British TV crew stirs controversy," *The Nation*, September 30, 1987. While the British Embassy sought to smooth relations for diplomatic reasons, the U.S. appeared less inclined to assuage Thai concerns regarding their international reputation. In June 1990, a television report on ABC *Prime Time* on prostitution and tourism aired days before a visit from the Thai prime minister. One government official defended Thailand's international reputation by using the scandal as an opportunity to solicit help from the U.S. to eradicate poverty alleged to contribute to prostitution, seeking less protectionist trading policies to benefit Thailand. See Lenore Manderson, "Parables of Imperialism and Fantasies of the Exotic: Western Representations of Thailand – Place and Sex," in *Sites of Desire, Economies of Pleasure*, ed. Lenore Manderson and Margaret Jolly (Chicago: University of Chicago Press, 1997), 162–163, note 17.

According to one observer, when *Foreign Bodies* was screened at the Foreign Correspondents' Club in Bangkok (followed by a presentation by Thai officials regarding the effect such unapproved reporting had on the reputation of the Thai people), the foreign male correspondents laughed throughout the film. Cleo Odzer, *Patpong Sisters: An American Woman's View of the Bangkok Sex World* (New York: Blue Moon Books and Arcade Pub., distributed by Little, Brown, and Co., 1994), 55–56.

⁷⁶⁷ As one observer noted, activists "have seen things far worse than those that have been brought to light in media exposés." Supapohn Kanwerayotin, "Activists: Reality worse than film," *Bangkok Post*, July 14, 1988. The article also quoted Sukanya Hantrakul, who noted, "I don't think there is any scene in the production that exaggerates what really goes on here. In fact, a lot of seedy brothels exist that house abused prostitutes being tortured and taken advantage of to a far greater extent than what is shown here. It surprises me that people have gotten so worked up over such an understatement of the situation as *Foreign Bodies*." *Ibid*.

⁷⁶⁸ As law professor and child rights activist Vitit Munthabhorn observed, "this kind airing is extremely healthy. We don't have to believe it all, but we can talk about it and look at the real root causes – the laws, the people concerned, the lack of implementation of the laws, the strategies we need to develop. I think the press has an important role to play in this regard. It's a sad fact that this violation of a basic human right in our society is not talked about at the classroom level, or discussed in the home, as this kind of exposure can help change attitudes before children and

are turning into an SIC – sex industry country – not an NIC” (newly industrialized country).⁷⁶⁹ The Foundation For Women obtained a copy of the documentary to use as an educational tool, showing it to girls at risk of being lured into prostitution, to members of NGOs working in the field, and to sex workers, some of who had been featured in the film.⁷⁷⁰

The Good Woman of Bangkok was another high-profile Western representation of prostitution in Thailand; the film was screened at several film festivals and also aired on British television. Billed as “documentary fiction,” the film recounted the Australian director’s trip after his divorce to discover “how love could be so banal and also profound” by traveling to Bangkok, which he identified as “the Mecca for Western men with fantasies of exotic sex and love without pain.”⁷⁷¹ The film depicted the director’s sexual encounter and relationship with Aoi, a twenty-five year old woman from the Northeast of Thailand who began working in the sex trade after she was abandoned by her husband and became the sole support for her extended family.⁷⁷² Aoi is filmed as she goes about her day, gives her account of how she sees her life, Western clients, and Thai men, as the filmmaker stays off camera. Eventually, the filmmaker “bought out” Aoi from prostitution, promising to buy her a farm in exchange for her participation in the documentary if she agreed to cease prostitution; Aoi accepted but told him not to expect anything in return, and less than a year later, she had sold the land (at a profit) and returned to prostitution. Sparking debate among feminists, film critics, and the public, the film’s objectification of the Thai prostitute’s experience and the voyeuristic camerawork is complicated by stereotypic vignettes of male sex tourists from various countries giving their take on Thai prostitution.⁷⁷³

International scrutiny of exploitative prostitution in Thailand escalated in the 1990s. A British television program screened *Other People’s Children* in 1993; the program emphasized child sex tourism and called for Western governments to prosecute those who committed sex crimes abroad.⁷⁷⁴ Weeks later, a BBC documentary, *Dying for Sex*, highlighted sex slavery, child prostitution, and AIDS in Thailand’s sex industry. The documentary departed from the rote tactic of focusing on sex tourism to draw in viewers, instead opening with the following observation:

other people concerned accept prostitution as a coffee-table norm.” Quoted in Wipawee Otaganonta, “Child Prostitution in Thailand: Turning a blind eye,” *Bangkok Post*, Aug. 1, 1990, 27-28.

⁷⁶⁹ Quoted in Ann Usher, “The Dangerous Truth of ‘Foreign Bodies,’” *The Nation*, Aug. 19, 1988,

⁷⁷⁰ Supapohn Kanwerayotin, “Child prostitution in Thailand. Where do we go from here?,” *Bangkok Post*, July 24, 1988. The Foundation for Women explained that some of the bar girls from Pattaya featured in the film experienced “extreme embarrassment” upon seeing how their lives were manipulated by the filmmakers, particularly in one apparently staged scene where the women were dancing with the message “FUCK ME USA” painted on their buttocks in a greeting to U.S. servicemen. The women asked if it was possible to have their pictures deleted from the film: their European boyfriends had seen the documentary and recognized them, and were upset to find the women were seeing other men.

⁷⁷¹ *The Good Woman of Bangkok*.

⁷⁷² Ibid. The film was screened at film festivals in Canada, the US, Germany, Australia, and the UK in 1991-1992; it was also translated into Finnish and Italian.

⁷⁷³ The film depicts several interviews with sex tourists from the Netherlands, the UK, USA, and Australia, who highlight the socio-economic conditions of poverty and lack of educational opportunities for young women, thereby framing their participation in prostitution as a form of patronage that allows impoverished young women to provide for their families and younger siblings. Manderson, “Parables of Imperialism and Fantasies of the Exotic: Western Representations of Thailand – Place and Sex,” 141–142.

⁷⁷⁴ *Other People’s Children*, Granada Television, Great Britain, aired February 2, 1993. Thai politicians and key figures in Thailand’s child rights were featured in the film, including Sompop Boontoryuth, Dr. Vicharn Vithayasai of Chian Mai University, Professor of Law Vitit Muntarbhorn, Dr. Saisuree Chutikul a Thai Government advisor, Aja Jupoh of the Association for Akha Education and Culture, and the Prime Minister of Thailand Chuan Leekpai.

Thailand's sex industry is legendary. It attracts men the world over. But the carnal cabarets playing to foreigners are only a tiny part of it. There's a much larger local flesh trade, in which many of the prostitutes are children. Now the Thai government has ordered a crackdown in a desperate bid to stop one of the fastest spreading AIDS epidemics the world has ever seen."⁷⁷⁵

One of Bangkok's English-language newspapers, *The Nation*, noted that the documentary's emphasis on local clients "really hit the nail on the head, ramming home the message about cultural nationwide practices that will almost certainly leave millions dead by the end of the decade."⁷⁷⁶ Later, a special report published internationally by *TIME* magazine in 1993 alerted readers to the growing international sex industry (represented by a Thai "bar girl"):

Poverty, political chaos and porous borders have turned prostitution into a global growth industry. Mindless of social cost and disease, the skin trade debases millions of women and children. Among the most alarming trends is the explosion of child prostitution in many countries—including the U.S."⁷⁷⁷

The cover featured a lurid picture of a Thai woman with a number tag on her bikini, as a white man's hands reach for her breasts from behind; the caption read, "a customer and a bar girl in Bangkok."



Source: Photograph by Patrick Zachmann, Magnum Photos ⁷⁷⁸

Nearly every person I interviewed identified the same turning point in the governments' willingness to address the prostitution issue: the 1993 edition of the British Longman's English

⁷⁷⁵ *Dying for Sex*, BBC, aired March 2, 1993, quoted in Rachel Harrison, "Prostitution, Politics and Power: Issues of the 'Foreign' in Western Television Documentaries of Female Sex Workers in Thailand," in *Images of the "Modern Woman" in Asia: Global Media, Local Meanings*, ed. Shoma Munshi (Richmond: Curzon, 2001), 148.

⁷⁷⁶ "BBC shows how to do it," *The Nation*, July 18, 1993, p. A13

⁷⁷⁷ "Sex for Sale," *TIME Magazine*, June 14, 1993.

⁷⁷⁸ *Ibid.*, see <http://www.time.com/time/magazine/article/0,9171,978754,00.html>

Language and Culture Dictionary defined Bangkok as a city “famous for its temples and other beautiful buildings, and also often mentioned as a place where there are a lot of PROSTITUTES.”⁷⁷⁹ The Thai public was shocked at the portrayal of Bangkok as the brothel of the world, and embarrassed by this international loss of face. Thai officials and citizens responded with patriotic outrage: university students held demonstrations outside the British Embassy, copies of the book were publicly burned, and the local press printed letters from respectable members of Thai society describing the definition as “against moral principle.” Thai authorities banned all Longman’s publications until the company “complied with a Government request to ‘correct’ the entry”; the publishers quickly agreed to withdraw the edition from circulation.⁷⁸⁰ The entire incident drew worldwide media attention.

Thailand’s reputation in the international community was further undermined by the release of a 1993 Human Rights Watch – Asia Watch report entitled *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand*.⁷⁸¹ The report exposed official complicity in trafficking and the sex trade, abuse of women and children by enforcement officials, and an array of rights violations during detention, (enforced) rehabilitation, and deportation proceedings. Drawing extensively from interviews with trafficked women and girls, the report detailed how the Thai government’s highly publicized crackdown on trafficking and forced and child prostitution actually increased the suffering of the victims—primarily Burmese women and children. Ironically, following the publication of the Asia Watch report, “brothels all over the country were raided in what seemed more of a publicity stunt than an operation motivated by concern for the situation of migrant women and girls”; while some raids released women from exploitative conditions, they lost their clothes, jewelry, and savings, other women working voluntarily lost their jobs and income – and all migrant were deported back to Burma, where they faced a high risk of abuses including slave labor and systematic rape.⁷⁸²

The HRW report noted that although the Thai government had taken some initial steps to reform domestic laws and establish a special unit within the Crime Suppression Division of the police, the government lacked the political will to prosecute traffickers and protect victims. The report concluded that trafficking and abuse of vulnerable Burmese women and children would not end “without concerted international pressure,” particularly from the U.S., Japan, and the UN, as well as those countries from which women and girls were trafficked and exploited by the Thai sex industry.⁷⁸³

The widely read HRW Report publicized the trafficking and prostitution situation in Thailand in several forums, including human rights, child rights, and women’s rights advocacy networks. The report became a rallying point for the emerging movement to place women’s rights at the center of the international human rights agenda. It was extensively cited in the first report of the UN Special Rapporteur on Violence Against Women, which held up Thailand’s sex

⁷⁷⁹ D. Summers, *Longman Dictionary of English Language and Culture* (London: Longman, 1992), 79 (emphasis original). The current definition of Bangkok in the dictionary simply identifies it as “the capital city and main port of Thailand.” See <http://www.ldoceonline.com/>

In a similar incident in 2000, the Microsoft Corporation apologized to Thai newspaper editors for the offensive way in which Encarta 2000 characterized Bangkok as “a commercial sex center” in the British version. *USA Today*, February 24, 2000, Section D, p.3.

⁷⁸⁰ “Pressure mounts on Longman,” *The Nation*, July 3, 1993, p. A4; see also *Bangkok Post*, November 22, 1994, 3.

⁷⁸¹ Thomas, Asia Watch Committee (U.S.), and Women’s Rights Project (Human Rights Watch), *A Modern Form of Slavery*.

⁷⁸² Global Alliance Against Traffic in Women, *Collateral Damage*, 175.

⁷⁸³ *Ibid.*

industry to the world to exemplify a range of economic, social, and sexual abuses against women and girls.⁷⁸⁴

Finally, in March of 1994, the United States placed Thailand at the top of a list of countries accused of violating women and children's rights. The U.S. Secretary of State for Human Rights reported that about 800,000 women under the age of 18 were involved in Thailand's sex trade.⁷⁸⁵ The increasing international exposure of the dark side of Thailand's sex industry primed the government to be more responsive to NGO pressure, motivated at the very least to create the appearance of support for anti-trafficking efforts and cooperation with civil society.⁷⁸⁶ Activists capitalized on this vulnerability by initiating lobbying campaigns to pressure the government for preferred reforms, providing research, pre-established NGO programs, and models of governance as the government formed official anti-trafficking and anti-child prostitution programs. The complex relationship between NGOs and the state—exposing abuse and government inaction, even while providing services in conjunction with state campaigns—helped to recuperate Thailand's image from a nation that tolerated trafficking and child sex tourism and ignored the HIV/AIDS epidemic to one actively engaged with social movement organizations seeking to address these problems.

Conclusion

International social movements and rooted cosmopolitans proved to be key resources in galvanizing the anti-trafficking movement in Thailand. Thai activists circumvented potential accusations of trying to spread “foreign” ideas about rights and reduced resistance to social change by drafting behind other movements with access to funding and stronger external political connections (the international women's rights movement), morally unassailable positions (the child rights movement), and neutrality (the public health campaign against HIV-AIDS) to protect Thai families and the nation. Most advocates—even feminist cause lawyers—found that explicit appeals to rights discourses were “too political” to be successful in Thailand in the early stages of the anti-trafficking movement.⁷⁸⁷ By combining women's rights claims with the moral suasion of child rights movement – particularly its critical focus on commercial sexual exploitation of children in tourism – Thai anti-trafficking NGOs were able to reconstruct discursive opportunities and translate international human rights into the local context.⁷⁸⁸ Moreover, Thai organizations and rooted cosmopolitans engaged transnational advocacy networks to spotlight Thai women's issues on the international stage, substantially increasing access to potential funding pools, which in turn transformed the contours of the domestic political field by connecting Thai issues to a global web of politics.

As the cost of ignoring rights-claims became too high, the Thai government became more responsive to NGO advocacy and demands. By the late 1980s, the increasingly high profile of

⁷⁸⁴ Radhika Coomaraswamy, *Preliminary report submitted by the Special Rapporteur on violence against women, its causes and consequences, in accordance with Commission on Human Rights resolution 1994/45* (Presented at the fiftieth session of the Commission on Human Rights, November 22, 1994).

⁷⁸⁵ “Human rights abuses against women: Hearings before the Subcommittee on International Security, International Organizations, and Human Rights of the Committee on Foreign Affairs, House of Representatives, One Hundred Third Congress,” first and second sessions, September 28 and 19, 1993; October 20, 1993; and March 22, 1994.

⁷⁸⁶ This tactic illustrates the usefulness of Keck and Sikkink's theory of the “boomerang effect,” where local NGOs mobilize transnational advocacy networks to pressure recalcitrant states to reform by generating international scrutiny and shaming mechanisms. Keck and Sikkink, *Activists Beyond Borders*.

⁷⁸⁷ Interview with Yindee, women's legal advocate, July 7, 2005.

⁷⁸⁸ Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice*.

the international women's and human rights movements and the evolution of both domestic and international political fields created new discursive and political opportunity structures for Thai women's NGOs. Thai activists and academics engaged rights discourses at home via international aid agencies, UN programs in Thailand, and international media pressure, increasing the salience and power of rights-based critiques by positioning the Thai government as responsible for protecting and assisting victims of trafficking—or facing international censure. Activists drew attention to the issue at conferences and in the media by publicizing horror stories describing the experiences of some trafficking victims as evidence of women's need to galvanize their own campaigns against sexual violence, prostitution, sex tourism, and the trade in mail-order brides. The sympathetic image of dutiful daughters and innocent Thai children sexually and economically exploited by foreign men—combined with increasing sensitivity on the part of politicians to the threat such publicity posed to Thailand's international image, tourist industry, and foreign investment—spurred the government to pledge to crack down on forced and child prostitution and the complicity of police and border officials in trafficking.

However, the collateral damage suffered by migrant women and children in the selective enforcement of anti-trafficking “crackdowns” illustrated the risks of appealing to the state for criminal justice interventions. The reticence of the Thai government to respond to the trafficking of Burmese and hill tribe women, as opposed to its efforts to protect the more sympathetic Thai victim trafficked abroad, demonstrates the ways in which race, ethnicity, and class inform government policies and law enforcement practices. As NGOs leveraged the media attention and mounting pressure from the international community for Thailand to address trafficking and child sex tourism, activists turned their sights towards the reform of Thailand's anti-trafficking and prostitution suppression laws with the hopes of using the legal system to protect, rather than punish, victims of commercial sexual exploitation and trafficking.

CHAPTER 6 - Women's Rights are Human Rights: The International Women's Movement and (Sexual) Violence Against Women

Introduction

Chapter 5 established the critical role of Thai academics and activists as “rooted cosmopolitans” in forging connections between local struggles and international movements in the early 1990s. Thai activists shifted between roles as academics, researchers, journalists, lawyer-professionals, and government lobbyists to draw attention to exploitation in Thailand's sex industry – first to (child) sex tourism, then to the trafficking and forced prostitution of women and children. In Chapter 6, I analyze several key lobbying moments in the 1990s that raised the international profile of the trafficking issue and contributed to the expansion of transnational networks of women's advocacy organizations.

Specifically, I assess how Thai activists' international connections contributed to a shift in advocacy strategies, emphasizing (sexual) violence against women as a human rights issue during the 1993 World Conference on Human Rights in Vienna. At this conference, the figure of the Thai prostitute was mobilized to support different approaches to trafficking and sexual exploitation, even as advocates from all sides of the debate invoked “women's human rights” to legitimize their positions.

Next, I document how the NGO Forum at the Fourth World Conference on Women in Beijing in 1995 triggered a resurgence of attention to the issue of trafficking and sexual slavery, particularly in “First World” nations. The fracture of the anti-trafficking movement is expressed in competing diagnostic and prognostic frames, particularly regarding the politics of agency in the representation of trafficked women as legal subjects.⁷⁸⁹ Competing feminist coalitions engaged in framing contests as they sought to engage and manipulate “institutionally anchored discourses” such as domestic legislation, national policy plans, and international covenants to entrench movement prerogatives in law, regulatory systems, and enforcement practices. I expand upon theories of transnational advocacy networks and framing process theories by exploring how law can serve as a site for social movement actors to engage discursive opportunity structures, which are shaped and in turn shape the political opportunity structures available to other social movement factions at both local and international levels.

Finally, I analyze the intramovement contention between prostitution abolitionists and advocates for migrant sex workers' rights in the heated debates during the drafting of the first international legal definition of trafficking in the 2000 United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. The divergent ways in which advocates engaged women's rights and human rights illustrate how legal instruments represent an unstable compromise, the interpretation of which continues to spark framing contests during the implementation of anti-trafficking reforms.

This chapter assesses how the current approach to human trafficking in institutions addressing transnational organized crime and threats to national security, in contrast to institutions addressing human security and the violation of trafficking survivors' human rights,

⁷⁸⁹ Framing contests between different advocacy coalitions regarding trafficking and its relation to the commercial sex industry reflect tension within the women's movement as to which groups are qualified to make strategic decisions regarding the politics of representation and the politics of agency in coalitions for women's rights and empowerment.

demonstrates the tension between competing conceptions of “rights” in different forms of feminist governance. It also explores some of the pitfalls of “drafting” on alternative frames, such as the security frame, when those alternative frames are dominant and can shape policy responses.

Academic-Activists and “Rooted Cosmopolitans”: Linking the Local to the Transnational

As noted in Chapter 1, social movement scholars have highlighted the growing importance of “rooted cosmopolitans” with “multiple belongings and flexible identities” in the development of transnational social movements.⁷⁹⁰⁷⁹¹ “Rooted cosmopolitans” signify “people and groups who are rooted in specific national contexts” who also “engage in regular activities that require their involvement in transnational networks of contacts and conflicts.”⁷⁹² Such actors are also characterized by “multiple belongings,” where activists may have “overlapping memberships linked within loosely structured, polycentric networks.”⁷⁹³ As with many of the advocates in the global South, English-language skills are a hallmark of the rooted cosmopolitan, as English serves as the common language at international conferences, UN activities, and academic research projects. In Thailand, for example, the ability to speak English and a college education in the West lend special professional and social status. The experiences, knowledge, and contacts Thai advocates and academics accrued abroad proved critical to the development of a successful advocacy campaign back in Thailand.⁷⁹⁴

As discussed in the previous chapter, connections between academics and activists in Europe, Japan, and Thailand created opportunities to link organizations together and tap new resources and funding pools. Siriporn Skrobaneck, one of the most prominent activists in Thailand’s anti-trafficking movement, exemplifies the critical work of the “rooted cosmopolitan” in linking the global to the local. In 1991, she attended the Center for Women’s Global Leadership’s program on “Women, Violence, and Human Rights” at Rutgers University. Women advocates from around the world gathered to share their experiences and learn from each other to develop strategies for local and international activism. The Center became a key institution in the international movement for women’s human rights, organizing NGO meetings at UN summits and developing strategies to raise the profile of violence against women as a human rights

⁷⁹⁰ Sidney Tarrow and Donatella Della Porta, “‘Globalization,’ Complex Internationalism, and Transnational Contention,” in *Transnational Protest and Global Activism* (Lanham: Rowman and Littlefield, 2005), 237.

⁷⁹¹ *Ibid.*, 237. See also Tarrow, *The New Transnational Activism*.

⁷⁹² Tarrow and Della Porta, “‘Globalization,’ Complex Internationalism, and Transnational Contention,” 237.

⁷⁹³ *Ibid.*

⁷⁹⁴ As Tarrow observes, transnational activists rarely begin their careers at the international level, but rather emerge from domestic political and social activism. They are “better educated than most of their compatriots, better connected, speak more languages, and travel more often,” and transnational activists eventually return to their domestic activities. Tarrow, *The New Transnational Activism*, 43.

The upper- and middle-class Thai activists I interviewed navigated between the domestic and international arenas, and all spoke English (as do most educated Thai, though some are more reluctant to speak English than others). Within the Thai NGO community, activists who could switch between English, Thai and other regional dialects dominated meetings and served as liaisons between the staff of international organizations (such as UN project personnel) and local activists. Interestingly, one female legal advocate in a key Thai anti-trafficking organization with increasing international visibility was studying English at the NGO director’s request in order to “present a better face” of the organization to English-language news sources. Interview with Banyat, director of Thai anti-trafficking NGO, March 22, 2005.

violation.⁷⁹⁵ Sex trafficking and sexual violence emerged as key issue that galvanized the international movement for women's human rights in the 1990s, building on the transnational connections built between activists, academics, and legal advocates in sending and receiving countries throughout the 1980s to address the traffic in women for prostitution and servile marriage. The very nature of migration and trafficking necessitated the development of transnational networks for successful social movement advocacy, creating a framework in which activists navigated between different political fields and targeted institutions at multiple levels – from local police to national legislators to foreign immigration agencies and international organizations. The economic and sexual exploitation of trafficked women emerged as a key campaign in the international women's movement, capturing the effects of patriarchy, globalization, the commodification of women's bodies, and violence against women in the sympathetic and morally persuasive figure of the sex trafficking victim.

“Women's Rights are Human Rights”: The 1993 World Conference on Human Rights

Transnational activists strategically emphasized trafficking and other issues involving sexualized violence against women to make visible “women's rights as human rights.” Advocates marshaled evidence and testimonies of violence against women (VAW) to challenge the relegation of women's rights violations to the “private sphere,” thereby expanding the scope of the international human rights agenda and obligating states to account for the diverse forms of VAW that occur in different countries. Trafficking and sexual slavery – particularly that of women from the developing world to First World nations – provided fuel for women's advocates from the West as well as “the Rest.”

Mobilizing Rights: Transnational Advocacy Networks and the Global Campaign

The international movement for women's human rights picked up steam in the early 1990s. The Global Campaign for Women's Human Rights, launched by the Center for Women's Global Leadership, formed a “loose coalition of groups and individuals worldwide working for women's human rights” to organize a Global Tribunal on Violations of Women's Human Rights to take place at the 1993 World Conference on Human Rights in Vienna. The plan to highlight women's human rights at the World Conference emerged from the Center's 1991 Women's Global Leadership Institute, where participants, including Siriporn Skrobanek, developed the idea of an annual campaign of “16 Days of Activism Against Gender Violence,” marking the period between the International Day Against Violence Against Women (November 25) to International Human Rights Day (December 10).

In preparation for the Vienna Conference, women's groups around the world held advocacy events including petition drives, demonstrations, media campaigns, radio programs, cultural festivals, and street theater to raise awareness of the diverse forms of VAW. The Center for Women's Global Leadership also initiated a petition drive in 1991 that was used in advocacy efforts by over one thousand local women's groups. By the time of the World Conference, the petition had been translated into 23 languages and included almost a half million signatures from 124 countries. Activists took advantage of governments' inability to agree upon an agenda for the World Conference due to continuing disputes as to the relative prioritization of political and

⁷⁹⁵ Niamh Reilly, ed., *Without Reservation: The Beijing Tribunal on Accountability for Women's Human Rights* (New Brunswick, NJ: Center for Women's Global Leadership, Rutgers University, 1996).

civil versus socio-economic rights, divided along North-South lines.⁷⁹⁶ This lack of consensus provided an institutional opening and lobbying opportunity for women's groups who had already forged coalitions across these North-South lines. Moreover, advocates created coalitions between the NGO community and "femocrats" working in government and UN agencies. The women's caucus successfully lobbied for the inclusion of women's human rights issues on the conference agenda and gender-specific text in the early drafts of the Vienna Declaration.

Despite these signs of success at the international level, activists continued to face resistance to women's rights in their own states and regions. The transnational advocacy network helped disseminate strategies that had proven effective in other regions to raise awareness in their own communities, develop grassroots campaigns, and hold public hearings to document violations of women's human rights. By the time the World Conference took place in 1993, women's advocates around the world had collected an arsenal of evidence to indict governments, the UN systems, and the human rights community for disregarding women's human rights.

"Asian Values" and Resistance to Rights: The Asian Regional Preparatory Conference

In the spring of 1993, Thailand hosted the Regional Meeting for Asia of the World Conference on Human Rights. Two hundred forty participants from one hundred ten NGOs addressing human rights and democratic development attended, including many Thai organizations active in campaigns against human trafficking and the commercial sexual exploitation of women and children.⁷⁹⁷ Because the Asian preparatory conference took place after other regional meetings, Asian NGOs were able to assess the relative success of other activists' strategies to raise awareness and lobby government representatives to address women's human rights.

The position statement of Asian-Pacific human rights and democratic development NGOs emphasized the diverse manifestations of patriarchal oppression of women throughout the region, the discrepancy between states' formal commitments to advancing women's rights, and the lack of substantive legal or social reforms to that end. To highlight states' responsibility to guarantee and vindicate women's rights, the statement explicitly identifies sexualized violations of women's (bodily) rights such as rape, sexual slavery and trafficking, and domestic violence to underscore the point that "crimes against women are crimes against humanity, and the failure of governments to prosecute those responsible for such crimes implies complicity."⁷⁹⁸

⁷⁹⁶ Charlotte Bunch and Niamh Reilly, *Demanding Accountability: The Global Campaign and Vienna Tribunal for Women's Human Rights* (New York: Center for Women's Global Leadership, Rutgers University, New Jersey, USA, United Nations Development Fund for Women (UNIFEM), 1994).

⁷⁹⁷ NGO participants included, among others, the Asia Pacific Forum on Women, Law and Development, Child Rights Asianet, the Association for the Promotion of the Status of Women, the Foundation for Women, Friends of Women and Thailand's (MPCDE)/Mountain People's Culture and Development Project. In addition, representatives from international organizations such as the Coalition Against Trafficking in Women, the World Council of Churches, and OXFAM made statements at the Conference

⁷⁹⁸ NGO Statement at the Asia-Pacific Regional Preparatory Conference for the World Conference on Human Rights, *Position Paper of the Working Group on Women's Rights of the NGO Forum at the World Conference on Human Rights*, Vienna, June 14-25, 1993, cited in Bunch and Reilly, *Demanding Accountability*, 136-37.

Patriarchy, which operates through gender, class, caste and ethnicity, is integral to the problems facing women. *Patriarchy is a form of slavery and must be eradicated.* Women's rights must be addressed in *both the public and private spheres of society, in particular in the family.* To provide women with a life with

However, the text of the Bangkok Declaration of the Regional Meeting for Asia of the World Conference on Human Rights evidenced the tension between states' desires to express their commitment to human rights and their need to retain national and cultural autonomy. Governments insisted that universal human rights norms were bounded by principles of national sovereignty, territorial integrity, self-determination, and noninterference in internal affairs.⁷⁹⁹ The Bangkok Declaration "[stressed] the universality, objectivity and non-selectivity of all human rights and the need to avoid double standards in the implementation of human rights *and its politicization*."⁸⁰⁰ Reflecting hostility to the use of human rights as leverage in trade and diplomatic relations by Western governments, Asian governments emphasized that human rights should be promoted cooperatively, rather than through confrontation, the "imposition of incompatible values," or conditioning development aid on human rights practices – the "non-use of human rights as an instrument of political pressure."⁸⁰¹ The delegates also recognized the interdependence and indivisibility of civil and political rights and economic, social, and cultural rights, as well as the universal nature of human rights: The Bangkok Declaration provided the caveat that human rights "must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds."⁸⁰²

The emphasis on the diversity of norms and cultural practices across Asia suggests continuing resistance in these countries' political fields to "rights." Rights are conceived of as foreign notions that invite outside intervention, particularly into areas of societal traditions regarding sex and gender. Given the tension between cultural relativism and the universality of human rights, women's advocates were attempting to mobilize women's human rights in a relatively hostile regional political field. States were more inclined to endorse an equality frame on women's rights, ensuring formal equality while accommodating traditional cultural practices that contributed to women's social and political marginalization. Ultimately, the Bangkok Declaration reiterated Asian states' commitment to promote and protect women's rights through the "guarantee of equal participation in the political, social and economic and cultural concerns of society," as well as the eradication of discrimination and gender-based violence.⁸⁰³

In light of the conservative social norms and hostility to the politics of rights, articulating women's rights in terms of freedom from sexual violation served as a common advocacy position and point of consensus upon which even conservative governments could agree.

dignity and self-determination, it is important that women have inalienable, equal economic rights (e.g., rights to agricultural land, housing and other resources and property). It is imperative for governments and the United Nations to guarantee these rights. *Crimes against women, including rape, sexual slavery and trafficking, and domestic violence are rampant. Crimes against women are crimes against humanity*, and the failure of governments to prosecute those responsible for such crimes implies complicity. Ibid. (emphasis added).

⁷⁹⁹ See Report of the Regional Meeting for Asia of the World Conference on Human Rights, UN Doc. A/CONF.157/PC/59 (1993), 3-5.

⁸⁰⁰ Bangkok Declaration, *Regional Meeting for Asia of the World Conference on Human Rights*, (United Nations 1993).

⁸⁰¹ See Report of the Regional Meeting for Asia of the World Conference on Human Rights, UN Doc. A/CONF.157/PC/59, at 3 (1993)

⁸⁰² Bangkok Declaration, No. 8.

⁸⁰³ Ibid., 6. Unlike the Latin American and African regional forums, the Bangkok Declaration did not include affirmations regarding the ratification of women's human rights instruments, although it did so for other international human rights instruments.

However, Asian states' defensive posture towards human rights limited their transformative potential as tools for political and legal reform in domestic political fields. As such, mediagenic events like the Global Tribunal on Violations of Women's Human Rights at Vienna provided activists the opportunity to publicize abuses against women in the hopes that the harsh glare of the international spotlight would compel governments to "save face" by taking action on women's rights issues.

Narratives of Sex and Suffering: The Global Tribunal on Violations of Women's Human Rights

Activists used the momentum of the regional preparatory process to exchange perspectives on their work, in order to develop strategies to increase the visibility of women's rights issues at the Global Tribunal on Violations of Women's Human Rights during the Vienna Conference.⁸⁰⁴ Members of the Global Campaign for Women's Human Rights "made a strategic decision to emphasize issues of gender-based violence since they illustrate best how traditional human rights concepts and practice are gender-biased and exclude a large spectrum of women's human rights abuse," even as they parallel recognized violations such as torture, enslavement, and terrorism.⁸⁰⁵ The tactical choice to use VAW as an umbrella issue – an issue on which trafficking and exploitation in the sex industry more generally could draft – was successful due in part to increased international media exposure of sexualized violence in conflict situations. One of the key mobilizing events in the media spotlight that informed the international political consensus around (sexualized) VAW was the genocidal rape, forced military prostitution, and forced pregnancy of women during the widely publicized conflict in the former Yugoslavia.⁸⁰⁶ The egregious violations of women's rights and sexual integrity in wartime provided a gendered example of torture, one of the primary concerns of the human rights agenda, and cast a new light on the normalization of violence against women and sexual assaults that took place daily in the "private" sphere.

Advocates adopted a campaign based on sharing narratives, presenting concrete cases often from firsthand experiences, on issues including violence in the family, war crimes against women, violations of women's bodily integrity, socio-economic violations, and political persecution and discrimination. Personal testimonies of abuse were then combined with "analyses based on the relevant human rights standards in order to get recognition that violence against women is a violation of human rights. It was very successful!" recalled Lin Lap Chew, representing the Dutch anti-trafficking organization STV.⁸⁰⁷ Chew presented the story of a

⁸⁰⁴ Two main events were developed to this end – "The Rights Place for Women," a room at the Conference for activists to gather, plan logistics, and disseminate information, and a Global Tribunal on Violations of Women's Human Rights, coordinated by the Center for Women's Global Leadership at Rutgers University. As one activist reflected, "The Rights Place established a visible sense of women's organized presence and their determination to be a recognized part of the human rights scene" at the Vienna Conference. Bunch and Reilly, *Demanding Accountability*, 96. See also *Testimonies of the Global Tribunal on Violations of Women's Human Rights* (New Jersey: Center for Women's Global Leadership, 1995).

⁸⁰⁵ Reilly, *Without Reservation*, 5.

⁸⁰⁶ For example, Catharine MacKinnon wrote an article in *Ms. Magazine* asserting a direct causal link between mass rape and pornography viewed by troops; she presented similar stories during her speech at the NGO Forum in Vienna. Catharine MacKinnon, "Turning Rape into Pornography: Postmodern Genocide," *Ms.*, August 1993.

⁸⁰⁷ Chew, "Reflections by an Anti-trafficking Activist," 70. For example, advocates framed violations of women's bodily integrity and sex trafficking as offenses to Art. 7 (cruel, inhuman or degrading treatment and punishment) and

divorced young mother of two from Poland who attempted to migrate to Western Europe to find work in a restaurant; she was trafficked, raped, threatened, beaten, and forced to work as a prostitute in a “window” in the Netherlands.⁸⁰⁸ The testimony of financially desperate women trafficked and enslaved in the commercial sex industry served as a visceral symbol of the intersecting social, economic, and political forces that contributed to women’s human rights violations, as well as the failure of state actors to take those violations seriously.

The Global Tribunal served as a forum in which to name the human rights abuses against women, blame and shame both state and non-state violators, and claim accountability and reform.⁸⁰⁹ The narratives of sex and suffering “gave vivid expression to the life and death consequences of women’s human rights violations . . . [and] provided graphic demonstration of how being female can be life threatening, subjecting some women to torture, terrorism and slavery daily.”⁸¹⁰ Testimonials were a provocative tactic that personalized human rights while providing a vehicle to reframe the commonplace violations suffered by women around the world as issues deserving state intervention. Activists reasoned that by speaking out in a global forum, the testifiers

shattered the wall of silence which has surrounded abuses of women’s human rights, and squarely posed major challenges to governments and the international human rights community, demanding that violations of women’s human rights be stopped. . . . Whether they stood up as critics or victims of an unjust system, all of the testifiers also spoke for the hundreds of thousands of women around the world who could not be in Vienna, and for whom the testimonies served to symbolized their lived experiences.⁸¹¹

The narratives shared at the Global Tribunal exposed the failure of existing human rights mechanisms to protect women’s human rights, and advocates successfully campaigned for the inclusion of gender-based violence in the Vienna Declaration and the “mainstreaming” of women’s human rights in UN institutions and activities. The Vienna Declaration and Programme of Action reflected activists’ focus on sexualized forms of violence against women; its first paragraph on women’s rights specifically identifies sexual harassment, exploitation, and international trafficking in women as “incompatible with the dignity and worth of the human person.”⁸¹² The Declaration also identified the abuse of women in situations of armed conflict as violations of international human rights and humanitarian law, including murder, systematic rape, sexual slavery, and forced pregnancy.⁸¹³

Art. 8 (prohibiting slavery and the slave trade) of the UN International Covenant on Civil and Political Rights, as well as Art. 2 of the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination.

⁸⁰⁸ Lin-Lap Chew, quoted in Chapter 5, “Violations of Women’s Bodily Integrity,” Bunch and Reilly, *Demanding Accountability*, 50–52.

⁸⁰⁹ Bunch and Reilly, *Demanding Accountability*, see also ; Felstiner, Abel, and Sarat, “Emergence and Transformation of Disputes.”

⁸¹⁰ Bunch and Reilly, *Demanding Accountability*, 8.

⁸¹¹ *Ibid.*, 18.

⁸¹² UN Doc. A/CONF.157/23, para. 18. Section 48 on the rights of the child also mentions sexual abuse, child prostitution, and child pornography, and calls for special efforts to protect the girl-child.

⁸¹³ UN Doc. A/CONF.157/23. para. 38.

Although there were regional disparities and resistance to international scrutiny on a variety of issues, women's human rights emerged as a point of political agreement among most participating nations.⁸¹⁴ The Commission of Human Rights (CHR) adopted a consensus resolution directing the integration of women's human rights into UN programs and activities, and also proposed the appointment of a Special Rapporteur on VAW.⁸¹⁵ In combination with the regional preparatory meetings and lobbying by activists at the national level, the CHR Resolution "built a foundation for the success of the global campaign to secure a political commitment from the international community to end violations of women's human rights."⁸¹⁶

The expansive nature of the VAW frame facilitated international scrutiny of a variety of women's rights violations that previously had remained shrouded in the private sphere.⁸¹⁷ Activists' and survivors' testimonial reports of violence against women and the inadequacy of government response epitomized the victimist approach to women's rights advocacy. Narratives of sexual suffering attracted the attention of the mainstream media, and the sexually exploited woman provided a recognizable, sympathetic figure for conscience constituents from many nations and cultures. Although the Global Tribunal also featured testimonies regarding gender-based political persecution and violations of women's economic and cultural rights, those less-sensational accounts were largely ignored by the media. Activists faced obstacles to attracting the "'right' kind of media for women's concerns . . . [and] in gaining constructive, non-sensational, and non-sexist visibility in mainstream media at local and national levels. Gaining access to the increasingly influential global media . . . without losing control of the message, is an even greater challenge."⁸¹⁸

Using VAW to frame women's human rights was not without costs when used for advocacy. Upon reflection, some activists acknowledged that the strategic spotlighting of gender-based violence detracted attention from other human rights issues, particularly the

⁸¹⁴ While governments could find common ground to condemn sexual violence, women's rights activists continued to face resistance against efforts to address traditional cultural practices that negatively affect women. The Vienna Declaration addresses "gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism." UN Doc. A/CONF.157/23, para. 38.

Sullivan observes that the focus on "the eradication of conflicts" between women's rights and cultural practices, as opposed to the "harmful effects" of such social discrimination, allowed the conference to avoid the question of how to resolve such conflicts. Sullivan, "Women's Human Rights and the 1993 World Conference on Human Rights," 158.

The tension between culture and women's rights reflects some of the ongoing feminist campaigns against practices such as "female genital mutilation," female infanticide and associated challenges to the cultural legitimacy of traditional social norms that restrict women's human rights. By contrast, the rights of children would appear to have a stronger international political and normative consensus, as the section on the rights of the child urges governments to take specific actions to "repeal existing laws and regulations and remove customs and practices which discriminate against and cause harm to the girl-child." See generally, Donna J. Sullivan, "Gender Equality and Religious Freedom: Toward a Framework for Conflict Resolution," *New York University Journal of International Law and Politics* 23 (1992): 795-856.

⁸¹⁵ CHR Res. 1993/46, Commission on Human Rights, Report of the Forty-ninth Session, 1993 UN ESCOR, Supp. No. 3, at 158-59, UN Doc. E/1993/23-3/CN.4/1993/122.

Sullivan notes that while the CHR's resolution provides that the Rapporteur's mandate was to be defined as "violence against women," women's NGOs in Vienna urged to be expanded to report on VAW "and its causes."

⁸¹⁶ Sullivan, "Women's Human Rights and the 1993 World Conference on Human Rights," 155.

⁸¹⁷ Advocates celebrated the fact that "women had effectively challenged the public/private divide in the global human rights arena; they had exposed violence against women as a human rights violation, whether perpetrated by a male relative in their home or by a soldier in a war zone." Reilly, *Without Reservation*, 5.

⁸¹⁸ Bunch and Reilly, *Demanding Accountability*, 97.

structural violence against women resulting from violations by non-state actors such as international financial institutions and multinational corporations.⁸¹⁹ The focus on promoting women's rights by eliminating VAW also overshadowed the more pragmatic concerns of women in the South, as the broad definition of VAW increased the difficulty in establishing minimum standards and implementation guidelines to realize women's economic, social, and cultural rights.⁸²⁰ On the other hand, VAW provided common ground for a wide variety of women's advocacy projects, serving as a unifying concept for transnational advocacy networks and fostering coalitions across North-South lines that successfully lobbied to ensure the inclusion of women's issues on the human rights agenda. VAW also provided a culturally resonant frame that women could deploy selectively in their local political fields, and created a point of consensus among different countries with diverse social practices, traditions, and religions.

The quandary faced by women's rights activists in controlling the media "spin" of the VAW advocacy frame illustrates the difficulty of establishing culturally and politically resonant frames to symbolize the structural inequalities and (non-sexual) discriminatory practices against women at issue throughout the world.⁸²¹ As activists looked forward to the Fourth World Conference on Women in Beijing in 1995, they sought to develop strategies to highlight the interconnectedness and indivisibility of women's human rights – how the lack of social, economic, and cultural rights affects opportunities to exercise political and civil rights as well as encourages more sensational (violent and/or sexualized) forms of oppression.

Activists, particularly those from developing countries, sought to expand the VAW frame to encompass structural violence against women and the effects of inequitable global economic processes on the lives of women and their families. As increasing numbers of women from poor and/or politically unstable countries migrated abroad as laborers, mail-order brides, or sex workers, the issue of trafficking became a potent symbol of the interconnectedness of women's human rights and their violation. It also underscored the need to extend accountability for such abuses beyond state actors and to work with/in the state to implement human rights obligations.

⁸¹⁹ Ibid.

⁸²⁰ A major element of the debate regarding the universality and indivisibility of human rights involved the tie between rights, money, and the legitimacy of human rights monitoring. Countries from the global South contested the conditioning of bilateral and multilateral aid on (Northern states') assessment of human rights conditions, as such assessments reflected the privileged economic position of the North and the prioritization of civil, political and individual rights over cultural, social, and economic rights. Ultimately, the conference reaffirmed right to development as a human right, in part due to the moderation of U.S. opposition to the recognition of this right. See Sullivan, "Women's Human Rights and the 1993 World Conference on Human Rights," 162.

⁸²¹ See the analysis in Reilly, *Without Reservation*, 5–6., linking the diverse experiences and forms of violence suffered by women: "The documentation of female human rights abuse gathered throughout the Global Campaign and at the Vienna Tribunal repeatedly demonstrated that the prevalence of violence against women in societies everywhere is inseparable from their lack of socio-economic power and status. Similarly, the routine denial of women's bodily integrity in the implementation of national and international population policies is linked to the same forces that leave women vulnerable to violence. . . . After the Vienna Conference, in addition to pushing for the prompt implementation of the *Vienna Declaration's* commitments to women, the Global Campaign sought to underscore the *indivisibility of women's human rights and the interconnectedness of the civil and political as well as the social, economic, and cultural dimensions of all human rights.*" Ibid. (emphasis added)

The Center for Women's Global Leadership and Global Campaign members subsequently mobilized activities entitled "From Vienna to Beijing: Building Human Rights Accountability to Women," a series of workshops, strategic planning meetings, and hearings on women's human rights at the International Conference on Population and Development (ICPD) and the World Summit for Social Development to organize a second Global Tribunal at Beijing.

Building Transnational Advocacy Networks: Human Trafficking and Human Rights

Linking Local Women to Transnational Advocacy Networks: The International Workshop on International Migration and Traffic in Women

The spike in international media attention to the issue of sexual violence, particularly the media frenzy around the issue of forced prostitution and sex trafficking in Southeast Asia and Eastern Europe, accelerated the momentum of the anti-trafficking movement in Thailand. In October 1994, Thai academics and activists – rooted cosmopolitans – gathered their international connections at a conference in Chiang Mai, Thailand, to revamp the anti-trafficking agenda. Their goal was to account for the diversity of women migrants’ work experiences and compare the ever-changing conditions of trafficking at the global level. In coordination with the newly established Women’s Studies Center at Chiang Mai University and the Women and Autonomy Centre (VENA) at Leiden University in Holland, Siriporn Skrobanek and her colleagues at the Foundation for Women (FFW) organized the International Workshop on International Migration and Traffic in Women.⁸²²

The Workshop brought together seventy-five people including academics, activists, social workers, researchers, policy-makers, jurists, and civil servants, representing twenty-two countries and forty organizations. Dutch NGOs, government officials, and donors were critical to the Workshop, providing funding, technical support, and resources to facilitate information-sharing and comparison of grassroots strategies to develop action plans at the local, national, regional, and international levels.⁸²³ The Workshop was one outcome of a joint research project initiated in 1992 by FFW and VENA to assess the migration and trafficking of rural Thai women into the sex industry. The project emphasized the importance of feminist “participatory action research” as a methodology, and involved local informants and trafficking survivors in the

⁸²² *International Workshop on International Migration and Traffic in Women, 17-21 October 1994, Organized by Foundation for Women, Thailand, Women’s Studies Center, Chiangmai, and Women and Autonomy Centre, Leiden University* (Chiang Mai, Thailand, 1994).

⁸²³ Local action plans included addressing education, occupational training and poverty; creating anonymous publications and books from women who have returned from overseas; calling for new elections for village leaders to increase the number of women leaders; and taking local women on exposure trips, as well as providing them opportunities to participate in international meetings. *Ibid.*, 30.

At the national level, participants suggested that sending countries should create information centers to provide both negative and positive information and legal aid for those wishing to migrate and to support returnees; establish public awareness campaigns to “influence public opinion on prostitution and traffic in women,” and to increase migrants’ understanding of individual rights such as the protections provided by the state and the services of different agencies. *Ibid.*, 31.

The final international action plan established the Global Alliance Against Trafficking in Women (GAATW) in order to: 1) facilitate exchange of information between member organizations to improve practical support and advocacy work at all levels; 2) to make alliances with international organizations combating traffic in women; 3) to address the issue in international fora; 4) to enforce and utilize the existing international instruments to address existing and future problems; 5) to consider replacing the 1949 Convention on Traffic in Persons and the Exploitation of Prostitution of Others, because [it does] not adequately address the present situation; 6) to examine the need for new international instruments; and 7) to promote and facilitate research on the issue. *Ibid.*, 33.

The coordination center for GAATW was originally operated by Siriporn Skrobanek at the Foundation for Women in Bangkok. The GAATW encompassed four Working Groups: Information Exchange and Cooperation for Improvement of Support Work and Advocacy; Developing Content and Lobby Strategy for a New Convention and Definition; Strategic Participating Planning at International Meetings; and Participatory Action Research.

research process in order to integrate their priorities into the development of prevention strategies and address the “concrete and actual needs” of migrant women.⁸²⁴

The International Workshop marked the first time women personally affected by procuring and trafficking participated in an international forum. Thai women from rural villages and ethnic minority Karen and Shan women from Burma sat side by side with government officials and activists from around the world, participating in the development of strategies to address their own situations.⁸²⁵ Women’s activists throughout the Greater Mekong Subregion shared information about new strategies to respond to the evolving trafficking patterns in Thailand, Cambodia, Vietnam, Burma, Hong Kong, the Philippines, Japan, and South Asia. Participants discussed the connections between societal instability, war and conflict, and development and tourism in the regional and transnational dynamics of trafficking.

One conference participant observed that the diversity of participants and the presence of government officials alongside NGO activists initially caused tension at the Workshop. For example, when conference participants were introduced during the opening session, women from Burma and ethnic minority groups were afraid to identify themselves due to their illegal status and the presence of Thai immigration officials. To ensure their inclusion, the organizers worked out a compromise: the women from Burma left the room during the introductions and then returned to participate in the conference.⁸²⁶

⁸²⁴ One of the researchers, Professor Chalerm Sri Dhamabutra, described the feminist- and action-oriented methodology of the research project on traffic in women in Thailand as follows. She defines feminism as “a movement against the oppression and for the empowerment of women. The ultimate goal of feminism is to create a just world for everyone.” Chalerm Sri Dhamabutra, “Methodology of the Research Project on Traffic in Women in Thailand,” Appendix I 2, *International Workshop*. The basic principles for feminist research include a “focus on the lives, the opinions and experiences of women; *this includes women’s relations with children and men*. Any knowledge which comes out of the research will be shared with the women, to support their empowerment.” Ibid. Further, the research approached grassroots women and communities as participants, rather than subjects. The researcher adopts a role to clarify, stimulate, support and assist participants to discuss their situation and share their own opinions among themselves and with the researcher in order to raise awareness. Researchers encourage participants to “take any action which they think may improve their situation,” and the researchers adjust the scope and direction of ongoing research to reflect new issues as they arise, rather than attempting to maintain an “objective” distance. Ibid.

⁸²⁵ Representatives from ethnic minority women’s organizations including the Karen Women Organization (KWO) and Women’s Association of Shan State (WASS) presented information on the new procurement techniques of traffickers in the Thai-Burma border region. They described the evolution of traffickers’ tactics to procure and move young women from the border areas between Burma and Thailand, including the use of helicopters to reach remote villages. *International Workshop*, 21. Representatives from the KWO reported on the situation of women fleeing civil war in Burma who are lured by the “sweet words of the brokers” who traffic them to brothels in the border areas and Bangkok. Ibid., Appendix II, 10. Despite a lack of funding and the difficulty of organizing in the war-torn regions inside Burma and the borders, the KWO had education and awareness-raising programs, emphasizing information about HIV/AIDS.

Advocates from the Women’s Association of Shan State (WASS) presented the cases of Nang Kham and Nang Lern, who were both trafficked from the Shan state to brothels in a Thai/Burma border town. Nang Kham knew she was going to work as a prostitute in order to pay bribes to the Burmese Army so her parents were not taken away and forced to work as porters. Nang Lern was sold for 30,000 baht to a brothel owner by her aunt. She eventually managed to get a message to her parents who arranged for a friend to help her escape.

⁸²⁶ Conversation with Alice Miller. Representative of the Women in Law Project of the International Human Rights Law Group. Although Burmese NGOs are not granted formal status by the Thai government, they are allowed to operate if they are “not too vocal” in their criticism and are unrelated to armed insurgencies, such that their advocacy would threaten economic and diplomatic relations between the Thai government and the Burmese junta. Interview with Beth, activist with Burmese NGO, March 23, 2005.

However, even at a participatory conference emphasizing the importance of including grassroots women, logistical, cultural, and language barriers privileged educated, English-speaking participants. Because English is the common language at many conferences, and most upper-class and middle-class Thai speak English, it is necessary to provide translators to ensure that local women can participate. Foreign women working against trafficking in ethnic minority communities often lack Thai language skills, which is an obstacle to effective networking at the local and national levels. The conference format is itself somewhat foreign to many minority groups, with people speaking *at* an audience, rather than talking in a circle.⁸²⁷ Issues of status, respect for elders, and cultural differences further complicate local women's participation international conferences. One ethnic minority activist I interviewed explained that in larger groups, "it is difficult to get the younger women to start talking; they're used to waiting for the village leader's wife to speak, and defer to her."⁸²⁸

The privileging of English-speaking social movement actors and the consequent marginalization of "indigenous" voices, even in situations where organizers make a conscious effort to include them, is an example of differential access to both material resources and political opportunity structures. It also underscores the critical role rooted cosmopolitans play in bridging local advocates to regional and international fora. The ability of activists to articulate needs and strategies in a language understandable to global elites is key to securing funding, engaging advocacy networks, and developing political influence.

Human Rights as a Discursive and Political Opportunity Structure: Developing a Rights-Based Approach to Human Trafficking

Much of the discussion at the Workshop dealt with the role of law in anti-trafficking advocacy. Activists discussed legal mobilization techniques, including the development of free legal aid programs for victims, better implementation of existing laws, and reforms to enact more practical laws for the protection of women. In addition, participants sought to enhance criminal penalties to create "more efficient ways to punish the traffickers."⁸²⁹

Workshop discussions emphasized the importance of collaboration between NGOs and government, particularly seeking representation on government committees and gaining access to foreign affairs officials. Participants acknowledged that "[although] dealing with government officials and institutions can be a thankless and frustrating task, channels of communication need to be kept open and we must be aware of and be able to work with governments to ensure favourable initiatives and measures are instituted."⁸³⁰ To this end, Siriporn proposed the development of "legal literacy programs" for state and agency personnel to ensure that government representatives recognize and respond to the human rights violations that trafficking involves.⁸³¹

A major portion of the conference was dedicated to developing a human rights framework on trafficking. Echoing the testimonies of women's advocates at the Global Tribunal in Vienna, Siriporn characterized trafficking as a "manifestation of violence against women in

⁸²⁷ Interview Pii Bo, ethnic minority activist, May 10, 2005.

⁸²⁸ Interview with Bii, migrants' rights activist, April 6, 2005.

⁸²⁹ *International Workshop*.

⁸³⁰ *Ibid.*, 27.

⁸³¹ *International Workshop*.

the community and a grave violation of women's human rights."⁸³² She identified an array of violations suffered by trafficking victims, including the denial of the right to self-determination, bonded labor, economic exploitation, the denial of the right to choose clients and conditions of sex work, violations of the right to access medical treatment and social assistance, racial and sex discrimination, statelessness and the denial of the right to nationality, sexual violence and rape, and the denial of victims' right to privacy by requiring public testimony in court.⁸³³

Human rights law provides local activists with a discursive opportunity structure, a "common language for women worldwide" allowing NGOs "to exploit the language and structures that governments have already agreed upon."⁸³⁴ At the conference, U.S. legal experts provided an overview of human rights law related to trafficking and the institutional structure of the UN.⁸³⁵ Representing the Women in Law Project of the International Human Rights Law Group, Ali Miller discussed the strategic benefits and potential risks for local women's groups engaging international human rights language and the UN system.

The human rights system also creates a transnational political opportunity structure. Miller encouraged conference participants to reassess the impact of trafficking and migration on all rights – civil, political, economic, social, and cultural – in order to identify multiple points of access for anti-trafficking advocacy in the UN system.⁸³⁶ But although UN institutions may offer internationally visible venues to expose human rights violations and demand accountability, Miller warned of the weaknesses of the UN, in that it is "distant and slow, subject to geopolitical struggles and dominance."⁸³⁷ The significant barriers for grassroots women's groups to accessing the UN system make them reliant on coalitions with other NGOs and "lobbying government lobbies," once again illustrating the importance of rooted cosmopolitans in connecting local groups to transnational advocacy networks.⁸³⁸ Despite these structural and material barriers to engaging the human rights system, Miller encouraged local women's groups

⁸³² Ibid.

⁸³³ *International Workshop*, Appendix 1.

⁸³⁴ *International Workshop*, Appendix I, 3.

⁸³⁵ Alice Miller of the Women in Law Project of the U.S.-based International Human Rights Law Group provided an overview of the strengths and weaknesses of several treaties and monitoring bodies in addressing trafficking, including the 1949 Convention, CEDAW, the 1990 Convention on the Protection of the Rights of All Migrant Workers and their Families, the Convention on the Rights of the Child, as well as treaties against torture and racial discrimination, among others.

Ms. Miller also explained non-treaty human rights bodies of the UN, such as the Commission on the Status of Women (CSW); the Commission on Human Rights and its Sub-Commission for the Prevention of Discrimination and the Protection of Minorities; the Working Group on Contemporary Forms of Slavery; as well as the International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), and the UN Commission on Crime Prevention and Criminal Justice.

The Economic and Social Council authorized the Sub-Commission to establish the Working Group on Contemporary Forms of Slavery, which is mandated to assess the slave trade and slavery-like practices of apartheid, colonialism, human trafficking, and child labor and commercial sexual exploitation, under the auspices of the 1926 Slavery Convention and the 1956 Supplementary Convention and the 1949 Convention.

⁸³⁶ Among the affected sectors identified by Miller are formal and informal labor, government civil and criminal jurisdictions and national police action; international police action; bilateral and multi-lateral country arrangements; national sovereignty and population control through border control and immigration; the sphere of private action (determining free will, structures of coercion, etc.); questions of cultural norms and patterns of stereotypical thinking; national and international flow of information; the international economic environment and local and regional development structures and plans, and international financial institutions. *International Workshop*, Appendix I 3, 3.

⁸³⁷ *International Workshop*.

⁸³⁸ Ibid., Appendix I 3, p. 2.

to consider international events and conferences as strategic opportunities to attract media attention and pressure international and state actors to address the trafficking issue. Even out of the spotlight, international meetings provide activists with the opportunity to network and publicize their work to other NGOs, international organizations, and other government lobbies, as well as identify new allies and sources of funding.

By broadening the definition of trafficking and identifying new sites for legal mobilization, Workshop participants explored ways to engage the law as both a discursive and political opportunity structure. Activists capitalized on the increasing consensus in the international community that violence against women is a human rights violation to create a new discourse for describing the causes and consequences of trafficking. Engaging the human rights system also provided a variety of institutional access points and potential funding pools, enhancing the possibilities for collaboration between NGOs in sending, transit, and destination countries.

Migrants, Sex Workers, Activists, and Academics: Schisms and Connections in Transnational Anti-Trafficking Advocacy

The International Workshop evidenced the difficulty of developing coordinated strategies for transnational anti-trafficking advocacy without a shared understanding of the relationship between prostitution and trafficking. Attendees concurred that trafficking needed to be defined more broadly to encompass contemporary forms other than forced prostitution, such as the mail-order bride industry, forced domestic labor, false marriage, clandestine employment, and false adoption.⁸³⁹ However, not all workshop participants agreed on the strategies the network should use to address trafficking and the way they would frame movement demands. For example, participants could not reach consensus on the relationship between migration, trafficking, and prostitution; the role of men in prostitution and trafficking; and the best ways to address discriminatory laws, for example, those that criminalized the sale, but not the purchase, of sex.⁸⁴⁰ Participants also debated the semantics and politicization of “prostitution” versus “commercial sex work,” a point raised by a former sex worker from New Zealand, who “questioned the use of the word ‘prostitute’ with all the innuendos and associations it brings to mind . . .”⁸⁴¹ Some Thai academics at the conference, particularly Virada Somswasdi, Director of the Women’s Studies Center at Chiang Mai University and former graduate of Cornell Law School, remained steadfastly abolitionist in their approach to prostitution, viewing it as a patriarchal institution that controls and exploits women, and which must be dismantled to ensure gender equality.⁸⁴² The

⁸³⁹ The Workshop discussed the broad definition of trafficking proposed in the Report of Expert Group on Measures to Eradicate Violence against Women, which had been presented to the Commission on the Status of Women in its 38th session in March 1994. Quoted in *International Workshop*, Appendix I, at 2.

⁸⁴⁰ *International Workshop*, 21.

⁸⁴¹ *Ibid.*, 15. The Workshop Report uses the term “sex work,” and notes that a former sex worker from New Zealand “questioned the use of the word prostitute with all the innuendos and associations it brings to mind and proposed commercial sex worker as a better and more viable alternative.” *Ibid.*, 15. She explained the important role of sex workers in promoting safe sex: “Every time a sex worker rolls a condom on a client, she is teaching him about safe sex.” *Ibid.*

⁸⁴² Associate Professor Virada Somswasdi was the first Thai to graduate from Cornell Law School and the first person to establish a women’s studies center in Thailand. She is also a founding member of the Asia Pacific Forum for Women, Law and Development, and is a member of the Board of Trustees for the Asia-Pacific branch of the abolitionist organization Coalition Against Trafficking in Women (CATW). Virada is a staunch anti-prostitution feminist, arguing against feminist framings of prostitution as work. She argues that “prostitution . . . can never be a

language of human rights accommodated the rights-based claims of individualist, sex-workers' rights feminists, as well as those of abolitionist feminists focused on the structural inequalities that channel women into prostitution and contribute to their abuse in the sex industry.

However, the growing schism between sex workers' rights and abolitionist approaches to trafficking set the stage for battles in the international movement for women's human rights. Although anti-prostitution and sex workers' rights advocates' diagnostic frames identified similar problems contributing to trafficking – discriminatory laws, limited educational and occupational opportunities, women's economic exploitation in development projects and foreign labor markets, and the need to improve the treatment of trafficked persons by state authorities – their prognostic frames diverged sharply. Sex workers' rights advocates sought to use rights to self-determination and freedom of movement to empower sex workers and improve their working conditions as a way to address trafficking and exploitation in the sex trade. Abolitionists, on the other hand, invoked women's human rights *not* to be prostituted to support arguments to dismantle the sex industry, prohibit prostitution, and rescue victimized women.

The formation of the Global Alliance Against Traffic in Women (GAATW) and its international advocacy efforts marked a turning point in the Thai and international anti-trafficking movements. Created out of the Workshop in order to better organize at the international level and press for reforms to advance the rights of trafficked persons, GAATW would rise to become one of the most prominent organizations advocating for human rights-based approaches to trafficking and the promotion of rights for migrant domestic workers and sex workers. Participants emphasized the need to forge alliances between local women's groups and establish contacts from the local to the international level, particularly between activists in sending and receiving countries. The organizers believed that establishing an international network would improve the handling of specific cases, broadly disseminate information, and raise awareness about the traffic in women through the media, particularly regarding gender stereotypes, ideas concerning prostitution, and the stigma attached to returning women.⁸⁴³ Organizers underscored the importance of involving local and returned women in sending countries and migrant women in receiving countries in the development of user-friendly awareness-raising materials on legal, social, and economic information.

In addition to improving advocacy at the local and national levels, GAATW was formed to ensure that the perspectives of women affected by trafficking were represented at strategic moments of political opportunity, specifically at international events like the 1995 World Conference on Women in Beijing. Workshop participants sought to use the new network to initiate an international campaign to review the 1949 Convention on trafficking, to assess the potential value of alternative treaty regimes, and to promote an International Year to Stop

legitimate business because it will always be associated with crime, corruption, class, mass sexual exploitation and human trafficking. . . . Prostitution is not about women enjoying rights over their own bodies and having rights to 'employment' or 'work'. On the contrary, it is an expression of men's control over women's sexuality." Virada Somswasdi, "The Power of Law and Women's Presence in the Thaksin Era" (presented at the Cornell Law School Berger International Speaker Papers. Paper 5, Cornell Law School, 2005), 4, http://scholarship.law.cornell.edu/biss_papers/5.

⁸⁴³ *International Workshop*, 28. In terms of media strategies, workshop participants suggested that "focusing on specific groups, for example, sex workers, prospective migrants, police officers and school children, special campaigns should be launched to raise awareness . . . in sending and receiving countries." Other participants emphasized the need to revise AIDS campaigns to "present sex workers in positive, constructive ways." *Ibid.*, 29.

Trafficking in Women.⁸⁴⁴ GAATW members adopted a broader view of trafficking as a feature of international labor migration, rather than limiting their advocacy to fighting trafficking for prostitution. Recognizing the harms suffered by women targeted in anti-prostitution crackdowns, the organization recognized migrant women as workers, including those who worked in the sex industry. GAATW's recognition of prostitution as sex work and its rejection of prostitution-abolitionist approaches as an ineffective way to address trafficking and exploitation would trigger the countermobilization of women's groups, particularly the Coalition Against Trafficking in Women (CATW), a U.S.-led group steeped in the radical feminist tradition and vehemently opposed to prostitution and pornography. Formed in 1989, CATW redoubled its efforts to frame prostitution not as work but as a form of violence against women and a human rights violation, arguing that "all prostitution exploits women, regardless of consent."⁸⁴⁵ Rejecting the labor framework of GAATW activists, CATW campaigned to end sex trafficking, sex tourism, prostitution, and the mail-order bride industry to promote the "fundamental human right of women and children . . . to be free from sexual exploitation."⁸⁴⁶

As the focus of the international women's human rights movement turned to Beijing, VAW in the global sex industry received increasing coverage in the international media. Sex trafficking and forced prostitution became the women's issue *du jour*, and Thailand's notorious sex industry served as a potent symbol of women's economic, social, and sexual exploitation in the globalizing world.

Trafficking, Prostitution, and Violence Against Women on the Global Stage

Dueling Frames: the 1994 Report of the Special Rapporteur on Violence Against Women

One month after the 1994 International Workshop, the Special Rapporteur on VAW submitted her preliminary report to the Commission on Human Rights.⁸⁴⁷ The report reflected the dueling advocacy positions of GAATW and prostitution abolitionist organizations, such as CATW and its international partners. The Special Rapporteur invoked discourses from both sides of the feminist debate, initially employing the term "prostitute," but later shifting to "commercial sex worker."⁸⁴⁸ Prostitution and trafficking are addressed together in one section, but the report emphasizes the heterogeneity of sex workers and the diverse experiences and needs of women in the industry. Indeed, the report acknowledged tensions between Northern and Southern advocacy and program goals, stating that "the concerns of prostitutes in developed countries were distinctly different from those of feminist organizations representing third world prostitutes," as

⁸⁴⁴ *International Workshop*, 28. Other key international events include World Conferences and UN meetings such as the 1995 World Summit on Social Development in Copenhagen.

Participants also created suggestion lists to improve their work, including establishing safe shelters and support services centers, and mobilizing to reform laws and provide legal services to victims. *Ibid.*, 26-27. Other suggestions included researching the World Bank to analyze the traffic in women in terms of international economics, trade and labor relations, and the work of international financial institutions, as well as targeting shareholders to promote corporate responsibilities and a reconceptualization of economic development in terms of human security and rights. *Ibid.*, 27. The participants also created proposals of action on politics, legislation, social issues, information and publicity, networking and education.

⁸⁴⁵ Coalition Against Trafficking in Women, "An Introduction to CATW," <http://www.catwinternational.org/about/> (last visited Sept. 24, 2011).

⁸⁴⁶ *Ibid.*

⁸⁴⁷ Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*.

⁸⁴⁸ *Ibid.*, para. 205.

“Third World groups were concerned with issues of exploitation and systemic power imbalances,” while “the Western groups were concerned with issues of personal autonomy and morality.”⁸⁴⁹

Thailand’s sex industry figured prominently in the Special Rapporteur’s report on trafficking and prostitution, and its situation was presented to characterize the dynamics of economic and sexual exploitation in the global sex industry. Thailand had become feminist shorthand for trafficking and forced prostitution, testifying to the success of Thai advocates and their international partners in raising international awareness. The Thai case is used as evidence of the vast scale of the sex industry⁸⁵⁰; the connection between military presence and the growth of prostitution⁸⁵¹; the tremendous economic impact of the sex industry and sex tourism⁸⁵²; the persistence and scope of local demand for prostitution⁸⁵³; the health hazards of sex work, including HIV/AIDS and shared needles among “drug prostitutes”⁸⁵⁴; and the increasing international demand for “‘fresh’ or virgin girls” resulting, in part, from the fear of HIV/AIDS.⁸⁵⁵

The report used Thailand to represent not only the worst aspects of prostitution, but also as a symbol of the horrors of sex trafficking. It cites Foundation for Women research on Thai sex workers in Germany to illustrate the vulnerability of migrant sex workers to economic exploitation.⁸⁵⁶ Further, the sections on trafficking refer primarily to the situation of Burmese women and girls trafficked into Thai brothels, and include harrowing examples of sexual violence and exploitation.⁸⁵⁷ The Rapporteur also indicted Thai officials’ complicity in trafficking, bribery, and abuse of prostituted women.⁸⁵⁸

⁸⁴⁹ Ibid., para. 205. The Special Rapporteur recognized the claims of feminists on both sides of the prostitution debate, concluding, “[a] discussion of prostitution must accept the premise that prostitution as a phenomenon is the aggregate of social and sexual relations which are historically, culturally and personally specific. The only common denominator shared by the international community of prostitutes is an economic one: prostitution is an income generating activity, marked by a degree of commercial indifference between client and worker.” Ibid.

⁸⁵⁰ After acknowledging that the population of commercial sex workers (CSWs) is unknown and “estimates are unhelpful,” the report goes on to cite a June 1992 Newsweek article that estimated a range from 70,000 to 2 million CSWs in Thailand alone. Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*, para. 206.

⁸⁵¹ Ibid., para. 206, citing Enloe, *Does khaki become you?: the militarisation of women’s lives.*, as evidence of “direct correlation” between the military presence and a dramatic rise in prostitution, as “military bases notoriously incorporate prostitution into the ‘rest and recreation’ culture for soldiers.” Ibid.

⁸⁵² The Report cites Steven Schlossstein, *Asia’s New Little Dragons: The Dynamic Emergence of Indonesia, Thailand, and Malaysia* (Chicago: Contemporary Books, 1991) to support the claim that sex is the most valuable subsector of Thailand’s annual USD \$3 billion tourist industry. Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*, para. 206.

⁸⁵³ Ibid., para. 206, citing Dorothy Thomas, Asia Watch Committee (U.S.), and Women’s Rights Project (Human Rights Watch), *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand* (New York: Human Rights Watch, 1993).

⁸⁵⁴ Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*, para. 208, citing Than-Dam Truong, *Sex, Money and Morality: Prostitution and Tourism in South-east Asia* (London: Zed Books, 1990) and a June 29, 1992 Newsweek article on HIV/aids in the Thai sex industry.

⁸⁵⁵ Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*, para. 209, citing Thomas, Asia Watch Committee (U.S.), and Women’s Rights Project (Human Rights Watch), *A Modern Form of Slavery*.

⁸⁵⁶ Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*, para. 207, citing “In pursuit of an illusion: Thai women in Europe,” Women’s Information Center/Foundation for Women, No. 96 (Bangkok 1998).

⁸⁵⁷ Ibid., para. 212. The Special Rapporteur acknowledged, “while recent focus with regard to trafficking has been on Thailand, the Philippines, and the Republic of Korea, trafficking in women is not confined to these countries.” However, the report continues with a visceral description of the terrible conditions suffered by trafficked Burmese

The report concluded that “trafficking and the abuse and exploitation of prostitutes does constitute violence against women,”⁸⁵⁹ and that trafficking serves as a “critical barometer of the nature of abuse that takes place within the sex industry.”⁸⁶⁰ However, the role of law in efforts to address this abuse remained contested: although the Rapporteur acknowledged the argument of “many groups” that legalizing prostitution is the only way to address violence in the sex industry, she also recognized that for “most societies,” “moral condemnation and criminalizing activity associated with prostitution and trafficking are the only means available for eradicating violence against women in this sphere.”⁸⁶¹

The Special Rapporteur’s emphasis on Thailand as the worst-case example of exploitation in the sex industry provoked government officials and NGOs alike. The acknowledgement that (some) activities in the sex industry should be recognized as “sex work” riled the abolitionists, while sex workers’ rights activists criticized the report for including prostitution and trafficking under the same heading. The Rapporteur encouraged states to accede to the abolitionist-oriented 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which requires states to protect all persons from the exploitation of prostitution.⁸⁶² She also enhanced the visibility of abolitionist anti-trafficking work at the international level by calling the attention of the Commission on Human Rights to draft a program of action from the Working Group on Contemporary Forms of Slavery, a forum where CATW and its allies had been working to raise the profile of abolitionist approaches to trafficking and prostitution.⁸⁶³

The Special Rapporteur’s focus on the Thai sex industry was a boon to anti-trafficking advocates in the country. During the buildup to the Fourth World Conference on Women in 1995, the report placed the glare of the international spotlight on Thailand as a country of both origin and destination for trafficked persons, highlighting official indifference and complicity. Thai activists would leverage this exposure to pressure the state to take action and reform its laws against prostitution and human trafficking to address the rights of victims, discussed in more detail in the next chapter.

Trafficking and Forced Prostitution at the Fourth World Conference on Women

International media attention to the issue of trafficking grew throughout the mid-1990s. The 1995 World Conference on Women in Beijing presented an opportunity for activists to demand that governments take action to address violence against women, and NGOs organized a Tribunal on Accountability for Women’s Human Rights to take place during the conference. Women advocated for a more comprehensive understanding of accountability for human rights that included violations perpetrated by non-state actors and international institutions. “Forced

women in Thai brothels, describing the long working hours (10-14 per day) and average number of clients per day (10). Ibid.

⁸⁵⁸ Ibid., para. 213.

⁸⁵⁹ Ibid., para. 219.

⁸⁶⁰ Ibid., para. 210.

⁸⁶¹ Ibid., para. 219.

⁸⁶² Coomaraswamy, *Report of Special Rapporteur on Violence Against Women*, para. 217.

⁸⁶³ Ibid., para. 216, citing with approval the development of a draft programme of action for prevention of traffic in persons and the exploitation of the prostitution of others issued by the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, (E/CN.4/1994/71, annex).

economic emigration” and sex trafficking were presented as structural violence against women, the consequences of business-oriented development, inequitable trade policies, and structural adjustment programs.

In addition to trafficking in Southeast Asia, women from countries plagued by political unrest and economic transition in Eastern Europe began to migrate and were trafficked into foreign sex industries. Seeking to place trafficking within the broader context of women’s human rights to emphasize the economic underpinnings of migrant women’s exploitation, GAATW presented cases from their advocacy work, describing how migrant women become cheap suppliers of sexual labor, domestic services, and child care, and the abuse they suffer as a consequence.⁸⁶⁴

The final Conference Report and Beijing Platform for Action urged governments to take action to criminalize trafficking and implement international human rights instruments to address the problem. The Beijing Platform also called for the review of international conventions on trafficking in persons and slavery, laying the groundwork for the current anti-trafficking convention, to be drafted over the next few years.

The 1995 Conference marked a new phase of the anti-trafficking movement, and it became a highlight of then-First Lady Hillary Clinton’s campaign to make women’s human rights a key component of U.S. foreign policy – a focus embraced by subsequent administrations as a way to promote democracy and security, and as a justification for American intervention. The issue of trafficking became visible due to a decade of concerted efforts by women’s activists who sought to frame trafficking and forced prostitution as a violation of women’s human rights.

However, states did little to address trafficking while it remained housed within the human rights system, due to the lack of accountability, implementation guidelines, and mechanisms to enforce anti-trafficking commitments. As demand for migrant labor waned in industrialized countries and migrant mobility increased, people-smuggling began to be perceived as a threat to economic and national security.⁸⁶⁵ In a few short years, the trafficking issue would shift from the human rights system to international institutions addressing transnational organized crime, particularly the United Nations Office on Drugs and Crime (UNODC). The next section explores how women’s rights activists on both sides of the debate engaged international institutions and policy-making processes to advance their preferred reforms in new arenas. I detail how framing contests between different factions of the women’s movement have influenced the creation and interpretation of anti-trafficking laws, and how such debates inform international and domestic efforts to address trafficking and commercial sexual exploitation.

Feminist Factions: Women’s Human Rights, the Prostitution Debates, and the UN Anti-Trafficking Protocol

In the late 1990s, migrant smuggling came to be defined as a security threat by destination countries in the “First World,” and the related issue of human trafficking arose again, this time under the auspices of the UN system dealing with transnational organized crime. The most recent international convention against human trafficking is the 2000 United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and

⁸⁶⁴ Reilly, *Without Reservation*, 159.

⁸⁶⁵ Anne Gallagher, “Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway,” *Virginia Journal of International Law* 49, no. 4 (2009): 789-848.

Children (the “Palermo Protocol”).⁸⁶⁶ The Palermo Protocol constitutes the first internationally agreed-upon legal definition of trafficking, and its parent instrument, the Convention against Transnational Organized Crime, requires that state parties criminalize the offense of trafficking for sexual exploitation and forced labor.

The drafting process of the Palermo Protocol was delayed, in part, due to intractable debates between two factions of the international women’s human rights movement: abolitionist feminists and migrant/sex workers’ rights organizations. Heated debates focused on the legal definition of “trafficking,” its relationship to prostitution, and the issue of women’s consent/agency.⁸⁶⁷ Activists clashed over whether to define trafficking by the nature of the work involved or by the use of deceit and coercion. As in previous iterations of the feminist “sex wars,” the debates regarding trafficking reflected polarized views of sexual commerce: some groups promoted a “dominance feminism” understanding of women’s sexual subjugation through prostitution, while others asserted that migrant women voluntarily chose to migrate to engage in sex work, exercising agency even under oppressive conditions.⁸⁶⁸ Two lobbying blocs of women’s NGOs – both identifying themselves as “human rights” coalitions – represented the two sides of the debate during the drafting of the Palermo Protocol and the negotiations at the UN International Crime Commission.

The first faction was represented by Coalition Against Trafficking in Women (CATW), an American-based feminist organization advocating the abolition of prostitution.⁸⁶⁹ CATW led 140 other NGOs in the International Human Rights Network; it identified its partners, including Equality Now and the European Women’s Lobby, as “explicitly feminist human rights groups.”⁸⁷⁰ CATW does not recognize a distinction between “forced prostitution” and voluntary sex work, rejecting the term “sex work” as legitimating the sex industry.⁸⁷¹ For abolitionists, prostitution is a practice of inequality and exploitation subordinating women as a group, and thus

⁸⁶⁶ The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children supplements the UN Convention Against Transnational Organized Crime. While Thailand signed the Palermo Protocol on December 18, 2001, the Thai Government has not yet ratified it.

⁸⁶⁷ Elizabeth Bruch, “Models Wanted: The Search for an Effective Response to Human Trafficking,” *Stan. J. Int’l L.* 40 (2004): 1-46. See also Beverly Balos’ critique of choice/consent based arguments in Beverly Balos, “The Wrong Way to Equality: Privileging Consent in the Trafficking of Women for Sexual Exploitation,” *Harv. Women’s L.J.* 27 (2004): 137-175.

⁸⁶⁸ Kathy Abrams provides an insightful analysis of the “sex wars” that characterized feminist activism addressing pornography in the 1980s; these ideological debates continue to inform different feminist approaches to trafficking and commercial sexual exploitation. See Abrams, “Sex Wars Redux: Agency and Coercion in Feminist Legal Theory,” 306–307.

⁸⁶⁹ Founded by radical feminist Kathleen Barry, the CATW coalition “brings international attention to trafficking in women and girls, prostitution, pornography, sex tourism, and bride selling, mainly through campaigns and policy advocacy.” CATW has had a Category II Consultative Status under the UN Economic and Social Council since 1989. See <http://www.catwinternational.org/about/index.php>.

⁸⁷⁰ The debates also reflected discord between women’s organizations as to what counts as authentic feminism. Interestingly, CATW referred to the opposition as “several *mainstream* human rights organizations led by the International Human Rights Law Group” that “supported a definition of trafficking that required proof of force and deceit.” Dorchon Liedholdt, “Demand and the Debate,” *Coalition Against Trafficking in Women*, 2004, http://action.web.ca/home/catw/readingroom.shtml?x=53793&AA_EX_Session=2f3f900e1d5d2337bfe8035086153be5.

⁸⁷¹ The rancor between prostitution abolitionists and sex workers’ rights organizations is reflected in earlier CATW publications had referred to several of the opposing Human Rights Caucus members as “pro-prostitution” and accused them of being “paid by pimps” to make sure the interests of the global sex industry were protected despite the new trafficking protocol. Melissa Ditmore and Marjan Wijers, “The Negotiations on the UN Protocol on Trafficking in Persons,” *Nemesis*, no. 4 (2003): 79-88, note 4.

constitutes a violation of (all) women's human rights.⁸⁷² Abolitionist activists contend that all prostitution is ultimately trafficking because demand for sexual services allegedly increases the number of sex trafficking victims.⁸⁷³ In this view, measures to enhance criminal law enforcement and eradicate commercial sex establishments are per se anti-trafficking measures, and vice versa.⁸⁷⁴

The other faction was represented by the Human Rights Caucus, an alliance of human rights, anti-trafficking, and sex workers' rights organizations and activists, led by the U.S.'s International Human Rights Law Group (IHLG) and the Bangkok-based Global Alliance Against Trafficking in Women (GAATW).⁸⁷⁵ The Human Rights Caucus supported the view

⁸⁷² Informed by theories of "dominance feminism," most clearly articulated by Catherine MacKinnon, CATW identifies sexual violence and sexual exploitation as central to women's subordination at both structural and individual levels. CATW works internationally to oppose all forms of sexual exploitation. They provide the following definitions: "Sexual exploitation is a practice by which person(s) achieve sexual gratification or financial gain or advancement through the abuse of a person's sexuality by abrogating that person's human right to dignity, equality, autonomy, and physical and mental well-being. Sexual exploitation includes sexual harassment, rape, incest, battering, pornography and prostitution. Prostitution includes casual, brothel, or military prostitution, sex tourism, mail order bride selling and trafficking in women.

"The Harm: Sexual exploitation preys on women and children made vulnerable by poverty and economic development policies and practices; refugee and displaced persons; and on women in the migrating process. Prostitution victimizes all women, justifies the sale of any woman, and reduces all women to sex. Sexual exploitation eroticizes women's inequality. Sexual exploitation is a vehicle for racism and "first world" domination, disproportionately victimizing minority and "third world" women. Local and global sex industries are systematically violating women's rights on an ever-increasing scale. Sexual exploitation violates the human rights of anyone subjected to it, whether female or male, adult or child, Northern or Southern.

"The Solution: Decriminalize the women in prostitution. Criminalize the men who buy women and children and anyone who promotes sexual exploitation, particularly pimps and procurers. Reject State policies and practices that channel women into conditions of sexual exploitation. Provide education and employment opportunities that enhance women's worth and status, thereby diminishing the necessity for the women to turn to prostitution. The Vision: It is a fundamental right to be free of sexual exploitation in all its forms. Women have the right to sexual integrity and autonomy." See Coalition Against Trafficking in Women, "About CATW," <http://www.catwinternational.org/about/index.php> (emphasis added).

⁸⁷³ Virada Somsawasdi, founder and director of the Women's Studies Center at Chiang Mai University and member of the Asia-Pacific branch of CATW argues that, "it is almost impossible to draw a line between prostitution and trafficking in women when misinformation plays a critical factor. Women are lured, forced and, under male hegemony, misinformed and thus trafficked into prostitution." Somsawasdi, "The Power of Law and Women's Presence in the Thaksin Era," 4.

⁸⁷⁴ Bridget Anderson and Julia O'Connell Davidson, *Trafficking - A Demand Led Problem?: A Multi-Country Pilot Study* (Save the Children, 2002), 8.

Feminist abolitionist views against prostitution resonated with the conservative political agenda of the United States government and Bush Administration, which required all NGOs to sign an "anti-prostitution pledge" as a condition of US Agency for International Development (USAID) funding. Funding originally related to malaria, tuberculosis, and HIV/AIDS programs has been extended to anti-trafficking programs as well. The bill bars the use of federal funds to "promote, support, or advocate the legalization or practice of prostitution" and requires grantees to adopt a policy "explicitly opposing prostitution and sex trafficking." *United States Leadership against HIV/AIDS, Tuberculosis, and Malaria Act of 2003*, 22 U.S.C. § 7631(f) (2003). See Edi Kinney, "Appropriations for the Abolitionists: Undermining Effects of the U.S. Mandatory Anti-Prostitution Pledge in the Fight Against Human Trafficking and HIV/AIDS," *Berkeley Journal of Gender, Law & Justice* 21 (2006): 158-194.

⁸⁷⁵ Ditmore and Wijers assert that the Human Rights Caucus was the first to engage in the lobbying process, and the "American-based Coalition Against Trafficking in Persons . . . stepped in after the first meeting of the Crime Commission." Ditmore and Wijers, "The Negotiations on the UN Protocol on Trafficking in Persons."

GAATW was represented by the Dutch Foundation Against Trafficking in Women in the initial phase of negotiations. Other members of the Human Rights Caucus include the Foundation Against Trafficking in Women (STV, the Netherlands), Asian Women's Human Rights Council (AWHRC, Phillipines, India), La Strada (Poland,

that prostitution is work and that trafficking is characterized by deception, force or coercion, and that people – including men – are trafficked for a variety of forms of exploitative labor.⁸⁷⁶

GAATW and many of its sex workers' and migrants' rights allies were wary of endorsing law-and-order models to address trafficking and commercial sexual exploitation. At first, many sex workers' rights organizations were reluctant to engage the trafficking protocol because it equated trafficking with prostitution and neglected different forms of trafficking, as well as because of the history of misuse of trafficking laws to justify crackdowns on migrants.⁸⁷⁷ The Protocol placed trafficking-as-prostitution in an international legal regime of crime control, rather than labor rights or human rights. Eventually, the lobbying pressure of CATW led some sex worker activists to participate in the debates "under cover" of the Human Rights Caucus, rather than as representatives of sex workers' rights organizations. This tactic allowed sex workers' rights activists to maintain their organization's ideological opposition to the ostensible link between commercial sex and trafficking, and also reflected activists' reluctance to address exploitation in the commercial sex industry through crime-control and security-oriented legal frameworks. As the international community mobilized around trafficking as an problem of "transnational organized crime" – rather than a human rights or labor rights issue – sex workers' rights advocates sought to preserve their ability to promote "radical" frames, even as they simultaneously worked with more mainstream human rights organizations to guard against the discursive incursion of anti-prostitution advocates in the trafficking debates.

The Human Rights Caucus argued that trafficking in the sex industry occurs only in child prostitution and cases of coercion, not in all cases where women perform sexual labor.⁸⁷⁸ Activists contended that abolitionist anti-trafficking initiatives focused on "forced prostitution" disregard abuses perpetrated by both customers and enforcement officials against sex workers,

Ukraine, Czech Republic), Fundacion Esperanza (Columbia, Netherlands, Spain), Ban-Ying ("House of Women" for Thai and Southeast Asian women, based in Germany), Foundation for Women (Thailand), KOK-NGO Network Against Trafficking in Women (Germany), Women's Consortium of Nigeria, Women, Law and Development in Africa (Nigeria).

Emerging out of ideas advocates developed during the International Workshop on Migration and Traffic in Women in October 1994, STV, GAATW, and the International Human Rights Law Group published a guidebook in 1999 spelling out the human rights of trafficked persons. Foundation Against Trafficking in Women (Amsterdam); International Human Rights Law Group (Washington D.C.); Global Alliance Against Traffic in Women (Bangkok), *Human rights standards for the treatment of trafficked persons* (Bangkok: Global Alliance Against Traffic in Women, 1999).

⁸⁷⁶ The Human Rights Caucus noted, "[o]bviously, by definition, no one consents to abduction or forced labor, but an adult woman is able to consent to engage in an illicit activity (such as prostitution, where this is illegal or illegal for migrants). If no one is forcing her to engage in such an activity, then trafficking does not exist. . . . The Protocol should distinguish between adults, especially women, and children. It should also avoid adopting a patronizing stance that reduces women to the level of children, in the name of 'protecting' women. Such a stance historically has 'protected' women from the ability to exercise their rights." Human Rights Caucus, "Recommendations and Commentary on the Draft Protocol to Combat International Trafficking in Women and Children Supplementary to the Draft Convention on Transnational Organized Crime," (1999).

⁸⁷⁷ Jo Doezema, "Who gets to choose? Coercion, consent and the UN Trafficking Protocol. By Jo Doezema," *Gender and Development* 10, no. 1 (2002): 20-27. Doezema explains, "[s]ex worker rights activists including myself were concerned about the impact of a new international trafficking instrument on the lives of sex workers. Historically, anti-trafficking measures have been used against sex workers, migrant sex workers, and immigrants." Ibid. 20. Several activists from the Network of Sex Work Projects (NSWP) joined the Human Rights Caucus in their lobby efforts, in the hope of ensuring a result that would not damage sex workers' human rights.

⁸⁷⁸ See Global Alliance Against Traffic in Women (GAATW), *Handbook for Human Rights Action in the context of Traffic in Women*, (Bangkok, Thailand, 1997).

failing to address the primary concern of most sex workers – improved work conditions.⁸⁷⁹ The migrants’ rights activists I interviewed remarked that the work conditions for most migrants are generally so terrible that it makes little sense to single out sex work as particularly exploitative.⁸⁸⁰ They asserted that trafficking was a feature of international labor migration, and that sexual exploitation was not isolated to the sex industry, as female factory workers suffer sexual harassment at the hands of their employers, while domestic workers may be enslaved and sexually abused in isolated houses without any chance for escape.

For sex workers rights’ activists, the best way to combat commercial sexual exploitation is to end the marginalization and social exclusion of sex workers by recognizing their work as work and empowering them through rights-awareness and labor organizing.⁸⁸¹ These groups assert that “rescue and rehabilitation” operations are counterproductive, in that they fail to respect migrants’ autonomy and right to self-determination, subject voluntary workers to arrest and deportation, and further stigmatize sex workers by “legitimizing a policy of [harassment] and discrimination” among law enforcement officials.⁸⁸²

Interviewees who identified themselves as “women’s rights advocates” in Thailand fell on both sides of debate regarding the relationship between prostitution/sex work and trafficking. While interviewees who worked in NGO and government shelters and as child rights advocates generally expressed abolitionist leanings, the persistence of the sex industry has made activists more pragmatic in their goals. Most advocates were plainly uninterested in the ideological debates that occupied “those Western feminists.”⁸⁸³ Even those who were staunchly abolitionist, typically elite- and middle-class women engaged in protective and rehabilitative advocacy activities, seemed to acknowledge the deeply embedded nature of prostitution in Thai economics and society. Indeed, most of the activists with whom I spoke expressed frustration with “the constant seminars and trainings on how to ‘define’ trafficking, when we really need to be taking action.”⁸⁸⁴ Renowned Thai women’s rights activist Siriporn Skrobaneek typifies this pragmatic approach, having shifted from an abolitionist perspective to one supporting the empowerment of sex worker and migrant communities over the course of her twenty-plus years of anti-trafficking activity. Assessing anti-trafficking legal reforms based on crime control and the prostitution abolitionist model, Siriporn observes that the criminalization of prostitution has not deterred women from working in the sex industry or stopped trafficking, but rather “provides a loophole

⁸⁷⁹ See, e.g., Jo Doezema, “Forced to Choose: Beyond the Voluntary v. Forced Prostitution Dichotomy,” in *Global Sex Workers: Rights, Resistance, and Redefinition*, ed. Kamala Kempadoo and Jo Doezema (New York: Routledge, 1998), 44-50. See also Jo Doezema, “Now You See Her, Now You Don’t: Sex Workers at the UN Trafficking Protocol Negotiation,” *Social Legal Studies* 14, no. 1 (2005): 61-89.

⁸⁸⁰ Interview with Bai, migrants’ rights activist, April 11, 2005. Phil Marshall, former director of the UN Inter-Agency Project on Trafficking in the GMS explained “some women, particularly those with families to support, see brothels as their best option. And given their other choices, I think this is understandable.” Maggie Jones, “Thailand’s Brothel Busters,” *Mother Jones*, December 2003, <http://motherjones.com/politics/2003/11/thailands-brothel-busters>.

⁸⁸¹ GAATW members promote a rights-based approach to trafficking that blends “women’s rights as human rights” frames with initiatives to enforce labor protections and empower migrant women, particularly sex workers and domestic workers. To promote safe, prepared migration, GAATW produced a guidebook for migrants identifying danger signs and potential points of exploitation throughout the migration process, including the threat of trafficking, coercion, fraud, and sexual violence (both in and out of sex work). GAATW, *A Migrating Woman’s Guidebook* (1999), available at http://gaatw.net/books_pdf/Migrating%20women's%20handbook.pdf

⁸⁸² Chiang Mai Empower, “U.S. Sponsored Entrapment,” *Research for Sex Work* 8 (June 2005): 25-27.

⁸⁸³ Interview with Phueng, women’s rights activist, May 16, 2005.

⁸⁸⁴ Interview with Jin, women’s rights activist and academic, June 17, 2005.

for corrupt officials to abuse their [authority] and thus [helps] keep the sex industry [flourishing].”⁸⁸⁵ Siriporn has endorsed a shift away from a state-driven “vertical approach” to trafficking – raid, arrest, detain, deport – to a “horizontal approach” engaging trafficking survivors in the development and implementation of anti-trafficking initiatives.

Thus, while most of the Thai anti-trafficking NGOs I researched were critical of the sex industry and male sexual privilege, abolition is not a realistic advocacy platform in the Thai political field, as prostitution is understood to be embedded in Thai (patriarchal) social norms and protected by police and politicians who profit from the sex industry. As a result, progressive Thai NGOs that sided with the Human Rights Caucus focused on promoting anti-trafficking laws that improve the treatment of migrant women working in the informal sector, including domestic work, factory work, and sex work.

The final definition of trafficking in the Palermo Protocol maintains substantial legal ambiguity to accommodate political compromise and ensure a maximum number of signatures.⁸⁸⁶ For example, although the Protocol deems the consent of trafficked persons irrelevant where enumerated practices have taken place, it skirts the prostitution issue by addressing labor exploitation, slavery, and the removal of organs alongside forced prostitution. It also does not define the phrase “exploitation of prostitution of others or other forms of sexual exploitation,” allowing states to adopt the Protocol without revising their domestic laws on prostitution. As a result, women’s rights NGOs on both sides of the prostitution debate were able to claim victory in the final draft of the Palermo Protocol.⁸⁸⁷

CATW claimed that the new definition of trafficking “was launched and advocated by the Coalition,” in that it “protects all victims, not just those who can prove that they were forced. Many of the measures to prevent trafficking, protect victims, and punish perpetrators were also

⁸⁸⁵ Siriporn Skrobaneck, “Human Trafficking: From Vertical to Horizontal Journey,” *Foundation for Women*, 2003, <http://www.womenthai.org/eng/trafficking.html>.

⁸⁸⁶ The Palermo Protocol defines trafficking in persons as: “... 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) shall be irrelevant where any of the means set forth in subparagraph (a) have been used*” (Article 3 (a-b)) (Emphasis added). The Protocol further states that the recruitment, transportation, transfer, harbouring or receipt of a child (any person under eighteen years of age) for the purpose of exploitation shall be considered “trafficking in persons” even if it does not involve any of the means set forth above (Article 3 (c)).

⁸⁸⁷ Ditmore and Wijers, “The Negotiations on the UN Protocol on Trafficking in Persons.” The Human Rights Caucus identified its advocacy successes in the inclusion of force or deception as an essential element of trafficking (i.e., prostitution may be voluntary, and thus, not all prostitution is trafficking); the lack of a definition for the terms “sexual exploitation” and “exploitation of the prostitution of others,” a compromise suggested by the Caucus to the drafters.

Compare the anti-prostitution approach of Dorchen A. Leidholdt, Co-Executive Director of CATW in Liedholdt, “Demand and the Debate.” where Leidholdt explains the drafting debates as follows: “Several *mainstream* human rights organizations led by the International Human Rights Law Group supported a definition of trafficking that required proof of force and deceit. *Explicitly feminist human rights groups*—most prominently the Coalition Against Trafficking in Women, Equality Now, and the European Women’s Lobby—called for a definition of trafficking that at a minimum included trafficking carried out by the abuse of a position of power or a situation of vulnerability. In this international context, *where developing countries grappling with the devastation wrought by the sex industry were active participants, the arguments of the pro-prostitution lobby foundered, and the more inclusive and protective definition won.*” Ibid. (emphasis added).

initiated by the CATW. CATW's anti-prostitution activism was galvanized, in part, due to international organizations' recognition of "sex work" as a legitimate economic sector.⁸⁸⁸ CATW The organization touted the efficacy of its international "anti-sex industry and anti-trafficking" advocacy, asserting that "whereas five years ago, it looked like there was little resistance to governments seeking to legalize prostitution as a form of work, and who were considering regulating the sex industry and taxing it as a 'sex sector,' today this situation has changed," citing legislative reforms in the Philippines, Venezuela, Bangladesh, Japan, Sweden, and the United States.⁸⁸⁹

Members of the Human Rights Caucus likewise celebrated the trafficking definition because "the inclusion of force or deception as an essential element of trafficking signifies an important departure from the abolitionist perspective."⁸⁹⁰ Caucus members mitigated the inclusion of language such as "irrespective of the consent of the person," as well as the lack of a definition for the terms "sexual exploitation" and "exploitation of the prostitution of others," by including a key list of "means of coercion and force." Caucus members also claimed victory in the compromise reached during the final stages of negotiations to retain both terms but leave them undefined, thereby allowing individual governments to interpret these commitments according to their domestic policies. A UN interpretive note was also a point of pride, as it stated that "the travaux préparatoires [preparatory works, the official record of a negotiation] should indicate that the Protocol addresses the exploitation of the prostitution of others and other forms of sexual exploitation only in the context of trafficking in persons. . . . [The Protocol] is therefore without prejudice to how State Parties address prostitution in their respective domestic laws."

Despite the intense advocacy efforts of both feminist factions for governments to adopt their preferred framing of trafficking as an issue of women's human rights, the Palermo Protocol is not housed within a women's rights, human rights, or labor rights regime – rather, it supplements the UN Convention Against Transnational Organized Crime. Along with parallel protocol regarding people-smuggling and arms trafficking, the text of the Palermo Protocol emphasizes law enforcement measures to combat trafficking.⁸⁹¹ States could agree that trafficking and forced prostitution did indeed violate the rights of its victims, but trafficking also posed a threat to national security and sovereignty, associated as it was with illegal immigration,

⁸⁸⁸ See, for example, Lin Lean Lim, *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia* (Geneva: International Labour Organization, 1998).

⁸⁸⁹ Liedholdt, "Demand and the Debate."

⁸⁹⁰ Ditmore and Wijers, "The Negotiations on the UN Protocol on Trafficking in Persons."

⁸⁹¹ The focus of the Palermo Protocol is centralized on law-enforcement measures to combat trafficking, requiring signatories to designate trafficking as a "serious crime," punishable by a "maximum deprivation of liberty of at least four years or more for a serious penalty." Palermo Protocol, Article 2(b). While the state is obligated to effect legal reforms to address the prosecution and conviction of traffickers, the Protocol employs merely aspirational language to ask states to "consider" and "endeavor to provide" for victim protection.

Further, although the protocol entreats state parties "to protect and assist the victims of such trafficking, with full respect for their human rights" [Article 2(b)], states are urged, but not required, to stop penalizing victims for acts such as illegal immigration or prostitution committed in relation to the act of trafficking itself. States are also not required to provide services to victims, including health and legal services, nor are States required to grant temporary residency status to victims. As a result, many states continue to treat trafficked persons with fairly punitive measures, including forced rescue, mandatory participation in "rehabilitation" programs, and restrictions on movement, ability to work, seek independent legal counsel, or contact family members or NGO advocates.

international gangs, drugs and arms trafficking, money laundering, and the cross-border movement of terrorists.⁸⁹²

Thus, although the issues of women's rights and human trafficking moved from the margins to the mainstream of the international agenda, battles over the definition of trafficking and its relationship to prostitution ultimately "served to distract NGOs from broader human rights concerns, in particular those related to the Smuggling Protocol."⁸⁹³ The delays in the drafting process caused by the contentious debates between different feminist alliances about prostitution/sex work meant that there was little time left to address broader human rights concerns implicated by the new international legal definitions of smuggling and human trafficking. Consequently, efforts to include provisions requiring countries to develop policies to protect the human rights of migrants – whether they were smuggled or trafficked – were sidelined, while provisions regarding law enforcement and security dominated the final versions of the Protocol.

Conclusion

The political and discursive turf wars between prostitution abolitionists and migrant sex workers' rights activists reflect the importance of framing and the costs, benefits, and consequences of legal mobilization. Intramovement contention, the fracture of feminist frames, and the appearance of new stakeholders in the trafficking debate have transformed the context of NGO mobilization in both domestic and international political fields. More important, however, is how intramovement tension and framing contests inform the creation, implementation, and evaluation of new governance mechanisms aimed at addressing trafficking.

⁸⁹² Interview with Khun Malee, law professor, June 9, 2005; Interview with Esther, anti-trafficking representative of international organization and participant in the drafting process of the Palermo Protocol, March 6, 2007.

⁸⁹³ Gallagher, "Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway," 837, note 199. See also Anne Gallagher, "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis," *Human Rights Quarterly* 23, no. 4 (2001): 1001–1002.

CHAPTER 7 – Contested Interventions

Introduction

In the late 1990s, human trafficking emerged as one of the most pressing contemporary issues in international politics. The mobilization of transnational advocacy networks against trafficking and forced prostitution had framed the issue as one of violence against women and violations of women's human rights. However, trafficking moved from the margins to the mainstream of international politics as "destination" countries in Europe and the U.S. and Australia identified trafficking and transnational organized crime as national security threats.⁸⁹⁴ Consequently, the reform efforts championed by women's advocates were rearticulated by different actors in mainstream human rights organizations, development agencies, and most importantly, in the work of security institutions at the local, national, regional, and international levels.

What happens when concerns about national security and immigration are pitted against the human rights of economically- and sexually-exploited migrants? This chapter aims to answer this question by analyzing the development and operation of the taskforces charged to combat human trafficking in Thailand.

Front-line actors, including police, border officials, and social welfare workers are called upon to identify situations of exploitation, intercept "traffickers," and differentiate trafficking victims from criminal "illegal aliens." Collaborative partnerships with NGOs facilitate this process, supporting criminal investigations and prosecutions by providing shelter, rehabilitation, and legal advocacy for victim-witnesses. Efforts to create interventions sensitive to the rights of trafficked migrants compete with state campaigns to wage a "war on trafficking" through enhanced border interdiction strategies and crackdowns on illegal immigration.⁸⁹⁵ Yet the casualties of this war are rarely representatives of the sophisticated criminal syndicates alleged to profit from trafficking; instead, trafficking interventions often net low-level "people movers" and frequently result in violations of migrants' rights.⁸⁹⁶ Despite new rights-based training programs for criminal justice officials emphasizing gender-awareness and victim-sensitivity in trafficking interventions, discriminatory enforcement and increased marginalization of workers in informal sectors – particularly in the sex industry – remain commonplace problems in anti-trafficking initiatives throughout the Greater Mekong Sub-region (GMS).⁸⁹⁷

The following chapter explores how activists engaged transnational women's rights networks to galvanize reforms and implement them in Thailand's response to human trafficking.

⁸⁹⁴ See Gallagher, "Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway."

⁸⁹⁵ Anderson and Davidson, *Trafficking - A Demand Led Problem?: A Multi-Country Pilot Study*.

⁸⁹⁶ As David Feingold, International Coordinator for HIV/AIDS and Trafficking Projects for UNESCO Bangkok, explains, "trafficking is big business, but in many regions of the world, such as Southeast Asia, trafficking involves mostly 'disorganized crime': individuals or small groups linked on an ad hoc basis. There is no standard profile of traffickers. They range from truck drivers and village 'aunties' to labor brokers and police officers. Traffickers are as varied as the circumstances of their victims." Feingold located two major networks in the mid- to late-1990s, but they have since "faded in importance, owing to changes in the structure of the sex industry." David Feingold, "Human Trafficking," *Foreign Policy*, October 2005.

⁸⁹⁷ The Greater Mekong Sub-region includes Thailand, Myanmar, Laos, Cambodia, Vietnam and certain regions of Southern China.

I map the socio-legal terrain of the anti-trafficking movement, analyzing how different actors frame trafficking as a problem of crime, discrimination, or sexual violence, or as a product of ineffective immigration and labor policies. I assess the mobilizing and counter-mobilizing ideas animating actors in anti-trafficking taskforces as a microcosm of a broader social movement to reveal the tension between crime-control and rights-based approaches to the problem – and how this tension impacts the rights of migrant women and sex workers.⁸⁹⁸

Women’s Advocacy Networks and the Legal Landscape of Trafficking in Thailand

Framing the “Sexploitation” of Thai Women and Children: Raising Rights Awareness, Pressuring the State, and Mobilizing Reform.

In the late 1990s, Thailand for the first time developed a robust domestic legal framework to address trafficking and commercial sexual exploitation. The country reformed its anti-trafficking legislation four years before the development of the most recent international anti-trafficking convention in 2000.⁸⁹⁹ One of the main reasons Thailand’s anti-trafficking activities pre-date those of other nations is due to international criticism provoked by the concerted advocacy of women’s and children’s rights groups to raise awareness about the commercial sexual exploitation of children and trafficking for forced prostitution, as we saw in the previous chapter.

Thai activists and academics – rooted cosmopolitans – were central to the rise of transnational anti-trafficking advocacy networks by exposing the social consequences of sex tourism and the “sexploitation” of Thai women and children in both domestic and foreign commercial sex industries.⁹⁰⁰ Activists drew attention to the issue at conferences and in the media by publicizing horror stories describing the experiences of some trafficking victims: young children sold by their “ignorant” or drug-addicted parents into Bangkok brothels to be raped by foreign pedophiles or Thai women trafficked abroad to be enslaved in foreign sex industries. Asian and Western feminists publicized these tragic stories internationally to galvanize their own campaigns against sexual violence, prostitution, sex tourism, and the trade in mail-order brides. Further, international outcry against child labor in Thailand – and the Thai government’s subsequent attention to child prostitution – spurred the government to address commercial sexual exploitation and trafficking. Efforts to repair the country’s international image, to protect Thailand’s tourist industry, to maintain export businesses, and to attract foreign investment created a political and economic environment where the government became more receptive to the critiques and demands of NGOs for reform.

As discussed in Chapter 5, NGO activists succeeded in raising awareness of trafficking and commercial sexual exploitation, as well as provoking the state to take action to protect Thai women and children. Despite this, the government’s response produced some unintended negative consequences for Burmese migrant sex workers. Efforts to combat “trafficking”

⁸⁹⁸ See Packer’s discussion of “two models of the criminal process” in Herbert Packer, *The limits of the criminal sanction* (Stanford, CA: Stanford University Press, 1968). Packer analyzes the tension between the “Due Process Model” of criminal administration, focusing on the rights of the individual, and the “Crime Control Model,” which favors a broad range of discretion and rapid action.

⁸⁹⁹ The Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997).

⁹⁰⁰ See Skrobanek, “The Transnational Sex-Exploitation of Thai Women.” Some of the largest and most prominent activists and NGOs addressing trafficking and advocating for legal reform were founded in Thailand, including the Foundation for Women and the Global Alliance Against Traffic in Women (GAATW).

resulted in the targeting, abuse, and deportation of Burmese women under the guise of “rescues.” The government’s response to migrant Burmese sex work was shaped, in part, by the fear of HIV spreading in the general population.⁹⁰¹ In the early 1990s at the height of Thailand’s AIDS epidemic, Burmese sex workers operated in the lowest tiers of the Thai sex trade and served a clientele with high rates of HIV-infection; women in situations of debt-bondage had little leverage to refuse a customer who demanded sex without a condom.⁹⁰² Government responses reflected the powerlessness of these women.

Further public attention on the Thai sex industry generated additional efforts that selectively targeted Burmese women. After the release of the 1993 Asia Watch report on the failures of Thai reform efforts entitled, “A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand,” the Thai government initiated a series of highly publicized brothel raids across the country. The report contained lurid accounts of Thai police and border guards’ corruption, direct involvement in trafficking, extortion of free sex and bribes, and abuse of detained women.⁹⁰³ The raids focused on public, low-end brothels dominated by Burmese women. As one Thai prosecutor active in early anti-trafficking campaigns observed, Thailand’s selective enforcement of anti-trafficking policies – its targeting of Burmese migrants – furthered its economic and political interests with Burma. He estimated that thirty percent of the Burmese workers in Thailand were prostitutes servicing illegal Burmese laborers, and “both systems are profitable to the Thai government and are therefore tolerated.”⁹⁰⁴

The contrast between the Thai government’s efforts on behalf of Thai women trafficked abroad, many into commercial sexual exploitation in Japan, and the government’s arrest, abuse, and deportation of Burmese victims trafficked into Thailand – in clear violation of Thailand’s obligations under national and international law – revealed risks attending NGOs’ strategic framing of trafficking as (criminal) exploitation.⁹⁰⁵ The consequences of the Thai government’s crackdown on forced and child prostitution and its cooptation of the trafficking issue to advance its own immigration-control, pro-tourism agenda presented a challenge for women’s rights NGOs. Advocates had successfully spurred the state to respond to the trafficking issue by exposing the government’s toleration of forced prostitution and the international “sexploitation” of Thai women and children. However, the collateral damage suffered by migrant women and children in the selective enforcement of anti-trafficking policies evidenced the risks of appealing to the state for criminal justice interventions. As NGOs leveraged the attention of the media and mounting pressure from the international community for Thailand to address trafficking and child sex tourism, activists turned their sights towards the reform of Thailand’s anti-trafficking and prostitution suppression laws with the hopes of using the law to protect, rather than punish, victims of commercial sexual exploitation and trafficking.

⁹⁰¹ Global Alliance Against Traffic in Women, *Collateral Damage*, 175.

⁹⁰² Ibid.

⁹⁰³ Ibid.

⁹⁰⁴ The prosecutor also noted that the Burmese regime “facilitates the situation by welcoming foreign exchange remitted by the migrant workers abroad, but does nothing to help them when they are in trouble overseas.” *International Workshop*, 16.

⁹⁰⁵ Thomas, Asia Watch Committee (U.S.), and Women’s Rights Project (Human Rights Watch), *A Modern Form of Slavery*.

Legal Reforms to Protect Women-and-Children

Changes in Thai policy on trafficking were not limited to enforcement of anti-prostitution measures undertaken as part of crime-control efforts. Domestic and international concern regarding commercial sexual exploitation created sufficient pressure for the Thai government to enact both legal and institutional reforms to demonstrate its willingness to address Thailand's "prostitution problem." In 1994, a Sub-Committee on Combating Commercial Sexual Exploitation was established under the National Committee on Women Affairs, the Office of the Permanent Secretary of the Office of the Prime Minister. Subsequently, the Sub-Committee developed the First National Policy and Plan Combating Commercial Sexual Exploitation, which was approved by the Council of Ministers in August 1996. In the same year, Thailand adopted the Stockholm Agenda for action to address the commercial sexual exploitation of children. These new institutions and government policy plans continue to be cited in national and international agreements as evidence of Thailand's official commitment to combating trafficking and commercial sexual exploitation.⁹⁰⁶

New laws addressing prostitution and trafficking passed in the mid-1990s were part of a broader agenda of legal and constitutional reforms. Thailand drafted a new "People's Constitution" in 1996, reflecting heightened consciousness about human rights issues in the Kingdom and the expanding role of civil society in Thai politics. The establishment of a right to free association marked an "important turning point in the complex relationship between the government and the nonprofit sector in Thailand."⁹⁰⁷ In the same period, Thailand reformed its laws addressing trafficking and sexual exploitation, replacing the Prostitution Suppression Act of 1960 to provide for stricter punishment for customers of sexually exploited minors and imposes penalties on parents or guardians who profit from "conspiring" to sell or lure children into prostitution.⁹⁰⁸

The 1960 Act had focused on the promiscuous behavior of women; mandated imprisonment and enforced rehabilitation, with continued surveillance after release; and failed to exempt from punishment those forced into prostitution. International attention to exploitation in the Thai sex industry, combined with a new political opportunity structure, facilitated the reform of Thai prostitution policy. Sex workers' rights organizations were consulted in the drafting of the 1996 Act, and some drafters supported the principle that adult sex work should not be criminalized, focusing instead on eliminating child prostitution.⁹⁰⁹ In the end, although prostitution officially remained illegal, as does advertising for prostitution, procurement, and managing a prostitution establishment, the 1996 Act essentially decriminalized the sale of sex by individuals, subjecting males or females who solicited for prostitution to a fine of 1,000 baht or less (approximately USD \$25 in the 1990s) without compulsory rehabilitation. The 1996 law distinguished between voluntary and forced prostitution, and strengthened penalties prohibiting

⁹⁰⁶ See, for example, the "Background and Rationale" Section of the 2006 Memorandum of Understanding on Operational Procedures for Concerned Agencies in Combatting [*sic*] Human Trafficking in 19 Northeastern Provinces.

⁹⁰⁷ Amara Pongsapich, "The Nonprofit Sector in Thailand," in *The nonprofit sector in the developing world: a comparative analysis*, ed. Helmut Anheier and Lester Salamon, Johns Hopkins nonprofit sector series 5 (New York: Manchester University Press, 1998), 294.

⁹⁰⁸ The Prevention and Suppression of Prostitution Act B.E. 2539 (1996). The law's failure to define key terms and the considerable discretion afforded to enforcement agents and prosecutors is troublesome, as it encourages the targeting of migrant sex workers and poor parents in already maligned communities.

⁹⁰⁹ Global Alliance Against Traffic in Women, *Collateral Damage*.

sex with minors, the promotion of underage prostitution (particularly by parents), and required the participation of “qualified persons who work in [NGOs] involved in the prevention and resolution of prostitution problems” on national and provincial Protection and Occupational Development Committees (1996 Act, Sect. 14, 16).

Although the 1996 Act signaled a retreat from the “matronizing” rehabilitation and retraining approach of the 1960 anti-prostitution law described in Chapter Three, the transformative impact of the 1996 reforms was limited by other, intersecting laws governing the sex industry. The Vietnam-era “Entertainment Places Act” of 1966 remains in force, facilitating highly discretionary and selective enforcement of Thailand’s anti-prostitution laws while maintaining owner-control over workers and creating incentives for police corruption. Indirect prostitution by women employed as “entertainers” or “special service girls” flourishes in bars, dance clubs, massage parlors, restaurants, and a variety of other venues.⁹¹⁰ Thus, while Thailand’s laws formally disallow prostitution, owners of “entertainment” establishments continue to profit from the bar fees customers pay to hire out women for off-site prostitution, and fear of arrests, fines, and lack of labor protections limit sex workers’ rights and security.

In 1997, Thailand replaced its 1928 anti-trafficking law, criminalizing trafficking in women and children of both sexes (but not men) for purposes of “sexual gratification of another person, for an indecent sexual purpose, [or] for gaining any illegal benefit . . . with or without the consent of the woman or child.”⁹¹¹ Convicted traffickers faced fines up to \$6,700 and six to twelve years in jail, with even stiffer penalties if victims were under fifteen or between the ages of fifteen and eighteen. However, Section 9 of the 1997 Act gave authorities the right to examine the bodies of women or children believed to be victims of trafficking, as well as the right to ensure that trafficked persons immediately provide evidence against traffickers. Interestingly, 1997 amendments to the Penal Code criminalized procuring, luring, or trafficking a man *or* woman for an “indecent sexual purpose . . . for the sexual gratification of another person,” providing for punishments ranging from fines, imprisonment from one to twenty years or life, and even the death penalty for offenses involving minors under 15.⁹¹² The 1997 Penal Code Amendment also provided for extraterritorial jurisdiction, allowing Thailand to prosecute offenders regardless of nationality; notes to the amendment noted that it “shows the policy and perception of Thailand that these offences are universal and very serious crimes,” such that “Thailand can prosecute every offender . . . no matter where the offence is committed, and what

⁹¹⁰ The sex workers’ rights organization EMPOWER reports that despite its participation in efforts to reform the Entertainment Law in 1998 to recognize the rights of workers in the entertainment industry and provide protections under labor law, the proposed reforms are rejected; efforts to bring sex workers under the Thai labor laws and social insurance scheme continued into the next decade. “Empower Story,” EMPOWER Foundation, accessed December 1, 2010, http://www.empowerfoundation.org/sexy_en.php#.

⁹¹¹ The Measures in Prevention and Suppression of Trafficking in Women and Children Act B.E. 2540 (1997). Section 5 of the Act defined the offense of trafficking in women and children as follows: “. . . buying, selling, vending, bringing from or sending to, receiving, detaining or confining any woman or child, or arranging for any woman or child to act or receive any act, for sexual gratification of another person, for an indecent sexual purpose, or for gaining any illegal benefit for his/herself or another person, with or without the consent of the woman or child . . .”

⁹¹² Penal Code Amendment Act (No. 14) BE 2540 (1997) (Sections 282 and 283). The Act was published in the Royal Gazette, Vol. 114, Chapter 72A (Kor), dated November 16, 1997, and entered into force on November 17, 1997. Interestingly, Thailand’s 1997 anti-trafficking law did not criminalize trafficking in men.

the nationality of the offender is.”⁹¹³ Other laws in Thailand’s toolkit against trafficking include laws regulating immigration, labor protections, anti-money laundering, and organized crime.⁹¹⁴

The fruits of NGOs’ legal mobilization are evident in the reform of Thailand’s prostitution and anti-trafficking laws. Many interviewees – including police, prosecutors, law professors, and UN officials – emphasized the critical impact of NGO advocacy in influencing Thailand’s reforms advancing victim rights and services and creating new institutions to facilitate cooperation between state and non-state actors. NGOs’ initial efforts to pressure the police to investigate cases of child sexual abuse and charge foreign offenders met with limited success. Police rarely detained sex tourists who had plenty of money for bribes, and many offenders skipped bail. Sudarat Sereewat, an activist involved in the formation of ECPAT, began networking with high-level court officials in order to press for the prosecution of child-sex tourists.

Although the Thai government had initially denounced anti-trafficking NGOs as disloyal, ruining the country’s image, and promoting “foreign” ideas about women’s and children’s rights, the state became increasingly responsive to anti-trafficking critiques as international pressure mounted. Activists strategically emphasized transnational economic dynamics and sex tourism (rather than local demand) as causes of trafficking, thereby avoiding a frontal assault to the culturally embedded practices of male sexual entitlement in polygamy and prostitution that had frustrated earlier reform efforts by elite women. Activists simultaneously appealed to the paternal responsibility of (modern, elite) Thai males to protect children and young women in a way that allowed the Thai government to “save face” by taking action to address Thailand’s “prostitution problem” and taking up the cause of “women’s rights.”

The increasing collaboration between NGOs and law enforcement and social welfare officials to address the commercial sexual exploitation of children laid the groundwork for the multi-disciplinary taskforces charged with coordinating trafficking interventions today. NGOs began to monitor legal cases against foreign offenders and created programs to train police and legal officials on child- and victim-friendly investigation tactics. Movement activists and legal advocates helped develop child-friendly interview protocol, including the presence of psychologists, social workers, or NGO advocates to protect the interests and privacy of child victims. By 1999, the Thai government incorporated these techniques by amending criminal procedure to allow videotaped testimony of child victims of sexual abuse, who were often retraumatized by giving repeated accounts of their abuse to several authorities throughout the investigation and trial.⁹¹⁵ Women’s groups utilized the momentum of reforms addressing the commercial sexual exploitation of children to press for similar protections for adult (female) victims of trafficking.

Thailand’s approach to trafficking reflects the emergence of networked governance. It formed a National Sub-Committee to Combat Trafficking in Women and Children (Anti-

⁹¹³ Ibid., page 1, note 3.

⁹¹⁴ The legal framework informing the implementation of Thailand’s anti-trafficking interventions includes the Penal Code, the Criminal Procedure Code, the 1929 and 2008 Extradition Acts, the 1979 Immigration Act, 1985 Employment and Job Seeker Act, the 1985 Thailand Job Placement Agencies and Job Seekers Protection Act, the 1992 Mutual Assistance in Criminal Matters Act, the 1998 Labour Protection Act, the 1999 Anti-Money Laundering Control Act, the 2001 Act on Compensation to the Injured Person and Restitution and Expenses to the Accused in Criminal Cases, the 2002 Child Protection Act, the 2003 Witness Protection Act, the 2003 Child Protection Act.

⁹¹⁵ Criminal Procedure Amendment Act (No. 20) B.E. 2542 (1999). Section 273 provides for a procedure whereby a witness who may no longer in the country at the time of trial can provide testimony before leaving the country.

Trafficking Sub-Committee) consisting of experts and representatives from concerned government, non-government, and international organizations to develop national, bilateral, and multilateral anti-trafficking strategies. To improve implementation of its new anti-trafficking provisions, including procedures on rescue and investigation, legal assistance, shelter, and the provision of health, social and psychological services, Thailand developed a series of domestic Memoranda of Understanding (MOU) in the late 1990s to coordinate operations between government agencies. In 1999, the National Commission for Women's Affairs completed a MOU on Operational Procedures for Concerned Agencies in Combating Trafficking in Women and Children (1999 MOU). Signed by the Prime Minister's Office, the Royal Thai Police, the Ministry of Labour, the Department of Public Welfare, and the Chairperson of the Anti-Trafficking Sub-Committee, the 1999 MOU was developed to standardize the legal processing of trafficking cases in keeping with the Penal Code, the 1979 Immigration Act, the 1996 Prevention and Suppression of Prostitution Act, the 1997 Measures in Prevention and Suppression of Trafficking in Women and Children, and other relevant laws. The 1999 MOU contained a definition of trafficking similar to that in the 1997 anti-trafficking law, but also included elements regarding slavery-like labor practices, forced begging and "other inhumane acts." The 1999 MOU detailed separate procedures for Thai victims needing reintegration and for foreign victims of trafficking, and clarified that foreign women and children trafficked into Thailand should be exempt from prosecution under the immigration laws and housed in shelters – in part, to create incentives to provide testimony against traffickers before repatriation.⁹¹⁶

However, compliance with the 1999 MOU was limited, and NGOs continued to critique enforcement efforts and the treatment of victims as criminals by state agencies and enforcement personnel. Four years after the implementation of the 1999 MOU, training sessions with immigration officials and provincial, metropolitan, and border patrol police revealed continued problems in front-line officials' ability to differentiate between trafficked persons due services and protection and "criminal" illegal aliens. The Sub-Committee on Combating Trafficking in Women and Children gathered suggestions from a variety of state actors and stakeholders (including enforcement officials, public welfare and public health bureaucrats, attorneys, judges, and representatives from the Ministry of Interior) and produced a new MOU in 2003 on Common Operational Guidelines for Government Agencies Engaged in Addressing Trafficking in Children and Women (2003 National MOU). The 2003 MOU specifically recognized human trafficking as a "severe form of violation of human rights." In the same year, Thailand revised and updated its National Action Plans to address commercial sexual exploitation of children and trafficking.⁹¹⁷

In addition to clarifying and revising operational guidelines between government agencies, the government formally recognized the important role of NGOs in anti-trafficking operations, particularly in providing support and services to victims to promote successful

⁹¹⁶ The 1999 MOU specifies that after officials take the statement of a foreign victim of trafficking, the official is to submit information to the Immigration Service to grant leniency under Section 54 of the Immigration Act B.E. 2522 (1979) and give assistance as provided for in Section 11 of the Trafficking Act (housing in an approved shelter). Women and children trafficked to Thailand who agree to testify against traffickers were to stay in Thailand for the duration of the trial, and the MOU lists several services due victim of trafficking, including the provision of shelter, food, clothing, medical care, counseling and legal assistance.

⁹¹⁷ National Plan and Policy on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women (2003). The components of the action plan include prevention; assistance and protection; prosecution and suppression; repatriation and reintegration; information system and monitoring and evaluation; development of mechanisms [to address trafficking]; and transnational cooperation.

prosecution. Two additional MOUs were drafted in 2003 to improve protection and assistance to women and children victims of trafficking, including an MOU on the Procedural Cooperation between Government and Non-Government Agencies working with Cases of Trafficking in Women and Children (2003 Government/Non-Government MOU), as well as an MOU on the Operational Guidelines of Non-Government Agencies Concerned with Cases of Trafficking in Women and Children (2003 NGO MOU).

The three MOUs developed a framework for cooperation among governmental agencies, between governmental sector and NGOs, and among NGOs to delineate different stakeholders' responsibilities in the rescue, processing, and rehabilitation of trafficking victims. The MOUs detail the practical steps officials and advocates should take to implement existing anti-trafficking legislation and regulations, emphasizing the need to promote a "rights-based" approach to trafficking cases and to treat trafficked women and children as victims rather than criminals.

Efforts to coordinate governmental and non-governmental organizations in anti-trafficking interventions also emerged at the regional level. In the North, a region with a long history of trafficking from Burma and Laos into Thailand, particularly trafficking for commercial sexual exploitation, enforcement and public welfare officials worked together with NGOs to develop a regional-level MOU among nine northern provinces.

Thailand officially sanctioned the role of NGOs in anti-trafficking interventions in 2003, when it issued another MOU to coordinate police, state agencies, and non-governmental organizations to promote joint operations.⁹¹⁸ NGOs pressured the state to extend anti-trafficking protections to foreign victims in accordance with international human rights and humanitarian standards. The government responded by issuing a MOU providing guidelines for police and public welfare officials to take legal action against traffickers and provide social services to Thai and foreign women and children who had been trafficked; in addition, the MOU identified four categories of trafficked persons, acknowledging the existence of internal trafficking.⁹¹⁹

In interviews one year after the release of the MOUs, informants reported mixed success regarding implementation efforts. Although some activists complained that many enforcement officials do not take the new procedures seriously "because it's just an MOU, it's not the law,"⁹²⁰ others found that over time, police are growing more accustomed to collaborating with NGOs. "At the very least, we have something to point to to prove we have a legitimate reason to be involved," explained one victim advocate.⁹²¹ The 2003 MOU entrenched a key NGO demand in the operational guidelines of enforcement agencies, as it officially prioritized the "best interests of the trafficked women and children so that they will be provided with legal assistance and be offered protection of their rights and interests duly reflecting . . . the principles of human rights of children and women." (Section 2.2). Ultimately, the government enrolled NGOs in its anti-

⁹¹⁸ *Memorandum of Understanding on Operations between State Agencies and Non-Governmental Organizations (NGOs) Engaged in Addressing Trafficking in Children and Women*, March 24, 2003.

⁹¹⁹ *Memorandum of Understanding on Common Guidelines of Practices for Agencies Concerned with Cases where Women and Children are Victims of Human Trafficking in the Nine Northern Provinces*, 2003. This MOU covers victims who have entered the country legally and illegally, as well as ethnic minority "hill tribe" people in Thailand. Although many ethnic minorities are born in Thailand, they are not considered citizens, and hold different colored identity cards that indicate various restrictions on the rights of cardholders, most importantly with regard to employment and travel.

⁹²⁰ Interview with Lap, Thai anti-trafficking NGO operations leader, April 28, 2005.

⁹²¹ Interview with Orapan, shelter operator and victim advocate, May 11, 2005.

trafficking initiatives as governance providers, managing shelter, legal advocacy, and rehabilitation services throughout the processing of trafficking cases.

Thai NGOs successfully mobilized their alliances with foreign feminist and human rights organizations, using transnational advocacy networks to shame the Thai government into taking action.⁹²² Activists leveraged the discourse of rights as political leverage to push for new anti-trafficking laws, institute reforms in the criminal justice system, and gain official recognition of the legitimacy of human rights, women's rights, and the important role civil society actors play in the governance of trafficking issues. That the Thai government acknowledged women's NGOs as key partners in anti-trafficking governance marked a significant success that would have been unimaginable twenty years' prior, when government officials were actively promoting Thailand as a sex tourism destination and chastising women's rights protestors as giving the country a "bad image." Yet while rights-based advocacy facilitated entrée to state institutions and positioned NGOs as governance service providers in anti-trafficking operations, the state's previous appropriation of women's and children's rights to legitimize its anti-immigration agenda – and regional concerns regarding migration and security – soon revealed the risks of engaging the criminal justice system to realize those rights.

Thailand's Regional and International Anti-Trafficking Commitments

Thailand's recent immigration- and crime-control approach to trafficking is shaped by regional and international politics as well as national security concerns. Thailand has been an active leader in developing mechanisms for regional cooperation on irregular migration and trafficking.⁹²³ In the early 2000s, Thailand initiated several bi-lateral and regional MOUs to regularize labor migration with neighboring countries, assist in the identification of undocumented migrants, and facilitate deportation and/or repatriation processing.⁹²⁴ The shifting focus on trafficking as a regional problem and security issue reflected changing patterns of trafficking and irregular migration.

In earlier eras, public concern about trafficking had centered on *Thai* victims – Thai women trafficked into foreign sex industries and Thai children trafficked into the domestic sex trade. By the late 1990s, the governance of commercial sexual exploitation was reframed as a problem of "trafficking," and was increasingly linked with unmonitored migration of *foreign*

⁹²² Keck and Sikkink, *Activists Beyond Borders*.

⁹²³ In 1999, the Thai government hosted a regional symposium that issued the Bangkok Declaration on Irregular Migration, encouraging Asia-Pacific countries to pass legislation criminalizing trafficking. Thai officials also served as chair to the experts' group on policy, legislation, and law enforcement issues in the 2002 Bali Process, part of the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. Further, Thailand initiated intergovernmental summits through the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). This process brings officials together with their counterparts in neighboring countries to harmonize operational practices, mutual legal assistance, and promote information sharing.

⁹²⁴ In 2002-2003, Thailand signed MOUs with the Government of Laos PDR, Cambodia, and Myanmar; the agreements encourage an "open door" policy on migration in an attempt to prevent illegal migration and employment by channeling registered laborers into specific sectors. Migrants can work in fisheries, manufacturing, domestic work, agriculture, plantations, rice mills, shipping and construction work where there is a shortage of Thai nationals seeking the positions. However, once migrants register with a specific employer, they are locked in and cannot escape potentially exploitative work conditions by changing jobs unless their registered employer signs off on the change. Combined with the relatively high cost of registration, the attractiveness of worker registration programs is reduced. See Dennis Arnold, *The situation of Burmese migrant workers in Mae Sot, Thailand*, Working Papers Series (Hong Kong: City University of Hong Kong, Southeast Asia Research Centre, 2004), 17.

women and children *into* Thailand. As Thailand became both a “sending” and “destination” country for victims trafficked into commercial sexual exploitation, the mode of governance layered crime- and border-control interventions on top of social welfare and rehabilitation. This transformation was reflected in the institutional location and mandates of anti-trafficking agencies. The Sub-Committee on Combating Commercial Sexual Exploitation, created in 1994, was re-named the “Sub-Committee on Combatting [*sic*] Cross-border Trafficking in Women and Children” and housed within the National Youth Bureau in 1999; in 2003, it was renamed the “Sub-Committee on Combatting Trafficking in Women and Children,” part of the Ministry of Social Development and Human Security. Sub-committee members include representatives from concerned government agencies, NGO advocates, academics, as well as representatives from concerned international agencies providing financial assistance to address trafficking in Thailand.

Thailand has played a major role in the development of regional schemes to govern illegal immigration and transnational crime. However, it has failed to ratify several key international conventions related to forced migration and labor exploitation, reflecting the prioritization of national security issues over the rights of migrants working in its factories, fisheries, and farms.⁹²⁵ As discussed in previous chapters, although Thailand became a party to the early international agreements against human trafficking, these agreements also focused on migration-control and policing, increasing surveillance of single women or “protecting” them by restricting their ability to travel without a husband or male guardian. Most relevantly in this context, Thailand signed the 1910 International Convention for the Suppression of the White Slave Traffic and passed domestic anti-trafficking legislation in 1928 creating mechanisms to examine all women and girls entering or exiting the Kingdom and to detain or deport women suspected of migrating for prostitution.⁹²⁶

Despite the array of existing international legal protections addressing forced labor and commercial sexual exploitation, the aspirational nature of human rights regimes meant that enforcement mechanisms were weak or non-existent, and states had few specific obligations or incentive to reform national laws and institutions.⁹²⁷ While housed within the UN human rights system and linked to women’s rights and sexual exploitation, the problem of trafficking was relegated to the margins of international political concern, even as globalization expanded migration networks and fostered new forms of exploitation. The resurgence of international attention to forced prostitution and human trafficking in the late 1990s occurred when the issue was reframed as a threat to national security. Anti-trafficking advocates found their call to arms

⁹²⁵ Thailand has not ratified the Convention Relating to the Status of Refugees of 1951 or the Convention Relating to the Status of Stateless Persons of 1954. Although Thailand has signed fourteen ILO Conventions, including five of the eight fundamental Conventions, it has not ratified Conventions No. 87 and 98 that concern the right of workers to organize or Convention No. 111 on Discrimination (Employment and Occupation) (1958)).

⁹²⁶ Royal Decree on Trafficking of Women and Girls Act, B.E. 2471 (1928). Kobkul Rayanakorn, *Study of the Law Relating to Prostitution and the Traffic in Women*, Research and Action Project in Women (Bangkok: Foundation for Women, 1993).

By signing the 1910 Convention, Thailand also assumed the obligations of the earlier 1904 Convention. International Agreement for the Suppression of the White Slave Traffic, Mar. 18, 1904, 1 L.N.T.S. 83, B.F.S.P. 95, (focusing on the trafficking of non-consenting females across international borders for the purpose of prostitution). The International Convention for the Suppression of the White Slave Traffic, May 4, 1910, 211 Consol. T.X. 45, 103 B.F.S.P. 244. (imposing obligations on signatory states to punish those who recruit underage females into prostitution, regardless of her consent).

⁹²⁷ Gallagher, “Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway.”

in a law-and-order discourse that resonated with politicians, calling for stricter border interdiction and criminal justice interventions to rescue victims and punish criminals in a “war against trafficking.”

Criminal Justice and/or Rights-Based Approaches?

Thailand’s War on Trafficking

On August 6, 2004, Thailand’s Prime Minister Thaksin Shinawatra announced a “war on human trafficking,” two months after the United States put Thailand on a watchlist for its failure to make significant efforts to combat the “global scourge.”⁹²⁸ Social Development Minister Sora-at Linparatoom, then the head of Thailand’s anti-trafficking bureau, stated that the Thai government’s resolve to tackle the problem of trafficking was “as serious as it [was] in its declaration of war against drug trafficking,” a controversial narcotics crackdown resulting in extrajudicial killings of over 2,800 people and the arbitrary arrest or “blacklisting” of thousands more.⁹²⁹

When Thaksin announced the “war on drugs” in January 2003, he quoted a former police chief connected with political assassinations in the 1950s, warning:

There is nothing under the sun which the Thai police cannot do. . . . Because drug traders are ruthless to our children, so being ruthless back to them is not a bad thing. . . . It may be necessary to have casualties. . . . If there are deaths among traders, it’s normal.”⁹³⁰

Thaksin authorized draconian enforcement efforts and encouraged violence against drug dealers and users. He instructed local officials to consider people charged with drug offences as “security threats”; offered cash incentives to for busts; and directed Thai security forces to “shoot to kill” suspected methamphetamine smugglers crossing the Thai/Burma border. Thai, ethnic minorities, and migrants were arbitrarily arrested or “blacklisted.” Despite Thaksin’s previous commitments to treat drug users as “patients, not criminals,” thousands were forced into “treatment” in military-style boot-camps, including some who did not use drugs but feared arrest or murder if they did not enroll in treatment programs.⁹³¹ Corrupt police demanded bribes and conspired with border officials, and

⁹²⁸ AFP, “Thailand unveils war on human trafficking,” *The Nation*, Bangkok August 6, 2004.

⁹²⁹ In October 2004, Human Rights Watch reported, “between February and May 2003, some 2,275 suspected drug offenders were shot dead in Thailand in apparent extrajudicial executions.” Human Rights Watch, “Thailand: Anti-Drug Campaign Reaches New Low”, October 6, 2004, <http://www.hrw.org/en/node/68849>.

Later reports increased the number of killings to 2819. See Human Rights Watch, “Thailand: Prosecute Anti-Drugs Police Identified in Abuses”, February 7, 2008, <http://www.hrw.org/en/news/2008/02/06/thailand-prosecute-anti-drugs-police-identified-abuses>. During my field research in Northern Thailand in 2004-2005, I spoke with informants from an ethnic highlanders’ coalition, who reported that the climate of impunity among enforcement officials and pressure to get results resulted in disproportionate crackdowns on hill tribe communities.

⁹³⁰ Prime Minister Thaksin Shinawatra, Speech at Ratchapat Suandusit Hall, Bangkok, January 14, 2003, Human Rights Watch, “Timeline of Thailand’s ‘War on Drugs’”, July 7, 2004, <http://www.hrw.org/legacy/english/docs/2004/07/07/thaila9014.htm>.

⁹³¹ Human Rights Watch, *Not Enough Graves*. See also Tassani Vongchak et al., “The influence of Thailand’s 2003 ‘war on drugs’ policy on self-reported drug use among injection drug users in Chiang Mai, Thailand,” *International Journal of Drug Policy* 16, no. 2 (2005): 115-121.

officers from the Royal Thai Police beat drug users, forced them to sign false confessions, and subjected them to prolonged detention.⁹³² Subsequent investigations found that over half of those killed in “war on drugs” had no connection to drugs; children and innocent bystanders caught in the crossfire were among the dead.⁹³³

Thaksin declared “victory” in the war on drugs on December 1, 2003. Months later, Thaksin announced a new “war on human trafficking” in a declaration that was “widely interpreted as providing criminal justice officials with implicit authority to use any means possible to secure arrests and convictions.”⁹³⁴ Combining calls for an aggressive law enforcement response to human trafficking with concerns for the protection of victims, Thaksin pledged to create a special police taskforce dedicated to trafficking, reform laws, root out corruption among enforcement agencies, and boost prevention and protection efforts, allotting twelve million dollars for NGOs and government agencies working with victims of trafficking.⁹³⁵

Nearly every activist, social welfare worker, and criminal justice official I interviewed in Thailand in 2005 referred to Thaksin’s speech putting the “war on human trafficking” on the National Agenda as a key political moment in the campaign against coerced migration, forced labor, and exploitation in the commercial sex industry. However, activists received Thaksin’s anti-trafficking agenda with a mixture of hope and cynicism. As one legal advocate told me:

We had a hard time getting police, prosecutors and judges to even know what trafficking is, and I always had to bring a copy of the MOU [requiring cooperation between NGOs and law enforcement] with me and wave it in the policeman’s face to get in to see victims. Now at least they have heard of ‘trafficking’ and we don’t have to explain it every time we present a case.⁹³⁶

A shelter operator and ethnic minority activist mused, “even if it’s just a way for the Thai government to ‘save face,’ it’s better that [Thaksin] made trafficking a national priority because the police pay more attention now.”⁹³⁷ However, activists at a migrants’ rights clinic were more apprehensive, arguing that the new “war on trafficking” would simply serve as a convenient

⁹³² Human Rights Watch, *Not Enough Graves*.

⁹³³ “Most of those killed in war on drug not involved in drug (sic),” *The Nation*, November 27, 2007. After the 2006 *coup d’état* ousting Thaksin, the military-installed government formed a special committee to investigate the extrajudicial killings during the 2003 war on drugs. Though the committee’s report has never been made public, Human Rights Watch reports that of the 2,819 people killed in the first three months of the war on drugs, “more than 1400 were unrelated to drug dealing or had no apparent reason for their killings.” Human Rights Watch, “Thailand: Prosecute Anti-Drugs Police Identified in Abuses.” Human Rights Watch reported the arrest of Police Captain Nat Chonnithiwani and members of Border Patrol Police for serious offenses including criminal conspiracy, armed robbery, forced intrusion, threatening others with weapons, detaining others, and abducting minors under the age of 15. *Ibid.*

⁹³⁴ A. Gallagher and P. Holmes, “Developing an Effective Criminal Justice Response to Human Trafficking: Lessons From the Front Line,” *International Criminal Justice Review* 18, no. 3 (September 2008): 327.

⁹³⁵ AFP, “Thailand unveils war on human trafficking,” *The Nation* (Bangkok, August 6, 2004), <http://www.nationmultimedia.com/home/2004/08/06/latest%20news/Thailand-unveils-war-on-human-trafficking-103703.html>.

⁹³⁶ Interview with Sumalee, legal advocate, Thai anti-trafficking taskforce, March 25, 2005.

⁹³⁷ Interview with Nancy, director of faith-based NGO/shelter, March 2, 2005.

excuse to “raid more places to round up and deport more migrants, whether they’re ‘trafficked’ or not.”⁹³⁸

This section analyzes the operation of the multi-disciplinary taskforces charged with responding to reports of human trafficking in Thailand in order to demonstrate the problematic interface between criminal justice and rights-based approaches to trafficking interventions. Drawing from interviews with individual taskforce members and content analysis of organizational publications, I investigate the competing frames these actors use to describe and legitimize different trafficking interventions, as well as the social categories they employ to characterize the villains and victims of the crime. The following analysis employs ideas from social movements and framing processes literature as well as theories of legal consciousness and legal mobilization to assess some possibilities and limitations of trafficking reforms in Thailand.

The Chiang-Mai Model: Multi-Disciplinary Collaboration or Competition?

Thailand has established a collaborative, inter-agency approach dubbed the “Chiang Mai Model” (CMM) to address human trafficking. An early form of the CMM model was developed by a child rights advocacy organization to address the re-victimization of abused children during criminal investigations. The network of “protective” NGOs that had evolved to address the processing of child sexual exploitation cases in the 1980s was well positioned for enrollment in the Thai government’s “war on trafficking” in the 1990s and early 2000s. CMM taskforces draw on the resources of non-governmental organizations to support the work of criminal justice and government welfare agencies, facilitating interagency collaboration in trafficking cases. MOUs between law enforcement officials, GOs, and NGOs in the Northern provinces were subsequently developed to better map the division of labor and responsibilities of different actors in the taskforce.

Taskforce members describe the CMM as a “multi-disciplinary team” including investigative police, forensic medical doctors, psychologists, legal aid advocates, social workers, and NGO representatives who work together to coordinate responses to cases of trafficking. When a suspected trafficking case is reported, the team gathers to discuss investigation strategies and plan appropriate interventions, typically in the form of raids and rescues. NGO advocates are called upon to help protect victims and convince them to serve as witnesses in the successful prosecution of traffickers. As a director of a donor organization explained, the multi-disciplinary CMM approach “centralizes services for victims, and taps different networks of resources” for better-planned trafficking interventions.⁹³⁹ The success of this model in Thailand’s Northern provinces spurred other provinces to mimic the structure throughout Thailand. Moreover, the

⁹³⁸ Interview with Jane, Burmese migrants’ rights NGO activist, June 7, 2005.

⁹³⁹ Interview with Amporn, international NGO director, February 27, 2005. The Chaing Mai Model is best represented by the work of TRAFCORD, an NGO formed in 2002 by human rights advocate Ben Svasti, is a “Thai-style NGO” that collaborates with government agencies, NGOs, and the international community. TRAFCORD is dedicated to coordinating the efforts of the multiple government agencies and private NGOs addressing trafficking in Northern Thailand. Attempts have been made to replicate an organization like TRAFCORD in other regions of Thailand, but one key to TRAFCORD’s success has been the extensive network of Ben Svasti, who has worked in the NGO community for over twenty-five years. Svasti, son of a Thai mother and British father, is a premier example of a “rooted cosmopolitan,” and is also related to the royal family. His ability to access multiple political opportunity structures and navigate between local, national, and international arenas is critical to the TRAFCORD’s effective operation. See Munger, Rivas, and Kottakis, “Trafficking in Law: How a Thai Human Rights Lawyer Negotiates Means and Meaning.”

CMM has been lauded internationally as an excellent step towards increasing cooperation between the state and civil society in efforts to combat trafficking. The popularity of the CMM and its “rights-based, victim centered” approach with funding institutions and donor countries has created incentives for other countries in the Greater Mekong Subregion (GMS) to attempt to replicate Thailand’s approach to trafficking interventions.

However, the diverse members of CMM taskforces do not necessarily share the same ideas about what rights are and what role law should play in efforts to combat human trafficking. Divergent political agendas, institutional cultures, and motivations for different actors sometimes mitigate the benefits of the multi-disciplinary model. Interviewees related several examples of botched trafficking interventions, failure to follow-up on cases, “turf wars” between partner organizations, and a lack of trust and communication across professional boundaries. Local police officials were not informed of raids because of past tip-offs and suspected corruption; investigators complained that they were still unsure what kind of evidence the prosecutors wanted. Some prosecutors bemoaned “tainted” evidence and blamed NGOs for interfering with their witnesses, while others refused to work with NGO activists “because they aren’t smart enough.”⁹⁴⁰ Others in the NGO community criticized CMM taskforces for fixating on sex trafficking to the detriment of victims of more widespread forms of labor exploitation.

CMM taskforces constitute a forum in which competing frames about trafficking and women’s rights are negotiated, constructed, and resisted by differently situated participants. The collaborative nature of CMM taskforces and the divergent mandates of its members create an arena of conflict for competing ideas about what constitutes “trafficking” and the best way to tackle the problem. While criminal justice actors tended to view the law as a tool for social order, social activists and legal advocates often invoked law as a vehicle for social change.

The observations and critiques that interviewees shared with me regarding their experiences in CMM style taskforces illustrate several problematic aspects of combining law-and-order interventions with rights-based approaches to trafficking. When interviewees assessed the successes and failures of different approaches to trafficking, they employed overlapping and sometimes conflicting “collective action frames” to explain the relationship between NGOs and government actors in anti-trafficking initiatives.⁹⁴¹ As activists, state officials, and enforcement officials try to coordinate interventions and develop anti-trafficking policies, they engage in “framing contests” regarding the causes of trafficking, who or what is to blame, and appropriate courses of action.⁹⁴² However, the struggle to construct a workable collective action frame between NGO activists, government officials, and law enforcement agents in CMM taskforces illustrates the practical effects of the interface between criminal justice and rights-based approaches to trafficking. Given the popularity of collaborative, rights-based approaches to trafficking among donor organizations, the successes, limitations, and failures of CMM-style trafficking interventions have important implications for the global war against “modern day slavery.”

⁹⁴⁰ Interview with Phu, provincial prosecutor, June 27, 2005.

⁹⁴¹ Collective action frames, or a “shared understanding of some problematic condition or situation they define as in need of change, make attributions regarding who or what is to blame, articulate an alternative set of arrangements, and urge others to act in concert to effect change,” are produced through “interactive, constructionist” processes. Benford and Snow, “Framing Processes and Social Movements: An Overview and Assessment,” 615.

⁹⁴² Ibid.

Transforming Criminal Justice Approaches to Trafficking

The Social Context of Migration: Willing Laborers or Trafficked Victims?

Perceptions of human trafficking and its victims among enforcement officials are informed by the broader social context of discrimination against migrants and ethnic minorities in Thailand. Further, social attitudes towards exploitative and child labor in the Greater Mekong Sub-region also assume a broader range of tolerance than do most industrialized countries. The social context of migration and the work available to migrant laborers influences enforcement officials' identification of trafficking situations and limits receptiveness to migrants' rights claims.

Public awareness campaigns about migrant laborers and human trafficking also reinforce discriminatory attitudes towards migrants. For example, Thai officials released television commercials regarding the re-registration of migrant workers where Burmese people “actually fly into Thailand on spaceships as invading ‘aliens,’” exclaimed one human rights advocate, “like they’re not even human!”⁹⁴³ Further, the Thai government’s trafficking awareness campaign uses posters and billboards depicting dark-skinned “foreigners” luring away fair-skinned Thai children to sell to Chinese or Japanese sex tourists, playing up sexualized, racist stereotypes and xenophobia.



Raising Awareness or Discrimination?

Billboard on highway outside of Chiang Mai, Thailand portraying the threat of the dark-skinned sex trafficker and the evil foreign sex tourist

Social discrimination against migrants and differing perceptions of what constitutes “exploitation” influence enforcement officials’ exercise of discretion when determining whether migrants are trafficking victims or illegal aliens. Enforcement officials are confronted with varied systems and degrees of exploitation including debt bondage, low wages, excessive working hours, unsafe working conditions, psychological control, or outright enslavement. Further, norms regarding “women’s work” and men’s sexual entitlement inhibit the recognition

⁹⁴³ Joanna, Burmese human rights activist, July 4, 2005.

of gender-specific forms of exploitation as problems deserving official intervention, for example, the sexual harassment and abuse of domestic workers by their employers.

Thailand's labor and immigration policies also set the stage for discrimination and marginalization of migrant workers. New trade and labor agreements, including "open door" labor MOUs with Myanmar, Cambodia, and Laos, complicate the application of immigration laws and new directives to identify trafficking victims. Where state restrictions limit channels for legal migration, the time and cost of registration incentivizes the development of illegal fringe markets where labor standards cannot be monitored and workers cannot be empowered to protect themselves.⁹⁴⁴ It is against Thai law for informal migrant workers to organize trade unions, and existing Thai unions have not come forward to represent these workers' rights. There are also reports of harassment and murder of migrant labor organizers.⁹⁴⁵

Furthermore, Thai labor laws do not apply to small businesses employing fewer than ten workers, and agricultural and domestic workers are explicitly excluded under the Labour Protection Act.⁹⁴⁶ The gendered nature of labor markets means that women workers are concentrated in the informal sector, where they are unprotected by labor laws and isolated from the purview of inspectors. The threat of deportation, fear of apprehension by police or immigration officials, and virtual immunity for exploitative employers inhibits the exposure of poor working conditions and undermines labor organization within migrant communities.⁹⁴⁷ In sum, the cultural normalization and legal toleration of discrimination against migrants in Thailand makes it difficult for enforcement agents to divorce the primary directives of criminal justice officials – border control and interdiction, national security, and "wars" on drugs and arms trafficking as well as people smuggling – from new initiatives aimed to protect victims of trafficking, labor exploitation, and sexual exploitation. To address these problems and raise awareness about the causes and consequences of trafficking, NGOs have developed training programs for officials charged with enforcing anti-trafficking laws.

Reforming Legal Consciousness: Training for Victim-Sensitivity, Gender Equality, and Rights-Awareness

Thai and international NGOs attempt to reframe officials' conception of trafficking through training programs promoting gender awareness, victim sensitivity, and a "rights-based" approach to trafficking. Seminars, conferences, and courses to "train the trainers" all seek to improve criminal justice officials' response to trafficking cases, particularly when dealing with women victims. However, the growing pains of Chiang Mai Model taskforces demonstrate the difficulty of "frame transformation," as activists struggle to replace old policies framing

⁹⁴⁴ See, for example Anderson and Davidson, *Trafficking - A Demand Led Problem?: A Multi-Country Pilot Study*, investigating the demand side of trafficking and sex work and domestic work in six countries, including Thailand. The study cites three core factors leading to exploitation: unregulated labor markets, abundant supply of labor; and the power and malleability of social norms regulating employer behavior. *Ibid.*, 22.

⁹⁴⁵ See, e.g., the King Body Concept dispute, where 420 legally registered Burmese workers were fired and deported immediately after jointly bringing a labor complaint to the Tak Labour Office.

⁹⁴⁶ Martin, P. "Thailand: Improving the Management of Foreign Workers," International Labour Office and International Organization for Migration, Bangkok, 2003, at 28.

⁹⁴⁷ UN Commission on Human Rights, Report of the Special Rapporteur on the human rights of migrant workers (Gabriella Rodriguez Pizarro) – Addendum – Communications sent to Governments and replies received, 60th Session, doc. No. E/CN.4/2004/76/Add. 1, February 16, 2004.

trafficking in terms of criminality and culpability with new conceptions of trafficking as a violation of migrants' human and/or labor rights.⁹⁴⁸

Overlapping mandates and divergent incentives, combined with the discretionary nature of anti-trafficking measures, tend to encourage selective enforcement along existing race, class, and gender hierarchies.⁹⁴⁹ Since the attitudes of front-line officials reflect the cultural biases of the public, training programs attempt to provoke participants to think about how racial discrimination and gender inequality shape their decision-making. NGOs have developed several training programs for criminal justice agents at the provincial, national, and regional levels. The curriculum attempts to reframe criminal justice officials' conception of trafficked persons, not as criminals or illegal aliens deserving punishment, but rather as victims (and potential witnesses).

Several different NGOs and agencies involved in gender- and victim-sensitivity training for front-line officials adapted the same role-playing and narrative techniques to guide discussions of migrants' rights, appropriate interventions, and awareness of victims' needs. Interviewees who ran training programs explained that the most effective way to introduce the amorphous concept of "human rights" to police participants was through storytelling and games that promote discussion of stereotypes, highlighting the fundamental human rights of those who are suffer discrimination and marginalization in Thai society. One game developed by the Asia Foundation and adapted by the majority of the NGO advocates I interviewed calls for participants to imagine five people in a boat that can only hold four: an old Chinese man, a blind person, a pregnant woman, a strong man, or a Burmese migrant. Police and immigration officials were asked to identify which one of these characters should be expelled from the boat, raising questions of human rights, sex and gender stereotypes, and discrimination. However, interviewees who had run training sessions reported "it's hard to get participants' ideas to change," noting that police participants often made off-color jokes about the stereotyped characters in the game.⁹⁵⁰ Thus, although the games effectively introduced discussions of rights, such "stereotype games" may provide opportunities to reproduce and reinforce status-hierarchies that the exercise intends to dismantle.

Unfortunately, program trainers face a steep learning curve. One trainer from an international criminal justice organization reported that border officials continue to have difficulty distinguishing the concept and practice of smuggling from trafficking, despite directives from Bangkok.⁹⁵¹ As a result, many victims of trafficking, including children, are jailed in grim detention centers (often with the adult population) and eventually deported as illegal aliens, rather than receiving the psycho-social services to which they are entitled under Thai law. NGO advocates who ran seminars for police in Northern Thai provinces found that even after extensive training on Thailand's anti-trafficking and labor protection laws, police participants continued to link the crime of human trafficking exclusively with brothel prostitution. Many enforcement officials and prosecutors were perplexed when I asked if they worked on any other forms of trafficking besides sex trafficking, even after prompts about

⁹⁴⁸ Benford and Snow, "Framing Processes and Social Movements: An Overview and Assessment," 625.

⁹⁴⁹ See Frohman, "Convictability and Discordant Locales: Reproducing Race, Class, and Gender Ideologies in Prosecutorial Decisionmaking." Frohman's study documents the replication of stereotypes about race, sex, and community in prosecutors' decisions to pursue or drop cases of sexual violence.

⁹⁵⁰ Interview with Val, law enforcement trainer at international organization, June 1, 2005.

⁹⁵¹ Ibid.. See also, Asia Regional Cooperation to Prevent People Trafficking (ARCPPT), *The Role of Victim Support Agencies in the Criminal Justice Response to Human Trafficking: Lessons from Thailand, Cambodia, Lao PDR, and Myanmar* (Bangkok: ARCPPT, 2004).

accounts of exploitation of migrant laborers in local bakeries and a nearby group of factories known as “Hell City.”

Activists and UN officials working with local police reported that the impact of victim-sensitivity and rights-awareness trainings is minimal; an academic research project carried out by the Women’s Study Center of Chiang Mai University confirmed these suspicions.⁹⁵² Police officials from the provincial to the national level commented on the “ineffective training mechanisms” for enforcement personnel in Thailand. Even the popular “training of trainers” programs designed to teach mid- and high-level officials how to disseminate new anti-trafficking policies and victim-sensitive enforcement practices to their inferiors are producing poor results. The high turnover and mobility of these police officials results in an attrition effect that undermines the sustainability of NGOs’ victim-sensitivity and gender-awareness trainings in the province. As a result, there is a push to develop streamlined training on trafficking from the academy level on, “not just ad hoc trainings of a few mid-level officers in different provinces, because they tend to move around and then no one in the region has been trained.”⁹⁵³

Despite the popularity of rights awareness trainings among funding institutions and NGO activists’ best efforts to change enforcement officials’ ideas about social discrimination, gender equality, and victim sensitivity, there are several barriers to effective implementation of rights-based approaches to trafficking. The next section draws on interviews with enforcement agents, CMM-taskforce members, and activists, highlighting resistance to the injection of victim sensitivity, gender equality, and rights-based reforms into the criminal justice response to trafficking.

Barriers to Rights-Based Reform

Institutional Culture of Enforcement Agencies: Hierarchy, Masculinity, and “Preservation through Transformation”

The institutional culture of criminal justice and immigration agencies also inhibits developing sustainable, rights-based anti-trafficking initiatives. The hierarchical, masculinized, and militarized culture of enforcement agencies in Thailand creates obstacles to changing officials’ ideas about the treatment of women and migrants through rights-trainings. The resistance to reform in enforcement institutions – even as top officials formally endorse the women’s rights and protection for trafficking victims – demonstrates a “preservation through transformation” dynamic, as discriminatory attitudes and practices persist while adapting to new legal requirements.⁹⁵⁴

Several interviewees pointed out that gatekeepers in anti-trafficking taskforces, including police, immigration officials, and border guards, are rarely rewarded for participation in anti-trafficking trainings or taskforces. One frustrated international organization representative who ran gender-sensitivity trainings complained “the police come to Bangkok for the per diem, sit

⁹⁵² Interview with Jin, women’s rights activist and academic, June 17, 2005.

⁹⁵³ Interview with Wichit, Thai INTERPOL official, July 5, 2005.

⁹⁵⁴ Reva B. Siegel, “‘The Rule of Love’: Wife Beating as Prerogative and Privacy,” *Yale Law Journal* 105 (1996): 2117-2206. See also, Reva Siegel, “Why Equal Protection No Longer Protects: The Evolving Forms of Status-Enforcing State Action,” *Stanford Law Review* 49, no. 5 (1997): 1111-1148. As Siegel explains, “[e]fforts to reform a status regime to bring about changes in its rule structure and justificatory rhetoric” allow “status-enforcing state action [to evolve] in form as it is contested.” *Ibid.*, 1143-44.

through the class making jokes, then head out to the brothels as soon as it's over."⁹⁵⁵ A Thai academic researching the efficacy of NGOs' gender equality and victim-sensitivity trainings for court officials found that male prosecutors and jurists continued to hold very conservative traditional values about gender roles, and actively resisted efforts to discuss women's rights:

They are old men and they think traditional ways are best, so why should they respect women? They sit through the training and then forget all about it as soon as they leave, because they think if the woman got into trouble, it is because she is a prostitute and she deserves it.⁹⁵⁶

Moreover, the lower status of "women's issues" work in Thailand taints human trafficking assignments, compared with high-profile assignments involving murder, drugs or arms trafficking. Interviewees identified the reduced status of officers assigned to feminized, "jai-yen" (soft-hearted) work as a major obstacle to the sustainable implementation of counter-trafficking reforms in Thailand's police force. Because "human interest" work is perceived as lower in status to assignments involving "hard crime," officers working in anti-trafficking units face (s)lower prospects for promotion and lower pay.⁹⁵⁷ Anti-trafficking assignments are also feminized due to the requisite collaboration with social welfare agencies and reliance on the NGO advocates who manage trafficking victims. In response to this problem, one national law enforcement spokesman explained, the Royal Thai Police initiated a program to recruit more young women into the force to staff new anti-trafficking and sexual abuse units. "They are better for the job because they are women," he said, "They are more sensitive, they talk softly and are better for the victims, because the victims are women and children, too."⁹⁵⁸ Yet while creating specialized women-only units may improve the treatment of victims, it does little to transform the culture of gender discrimination that infuses police institutions and enforcement practices.

Several NGO advocates emphasized the importance of teaching enforcement officials how to moderate their voice and tone to avoid scaring victims and to convince them to talk about their situation. "Police always use their 'big man voice' [when they interview trafficking victims], the same voice they use to interrogate a criminal. The police get frustrated when the girls start crying and they just shout louder and louder," said a legal advocate who assists victims during the processing of trafficking cases.⁹⁵⁹ One prosecutor suggested "when male officials are dealing with trafficking victims, they should talk to them like a father."⁹⁶⁰ Interestingly, a government shelter social worker told me that her supervisor selected her to serve as the liaison to broker repatriation agreements with Burmese officials because "I can talk directly and say what I mean and what they need to do, while the [other social workers] talk around [the issue]

⁹⁵⁵ Interview with Joyce, international organization trainer for criminal justice officials, July 6, 2005.

⁹⁵⁶ Interview with Chatmanee, women's studies researcher, April 2, 2007

⁹⁵⁷ Interview with Wichit, Thai INTERPOL official, July 5, 2005.

⁹⁵⁸ Ibid.

⁹⁵⁹ Interview with Vanida, legal advocate for trafficking victims, March 16, 2005.

⁹⁶⁰ Interview with Phu, provincial prosecutor, June 27, 2005.

like the ‘proper Thai ladies,’” laughing as she changed her clear, strong voice to mimic the demure, soft-spoken speech of an upper-class Thai woman.⁹⁶¹

Complicity and Corruption of Enforcement Officials

Several activists and officials explained that the complicity of border guards and low-level police officials in facilitating the illegal movement of migrants continues to impede efforts to identify and eradicate trafficking networks. As one government official explained to me, other illegal cross-border trades, such as teak logging, or trafficking in arms or drugs involve more risk because brokers must bribe high-level officials. However, it only costs a few hundred baht (400 Baht is approximately \$10 USD) to pay off isolated individual (and underpaid) border guards to move people across the border.⁹⁶² One ethnic minority activist from Burma described the incentives for corruption among low-level officers as follows:

It’s easy to call the border guard and tell him, ‘There will be eight girls on the 5 p.m. bus, don’t stop them,’ and they get a cut. You don’t need to bribe high level officials when low level border patrol guards make money off it.⁹⁶³

Other interviewees described collaboration between officials on both sides of the border to create a racket, demanding bribes and free sexual services from the flow of smuggled and trafficked women and girls before permitting them to cross the border.

Corruption of some police and public officials, ownership and patronage of brothels, complicity in cross-border smuggling schemes, the societal normalization of bribery, and a culture of impunity continue to plague efforts to combat trafficking throughout Thailand. As one interviewee exclaimed when asked about police corruption, “Everybody in Thailand pays the police. You don’t wear a helmet [on your motorbike], you pay the police, they pocket it, and nobody thinks twice. So the brothel owner also pays the police, and [the police know that prostitution is taking place there] because *that’s their brothel!*”⁹⁶⁴

The traditional practice of *suay* (the giving of tribute money or bribes) illustrates the entrenched nature of official complicity in Thailand’s sex industry. Official involvement in the sex trade made major headlines in 2003 when Chuwit Kamolvisit, Thailand’s “Brothel King” revealed that some of his best clients were police officers and senior politicians; he claimed to have paid over \$2,400,000 in bribes over the previous decade.⁹⁶⁵ Prime Minister Thaksin (a

⁹⁶¹ Interview with Baan, social worker at government shelter, rehabilitation, and vocational training facility, March 24, 2005.

⁹⁶² Interview with Bai, migrants’ rights activist, April 11, 2005.

⁹⁶³ Interview with Shwee, ethnic minority rights activist, March 3, 2007.

⁹⁶⁴ Interview with Nong, sex workers’ rights activist, July 8, 2005.

⁹⁶⁵ Cathy Scott-Clark and Adrian Levy, “The brothel king’s revenge,” *The Guardian* (London, February 21, 2004), sec. Weekend. Chuwit revealed that he had kept a diary detailing all of his establishments’ commercial and sexual transactions, including *suay* to high-level officials in the Royal Thai Police. Chuwit’s exposure of official corruption tapped into a great source of frustration among Thai voters and propelled him into politics. He formed his own political party, running on an anti-corruption platform, and was elected to a four-year term to the Thai House of Representatives in 2005, although he was later removed by the Constitutional Court. The popular legitimacy of Chuwit – despite his involvement in the illegal sex industry – illustrates how little radical feminist values condemning sexual commerce resonate with Thai society and politics.

former policeman himself) reluctantly ordered an investigation of Chuwit's allegations, resulting in the suspension of several officials including high-level police major generals and crime suppression inspectors.⁹⁶⁶

Although both domestic and international scrutiny of corruption among enforcement officials has increased, little has changed. One former government official and long-time women's advocate who runs a shelter in the suburbs of Bangkok explained to me that constant criticism and accusations of police corruption is ineffectual, and in fact undermines morale among law enforcement officials. While she acknowledged that "some" police and officials are corrupt because of low pay and "some even own brothels themselves," she proposed that "instead of blaming them and pointing fingers, you need to make them feel respected, to feel professional about their job. That's the only way to get them to change."⁹⁶⁷

Turf Wars: Renegotiating Professional Boundaries

Gaps in case management in the transition from investigation to prosecution also present obstacles to effective anti-trafficking interventions in Thailand. Legal aid workers noted that lack of cooperation and misunderstandings between police and prosecutors' offices created frequent delays in trafficking cases, resulting in lengthy shelter stays that frustrated victims, making them less willing to testify. Prosecutors complained that they had difficulty conveying new evidentiary standards to police. Specifically, prosecutors claimed that police remained unaware about the kinds of evidence required to create a solid case against traffickers to secure convictions. One prosecutor remarked that the best evidence of trafficking was the number of condoms found in the trash bins, as it proved the business was a sex establishment and provided insights into the work conditions. Another griped that local police had neglected to seize computers in a brothel in their haste to rescue victims, allowing the owner to destroy evidence of trafficking and bribery. Moreover, alternative, overlapping laws can often address crimes involving trafficking with less trouble and work for prosecutors. One law professor who had created training modules for criminal justice officials conjectured that police and prosecutors' familiarity and ease of establishing alternative claims for child abuse, prostitution, criminal violations of labor law, or money laundering contributed to the perceived inefficiency of prosecuting crimes as trafficking.⁹⁶⁸ Despite these difficulties, the pressure for Thailand's prosecutors to file charges against traffickers and win convictions with hefty sentences has intensified, particularly among international actors seeking an indicator of success for the programs they fund.

Efforts to promote interdisciplinary collaboration between prosecutors and other representatives in CMM taskforces are hindered, however, by professional hierarchies as NGOs, GOs, and criminal justice officials jockey for control over the management of trafficking cases. NGO advocates in CMM taskforces provide interpretive, protective, and rehabilitation services, and serve as gatekeepers to victim/witnesses. Despite public awareness campaigns, NGO

⁹⁶⁶ Ibid. Four police major generals were suspended, as were nine colonels, six lieutenant colonels, one major, 20 deputy station chiefs and crime suppression inspectors, and 11 lower-ranking police officers. One of the central reasons Thailand slipped from "Tier 2" to "Tier 2 Watchlist" in the U.S.'s 2004 anti-trafficking country rankings was due to continued lack of political will in tackling trafficking-related corruption among police officers, immigration officials, and judges. Although there were eighteen police officers charged with facilitating trafficking in 2003, only one was convicted and sentenced to ten years' imprisonment. United States, Department of State, "Thailand Country Report," 2004 Trafficking in Persons Report.

⁹⁶⁷ Interview with Siriwat, government organization director, April 19, 2005.

⁹⁶⁸ Interview with Khun Malee, law professor, June 9, 2005.

training programs and directives from high-level officials in Bangkok, local police and prosecutors continue to lack awareness of new policies mandating cooperation between law enforcement officials, GOs, and NGOs. Police and prosecutors have had a difficult time accommodating their increased reliance on NGOs and social service agencies. For instance, one interviewee noted that the prosecutors participating in her anti-trafficking trainings were “extremely frustrated” with recent procedural changes affording representatives of NGOs opportunity to appeal decisions on behalf of trafficking victims.⁹⁶⁹ Some prosecutors perceived the involvement of NGO victim advocates in CMM taskforces as “interfering” with proper case management by usurping prosecutorial prerogatives in decision-making and victim’s testimony. A woman who ran a training program for court officials told of one prosecutor who complained that he would only cooperate with NGO representatives when they found one “smart enough” to work with him.⁹⁷⁰ The urge to shore up professional boundaries and retain control over trafficking cases diminishes the benefits of collaboration between different actors in the multidisciplinary CMM taskforces. In addition, these pressures within the system pose serious risks that victims’ rights will be violated in the process of investigation and trial.

Victim Resistance to Criminal Investigations & Social Welfare Interventions

Trafficked persons are reluctant to cooperate with investigations for several reasons. In Thailand’s counter-trafficking scheme, temporary immigration relief and social services are conditioned upon cooperation with police investigators and prosecutors, illustrating the coercive power of law. Those detained in anti-trafficking interventions who are afraid or unwilling to assist prosecutors are not provided with protection, and are instead jailed, fined and deported as illegal aliens. Even when police or labor officials identify individuals whose situation meets the legal definition of trafficking, many purported “victims” see themselves as being no worse off than if they had stayed home.⁹⁷¹ Migrants often attribute experiences of trafficking or exploitation to bad luck, and are willing to re-migrate despite a bad run. Some who sell themselves into debt bondage do so strategically to mitigate the risks of an unsuccessful migration attempt, as they do not have to pay the broker unless they arrive at their destination. If migrants do not perceive those assisting them to migrate as wrongdoers it is unlikely that many exploited workers will report their victimization as trafficking.

Rescuees are often disinclined to give police investigators, prosecutors, or social workers accurate information about their age, families, or the location of their home village, in part to avoid “losing face” when the village finds out about the failed migration attempt or the circumstances of exploitation.⁹⁷² People who have been trafficked or exploited may also resist

⁹⁶⁹ Ibid.

⁹⁷⁰ Interview with Sumalee, legal advocate, Thai anti-trafficking taskforce, March 25, 2005.

⁹⁷¹ Phil Marshall, *Globalization, Migration, and Trafficking: Some Thoughts from the South-East Asian Region*, Occasional Paper, No. 1 (Bangkok: UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-Region, 2001).

⁹⁷² See a parallel example in Kristin Bumiller, “Victims in the Shadow of the Law: A Critique of the Model of Legal Protection,” *Signs: Journal of Women in Culture and Society* 12, no. 3 (1987): 421-439. Bumiller discusses the “ethics of survival,” where experiences of social discrimination and harassment make “surviving” a point of pride, rather than dejection. This paradoxical effect makes migrants less likely to adopt a “victim” identity and perceive injustices as violations of their rights; thus, they are unlikely to report crimes or pursue formal justice. Moreover, migrants’ own assessments of their working conditions and sense of agency or victimization does not necessarily correlate with that of criminal justice officials or NGO activists. Often, migrants perceive movement into “better” but still exploitative work as a boon rather than a violation of their rights.

adopting a victim identity if it means that repatriation will put them back into dangerous or abusive situations that motivated them to migrate in the first place. Further, since trafficking networks have local recruiting agents and usually exert a greater influence in home villages than do law enforcement officials, it is unlikely that trafficked persons' families will be afforded the protective services they need to assure victims that it is safe to testify.

Furthermore, many migrants under eighteen who are technically "trafficked" feel that they have the capacity to choose to migrate and work, even in exploitative conditions. Among many hill tribe populations, for example, it is common for girls to marry and have children as a young teenager. Although they are legally designated minors, many consider themselves adults, and feel a deep sense of responsibility to migrate and find work to support their families. Even children who have sex with adults for money may not consider themselves victims; a recent study of children in Bangkok who had sex with foreign tourists were proud they could help support their family, asserting their agency and rejecting descriptions of their sexual encounters with their "foreign friends" as "child prostitution."⁹⁷³

Finally, because the majority of migrants, particularly from Myanmar, voluntarily cross into Thailand by themselves or with family or friends, they often withhold information regarding the circumstances of their migration.⁹⁷⁴ As one prosecutor explained, not only is it difficult to gather solid evidence on an extended "chain of traffickers," but migrants are reluctant to implicate friends, families, or neighbors who assisted them to migrate in criminal investigations. Much like the parallel war on drugs, enforcement efforts in the war on trafficking often result in the force of law bearing down on the least culpable but most visible links in the chain, who tend to be part of a cottage industry of "people movers," rather than the "sophisticated criminal syndicates" generally identified as the primary beneficiaries of human trafficking.⁹⁷⁵ Indeed, one of the most highly publicized "success stories" of Thailand's anti-trafficking initiatives while I was in Thailand involved the arrest and conviction of Ms. Khunthea, a Cambodian "sex trafficker" who was herself a former trafficking victim.⁹⁷⁶ Although most convicted traffickers received relatively light sentences averaging three years, Khunthea was sentenced to eighty-five years in prison for procuring underage women for prostitution. The trafficker was ordered to pay remuneration to her victims, even though she had no money to do so and certainly would not be able to raise funds while serving her jail term. The blurry line between victim and criminal in the implementation of Thailand's "war on trafficking" is explored in the next section.

⁹⁷³ Heather Montgomery, *Modern Babylon?: Prostituting children in Thailand* (Oxford: Berghahn, 2001).

⁹⁷⁴ Supang Chantavanich, Premjai Vungsiriphaisal, and Samarn Laodumrongchai, "Research Report on Migration and Deception of Migrant Workers in Thailand," *World Vision Foundation of Thailand, in collaboration with Asian Research Center for Migration* (2007). The study found that only 7.5% of migrants entered Thailand with the assistance of a broker, and .4% crossed with their respective employers.

⁹⁷⁵ The crackdown on low-level people movers has increased. In 2002, Thailand reported 42 prosecutions and 21 jail sentences of the trafficking cases; the following year, there were 86 prosecutions and 20 convictions. "Sex Trafficker Sentenced to 85 Years in Prison," *United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP)*, March 9, 2005.

⁹⁷⁶ *Ibid.*

When the “Process is the Punishment”: Sex Trafficking Interventions and the Violation of Victims’ and Voluntary Workers’ Rights⁹⁷⁷

The clandestine nature of migration and the difficulty of accessing many persons in situations of trafficking or forced labor, combined with cries for action from both political figures and civil society, promotes anti-trafficking crackdowns focused on the sex industry. The visibility and accessibility of migrants in commercial sex establishments makes sex workers easy targets for agencies charged with eradicating human trafficking. It is very difficult for enforcement agents, labor inspectors or public health officials to investigate other forms of exploitation in the informal sector, particularly in “hidden” workplaces such as cottage industry manufacturing, small restaurants, domestic labor in private homes, or fishing boats at sea for months at a time.⁹⁷⁸ As a result, the likelihood of encountering migrants-cum-trafficking victims in sex establishments promotes over-reporting and selective enforcement in this sector. The added media attention to brothel raids and rescues of sex trafficking victims; the likelihood of netting a high percentage of easily recognizable “victims” per raid; and external pressure to satisfy the demands for action from NGOs, government officials, and donor organizations all contribute to enforcement agents’ emphasis on sex trafficking.

Thai women’s rights and anti-trafficking activist Siriporn Skrobanek has critiqued the ineffectual raid-rescue/arrest-detain-deport cycle of Thailand’s “vertical approach” to trafficking. She argues that the Thai government is focused on “changing existing and making new laws and national policies to suppress organized crime involved in human trafficking and restrict cross-border movement of other nationals,” observing that “it is in the interest of [the] state to suppress criminal aspect of human trafficking but not to protect [the] rights of trafficked women/children.”⁹⁷⁹ Assessing the effects of anti-trafficking legal reforms based on a crime control, abolitionist model, Siriporn observes that the criminalization of prostitution has not deterred women from working in the sex industry or stopped trafficking, but rather “provides a loophole for corrupt officials to abuse their [authority] and thus [helps] keep the sex industry [flourishing].”⁹⁸⁰ In addition, she argues that the abolitionist approach to prostitution frustrates efforts to identify and assist trafficking victims in the sex industry, as it “makes it impossible to make [a] distinction between by-choice sex workers and trafficked women in prostitution” and increases the stigma of those involved in sex work, which makes it “more difficult for trafficked women to access the justice system and rebuild a new life.”⁹⁸¹

The internal dynamics of Thailand’s CMM taskforces evidence the discord between criminal justice officials’ mandate to punish traffickers and NGO advocates’ concerns about the rights of both victims and voluntary workers “rescued” in trafficking raids. Refugee advocates, migrants’ rights and sex workers’ rights organizations have criticized raid-rescue-rehabilitate-repatriate interventions planned by CMM taskforces by calling attention to the negative effects

⁹⁷⁷ Malcolm Feeley, *The Process is the Punishment: Handling Cases in a Lower Criminal Court* (New York: Russell Sage Foundation, 1979).

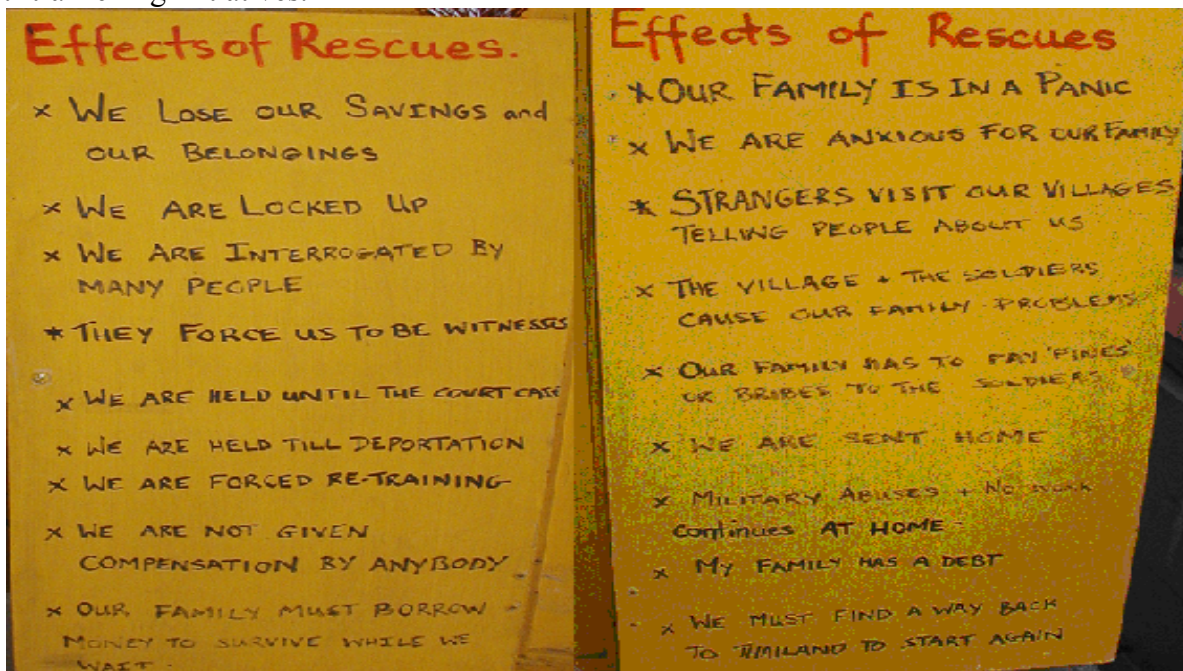
⁹⁷⁸ ILO International Programme on the Elimination of Child Labour, ILO Office in Bangkok and Philip Robertson, *Working Day and Night: The Plight of Migrant Child Workers in Mae Sot, Thailand* (Bangkok: ILO, 2006); Mekong Sub-regional Project to Combat Trafficking in Children and Women, International Programme on the Elimination of Child Labour and Elaine Pearson, *The Mekong Challenge: Human Trafficking - Redefining Demand - Destination Factors in the Trafficking of Children and Young Women in the Mekong Sub-region* (Bangkok: International Programme on the Elimination of Child Labour International Labour Office, 2005).

⁹⁷⁹ Skrobanek, “Human Trafficking: From Vertical to Horizontal Journey.”

⁹⁸⁰ Ibid.

⁹⁸¹ Ibid.

of rescue operations and engagement with the criminal justice system. It also illustrates the need to move from a state-driven “vertical approach” to trafficking – raid, arrest, detain, deport – to a “horizontal approach” engaging trafficking survivors in the development and implementation of anti-trafficking initiatives.⁹⁸²



Sex workers' rights groups raise awareness about the effects of rescue operations

Rescue or Arrest?

As illustrated in the brothel raid narrative in the Prologue, it is difficult for women “rescued” in raids to differentiate anti-trafficking interventions from the periodic raids carried out on commercial sex establishments by police to arrest prostitutes and illegal migrants. The nominal illegality of prostitution and pressure for law enforcement to respond to the prostitution and trafficking incentivizes ad hoc brothel raids. However, as one interviewee explained, many raids are “just for show and media attention so the police can say they are ‘doing something’ about prostitution, since they usually tip off the owner for a bribe.”⁹⁸³

Police repeatedly failed to plan for interpretive services for those detained in raids. Ethnic minority NGO activists told me that they often received phone calls from enforcement officials in the middle of the night to translate for groups of confused Akha, Shan, and Karenni women arrested in raids. One activist who had served as an “emergency translator” noted that the practice was particularly problematic because interpreters are rarely screened or trained to explain legal claims, potentially biasing investigations and neglecting the rights of victims. Yet despite the need for activists’ assistance, police tended to view NGO advocates and volunteer interpreters with suspicion, particularly those from migrants’ rights organizations. These advocates are the key to managing victim/witnesses, as they help develop cases by translating trafficked persons’ experiences and collecting evidence. However, a few activists and shelter

⁹⁸² Ibid.

⁹⁸³ Walter, activist at international organization, May 28, 2005.

operators admitted to withholding information from investigators if they thought doing so was in the best interests of the detained person or trafficking victim.⁹⁸⁴

Detention, Shelters, and “Willing Victims”

After a raid, women are detained at the police station and divided into different groups, depending on their nationalities and their willingness to cooperate with investigators and serve as witnesses against their traffickers and/or exploiters. Shelter operators and social workers on CMM taskforces described women who were forced to work in the sex industry or who found the conditions were not what they expected as “unwilling victims.” Those who agreed to testify were “cooperative victims” eligible to receive state-led social assistance and rehabilitative services. Women who refused to testify, however, were “uncooperative victims,” or, if they identified as voluntary sex workers, “willing victims” undeserving of social services. Police and social workers explained that “willing victims” detained in brothel raids who were not Thai had to pay a fine and were deported; when I asked if this was problematic for migrant women from Myanmar given the continuing violence there, one social worker simply shrugged and said, “they are here illegally, and prostitution is not legal, so they have broken the law and they have to pay the consequences.”⁹⁸⁵

Legal advocates reported that repeated delays as the case progressed through the Thai courts frustrated trafficking victims’ desire to pursue formal “justice,” particularly given the limited benefits received for cooperation and the likelihood of losing the case. NGO advocates reported that migrants are aware that engaging the legal process will only delay their return to work, doubly victimizing the workers and families who rely on their remittances.⁹⁸⁶ Victims who cooperate with prosecutors to levy charges against their traffickers often have to stay in shelters much longer than those identified as mere illegal migrants, who are simply (and often, summarily) deported. As one shelter worker explained

The girls get increasingly discouraged waiting for something to happen in their case. After about one month, they complain that it is boring here and they want to leave the shelter or go home. We tell them that they have to wait for the case and they can’t leave, because they wouldn’t be safe and the trafficker could find them and make them go back to the brothel.⁹⁸⁷

Several interviewees explained that the invasive and exhausting legal process required to develop a criminal trafficking case encourages many migrants to conceal their victimization in order to be deported, thereby speeding along the process of returning home and re-migrating. Social workers collaborating with CMM taskforces attempted to coax migrants to cooperate with criminal investigations by saying, “you wouldn’t want your sister or your friends to be trafficked

⁹⁸⁴ Interview with Ma Su, Burmese migrants’ rights activist June 16, 2005; Interview with Na Jae, Lahu activist at American faith-based NGO/shelter, March 6, 2005; Interview with Shwee, ethnic minority rights activist, March 3, 2007.

⁹⁸⁵ Interview with Baan, social worker at government shelter, rehabilitation, and vocational training facility, March 24, 2005.

⁹⁸⁶ Interview with Bai, migrants’ rights activist, April 11, 2005.

⁹⁸⁷ Interview with Nancy, director of faith-based NGO/shelter, March 2, 2005.

or have to be prostitutes, would you?”⁹⁸⁸ In sum, the failure to provide immigration relief, useful long-term social services, or facilitate civil actions against traffickers demanding compensation for victims creates serious disincentives for them to cooperate with criminal justice officials or identify themselves as victims of trafficking.

Rehabilitation and Sexual Propriety

Shelter and rehabilitation programs reveal how hierarchies of ethnicity, class, and sexual respectability are reinscribed even during interventions ostensibly designed to benefit victims of trafficking or sexual exploitation.

Elite Thai women pushed for a rehabilitative approach to prostitution beginning in the late 1950s, adopting a maternalistic posture towards lower-class women. Occupational training programs aimed to teach women housewifely domestic skills, proper hygiene, and sexual morality. The elite and middle-class women I interviewed who had opened their own rehabilitation centers expressed frustration when former sex workers rebuffed efforts to “teach them proper behavior, to dress appropriately, and not wear too much makeup, so they stop looking and acting like prostitutes.”⁹⁸⁹ One elite professional therapist grossly stereotyped victims of sex trafficking by their nationality, baldly asserting that “Lao girls are naïve about prostitution, they are innocent and hard workers,” while those from Burma were deemed “greedy, materialistic and untrustworthy,” as many had knowingly migrated to work in the sex trade for “easy money.”⁹⁹⁰

Both victims of trafficking and voluntary sex workers are subject to rehabilitation programs. Suspected trafficking victims may be detained in jail for up to 24 hours; thereafter, those identified as victims willing to cooperate with prosecutors are sent to government or NGO shelters until their case is heard. NGO advocates and government social welfare workers provide psychological counseling, trace and evaluate victims’ families, and prepare victims for repatriation and reintegration into their home communities. Those victims who have escaped violent or abusive family situations or who have no family to return to may not be allowed to go home, and become residents of the shelter.

Although voluntary sex workers are no longer subject to compulsory rehabilitation, authorities may place them in state institutions for an indefinite period of time. Minors engaged in prostitution must be sent to mandatory rehabilitation. Sex worker advocates explained that “all the girls get scared when they hear about ‘Baan Kredtrakarn,’” a government shelter for child prostitutes, trafficking victims, unwed mothers and other “socially disadvantaged” girls and women, “because they don’t want to go through ‘rehabilitation training’ – there is no end to that sentence.”⁹⁹¹ Some women’s shelter operators have leveraged migrant women’s fear of Baan Kredtrakarn to help control victims and reduce escape attempts – particularly among former sex workers seeking the attention of men in the neighborhood. After three women disappeared from one NGO shelter, the staff threatened:

⁹⁸⁸ Interview with Sumalee, legal advocate, Thai anti-trafficking taskforce, March 25, 2005; Interview with Na Jae, Lahu activist at American faith-based NGO/shelter, March 6, 2005.

⁹⁸⁹ Interview with Khun Supaporn, private non-profit shelter operator, April 18, 2005.

⁹⁹⁰ Interview with Khun Ming, psychologist and shelter operator, May 23, 2005.

⁹⁹¹ Interview with Lulu, sex workers’ rights activist, July 8, 2005.

'If anyone misbehaves, they will be sent to the government sponsored Kredtrakarn Home on an islet, where controls are much tougher.' One day during group counseling, many of the girls looked depressed. We asked Phung what was troubling them. Her reply was solemn. *"Yesterday a friend here, who used to stay at the Kredtrakarn Home, told me that life there was full of trouble, the work was hard and there was little food. The Home is on an islet surrounded by crocodiles. Any trying to flee would be eaten by the crocodiles. It was so dreadful that it made me want to commit suicide. I'm afraid of being sent there."*⁹⁹²

I visited Baan Kredtrakarn, traveling up the Chao Praya River by water taxi to the northern suburbs of Bangkok. The facility is set on an island in the middle of the wide river, and although there were no crocodiles, it was only accessible by a ferry sent from the shelter. The residents receive different colored shirts that demarcate their nationality. They are required to participate in occupational training classes including sewing, weaving, constructing baskets out of plastic strips, agriculture, hair cutting and styling, Thai massage, and making "traditional ethnic handicrafts" popular with tourists. Newcomers also participate in art therapy, life skills classes, "Buddha education," and are rewarded with time to watch videos and television. While conditions have undoubtedly improved since the early 1990s (when rehabilitation and "retraining" were compulsory for women arrested for violating the 1960 Prostitution Act), the staff I spoke with at Baan Kredtrakarn noted that the women and children who are sent there resent the isolation and the monotonous work which they are required to complete each day as part of their "rehabilitation." One social worker, clearly exasperated by the persistent re-migration of one Cambodian girl who had been sent to Baan Kredtrakarn four times by the time she was thirteen, stated that the girl had defiantly informed her that "she intended to return to the same brothel just as soon as she was sent back to Cambodia – there is nothing for her there – no job, no real family – so she just keeps coming back, no matter how many times I tell her it is wrong to sell her body. She says she would rather do that than make baskets here all day, despite the risk of [contracting] HIV."⁹⁹³

Between 2001 and 2004, Baan Kredtrakarn enrolled 982 "victims of trafficking," and each social worker in the facility was responsible for over fifty cases. When I asked the social workers at Baan Kredtrakarn how long trafficking victims usually stay at the shelter, they explained that many waited to be repatriated anywhere from two to three months to over four years, depending on the cooperation of officials in the country of origin.⁹⁹⁴ This enforced detention is a particularly problematic situation for many ethnic highland women who lack citizenship or identity papers, as no country will recognize them as nationals and they must wait indefinitely until social workers can convince foreign officials to accept them back into the country.

⁹⁹² House of Tomorrow, *House of Tomorrow*, Part I, page 13, on file with author (emphasis in original).

⁹⁹³ Interview with Baan, social worker at government shelter, rehabilitation, and vocational training facility, March 24, 2005.

⁹⁹⁴ *Ibid.*; Interview with Srisang, social worker at government shelter, rehabilitation, and vocational training facility, March 24, 2005.

Deportation and Forced Repatriation

Migrants' rights activists and labor organizers worried that anti-trafficking mandates re-instituting repatriation arrangements with Myanmar would allow the Thai government to "hijack" the trafficking issue as a screen for repressive agendas regarding irregular migration. Indeed, shortly after the U.S. report lowered Thailand's ranking on efforts to combat trafficking, Prime Minister Thaksin "oversaw the deportation of 20 'sex trafficking victims' from Burma, who were handed over to the military – *unarmed* women handed over to the *armed* Burmese military at the border. And it was to show, 'yes we will comply with [U.S. anti-trafficking] policies.'"⁹⁹⁵ This flies in the face of Thailand's decade-old decision to stop all official deportations of women to Burma after reports that women were executed after they were sent back, because they had left the country illegally, were selling sex, or were (assumed to be) HIV-positive. Another migrants' rights activist criticized repatriation agreements with Myanmar by pointing to the presumed death by shooting of the leader of Burma's anti-trafficking department, the wife of a high-level official arrested in a recent coup. As she queried, "they can't guarantee the safety of the head of the department of anti-trafficking of the Burmese government, but they can guarantee the safety of girls dumped at the border or in a war zone? It's not right."⁹⁹⁶

Both "protective," charity-oriented women's issues NGOs and progressive migrants' rights groups expressed concern regarding cases where officials locked up "non-cooperative victims and voluntary workers" jails or detention centers while "cooperative victims" were detained in government and NGO shelters until they could provide testimony. To reduce repatriation costs, some officials had been waiting to repatriate groups of trafficked persons and/or illegal migrants to distant homelands in a single batch. However, one women's leader involved in the repatriation of Lao girls from the northern Thai province of Lampang explained the efforts of authorities to reduce attempts to re-migrate, admitting that "we sometimes blindfold [the victims] so they don't learn the roads and try to come back into Thailand."⁹⁹⁷

Sidelineing Potential Partners: Trafficking, Criminality, and the Alienation of Sex Workers' and Migrants' Rights Organizations

State-backed initiatives framing trafficking in terms of criminality overshadow campaigns to protect and empower migrant laborers, failing to engage targeted populations to help monitor labor conditions and address exploitative work conditions. Indeed, a migrants' rights NGO activists criticized trafficking interventions styled along the criminal/victim approach of the CMM because:

'Trafficking' does not address the debate on labor exploitation; it's just a lot of law enforcement, which only makes it more difficult for people to migrate. . . . But why are people vulnerable to traffickers? Because they have to have the legal documents to travel! If the government is just looking for traffickers, it's pushing the criminal law to identify the trafficker, to rescue the women and

⁹⁹⁵ Interview with Lulu, sex workers' rights activist, July 8, 2005.

⁹⁹⁶ Interview with Jane, Burmese migrants' rights NGO activist, June 7, 2005.

⁹⁹⁷ Interview with Jeab, local women's rights and anti-trafficking advocate, March 1, 2005.

put them in the rehabilitation house, which doesn't solve the problem. . . . They don't want to be in rehabilitation, they want to work!⁹⁹⁸

Although NGOs' strategic frames emphasizing the sexually violated prostitute succeeded in provoking the state to respond to trafficking and forced prostitution, they have also reinforced assumptions among enforcement officials that all migrant women working in brothels are trafficking victims, increasing their risk of arrest and deportation. After several botched brothel raids, misinformation, and divergent beliefs about the efficacy of collaborating with law enforcement, the majority of NGOs promoting sex workers' and migrants' labor rights agendas have distanced themselves from state-backed anti-trafficking taskforces. As a result, these initiatives fail to benefit from the access and credibility these NGOs have fostered with the very migrant communities targeted by anti-trafficking campaigns. Moreover, trafficking interventions relying on "rescues" rather than focusing on improved work conditions may actually *promote* trafficking, as rescued workers are quickly replaced, particularly in brothel prostitution.⁹⁹⁹ By treating all sex workers as victims, rather than "potential anti-trafficking workers in their own right," brothel raids also inadvertently remove voluntary workers who may have developed strategies to assist those co-workers who wanted to leave in planning a safe escape.¹⁰⁰⁰

The barriers to the implementation of effective, rights-respecting interventions described above exemplify the problems of the vertical approach to trafficking. The top-down, crime-suppression focus of Thailand's anti-trafficking policies has resulted in a narrow scope of law enforcement action that has increased the stigma against sex workers; justified the arbitrary arrest of both legal and illegal migrants under the pretext of anti-trafficking concerns; exacerbated the "growing xenophobia and racial prejudice/discrimination against foreigners, making them scapegoats of national crime and unemployment"; and increased potential migrants' dependency on smuggling and trafficking rings.¹⁰⁰¹ Thus, many anti-trafficking NGOs and UN projects are advocating for a "horizontal approach" that encourages the participation of trafficking survivors and their families in preventing risky migration and labor exploitation. For example, programs to raise community awareness about trafficking that involve trafficked returnees not only improve psycho-social healing, but also engage former victims as partners to share what they have learned from their experience using indigenous songs, dances, and stories. The women share the tricks of traffickers, how initially consensual migration can turn into trafficking, and how to avoid labor exploitation.¹⁰⁰² Including trafficking survivors as partners in

⁹⁹⁸ Interview with Bii, migrants' rights activist, April 6, 2005.

⁹⁹⁹ Feingold, "Human Trafficking"; Empower Chiang Mai, *A report by Empower Chiang Mai on the Human Rights Violations Women are Subjected to When "Rescued" by Anti-trafficking Groups who Employ Methods using Deception, Force and Coercion*.

¹⁰⁰⁰ As one sex worker advocate explained, "[Women] are much better off in a brothel than [working alone as a domestic worker] in a house. In a brothel if you've been trafficked...you've got eight other women who are telling you when to run away, and where to run, how to run away and how to keep safe in the meantime....women already have a whole lot of strategies they use with each other and for each other. And when those women get rescued, there's no one in that brothel who's got those strategies anymore."

¹⁰⁰¹ Skrobanek, "Human Trafficking: From Vertical to Horizontal Journey."

¹⁰⁰² Ibid. NGOs and UN programs have also collaborated to establish community radio concerts and "soap operas" targeting ethnic minority communities in remote highlands to raise awareness about trafficking, labor exploitation, and human rights.

planning anti-trafficking programs that respect their dignity and agency, rather than emphasizing their victimhood, may indeed be a more successful rights-based approach to the problem.

CHAPTER 8 - Sex, Rights, Migration and Security: Trajectories of Enforcement and Reform in Thailand's "War on Human Trafficking"

Evaluating the Trajectory of Thailand's Trafficking Reforms

Is Thailand's approach to combating trafficking working? The problems highlighted in previous chapters – and the collateral damage attending “wars” against social problems like drugs, commercial sexual exploitation, and illegal immigration – should give pause to activists and politicians promoting a law-and-order approach to trafficking. Despite increasing collaboration between NGOs, social workers, and criminal justice officials to implement “victim-sensitive, rights-based” reforms, the enforcement of anti-trafficking laws often violates the rights of voluntary migrants and trafficked persons themselves. The discursive and institutional linkages between crime, irregular migration, and sexual exploitation established by domestic and international anti-trafficking politics demonstrate how reforms initially advanced to protect “women's rights” and “victims' rights” can be leveraged in support of competing agendas – particularly to legitimate “governing through crime” policies designed to manage populations and empower security actors to combat criminal threats.¹⁰⁰³

This chapter examines the trajectory of anti-trafficking reforms, legislation, and advocacy efforts in light of the re-militarization of Thailand's political field. At the same time that international, regional, and domestic efforts to address trafficking in Thailand are occurring, Thailand's political field has become increasingly militarized. The 2006 coup, lethal conflict between military forces and demonstrators in Bangkok, and violence in the ongoing struggle between Buddhist and Muslim communities in the South of Thailand -characterized by government officials as a “war on terror” – all occurred on the same terrain as anti-trafficking reforms. In addition, law enforcement officials have revived the “war on drugs,” and immigration crackdowns have resulted in the mass deportation of unregistered migrants. International human rights organizations have documented serious rights violations by state actors against civilians, migrants, and social movement activists. The military-installed government issued emergency decrees restricting political organization and enforcing censorship of the press, television, and radio. These changes represent significant transformations in Thailand's political and discursive opportunity structure, posing serious challenges to activist organizations attempting to advance the rights of exploited and trafficked migrants.

Nevertheless, social movement organizations and sympathetic state allies have achieved some success in pushing for reforms to mitigate the negative effects of “governing through crime” responses to human trafficking. The following sections explore the trajectory of the anti-trafficking movement in Thailand as ostensibly “rights-based” and “victim-centered” reforms interface with criminal justice prerogatives in a political climate animated by national security concerns and anti-immigrant sentiments.

International and Regional Cooperation: Governing Migration, People Smuggling, and Human Trafficking Through Crime

The blurry line between voluntary and forced migration is reflected in both the factors motivating undocumented migrants to cross borders, as well as the legal and policy frameworks regional institutions developed to respond to smuggling and human trafficking. The International

¹⁰⁰³ Simon, *Governing Through Crime*.

Labor Organization estimated in 2005 that 9.49 million people were in forced labor in the Asia-Pacific region, many of them in the Greater Mekong Subregion (GMS), which includes Cambodia, China, Lao People's Democratic Republic (PDR), Myanmar, Thailand, and Vietnam.¹⁰⁰⁴

Thailand has emerged as a country of origin, transit, and destination for trafficked persons, complicating the development of a coherent, rights-based, and victim-sensitive approach to trafficking. Thai citizens are trafficked internationally to countries including Australia, Sweden, Japan, Korea, Malaysia, the U.S., and several Middle Eastern nations. At the same time, the relative prosperity of Thailand compared to neighboring countries makes it a magnet for men, women, and children throughout the GMS, who migrate to Thailand to work in dirty, dangerous, and difficult – but available – labor sectors.

Migrants are motivated by a broad range of economic, social, and political insecurities. Civil war and political repression threaten the political security of ethnic minorities and refugees living in the borderlands between Thailand, Myanmar, and Laos. Economic mismanagement, poverty, ill-planned development projects and the lack of employment opportunities, health care, and education exacerbate economic insecurity in Cambodia, China, and Vietnam. Environmental degradation – and efforts to ameliorate it by prohibiting traditional slash-and-burn agricultural practices – further undermines socio-economic security in many rural and indigenous highland communities. Women and their children throughout the GMS remain vulnerable to trafficking due to the feminization of poverty, their low social status, pervasive sex discrimination, and violence against women (including rape as a weapon of war in Myanmar).

Diverse factors motivate men, women, and children to migrate to Thailand in search of stable work to support themselves and their families back home. Yet despite increasing recognition that trafficking is a feature of transnational migration and exploitation is facilitated by the lack of labor protection for migrant workers, crime-control and security-oriented approaches continue to dominate anti-trafficking efforts in Thailand and GMS countries, as they have for the last two decades.

Cooperative Regional Crime Control Efforts to Combat Trafficking

Part of the reason that crime-control approaches dominate anti-trafficking efforts in the GMS is because certain governments in the region were only receptive to framing the problem of trafficking in that way, fostering path dependent enforcement practices that shape anti-trafficking policies today. Throughout the 1980s and most of the 1990s, the rulers of Lao PDR and Burma “were not open to discussing issues of migration since it was seen as a reflection on the state of their countries,” and instead attempted to “maintain a myth that no citizen . . . had a desire to leave.”¹⁰⁰⁵ Framing trafficking as a security issue, a product of transnational criminal gangs, opportunistic brokers, and shadowy underworld figures – rather than social, economic, and political problems stemming from poor governance – facilitated cooperation between countries in the GMS. Consequently, while GMS countries often “found it difficult to sit together and discuss other issues,” such as human rights, forced labor, forced migration, labor exploitation, and migrant workers’ rights, “trafficking conferences were always well attended and, at least in the

¹⁰⁰⁴ “A Global Alliance Against Forced Labour,” International Labour Organization, <http://www.ilo.org>.

¹⁰⁰⁵ GAATW *Collateral Damage*, 175-176

case of Burma, conferences were exploited as a political tool to give credibility to authoritarian regimes.”¹⁰⁰⁶

The framework to combat human trafficking in the Association of Southeast Asian Nations (ASEAN) system emerged from ASEAN’s focus on fighting illicit drug trafficking in the region since the mid-1970s. At the Second Informal Summit in December 1997, ASEAN countries “resolved to take firm and stern measures to combat transnational crimes such as drug trafficking, trafficking in women and children as well as other transnational crime” including terrorism, drug trafficking, arms smuggling, money laundering, and sea piracy.¹⁰⁰⁷ In the wake of the Asian financial and economic crisis of the late 1990s, the International Organization for Migration initiated a meeting of Asian governments to address migration in 1999, producing *The Bangkok Declaration on Irregular/Undocumented Migration*. The Declaration specifically endorsed an immigration-control approach to trafficking, suggesting, “[t]imely return of those without right to enter and remain is an important strategy to reduce the attractiveness of trafficking.” (Section 13). To reduce trafficking, the Declaration proposed reducing illegal migration. Signatories committed to pass legislation criminalizing people smuggling and trafficking in humans (especially women and children), to cooperate in the prosecution of offenders, and to tackle transnational organized crime.

The conception of trafficking as a crime-control issue (rather than a human rights problem) motivated other regional efforts to secure borders, enhance policing, and regulate migrant populations as well. In 2002, thirty-eight source, transit and receiving countries throughout the region came together at the Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. This effort came after large numbers of illegal boat arrivals by smuggled migrants throughout the Asia-Pacific region. The problem was so severe that a second Ministerial Conference was held the following year. The outcome of those meetings was another criminal approach to trafficking. The “Bali Process” calls for increased intelligence sharing, cooperation among regional law enforcement agencies to “combat people smuggling and trafficking networks,” enhance cooperation on border and visa systems to “detect and prevent illegal movements,” and increasing the “effectiveness of return as a strategy to deter people smuggling and trafficking.”¹⁰⁰⁸ Human trafficking served as a vehicle to discuss other crimes at the second Bali Process meeting, as Ministers expressed concern regarding not only trafficking, but also “a wide range of transnational crime, including trafficking in illicit drugs, terrorism, terrorist financing and money laundering [that] also threaten regional stability and prosperity,” necessitating regional cooperation to combat these crimes.¹⁰⁰⁹

¹⁰⁰⁶ Ibid. 176

¹⁰⁰⁷ ASEAN Plan Of Action To Combat Transnational Crime, available at <http://www.aseansec.org/16133.htm>.

¹⁰⁰⁸ “About the Bali Process,” Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, <http://www.baliprocess.net/index.asp?pageID=2145831401> (last visited Nov. 10, 2011). See also, *Co-Chairs’ Statement from the Second Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime*, April 29-30 2003. Interestingly, even as representative ministers from the region “acknowledged that illegal migrants potentially were both offenders of laws and victims” Ibid., para. 7), they also emphasized that “border security was a key component of national and global security. . . and [ministers agreed that] migration threatened States’ capacity to protect their borders and citizens and manage their regular migration programmes.” Ibid., para. 8.

¹⁰⁰⁹ Human trafficking also served as a vehicle to discuss other crimes at the second Bali Process meeting, as Ministers expressed concern regarding not only trafficking, but also “a wide range of transnational crime, including . . . trafficking in illicit drugs, terrorism, terrorist financing and money laundering also threaten regional stability and prosperity,” necessitating regional cooperation to combat these crimes. Ibid., para. 28.

In the same period as the Bali conferences, ASEAN also redoubled its efforts to crack down on illicit cross-border activity. In 2002, ASEAN released an implementation guideline regarding the ASEAN Plan of Action to Combat Transnational Crime. It included steps to promote information exchange regarding trafficking in persons, to “harmonize” national laws, and to create a directory that could “facilitate networking and lateral coordination among persons and agencies with similar functions.” In 2004, ASEAN developed a Mutual Legal Assistance Treaty to promote law enforcement cooperation between ASEAN countries, but Thailand has not yet ratified the Treaty. However, Thailand’s national law on mutual legal assistance related to trafficking is governed in part by its Act on Mutual Assistance in Criminal Matters (B.E. 2535); this Act has no human rights exception, and no general evidentiary test, though it provides that there must be “reasonable grounds” for search and seizure (Section 23).¹⁰¹⁰ Thailand is a signatory to the 2004 Memorandum of Understanding between ASEAN member countries and China regarding “cooperation in the field of non-traditional security issues,” including “people smuggling including trafficking in women and children.”¹⁰¹¹

ASEAN formalized these mechanisms in a specific agreement related to trafficking in persons in 2004, the *Declaration Against Trafficking in Persons, Particularly Women and Children*; the ASEAN declaration called for member states to address transnational crime and trafficking, as well as promoting programs to confirm the identification of victims’ nationality, the provision of services to victims, and speedy repatriation.¹⁰¹² Interestingly, the anti-trafficking declaration urges states to “intensify cooperation among our respective immigration and other laws enforcement authorities” as a key way to address trafficking (Measure 4). ASEAN did not address the rights of migrant workers until 2007, in its *Declaration on the Protection and Promotion of the Rights of Migrant Workers*. The 2007 Declaration calls for receiving states to protect “[promote] the full potential and dignity of migrant workers in a climate of freedom, equity, and stability” and to provide victims of discrimination, abuse, and exploitation access to legal and judicial services, though the declaration exempts countries from taking action beyond existing national laws.

In 2008, ASEAN developed a Training Program on Trafficking in Persons for Front Line Law Enforcement Officials (ASEAN FLO course), which has been customized for use in all GMS countries with the exception of China. National police trainers from Thailand, Cambodia, Lao PDR, Myanmar, and Vietnam facilitate the implementation of this program, which aims to strengthen frontline officials’ ability to recognize situations of human trafficking, to identify

¹⁰¹⁰ Thailand’s national and regional legal framework to address trafficking is outlined in Pauline David, Fiona David, and Anne Gallagher, *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (Jakarta: ASEAN, 2010), 185–86.

¹⁰¹¹ Memorandum of Understanding Between The Governments of the Member Countries of the Association of Southeast Asian Nations (ASEAN) and The Government of the People’s Republic of China On Cooperation in the Field of Non-traditional Security Issues Bangkok, 10 January 2004, Article 1. Notably, Article 6 of the MOU allows each party to “[reserve] the right for reasons of security, public order or public health to suspend [the MOU] temporarily.”

¹⁰¹² Though commitments under the *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children*, 2004, <http://www.aseansec.org/16793.htm>. 2004 *ASEAN Declaration Against Trafficking in Persons, Particularly Women and Children* are limited “to the extent permitted by [each country’s] respective domestic laws and policies,” the measures call for states “to distinguish victims of trafficking in persons from the perpetrators” (Measure 5), “to undertake actions to respect and safeguard the dignity and human rights of genuine victims of trafficking in persons” (Measure 6), and “to undertake coercive actions/measures against individual and/or syndicate engaged in trafficking in persons and shall offer one another the widest possible assistance to punish such activities” (Measure 7).

victims and provide them with protection and support, and to improve cooperation between frontline officials and specialist investigators.

International organizations have also been active in shaping regional cooperation between Thailand and its neighbors to address trafficking. The United Nations Inter-Agency Project on Human Trafficking (UNIAP), initiated in 2000, has served a key role in fostering the development of intergovernmental cooperation in the GMS and collecting data on human trafficking patterns. The UNIAP serves as the Secretariat for the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) process, which links ministry counterparts between countries to develop an integrated system of cross-border cooperation to combat human trafficking.¹⁰¹³ In October 2004, Ministers from GMS countries signed a *MOU on the Cooperation Against Trafficking in Persons in the Greater Mekong Sub-Region*, “committing the governments to a response to human trafficking meeting international standards, highlighting the need for multi-lateral, bilateral, and government-NGO cooperation to fight human trafficking.”¹⁰¹⁴ National COMMIT Taskforces include government officials from ministries involved in anti-trafficking work, including police, justice, social welfare, and women’s affairs. The COMMIT Taskforces reflect the multi-disciplinary CMM model developed between NGOs and GOs in Thailand, reproduced at a higher level on a national and regional scale, exemplifying the expansion of networked governance.

International Interventions to Build the Capacity of Thai Criminal Justice Institutions: Trafficking and Security Politics

International organizations and foreign governments, particularly the United States, have also intervened to promote crime control measures directed at trafficking. Specifically, individual states and global organizations supported programs to build the capacity of law enforcement institutions to address illicit cross-border activities perceived as security threats.

Efforts to professionalize and train criminal justice officials to fight crime dominated internationally sponsored anti-trafficking initiatives in the 1990s, with significant support from major destination countries with interests in stymieing irregular migration and trafficking (of drugs, arms, and humans) in Southeast Asia. For example, in 1998, the U.S. government-sponsored International Law Enforcement Academy (ILEA) was established in Bangkok to promote regional cooperation between criminal justice officials to combat illicit drug trafficking, financial crimes, and alien smuggling. Run by Thai and U.S. officials (many from the U.S. Drug Enforcement Administration), the ILEA serves as a regional training center for law enforcement officers, prosecutors, and judges; as of October 2008, the ILEA-Bangkok provided training to 8,561 participants.¹⁰¹⁵ Two informants discussed their experiences at ILEA, noting that it was considered a privilege to be invited to the trainings. One police chief was brought to the U.S. under the auspices of the ILEA to meet legislators, law enforcement officials, and immigration officials involved in the fight against trafficking. When I asked an ILEA representative whether training programs were working to transform operations at a practical level, he suggested that the greatest value of the program was its ability to develop networks between counterpart law

¹⁰¹³ Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), United Nations Inter-Agency Project on Human Trafficking, <http://www.no-trafficking.org/commit.html>.

¹⁰¹⁴ Ibid.

¹⁰¹⁵ “Background,” International Law Enforcement Academy, last visited December 2, 2010, <http://www.ileabangkok.com/En/background/background.html>.

enforcement officials in different countries and to standardize the criminal justice response of trafficking-related activity; he wryly noted that this standardization would also facilitate reporting to international agencies and donor countries like the United States.¹⁰¹⁶

Thailand and Australia also began to tackle the issue of human trafficking in the context of controlling illegal immigration in the late 1990s. Four years later, the two countries signed a Memorandum of Understanding creating the Asia Regional Cooperation to Prevent People Trafficking Project, grounded in a law enforcement framework. The Australian Agency for International Development (AusAID) is currently funding the Asia Regional Trafficking in Persons Project (ARTIP), commenced in 2006. ARTIP operates in Cambodia, Indonesia, Lao PDR, Myanmar, the Philippines, Thailand and Vietnam, and regional forums such as ASEAN and the COMMIT process with the aim of facilitating a coordinated criminal justice approach to trafficking in the region. ARTIP projects seek to strengthen specialist and general law enforcement responses to trafficking and coordinating counterparts across borders; increase awareness of and understanding of trafficking among judges and prosecutors; and expand the scope of national criminal justice responses to trafficking by developing laws related to money laundering, mutual legal assistance and extradition.¹⁰¹⁷

Yet another source of international influence on law enforcement in Thailand is the United Nations. Bangkok hosts the regional headquarters of the United Nations Office on Drugs and Crime (UNODC), the UN agency that pushed for the most recent international anti-trafficking agreement, a protocol to the Convention on Transnational Organized Crime.¹⁰¹⁸ Bangkok hosted the 2007 East Asia and the Pacific Regional Workshop on Criminal Justice Responses to Trafficking in Persons in preparation for the UN Global Initiative to Fight Trafficking (UN.GIFT) conference, held in Vienna in February 2008. Representatives from governments throughout the region, ARTIP, international donor organizations and UN agencies, and several NGOs, including Thailand's Foundation for Women, the Global Alliance Against Trafficking in Women, and FACE (Coalition to Fight Against Children's Exploitation), also participated in the workshop. Participants discussed international and regional legal and policy standards, strategized to develop a harmonized criminal justice response to trafficking, and called for countries to create specialized trafficking investigation units within national law enforcement agencies. The workshop produced several recommendations to improve the criminal justice response to trafficking in persons, including a section emphasizing the importance of securing victim consent and cooperation to prosecute trafficking cases, providing support for victims regardless of their involvement in criminal justice proceedings, and increasing alternatives to in-court testimony and other evidentiary procedures to decrease reliance on victim-witness testimony in prosecutions.¹⁰¹⁹

¹⁰¹⁶ Interview with Vitit, international law enforcement organization representative, Bangkok, May 2005.

¹⁰¹⁷ "About ARTIP," Asia Regional Trafficking in Persons Project, last visited December 2, 2010, <http://www.artipproject.org/artip-project/artip-project.html>.

¹⁰¹⁸ Thailand has signed but not ratified the Convention on Transnational Organized Crime and the supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Two additional protocol supplement the Convention: the Protocol against the Smuggling of Migrants by Land, Sea and Air (which Thailand has signed but not ratified), and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (neither signed nor ratified by Thailand).

¹⁰¹⁹ "Recommended Guidelines on an Effective Criminal Justice Response to Trafficking in Persons," UNGIFT, *Ending Impunity & Securing Justice*, 2007 Global Initiative to Fight Trafficking - East Asia and the Pacific Regional Workshop on Criminal Justice Responses to Trafficking in Persons (Bangkok, Thailand: UNODC, October 2, 2007).

In sum, regional bodies and international programs in the Thailand and the Greater Mekong Subregion have emphasized an expanded role for criminal justice institutions in addressing trafficking, focusing on border interdiction, surveillance and tracking of migrants; and greater cross-border cooperation between criminal justice agencies. Victims' rights and proactive interventions such as strengthened labor rights are marginalized by the security-oriented frameworks that shape regional anti-trafficking institutions, as they grew out of efforts to crack down on migrant smuggling. Further, the wide range of international agencies, NGOs, and bilateral/regional projects involved in providing training to criminal justice officials across the GMS, combined with the lack of coordination between projects (and indeed, the diverse interests of the organizations and donor countries that fund such projects), results in the risk of conflicting mandates and duplication. The persistent focus on migration as a crime control issue (whether it be migrant smuggling or human trafficking) serves as the basis for political consensus. But in light of the non-binding nature of references to migrants' rights protections in regional anti-trafficking agreements, official responses to trafficking will continue to be driven by national security concerns – even at the expense of migrants' rights – for the foreseeable future.

Bilateral Agreements: The Economics and Politics of Migration Management

Intersecting legal regimes governing documented migrants and cross-border smuggling of “illegal aliens” create a complex context of enforcement as officials implement Thailand's anti-trafficking policies. Further complicating the situation is the web of bilateral agreements regarding migration that Thailand has negotiated with neighboring countries. Thailand's efforts to regularize (some) cross-border migration through migrant registration schemes – even as officials continue to crack down on “illegal” immigration – reveals the dominance of a crime-control approach to migration that complicates efforts to identify trafficked persons and protect their rights.

Thailand's factories, fisheries, and farms are reliant on cheap migrant labor, and remittances from migrant laborers help stabilize the precarious economies of Thailand's neighbors in the GMS. Demand for labor in Thailand, creates strong incentives for men, women, and children throughout the GMS to migrate – legally or illegally – to find work in Thailand. Approximately 75-80% of migrants in Thailand are from Myanmar, accounting for 5-10% of Thailand's labor force; the estimated GDP per capita in Myanmar 2009 was \$1200 per year, compared with \$8,100 in Thailand.¹⁰²⁰ The number of migrants leaving Myanmar for Thailand increased throughout the 1990s, particularly after the bloody military coup, violent crackdowns on student and pro-democracy protestors in the 1988 uprisings, and Burmese military offensives against ethnic minority groups in the 1980s. Because Thailand has not ratified the 1951 UN Convention Relating to the Status of Refugees, the majority of migrants fleeing Burma are not entitled to refugee status, and became undocumented migrants in Thailand.

Beginning in 1996, a series of Cabinet Resolutions were passed under Section 17 of the Thailand's Immigration Act BE 2522 (1979) to allow migrant workers entering the country illegally from Burma, Cambodia, and Lao PDR to apply for temporary work permits. Registered workers can access Thailand's National Health Service and join existing trade unions. Employers of registered workers are also required to register and observe the requirements of Thai labor laws. However, the attractiveness of the registration schemes is reduced because registered

¹⁰²⁰ UNIAP, *The Mekong Region Country Datasheets on Human Trafficking 2010*, Strategic Information Response Network (Bangkok: UNIAP, 2010).

migrants are not allowed to travel outside the province and are bound to their employer, increasing opportunities for exploitation. Moreover, many women and children migrants working in the informal sector are excluded from the protections afforded most registered migrants. Though domestic workers were allowed to register for work permits in 2001, Thai laws do not require employers to pay domestic workers according to established minimum wage requirements, so workers must negotiate their own salary. Moreover, migrant workers in the entertainment industry (including sex workers) still are not covered by registration schemes, placing them at increased risk of exploitation and forced labor.

In an attempt to regularize labor migration and facilitate identification and deportation of unregistered migrants, Thailand developed several bilateral and regional Memoranda of Understanding (MOUs). Thailand signed MOUs addressing migrant labor with Lao PDR (2002), Burma (2003), and Cambodia (2003).¹⁰²¹ These agreements required countries of origin to verify the nationality of migrants already in Thailand and issue Certificates of Identity, allowing migrants to apply for visas and work permits in Thailand. Migrants are permitted to work in Thailand for two, two-year periods. However, after four years, registered migrants would not be allowed to re-apply for a visa to return to Thailand for the following three years. While the MOUs obligate the Ministry of Labor to ensure that workers enjoy protections in accordance with Thai law, Thailand's Labour Protection Act of 1998, which covers all workers regardless of immigration status, excludes sex workers, domestic workers, entertainment workers, agricultural workers, seafarers and beggars – key sectors in which many migrants vulnerable to trafficking are found.

Thailand also signed a series of bilateral MOUs specifically addressing trafficking in the second half of the 2000s. These agreements regularized legal cooperation to combat trafficking, in addition to formalizing victim identification and repatriation procedures. Thailand signed anti-trafficking MOUs with Lao PDR (2005), Vietnam (2008), and Myanmar (2009).¹⁰²² The MOU between Thailand and Cambodia includes provisions for vocational training and education, income generation, and employment and social services; the agreement explicitly states that victims are not to be considered criminals, and should be detained social welfare services rather than immigration authorities.¹⁰²³ Importantly, trafficked persons are eligible to claim compensation for services rendered and any damages by the offender, as well as restitution for

¹⁰²¹ Memorandum of Understanding Between the Government of Lao People's Democratic Republic and the Government of the Kingdom of Thailand on Labour Cooperation (October 18, 2002); Memorandum of Understanding Between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on Cooperation in the Employment of Workers (May 31, 2003); Memorandum of Understanding Between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers (June 21, 2003).

¹⁰²² Memorandum of Understanding Between the Government of the Kingdom of Thailand and the Government of the Lao People's Democratic Republic on Cooperation to Combat Trafficking in Persons, Especially Women and Children (July 13, 2005); Agreement Between the Government of the Kingdom of Thailand and the Government of the Socialist Republic of Vietnam on Bilateral Cooperation for Eliminating Trafficking in Persons, Especially Women and Children and Assisting Victims of Trafficking (March 24, 2008); MOU Between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation To Combat Trafficking in Persons, Especially Women and Children (April 24, 2009).

¹⁰²³ The implementation of the MOU is shaped by the *Guidelines on Reintegration of Trafficked Victims for Cambodia and Thailand*, which established mechanisms between the two countries to return, repatriate and reintegrate trafficked victims; Cambodia and Thailand also signed an agreement to extradite perpetrators and develop mutual legal provisions to facilitate investigation and to take witness testimonies through their respective Ministries of Foreign Affairs.

any belongings confiscated by authorities. The 2005 *MOU Between Thailand and Lao PDR on Cooperation to Combat Trafficking in Persons, Especially Women and Children* provides that victims have the right to legal protection, legal assistance, temporary housing and shelter, as well as health care for themselves and their families during legal proceedings. However, the MOU also includes conditional clauses such as “in accordance with national law in each country,” which, in practice, allows government authorities exercise discretion in providing victim services.¹⁰²⁴

Where criminal justice and social welfare officials have competing mandates and limited resources, limiting clauses in MOUs and the political prioritization of controlling illegal immigration undermine state accountability regarding obligations to respect and promote the rights of victims.

Remilitarization of Thailand’s Political Field

CEO-turned-politician Thaksin Shinawatra’s “Thai Rak Thai” (Thais Love Thais) party (TRT) won by a landslide in the 2001 elections, the first to be held after the adoption of the 1997 Constitution. A former policeman from Chiang Mai who had become a telecommunications billionaire, Thaksin was a highly popular politician, particularly among the rural poor for his policies providing low-cost, universal health care and debt relief. As discussed in Chapter 7, Thaksin waged a bloody “war on drugs” in 2003, charging law enforcement officials “to act decisively and without mercy,” a mandate that resulted in the extrajudicial killings of over 2,800 individuals. Thaksin’s draconian crackdown on suspected drug users and traffickers provoked international censure, but his “tough on crime” policies also won him votes in poor communities ravaged by soaring methamphetamine abuse and drug trafficking, primarily from Burma.¹⁰²⁵

Thaksin was re-elected in an election 2005 with the highest voter turnout in Thai history, becoming the first Thai prime minister to lead an elected government through a full term in office. However, he was disfavored by many of Bangkok’s elite, members of the royal family, intellectuals, socialites, and factions of the Royal Thai Army who complained Thaksin only promoted those loyal to him. The “Peoples Alliance for Democracy” (PAD) emerged to challenge Thaksin’s political dominance, accusing him of graft, corruption, and self-dealing; Thaksin’s profit from a \$2 billion sale of a Thai telecommunications company to the Singapore government triggered anti-Thaksin rallies.¹⁰²⁶ Wearing yellow shirts to symbolize affinity with the King, PAD protestors took over the airport, stalling Thailand’s transit system and freezing its tourist industry in the high season of December. In response to the political turmoil around the country Thaksin ordered the dissolution of the lower house in February 2006.

On September 19, 2006, Thailand’s elected government was ousted by a military *coup d’état*, the first non-constitutional change of government in fifteen years. Heavily armed military forces took over Bangkok, many wearing yellow cloths to symbolize loyalty to the King. The coup took place as Prime Minister Thaksin was in New York City for a meeting of the United

¹⁰²⁴ Global Alliance Against Traffic in Women, *Collateral Damage*, 181–182.

¹⁰²⁵ “Back on the offensive; Thailand’s drug wars,” *The Economist*, January 26, 2008.

¹⁰²⁶ The PAD faction gained momentum after Thaksin’s family sold their shares in Shin Corporation, a leading Thai telecommunications company, to an investment firm owned by the government of Singapore –Thaksin and his family avoided paying capital gains tax on the sale, valued at nearly \$2 billion USD. Though Thailand’s Securities and Exchange Commission investigated the sale and cleared Thaksin of any wrongdoing, his political enemies argued that he had enriched himself at the expense of the country, and used the sale to mobilize anti-Thaksin rallies.

Nations Generally assembly; he apparently suspected the coup.¹⁰²⁷ General Prem Tinsulanonda (former Prime Minister during Thailand's "pre-democracy" period in the 1980s) was the reported mastermind of the coup, and was then serving as Chairman of the royal Privy Council. Prem later obliquely likened Thaksin to Hitler for his greed, taking the country's interests into his own possession, and provoking conflict among the people.¹⁰²⁸

The day after the coup, General Sonthi Boonyaratglin announced in a television conference that the military seized power to unite the nation after months of political turmoil. The coup occurred less than a month before scheduled nation-wide elections. The military junta canceled the elections, abrogated the Constitution, dissolved Parliament, banned political activities and protests, censored media outlets, declared martial law, and arrested Cabinet members. The generals who led the coup organized a "Council for Democratic Reform" (CDR), and pledged to restore democratic government within the year. Though martial law was lifted in the majority of Thailand's provinces by late January 2007, it remained in place in nearly a third of the country – particularly in the restive Muslim South, plagued by continuing violence between government security forces and insurgent groups.

After two years of military rule under Surayud Chulanont, elections were held under a new constitution on December 23, 2007. A military-appointed tribunal outlawed Thaksin's Thai Rak Thai party and banned its officials from competing in elections for the following five years. Samak Sundaravej of the People's Power Party (PPP) was sworn-in as Prime Minister on February 6, 2008, but months later the Thai Constitutional Court found Samak guilty of conflict of interest, forcing his resignation. Somchai Wongsawat (Thaksin's brother-in-law), another PPP member, was subsequently elected as Prime Minister by the Thai Parliament. Soon thereafter, amid charges of corruption, Constitutional Court removed Somchai from office and dissolved the PPP, prohibiting its executive members from entering politics for five years.

In December 2008, Abhisit Vejjajiva, leader of Thailand's Democrat Party, was sworn in as Thailand's 27th prime minister. Since 2008, Thailand has been plagued by an ongoing political crisis between Abhisit's government and the National United Front of Democracy Against Dictatorship (UDD), a group formed to protest the 2006 military coup. The UDD is dominated by rural people who continue to support Thaksin; they demanded greater political participation and equity between rich and poor, and staged protests calling for Abhisit to dissolve the government and hold new elections. The political tension erupted into violent confrontations between rural, anti-government "red shirts" from the UDD and armed government security forces in the streets of Bangkok in from March to May 2010. Nearly 90 people were killed and 2,000 injured in the protests, and acts of arson and rioting occurred in May when the military cracked down on the protestors.

Prime Minister Abhisit declared a state of emergency in Bangkok and other parts of the country on April 7, 2010. An Emergency Decree allowed the ad hoc civilian-military organization, the Center for the Resolution of Emergency Situations (CRES), to prohibit any

¹⁰²⁷ Before Thaksin's departure to New York, a large amount of luggage belonging to the Shinawatra family was reportedly flown to Singapore and London, where Thaksin went into self-imposed exile. Thanong Khanthong, "Thaksin gambled and lost his shirt," *The Nation*, October 2, 2006.

¹⁰²⁸ "Thailand has its 'Hitlers,'" *The Nation*, October 5, 2006. Privy Council president Prem stated "The country is sacred. Whoever thinks only to take the country's interests into their own possession or for their own groups - will end in their own downfall. Phra Sayam Thewathirat [the guardian spirit] always protects the country and curses those who are evil to suffer for the rest of their lives. . . . Hitler and a few of his people were greedy and made people fight. Our country also has this type of people." Ibid.

political meeting, detain suspects and protestors without charge, and hold them for extended periods in unofficial detention facilities, including military camps and remote border facilities, where detainees are at higher risk of torture and abuse during interrogations. The Decree provides immunity from criminal, civil, and disciplinary liability for officials acting under emergency powers. The Emergency Decree also allowed the government to censor any media outlet considered a threat to national security. The Decree was extended in July 2010, after Prime Minister Abhisit's failure to achieve reconciliation with leaders of the red-shirt movement, some of whom the government described as "terrorists."¹⁰²⁹ On October 5, 2010, the government extended the Emergency Decree once again "to prevent possible violent or unlawful activities."¹⁰³⁰

Particularly concerning for political activists and social movement organizations is Section 9 of the Emergency Decree, which broadly prohibits

the press release, distribution or dissemination of letters, publications or any means of communication containing texts that may instigate fear among the people or is intended to distort information, which misleads understanding of the emergency situation to the extent of affecting the security of state or public order or good moral of the people both in the area or locality where an emergency situation has been declared or the entire Kingdom.¹⁰³¹

CRES shut down community radio stations, online and satellite television standards, websites, and publications, many of which supported the UDD. Community radio stations are critical to many migrants' and ethnic minorities' rights organizations, as radio shows are used as a platform for public awareness campaigns addressing such issues as safe migration, HIV/AIDS prevention, and to share news about politics in Myanmar. Thai authorities invoked Emergency Decree powers to censor critics and crack down on contentious politics.¹⁰³² For example, an order issued by the army commander-in-chief – days before a scheduled UDD rally to commemorate the government crackdown – used the emergency powers to bar the sale, distribution, possession, or display of political materials that aim to rally protestors or incite "disunity" and threaten national security, punishable by up to two years in prison and a maximum fine of 40,000 baht (US\$1,335).¹⁰³³ Although the state of emergency was finally lifted in December 2010, armed

¹⁰²⁹ Thomas Fuller, "Citing Instability, Thailand Extends Emergency Decree," *New York Times* (Bangkok, July 6, 2010), <http://www.nytimes.com/2010/07/07/world/asia/07thailand.html>.

¹⁰³⁰ Human Rights Watch, "Thailand: Repeal Emergency Decree", November 24, 2010, <http://www.hrw.org/en/news/2010/11/24/thailand-repeal-emergency-decree>.

¹⁰³¹ Ibid.

¹⁰³² Freedom House, a Washington think-tank that rates degrees of political repression, downgraded the Thai media from "partly free" to "not free" due to the the efforts of government and military authorities to "to rein in electronic media including satellite television, community radio, and internet-based news platforms," including high-profile prosecutions of online editors under the country's lèse-majesté laws." In addition new legislation such as the Computer Crimes Act (CCA) and the use of the Emergency Decree to maintain control over mainstream and community media, shut down websites critical of the government, as well as "physical and psychological harassment of journalists in an environment that fostered greater intolerance and contempt for the press." Freedom House, "Map of Press Freedom – Thailand, 2011,"

<http://www.freedomhouse.org/template.cfm?page=251&country=8147&year=2011>.

¹⁰³³ Human Rights Watch, "Thailand: Repeal Emergency Decree."

police officers and government authorities have targeted media outlets of the UDD, journalists and dissidents, accusing them of broadcasting material offensive to the monarchy in violation of laws prohibiting *lese majeste*.

The reassertion of military power in Thailand's political field and the mobilization of rural protestors reveal schisms in Thailand's traditional social and political order. The conflict and the government's repressive response illustrates both the persistence and the transformation of Thailand's political field: whereas twenty years ago, political actors were confined to bureaucrats, professional politicians, military officers, and some businessmen, ordinary people are now active participants in political debate regarding democracy, the distribution of governmental benefits, and social change. The complex historical, cultural, and economic processes at play in the construction of national identity, the geopolitics of development, and rural resistance in times of rapid social change discussed in previous chapters are also reflected in Thailand's recent political crisis.¹⁰³⁴ Whether or not Thaksin's policies actually benefitted rural and poor communities (and may indeed have trampled the civil rights of some community members in the process), Thaksin radicalized many rural people to demand more equitable distribution of wealth and development in terms of rights and the legitimacy of the democratic process.

Ironically, weeks after the internationally publicized political violence in Bangkok, Thailand won a seat on the UN Human Rights Council (HRC) in May 2010. Mr. Sihasak Phuangketkeow, Thailand's Permanent Representative to the United Nations in Geneva, was elected the President of the HRC on June 21, 2010. Prime Minister Abhisit asserted that this step reaffirmed the international community's confidence in Thailand (and, in turn, condoning its resolution of rural uprising). The Ministry of Foreign Affairs touted that the presidency of HRC "echoes the faith that states across the world have in Thailand's leadership potential for the strengthening of the HRC . . ." ¹⁰³⁵

However, the Thai government's extension of the Emergency Decree – and the continued suppression of political mobilization in the Kingdom – indicate that repression and censorship of political critique will continue, severely restricting space for civil society and closing the domestic political opportunity structure for rights-based advocacy. The tension between human rights, human security, and national security in Thailand's re-militarized political field poses

One vendor was arrested for selling redshirt rally materials including flip-flop sandals depicting Prime Minister Abhisit Vejjajiva and Deputy Prime Minister Suthep Thaugsuban. As pointing one's feet at a person or placing the soles of your feet above another's head is considered rude in Thai custom, the fact that anti-government protestors would be walking on the faces of high-ranking government officials may indeed be intended to signal social strife and disunity, even if it does not rise to the level of a national security threat.

¹⁰³⁴ As one commentator observed, the violent confrontations between rural protestors and the military-elite governing alliance in Bangkok reflect "a class war involving impoverished farmers of the north and east who fear the loss of their land to corporate logging and . . . agribusiness," as well as "a struggle between two types of politics: on one hand the old inward-looking army-based and royalist elite and its padded bureaucracy which faced no challenges for decades; on the other the globalising capitalism of a tycoon like Thaksin Shinawatra who used control of the television stations he owned to take advantage of universal suffrage to mobilise a mass following." John Steele, "What kind of democracy does Thailand want to be?," *The Guardian* (London, May 17, 2010), <http://www.guardian.co.uk/commentisfree/2010/may/17/redshirts-talks-democracy-thailand-monarchy>.

¹⁰³⁵ Thai Foreign Office, Government Public Relations Department, "Election of Thailand as the President of the Human Rights Council Reflects International Confidence in the Country", June 24, 2010, http://thailand.prd.go.th/view_inside.php?id=5109.

significant challenges for social movement organizations attempting to implement reforms aimed to protect and promote the rights of vulnerable migrants and trafficked persons. The next sections illustrate how the emphasis on national security and law enforcement reflected in regional approaches to trafficking has come to eclipse efforts to ensure the rights of trafficked and exploited persons in Thailand.

Human Rights and Human Security in the “War Against Trafficking”

As a country of origin, transit, and destination for trafficked persons, the politics of security, immigration control, and social order campaigns in Thailand illustrate the complex interface between rights-based and criminal justice oriented approaches to trafficking. International laws, multi- and bi-lateral agreements, and national policies link trafficking with terrorism, organized crime, corruption and illegal immigration, creating an enforcement context in which front-line officials balance competing mandates as they are called upon to differentiate victims of trafficking from “illegal aliens” or criminals. The focus on transnational organized crime in anti-trafficking campaigns diminishes detection of victims and effective service provision, and also misidentifies the nature of trafficking networks, which often operate through small-scale, “disorganized crime,” thereby skewing prevention efforts and misdirecting resources.¹⁰³⁶

Moreover, even as demand for migrant labor rises, trade liberalization opens markets, and globalization erodes economic and social borders, governments in destination countries like Thailand are tightening border security and increasingly limit legal ways to enter the country. These combined forces foster exploitative work conditions in developing countries while fueling clandestine and insecure migration options that exacerbate the potential for trafficking, particularly of women and youth.

The practice and discourse of security often eclipses efforts to protect the human rights of vulnerable populations and trafficked persons, particularly in a political climate marked by violent repression. Some activists in Thailand have engaged the concept of “human security” to subvert the traditional discourse of national security. Human security refocuses state efforts towards the protection of rights rather than their deprivation as the key to addressing the sources of insecurity that foster forms of exploitation like human trafficking.¹⁰³⁷

The capacity of “security” to bear multiple meanings makes it a rhetorically powerful symbol with strong emotional appeal. Security discourses provide a “prioritizing imperative”¹⁰³⁸ that conveys “a sense of urgency and consequence that attracts public attention and governmental resources.”¹⁰³⁹ As such, security frames can be an attractive and potent tool for

¹⁰³⁶ GAATW, *Beyond Borders: Exploring Links between Trafficking, Globalisation, and Security*, GAATW Working Papers Series 2010 (Bangkok: Global Alliance Against Traffic in Women and International Human Rights Clinic, Center for Human Rights and Global Justice, New York University School of Law, 2010).

¹⁰³⁷ The concept of human security was introduced in the United Nations Development Programme’s 1994 Human Development Report. A human security approach aims to tackle global insecurity by addressing threats to economic, food, health, environmental, political, community, and personal security to ensure “freedom from fear” and “freedom from want,” concepts drawn from Franklin D. Roosevelt’s “Four Freedoms” speech of 1941. In 2003, the Commission on Human Security defined human security as “encompassing human rights, good governance, access to education and health care,” recognizing a range of environmental, social, and economic threats to the security of people in their homes, jobs and communities. Commission on Human Security, (2003), at 4, available at <http://www.humansecurity-chs.org/finalreport/index.html>

¹⁰³⁸ Barry Buzan, Ole Waever, and Jaap de Wilde, *Security: A New Framework for Analysis* (Boulder Colo.: Lynne Rienner Pub., 1998), 29.

¹⁰³⁹ Lucia Zedner, *Security* (New York: Routledge, 2009), 42.

political campaigning about trafficking – for both state and non-state actors. Because “security” carries a normative meaning as a public good that must be defended by the state, “human security” provides an accommodating frame for political actors seeking to widen the security agenda and reframe social problems (like trafficking, forced prostitution, and VAW) as threatening not only the security of individuals, but also communities, and by extension, the peace and security of the state.¹⁰⁴⁰

The “imagining” of what security looks like, the identification of situations that threaten security, and the institutions one looks to to address the perceived threat are all politicized and socially constructed. New governance approaches in the security sector – such as the multi-disciplinary, inter-agency, state/non-state taskforces that rescue victims, punish traffickers, and protect the community – mean that both concept and practice of security are mutually constituted in the interactions between different security stakeholders. This creates both discursive and political opportunities for social movement actors to reshape the meaning and trajectory of security interventions in certain areas, particularly where traditional security institutions such as the police or military rely on the expertise and resources of NGOs to assist in implementing policy or in legitimizing government campaigns.

The turn towards human security and the expectation that states should develop programs to achieve it leads to the “securitization” of social problems. As described in previous chapters, the strategic frames utilized by NGO activists illustrate how problems like commercial sexual exploitation, sex tourism, and trafficking can be represented as security issues calling for extraordinary state intervention.¹⁰⁴¹ Activists may deploy security frames to underscore the urgency of social problem and target certain populations as in need of or threatening security. Like framing processes, this securitizing move – what I call “strategic securitization” – is context-dependent and socially constructed, as local conditions and local understanding of what poses a “threat” to the individual, community, or nation and how best to protect against it is “inextricably linked with the prevailing political culture.”¹⁰⁴²

The discursive shift to “human security” allows for activists in Thailand to reframe the diverse social, economic, and environmental threats that place people at risk of trafficking as sources of insecurity necessitating extraordinary measures and state resources. This process of “strategic securitization,” then, constructs trafficking victims (“especially women and children”) as referent objects of security deserving of state protection. Strategic securitization of human trafficking also constructs sympathetic victims on whose behalf virtuous citizens can rally to legitimize enhanced law enforcement efforts to crack down on social order problems broadly understood to be associated with trafficking – gangs, drugs, and prostitution. The rhetoric of sexual suffering that animates many anti-trafficking organizations’ advocacy materials and reports on their efforts to “combat” trafficking and sexual slavery exemplify the political functions of securitizing commercial sex to advance awareness of women’s rights (in their

¹⁰⁴⁰ Benjamin Goold and Liora Lazarus, “Introduction: Security and Human Rights: The Search for a Language of Reconciliation,” in *Security and Human Rights*, ed. Benjamin Goold and Liora Lazarus (Portland, OR: Hart, 2007), 1-26.

¹⁰⁴¹ Buzan, Waever, and de Wilde, *Security*, 23–24.

¹⁰⁴² Zedner, *Security*, 65. While security discourses are understood in terms of the local political context, conceptions of “security” and “rights” are also the product of particular historical struggles, and draw on a web of meaning that may include overlapping ideas from local as well as international political culture. International civil society organizations and United Nations programs have a strong presence in Thai politics, and have created a multi-level political opportunity structure whereby activists may use different frames and rhetoric to appeal to different audiences.

violation), including access to state resources and the enrollment of NGOs in efforts to govern insecurity. Thus, when activists strategically securitize trafficking issues (e.g., coerced migration across borders, the funding of transnational organized crime through trafficking and commercial sexual exploitation), it also makes evident the need for state actors to collaborate with activists and NGOs in the identification of risk/victims and the development of interventions necessary to ensure the security of victims (and potential victims).¹⁰⁴³ The political efficacy and influence of strategic securitization is evident in the emergence “carceral feminism” in the American anti-trafficking movement (and its international interventions), characterized by a “rightward shift on the part of many mainstream feminists and other secular liberals away from a redistributive model of justice and toward a politics of incarceration.”¹⁰⁴⁴

Moreover, strategic securitization can serve as a potent tactic for social movements where “institutional and public efforts to provide safeguards against criminality are perceived as being unable to meet the social demand for security” in a given political opportunity structure.¹⁰⁴⁵ The securitizing move allows social movement activists to justify state intervention in cases that would otherwise be seen as politically radical. Thus, strategic securitization may work to create a space to introduce new interventions and practices that can ultimately transform deeply entrenched gender inequality, discrimination, and cultural traditions that make women vulnerable to violence and exploitation.

In political fields that are authoritarian or highly militarized, like Thailand, security frames are likely to resonate with political elites, and therefore offer social movement activists an amenable way of pressuring the state for reforms or securing its partnership.¹⁰⁴⁶ For example, where rights frames are perceived as foreign or radical (e.g., as against traditional “Asian values”), security frames may provide a more resonant frame for organizations seeking to partner with (as opposed to critique) the state.¹⁰⁴⁷ The activists with whom I spoke in Thailand explained that although “rights talk” was increasingly common in political discourse (often as shorthand for development or social justice), many state officials of the “older generation,” particularly male jurists, were reluctant to recognize women’s human rights as legitimate, since “they think that women have high status and are treated well in Thai culture already, so why do they need ‘rights’?”¹⁰⁴⁸ Consequently, security discourses offer a shorter path to mobilizing state attention to social problems, even though they tend to elicit a protectionist response.

¹⁰⁴³ The discourse of human security provides a powerful and integrated analytic framework for women’s advocates to draw attention to the gendered nature of insecurity at a variety of levels. It can expand vertically to connect the situation of individual women to their communities, the state, and global processes such as the gendered nature of migration and discrimination in foreign labor markets. Moreover, resorting to the language of security expands horizontally, allowing allow activist to both contest the meaning of security and question its deployment. See, for example, Duffield and Waddell, “Securing Humans in a Dangerous World.”

¹⁰⁴⁴ Bernstein, “Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Antitrafficking Campaigns,” 47.

¹⁰⁴⁵ Massimo Pavarini, “Controlling Social Panic,” in *Social Control and Political Order: European Perspectives at the End of the Century* (SAGE Publications Ltd., 1997), 75-95.

¹⁰⁴⁶ For a discussion of how activists may strategically engage “radical” frames that challenge the political status quo versus those that seek to “resonate” with existing political culture, see Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany.”

¹⁰⁴⁷ As discussed previously, the Bangkok Declaration issued after the Regional Meeting for Asia of the World Conference on Human Rights in 1993 critiqued international actors’ use of human rights issues as an instrument for political leverage, resisting human rights discourse as an “imposition of incompatible values.” See Report of the Regional Meeting for Asia of the World Conference on Human Rights, UN Doc. A/CONF.157/PC/59, at 3 (1993)

¹⁰⁴⁸ Interview with Khun Malee, law professor, June 9, 2005.

Security frames tend to trump rights frames, particularly when security is deployed in political contexts where state institutions adopt a militaristic or law-and-order approach to governing social problems. Despite the growing role of civil society in Thailand's political field over the past three decades, the Thai military either is the government (as in the most recent in a long line of coups) or remains close to those in power, retaining political influence. Consequently, the discourse of security resonates with the power brokers in Thai politics.

While securitization has the power to mobilize substantial political and economic resources and offers a framework for coalition-building between state and non-state actors to address sources of insecurity at the local level, framing social issues through the lens of security poses several significant risks for social movement activists seeking progressive change. As the language of security "provokes a threat-defense logic," it can invite state mobilization and intervention into sectors where it may produce untoward consequences, for example by legitimizing and regularizing emergency powers, exacerbating militaristic "crackdowns" on complex problems, or by increasing surveillance (and fear) of targeted communities (those at risk as well as those identified as threats).¹⁰⁴⁹ Further, securitization has potential distorting effects, as its prioritizing imperative can demote other issues or forestall political debate.¹⁰⁵⁰ And unlike the discourse of human rights, human security does not provide a framework for accountability or identify specific legal obligations on the part of the state.¹⁰⁵¹ Securitization can justify the sacrifice of civil liberties, a problematic phenomenon that is particularly salient as states operating through a "governing through crime" logic wage "wars" against socio-economic problems such as drugs and illegal immigration. These concerns are even more salient in the context of the "war on trafficking," as both the victims and villains in contemporary anti-trafficking discourse are often from the same communities as those targeted in the drugs and illegal immigration wars¹⁰⁵²

Indeed, efforts to combat security threats through crackdowns and enhanced policing can create insecurities in other sectors. Thailand relaunched a Thaksin-esque war on drugs in early 2008, when Interior Minister Chalerm Yubamrung announced his priority to fight trafficking networks along the Thai-Myanmar border, increasing the risk for migrants traveling in the region. On February 20, 2008, Chalerm adopted "tough on crime" rhetoric to justify a new phase war on drugs, telling parliament:

¹⁰⁴⁹ Waever, "Securitization and Desecuritization."

¹⁰⁵⁰ Zedner, *Security*, 45. See also Keith Krause and Michael Williams, eds., *Critical security studies: Concepts and Cases* (Minneapolis: University of Minnesota Press, 1997); Buzan, Waever, and de Wilde, *Security*.

In the context of human trafficking, the discourse of security also masks how trafficking and the exploitation of women workers are outcomes of the trade liberalization, privatization, de-regulation policies promoted by "destination" countries in the industrialized world, as well as the socio-economic consequences of structural adjustment policies imposed on developing countries by international financial institutions such as the World Bank and the International Monetary Fund. These processes promote the concentration of manufacturing export regions in poorer countries, and the exploitation of temporary, unorganized labor (particularly women) in the informal economy, and take advantage of the feminization of poverty. The "securitization" of trafficking thereby masks the complicity of "destination" countries in creating the economic "push" and "pull" factors that motivate migration and the risky conditions that result from state efforts to restrict entry of (some) migrants.

¹⁰⁵¹ Conversation with Alice Miller, international women's human rights scholar and activist, February 22, 2010.

¹⁰⁵² For example, in the name of "protecting" women from trafficking, many countries have introduced restrictions on women's ability to travel independently, requiring a male relative or guardian to accompany a woman before allowing her to cross borders. Not only does this infantilize women and subject them to the control of her male relatives, such regulations violate a woman's human rights to free movement and self-determination.

For drug dealers if they do not want to die, they had better quit staying on that road... drugs suppression in my time as Interior Minister will follow the approach of [former Prime Minister] Thaksin. If that will lead to 3,000-4,000 deaths of those who break the law, then so be it. That has to be done . . . For those of you from the opposition party, I will say you care more about human rights than drug problems in Thailand.¹⁰⁵³

Within the month, Human Rights Watch reported at least four killings of alleged drug traffickers across Thailand.¹⁰⁵⁴

Ironically, previous iterations of the “war on drugs” in Thailand contributed to trafficking in hill tribe women and girls. International exposure of Thailand’s notorious heroin trade from the Golden Triangle in the North – and the complicity of Thai military authorities in the trade -- led to a crackdown on opium growers. Anti-drug campaigns focused on eradicating poppy cultivation, the traditional cash crop crucial to the survival of “hill tribe” communities, resulting in the incarceration of opium users and significant economic dislocation. Without the trade in drugs, these communities resorted to trading their women, evidencing how efforts to address one form of insecurity can exacerbate insecurity in other arenas.¹⁰⁵⁵ While there were few ethnic minority or “hill tribe” women in Thailand’s sex trade in the 1980s, by the 2000s, they had come to predominate the lowest rungs of the sex industry in closed brothels and massage parlors.¹⁰⁵⁶ Though many hill tribe women were born in Thailand, they lacked citizenship, and were not legally allowed to travel or work outside their home province, leading them to use brokers and traffickers to migrate for work. In combination with the global movement to combat the commercial sexual exploitation of children, the increasing presence of migrant and non-ethnic Thai women in local sex trades in Thailand – stimulated in part due to the need for replacement supply in light of the increased prices commanded by Thai sex workers, the out-migration of Thai sex workers to foreign countries, and increasing economic and educational opportunities for Thai women – mobilized the anti-trafficking groups in Thailand to address these new sources of insecurity.

Evolving National Mechanisms: NGO, GO, and Criminal Justice Agencies’ Cooperation in Thailand’s War Against Human Trafficking

Thailand’s “war on trafficking” reflects the invocation of an idealized victim subject to legitimize an enhanced role for law enforcement. Thaksin’s 2004 speech placing human

¹⁰⁵³ Interior Minister Chalerm Yubamrung, quoted in Human Rights Watch, “Thailand’s ‘war on drugs’”, March 12, 2008, <http://www.hrw.org/en/news/2008/03/12/thailand-s-war-drugs>.

¹⁰⁵⁴ Ibid.

¹⁰⁵⁵ Feingold, *Trading Women*. The film aims to dispel common misunderstandings and myths about Thailand’s sex trade, such as “The problem is the parents – it’s part of their culture to sell their daughters”; and “The sex trade exists because of Western sex tours.” Ibid. The film demonstrates how “the destruction of the traditional upland economy by a combination of well-meaning development and opium suppression programs in Thailand, and civil unrest, economic dislocation, and political repression in Burma” create “threats to both the physical and cultural survival of the highland minorities,” placing hill tribe women and children at greater risk of exploitation and trafficking.

¹⁰⁵⁶ Ibid. Feingold observes that despite a thriving sex industry, thirty years ago, there were no ethnic minority “hill tribe” girls working in prostitution, whereas they now account for around thirty percent of the total number of sex workers in Thailand, and are concentrated in the most exploitative parts of the industry.

trafficking as a priority issue on the national agenda exemplified a “governing through crime” rationale. Prime Minister Thaksin proclaimed the need to protect victims and prosecute criminals:

Victims must be regarded as victims, not criminals, and they must not be subject to prosecution. Instead, rehabilitation and services must be provided to reintegrate them into society. On the contrary, traffickers must be treated as criminals and heavy penalties must be imposed on them regardless of any forms of trafficking they are involved. . . . Human trafficking is now a national agenda, all stakeholders should cooperate in combating all aspects of the problem in a sincere and serious manner with sympathy for trafficking victims.¹⁰⁵⁷

After Thaksin’s speech, the National Sub-Committee to Combat Trafficking in Women and Children formed in 1999 was replaced with the National Committee on Prevention and Suppression of Human Trafficking on March 31, 2005. Chaired by a Deputy Prime Minister, committee members included representatives from the political sector and government organizations. The new National Committee was to be responsible for implementing Thailand’s national action plan and to coordinate with other countries as well as domestic and international NGOs.¹⁰⁵⁸

Thailand’s National Policy and Plan on the Prevention, Suppression and Combating [of] Domestic and Transnational Trafficking in Children and Women came into effect in 2005, triggering another bureaucratic overhaul of many anti-trafficking agencies and the establishment of some victim-centered reforms. In July 2005, for example, the Ministry of Social Development and Human Security launched a new and improved twenty-four-hour hotline service to report suspected cases of human trafficking and to provide assistance and psychological counseling to trafficked or exploited persons.¹⁰⁵⁹ The hotline is also linked to two mobile units on duty for outdoor operations in urgent cases.

Both the Ministry of Justice and the Royal Thai Police also have designated specialized agencies for the investigation and prosecution of trafficking cases. In 2006 a specialized Children, Juveniles and Women Division was established under the Royal Thai Police, including 450 full-time officers trained to address trafficking and collect data on cases to improve enforcement efforts. In September 2009, the Royal Thai Police changed the Division’s name to the Anti Human Trafficking Division (AHTD) with an exclusive mandate to investigate human trafficking, including trafficking in men, rather than the previous unit’s responsibilities of investigating a wide range of offenses committed against women and children. The AHTD also developed an International Cooperation Centre (ICC) to facilitate international police cooperation, and provincial police forces regularly report information on trafficking investigations to the central AHTD. The Department of Special Investigations under the Ministry

¹⁰⁵⁷ Thaksin Shinawatra, August 6, 2004, quoted in ILO, *Thailand’s Country Paper on “Policy Mainstreaming: The Labour and Employment Perspective in Taking Action Against Human Trafficking”*, 2005, 2.

¹⁰⁵⁸ ILO, *Thailand’s Country Paper on “Policy Mainstreaming: The Labour and Employment Perspective in Taking Action Against Human Trafficking.”*

¹⁰⁵⁹ “24 hour 1300 Hotline Now Open.” *Bangkok Post*, 28 July 2005.

of Justice is responsible for investigating human trafficking cases that are deemed to be “special cases,” including cases where police or other officials are suspected of trafficking-related offenses.

In the reorganization of the government after the 2006 coup, Thailand established a National Operational Center on Prevention and Suppression of Human Trafficking (NOCHT) to coordinate anti-trafficking departments in different government agencies. The NOCHT Committee, consisting of officials from the Ministry of Social Development and Human Security, representatives of various government agencies, NGOs, and international organizations, is charged with the development of policies and strategies; to facilitate, command and coordinate anti-trafficking work at different levels, and to supervise and monitor implementation. Thailand’s Human Rights Commission had also played a role in counter-trafficking initiatives, but its activities have been greatly reduced following the September 2006 military coup.

New Laws. New Directions?

Expanded Definition of Trafficking

In June 2008, a new Anti-Trafficking in Persons Act B.E. 2551 came into force in Thailand. The law reflects the Thai government’s responsiveness to human rights critiques by NGO activists and international organizations, and addresses some of the barriers my informants reported regarding the effective implementation of rights-based approaches in anti-trafficking initiatives. The 2008 Act identifies three elements in the offense of human trafficking:

- 1) the action of procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring or receiving any person;
- 2) By means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving of payments or benefits to achieve the consent of a person;¹⁰⁶⁰
- 3) For the purpose of having control over another person for exploitation.

The 2008 Act is more comprehensive than the previous anti-trafficking law of 1997, criminalizing a broad range of exploitative situations beyond forced prostitution, including forced labor or services, begging, and organ amputation for commercial purposes. Section 4 of the 2008 law defines “exploitation” as “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.”¹⁰⁶¹ While the potential fines and jail terms for trafficking offenses are slightly

¹⁰⁶⁰ The second element is not required in cases where the trafficked person is under eighteen, as a child is not viewed as having the capacity to provide consent.

¹⁰⁶¹ Section 4 also includes a definition of “forced labour or service,” which includes “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

more punitive than the previous anti-trafficking law, the law also addresses corruption among enforcement officials, with significant fines for any “juristic person” who commits trafficking-related offenses.¹⁰⁶²

Importantly, the 2008 Act extends the protections afforded women and children to male victims of trafficking. As the Royal Thai Embassy observed, the 1997 Act “was aimed specifically at protecting women and children as the most vulnerable groups in society,” reflecting the gendered assumption that women and children are trafficked, but men are merely smuggled.¹⁰⁶³ The expansion of protection for men reflects the criticisms of migrants’ and sex workers’ rights advocates that anti-trafficking laws geared to protect women-and-children are underpinned by and reproduce a hugely problematic model of gender difference, simultaneously infantilizing women by grouping them together with children and minimizing human rights violations against trafficked men. NGO advocacy, US Trafficking in Persons Reports, and media exposure of the trafficking and exploitation of migrant men, particularly the violence and forced labor suffered by Burmese men and boys in Thailand’s fishing industry, has progressively expanded public understanding of trafficking to include forms of exploitation other than forced prostitution.

The Anti-Human Trafficking Act 2008 reflects a response to critiques Thai criminal justice officials and activists shared with me regarding the limited scope of trafficking laws and the coercive enforcement practices that had characterized earlier anti-trafficking efforts. The UNIAP’s Strategic Information Response Network 2010 evaluation of Thailand’s anti-trafficking human trafficking law, policy, and practice reported that since the 2008 Anti-Trafficking in Persons Act came into force, “there has been more emphasis on forced labour and labour exploitation, particularly in the fishing industry.”¹⁰⁶⁴ Expanding beyond the myopic focus on sex trafficking in previous anti-trafficking laws, the comprehensive definition of trafficking under the 2008 Act has widened the net of enforcement and created new victim subjects. But despite awareness of the diversity of trafficking situations in Thailand, the growing number of white women found working in Thailand’s sex industry since the mid-1990s, including women from Eastern Europe, Russia and Uzbekistan in situations of debt bondage, has worked to sustain Thailand’s notoriety as a haven for sex traffickers.¹⁰⁶⁵

The recognition of diverse forms of trafficking in Thailand’s new anti-trafficking law increases the likelihood that enforcement officials will be able to identify a larger range of victims and target new offenders, the 2008 Act’s expansive definitions of “trafficking” also holds some significant risks for migrants vulnerable to risky migration. The discretion afforded enforcement officers in interpreting and applying the law suggest that anti-trafficking measures

in a state of being unable to resist.”

¹⁰⁶² Penalties under the 2008 Act subject those convicted of trafficking in persons to imprisonment of four to ten years and fines of 80,000-200,000 baht (approximately \$2400 - \$6,000 USD in June 2008); offenders are subject to 6-12 years’ imprisonment and a fine of 120,000-240,000 baht (\$3600 - \$7200 USD) if the victim is 15-18 years old, and if the victim is under 15, the offence is punishable by 8-15 years imprisonment and a fine of 160,000-300,000 baht (\$4850 - \$9100). Section 53 provides that any “juristic person” who commits the offense of trafficking is subject to a fine of 200,000-1,000,000 baht (\$6000 – \$30,300 USD).

¹⁰⁶³ Royal Thai Embassy, Washington, D.C., “Thailand’s new Anti-Human Trafficking Act comes into force,” June 5, 2008, available at <http://www2.thaiembdc.org/activities/060508.aspx> (last visited April 21, 2009).

¹⁰⁶⁴ Thailand Human Trafficking Datasheet UNIAP, *The Mekong Region Country Datasheets on Human Trafficking 2010*, 25.

¹⁰⁶⁵ Ibid.

will continue to serve as convenient pretexts to crackdown on migrants, and migrant sex workers, in particular. Section 7 identifies several acts that are punished as trafficking offenses:

- 1) supporting the commission of an offence of trafficking in persons
- 2) aiding by contributing property, procuring a meeting place or lodge, for a trafficker;
- 3) assisting by any means so that a trafficker may not be arrested;
- 4) demanding, accepting, or agreeing to accept a property or any other benefit in order to help the offender of trafficking in persons not to be punished;
- 5) inducing, suggesting or contacting a person to become a member of the organized criminal group, for the purpose of committing and offense of trafficking in persons.¹⁰⁶⁶

Under these definitions, a woman who returns home and assists her sister or friend to enter Thailand and find work in the commercial sex industry could be deemed a trafficker, as the broad definition of “organized criminal group” under the 2008 Act suggests that the law is flexible enough to target small groups of migrants who cooperate to migrate into Thailand. Section 27(3) of the act allows officials “to search any conveyance with a reasonable ground to suspect that there is an evidence or a person falling the trafficked person therein,” affording significant discretion to border guards and local police to search vehicles for undocumented migrants under the pretext of anti-trafficking searches.

Furthermore, the procedures police employ to identify trafficked persons continue to focus more on crime- and immigration-control prerogatives than the rights of potential trafficking victims. Victim identification procedures employed reenact exclusionary and discriminatory policies. Thai police continue to identify trafficking victims based on their documentation-status, applying different laws to different classifications of women: Thai women arrested during brothel raids are fined under prostitution laws and released, whereas migrant women without documents are detained as witnesses in trafficking prosecutions.¹⁰⁶⁷ Although Thailand has a long history of internal trafficking – particularly of ethnic minorities lacking Thai citizenship – the focus on illicit border crossing by law enforcement leads officials to assume that foreign women are trafficked while Thai nationals are “willing victims.” Such selective enforcement practices violate rights-based principles of non-discriminatory application and interpretation of law, potentially denying trafficked or exploited persons the protections and services to which they are legally entitled.

¹⁰⁶⁶ Section 4 defines an “organized criminal group” as a “structured group of three or more person ... acting in concert with the aim of committing one or more offences punishable by a maximum imprisonment of four years upwards or committing any offence stipulated in this Act, with the aim to unlawfully obtain, directly or indirectly, property or any other benefit.”

¹⁰⁶⁷ “Thailand Human Trafficking Datasheet,” UNIAP, *The Mekong Region Country Datasheets on Human Trafficking 2010*, 25.

Raising the Political Profile of Trafficking: Status, Inter-Ministry Coordination, and Recognition of NGO Expertise in the Governance of Trafficking

Reflecting previous efforts to increase the profile of trafficking and demonstrate official concern regarding the issue by creating a national-level committee of prominent officials, the 2008 Act created a national Anti-Trafficking in Persons Committee (ATP Committee) to Combat Trafficking, headed by the Prime Minister. The expansion of high-level representatives on the national anti-trafficking committee reflects the importance of status as signifying importance and legitimacy in Thailand's political culture. The ATP Committee includes high-ranking officials including the Minister of Defense, the Minister of Foreign Affairs, the Minister of Tourism and Sports, the Minister of Social Development and Human Security, the Minister of Interior, the Minister of Justice, the Minister of Labour and four experts to be appointed by the Prime Minister who have "professional experiences the fields of prevention, suppression, rehabilitation and international cooperation on the issues of trafficking in persons," with at least two of the experts from the private sector. (Section 15).

The inclusion of "experts" marks an official acknowledgement of the important role academics, NGO activists, and advisors have played in efforts to develop efforts govern the problem; however, the fact that such representatives are hand-picked by the Prime Minister suggests that progressive activists critical of existing government policies and enforcement practices are unlikely to be invited to participate in the Committee. Reflecting increased awareness of gender equality issues, the law also requires that "no less than one half of the qualified members" of the ATP Committee be female. The progressive growth of national anti-trafficking committees and the involvement of increasing numbers of prestigious ministries addressing the issue illustrates the expansiveness of the anti-trafficking frame, and the compelling nature of "governing through crime" approaches to address issue as diverse like illicit migration, labor exploitation, sexual abuse, sex tourism, and foreign relations.

Increased Victim Services

Thailand's 2008 Anti-Trafficking legislation ostensibly promotes a "victim-centered" approach, enhancing protection for trafficked persons and adding rights-based measures to the procedures to manage trafficking cases. The 2008 Act also establishes a fund to prevent and suppress trafficking and to improve victim assistance and welfare services. The new law provides trafficked persons immunity from prosecution for status-offenses and acts committed in connection with the trafficking process, reducing some of the barriers to victim self-reporting and participation in the prosecution of their exploiters (Section 41, 2008 Act).¹⁰⁶⁸ Immunity also marks an important step forward in facilitating victim identification, protection, and support (See Chapter 4, 2008 Act).

Section 33 of the 2008 Act addresses assistance and protection to trafficked persons, including the provision of "food, shelter, medical treatment, physical and mental rehabilitation,

¹⁰⁶⁸ Officials are barred from taking criminal action against trafficked persons for several trafficking-related offenses identified in Section 41, including entering, leaving or residing in the Kingdom in violation of immigration laws; giving false documentation or information of officials; forging or using forged documents; working without appropriate documentation; and prostitution offenses, "particularly on contacting, persuading, introducing and soliciting a person for the purpose of prostitution and assembling together in the place of prostitution for the purpose of prostitution." (Section 41).

education, training, legal aid, the return to the country of origin or domicile,” and information regarding legal proceedings to claim compensation. (Section 33, 35). However, this assistance is not automatic – officials and social workers from the Ministry of Social Development and Human Security “shall consider to provide assistance as appropriate ... providing that human dignity and the difference in sex, age, nationality, race, and culture of the trafficked person shall be taken into account” (Section 33, para. 2). Trafficked persons ostensibly have the right to be informed of the right to receive protection and the time frame in which it is to be provided, and to be consulted for their opinion in this regard. However, officials who provide such assistance retain the discretion to place trafficked persons in closed shelters and rehabilitation centers as provided by Thailand’s anti-prostitution law, child protection laws; trafficked persons may also be placed in “other government or private welfare centers.”

Official and Unofficial Guidelines to Improve Investigation and Prosecution of Trafficking Cases

The 2008 Act’s enhanced protections for victims suggest that NGOs have successfully raised awareness about the collateral consequences of brothel raids and the legal processing of suspected victims of sex trafficking. Indeed, the government is making efforts to improve victim identification, and in 2009, developed a pamphlet describing the “Scope and Elements of Identification of Trafficked Persons” for front-line public officials.¹⁰⁶⁹ By emphasizing the diverse forms of trafficking that are now criminalized under Thailand’s 2008 Anti-Trafficking Act, criminal justice, social welfare, and labor officials are charged to look for signs of trafficking in worksites beyond brothels and commercial sex establishments, and to recognize victims other than the archetype of the forced prostitute chained to a bed in a brothel.

Increasing awareness among some criminal justice officials has supported some welcome reforms in the practical implementation of anti-trafficking investigations and prosecutions. The Office of the Attorney General in Thailand established the Centre against International Human Trafficking (CAHT) in May 2007 to coordinate the collection and analysis of human trafficking-related information and to provide advice and support to a range of stakeholders in the counter-trafficking sector. With support from the UNIAP, a group of Thai prosecutors and human rights advocates created a set of guidelines for front-line agencies and NGOs to improve their understanding of criminal procedure and the evidence needed to build a strong case against traffickers.¹⁰⁷⁰ The guidelines include several provisions to protect victims’ rights during raids and throughout the criminal processing of trafficking cases, including arranging for trained counselors and quality interpreters to accompany raid teams, and gathering evidence such as work permits and account books to avoid reliance on victim/witness testimony alone. In 2009, an informal “prosecutor’s network” with 187 members was established to facilitate the dissemination of trafficking-related information and advice on case strategies. In addition, the Office of the Attorney General trained 550 Thai prosecutors on the new trafficking law in 2009,

¹⁰⁶⁹ Thailand Human Trafficking Datasheet UNIAP, *The Mekong Region Country Datasheets on Human Trafficking 2010*, 28.

¹⁰⁷⁰ Human Rights and Development Foundation, *SIREN Report: What do Lawyers Require to Prosecute Trafficking and Slavery in Thailand? Guidelines from Lawyers to Front-line Agencies*, Strategic Information Response Network (Bangkok: UNIAP, January 16, 2008).

resulting in greater cooperation between prosecutors and the Ministry of Social Development and Human Security.¹⁰⁷¹

It appears that the enhanced cooperation between criminal justice and social welfare officials has served to improve protection and support to victims of trafficking. Thai prosecutors now recognize the importance of bringing labor and civil actions in tandem with criminal cases so they can support each other and provide compensatory damages to victims. Section 34 of the 2008 Anti-Trafficking Act requires prosecutors to inform victims of trafficking of their right to legal aid and of the right to claim compensation. Section 35 provides that prosecutors may file a motion for a claim of compensation at any point during the trial of the criminal case, and that the judgment regarding compensation shall be given during the judgment in the criminal case; if the trafficked person's claim is successful, s/he is to be regarded as the creditor according to the judgment. While there are no official reports regarding the number or success rates of victim compensation claims, anecdotal evidence suggests the availability of these new procedures to remunerate victims' for their labor and exploitation may serve as an important incentive to encourage victim reporting and participation in criminal justice proceedings.¹⁰⁷²

Amendments to Thailand's criminal code have also improved coordination in the criminal justice response to trafficking. Prosecutors may now be assigned to work with the police on transnational cases during the investigation phase.¹⁰⁷³ This collaborative arrangement is facilitated through the international affairs department, thereby allowing prosecutors to send requests to national authorities in other countries for information and evidence in accordance with treaties, extradition laws, and bi-lateral mutual legal assistance agreements.

Thailand also amended its criminal procedure code alleviate the fear and psychological trauma to victims of trafficking who provide evidence against traffickers. Thailand's Witness Protection Act BE 2546 (2003) provides that special protection measures are warranted in cases involving sexual offenses and "luring people into sexual gratification of other [*sic*]." ¹⁰⁷⁴ A 2008 procedural amendment extends upon earlier protections for child victims to allow video-recorded victim statements as admissible evidence.¹⁰⁷⁵ Both the anti-trafficking law and the criminal procedure code permit victim-witnesses to be deposed and cross-examined before a judge prior to trial, dispensing with the need for the victim-witness to be present at trial. Consequently, this may work to reduce the time victims spend in shelter, but also hastens their repatriation.¹⁰⁷⁶ Yet while these new provisions ostensibly reduce reliance on victim-witnesses, Thai prosecutors continue to rely on "reactive investigations," raising several problems including failure to detect trafficking cases and botched prosecutions where victims are unable or unwilling to testify

¹⁰⁷¹ Gerard Smith, *The Criminal Justice Response to Human Trafficking: Recent Developments in the Greater Mekong Sub-region*, Strategic Information Response Network (Bangkok: UNIAP, 2010), 8.

¹⁰⁷² *Ibid.*, note 25. The report draws on interviews with prosecutors and government social workers who suggested that increased awareness of Thailand's anti-trafficking reforms had led to improved protection and support to victims, as well as increasing numbers of victim compensation claims. *Ibid.*

¹⁰⁷³ *Ibid.*, 9.

¹⁰⁷⁴ Benefits to the victim under the 2003 Witness Protection act B.E. 2546 (2003) include arrangements for accommodation, daily expenses not exceeding two years, name changes, legal assistance, and opportunities for career and educational training and other means of living his/her proper life." (Section 4). Interestingly, family members may qualify for "remuneration as appropriate" in cases where "any right was impaired; life, bodily, health, liberty, honour, property, or other rights of witness." (Section 15).

¹⁰⁷⁵ Section 172 of the Criminal Procedure Code as amended on 30 January 2008.

¹⁰⁷⁶ Section 31 of the Anti-Trafficking in Persons Law.

against their exploiters.¹⁰⁷⁷ One significant challenge in promoting victim-participation in criminal justice proceedings is the extensive amount of time victims must spend in closed shelters awaiting trial and repatriation.

Continuing Challenges: Involuntary Shelter Detention

The detention of trafficked persons in shelters highlights the problematic tension between victims' rights and criminal justice prerogatives in anti-trafficking initiatives. As an extension of "rehabilitative" interventions under Thailand's anti-prostitution laws, the majority of trafficked persons placed in shelter detention are women and girls held in "closed shelters" from which they cannot leave. State actors, welfare officials, and NGO service providers justify detention in terms of the need to ensure victims are available to facilitate criminal prosecutions and to protect victims of trafficking – from their exploiters, from pimps, from traffickers, and often, from themselves.

Thailand has ninety-nine government-run shelters throughout the country with capacity to receive national and foreign victims of trafficking. According to the Department of Social Development and Welfare, 1,633 foreign victims of trafficking have been housed in government shelters between 1999 and August 2004.¹⁰⁷⁸ Many of these shelters are "closed," meaning that shelters use restrictive practices to monitor detainees and prevent their escape.

"Closed shelters," such as the Baan Kredtrakarn center described in the previous chapter, are often not subject to external review or evaluation, and there are no mechanisms by which women and children detained there could challenge the legality of their detention in court or through administrative processes.¹⁰⁷⁹ Gallagher and Pearson investigated shelter practices in Cambodia and Thailand in field research ranging from 2005-2009. Their findings confirm my own observations from site visits to private shelters (both open and closed) operated by NGOs and my visits to government-run shelters, including Baan Kredtrakarn, initially built as a compulsory rehabilitation and retraining center for women convicted under the 1960 Prostitution Act. Baan Kredtrakarn is the largest shelter in Thailand where most foreign victims of trafficking are placed, and also provides shelter and rehabilitation and rehabilitation to women and children who have engaged in prostitution, abused children, and "socially handicapped" young women (including unmarried pregnant women).

Section 29 of the 2008 Act authorizes officials to hold suspected trafficking victims in temporary custody for up to twenty-four hours "in case[s] of necessity for the benefit of fact clarification . . . and the security protection of a [suspected] trafficked person"; detention can be extended to one week with a court order. The Act clarifies that suspected trafficking victims are not to be held in a detention cell or prison, and that in performing such investigations, officials "shall take into account all human rights principles seriously." The continuing problem of detaining victims in prison cells is reflected in the informal prosecutors' guidelines, which specifically note that physical and psychological examinations must only be made with victims'

¹⁰⁷⁷ Smith, *The Criminal Justice Response to Human Trafficking: Recent Developments in the Greater Mekong Sub-region*, 11–12.

¹⁰⁷⁸ See "Post-Yokohama Mid-Term Review of the East Asia and the Pacific Regional Commitment and Action Plan Against Commercial Sexual Exploitation of Children: Thailand – Country Progress Report," Nov. 8-10, Bangkok, at 2. The Department reports that of the 1633 foreign trafficking victims, 734 are Cambodian, 522 are Burmese, 334 are Lao, 25 are Chinese, 8 are Vietnamese and 10 are from other nationalities. *Ibid.*

¹⁰⁷⁹ Anne Gallagher and Elaine Pearson, "The High Cost of Freedom: A Legal and Policy Analysis of Shelter Detention for Victims of Trafficking," *Human Rights Quarterly* 32 (2010): 78.

consent, and that “it is not always appropriate for victims of trafficking to be housed in shelters,” but rather encourage authorities to assess individual needs and offer alternatives for income generation and repatriation.¹⁰⁸⁰

However, recent reports and site visits to public shelters for trafficked persons confirms findings from my 2004-2005 field research regarding the problematic use of “closed shelters” and detention to “rehabilitate” victims, particularly women and children rescued in anti-sex trafficking raids. Though Thailand’s national law and obligations under regional anti-trafficking agreements emphasize the importance of protecting and respecting victims’ rights, trafficking interventions continue to present challenges to the realization of those rights.

One of the most troubling practices in this regard includes the detention of trafficked persons – most often women and children – in locked, “closed shelters,” government social welfare institutions, and safe houses for months, and in some cases, for years, often against the will of victims.¹⁰⁸¹ Though it is now widely recognized that it is “bad practice” to confine victims of trafficking in prisons or immigration detention facilities, countries throughout the world, including Thailand, essentially imprison victims in shelter, rehabilitation, or safe houses, often under armed guard, forbidden from leaving the shelter grounds “beyond the occasional supervised excursion or trip to court.”¹⁰⁸²

There is a lack of consensus as to the scope of freedom that should be afforded to trafficked persons, particularly if they refuse to cooperate with criminal justice investigations, lack legal status, or are in the country in violation of immigration laws. For example, the U.S. Department of State 2009 Trafficking in Persons Report noted that Thailand should “ensure that adult foreign trafficking victims who are willing to work with local law enforcement are not confined to shelters involuntarily.”¹⁰⁸³ While a move in the right direction, this critique suggests that it is less concerning to forcibly confine foreign victims who are *unwilling* to testify or provide evidence against traffickers.

For women and children “rescued” from the commercial sex industry, welfare officials and shelter operators insist that limiting victims’ freedom of movement is important to prevent them from returning to prostitution. One shelter operator I interviewed in Northern Thailand explained that the importance of surveillance and restricting the movement of “trafficked” girls found in prostitution because they would attempt “flights of freedom,” estimating that over half immediately returned to work in the commercial sex trade.¹⁰⁸⁴ A social welfare official explained that locking adult women in a government facility, some of whom identified themselves voluntary sex workers, and taking away their cell phones was key to their safety, as

¹⁰⁸⁰ Ibid.

¹⁰⁸¹ Indeed, well-intentioned social welfare officials and NGO advocates in Thailand, Cambodia, and the Philippines reported “escapes” of trafficked persons from state and NGO shelter facilities as one of the most frustrating aspects of their attempts to “rehabilitate” victims; some institutions penalize escape-attempts and violations of shelter rules by further restricting victims’ freedom of movement.

¹⁰⁸² Gallagher and Pearson identify several countries where it is “common practice” to restrict victims in closed shelters, including Bangladesh, Central and Eastern Europe, Cambodia, India, Israel, Malaysia, Nepal, the Russian Federation, Nigeria, Sri Lanka, Taiwan, and Thailand. Gallagher and Pearson, “The High Cost of Freedom: A Legal and Policy Analysis of Shelter Detention for Victims of Trafficking,” 77.

¹⁰⁸³ U.S. Department of State, *Trafficking in Persons Report* (2009), 280.

¹⁰⁸⁴ Interview with Na Jae, Lahu activist at American faith-based NGO/shelter, March 6, 2005.

pimps and traffickers would induce the girls to run away from the shelter and return to prostitution.¹⁰⁸⁵

Gallagher and Pearson explore the legal basis for and policy implications of shelter detention by examining shelter practices in Thailand and Cambodia in several of the same shelters I visited during my field research. Thai officials' legal obligation to detain a person may be triggered by prostitution, child welfare, and immigration laws; in addition, "hill tribe" members born in Thailand but lacking citizenship may be legally restricted from leaving or working outside a designated province, determined by different colored identity cards. Yet although involuntary shelter detention of victims of trafficking may promote criminal justice prerogatives and investigations (while providing "protection" to victims), enforced shelter practices may violate a survivor's human rights and international laws concerning freedom of movement, arbitrary detention, and discrimination. Thus, while reforms mandating the provision of shelter for individuals identified as "trafficking victims" may be a move in the right direction, the security benefits of closed shelters may undermine human rights approaches to trafficking and undermine rehabilitation and reintegration efforts.¹⁰⁸⁶

In sum, while Thailand's legal reforms show progress and concern for human rights in some regards, the political climate shaping enforcement priorities and the implementation of new rights-based practices illustrates the gap between well-intentioned reform of law on the books and the realities of law in action.

¹⁰⁸⁵ Interview with Baan, social worker at government shelter, rehabilitation, and vocational training facility, March 24, 2005.

¹⁰⁸⁶ Gallagher and Pearson, "The High Cost of Freedom: A Legal and Policy Analysis of Shelter Detention for Victims of Trafficking."

Epilogue

“Only Rights Will Stop the Wrongs”

In January 2010, the Governor of Phuket assembled a special team to crack down on prostitution in Phuket City.¹⁰⁸⁷ Armed soldiers accompanied the team as officers raided nightclubs and massage parlors, entrapping and detaining the women working.¹⁰⁸⁸ Members of the media snapped pictures of armed men in uniforms arresting partially dressed women. Fifty-seven sex workers were arrested, including one girl under the age of eighteen and two Burmese women, aged twenty-one and thirty-five. Some managers were arrested, accused of not submitting proper worker applications and using premises for prostitution.

The Thai women arrested were charged with prostitution, fined 1000 baht for failing to provide proper Public Health documents, and finally released. The arrested minor was sent to juvenile detention. The two Burmese women were held in remand detention to await an immigration hearing where, if found guilty, they would be fined and deported back to Burma.

A local sex workers’ rights organization, frustrated by the cycle of raids and arrests, released a report questioning the value of such interventions and calling attention to implications of harsh immigration laws for human rights:

When laws are given more importance than human rights then we cannot access our rights.

Laws become a barrier to the achievement of human rights, especially for undocumented migrant sex workers in Thailand. The laws do not protect us – the laws only punish us and leave us open to exploitation.

How do we assert our rights when the laws against us are so numerous and so strong? Sex workers, both migrant and non-migrant, do not want to break any law but we cannot accept to sacrifice our human rights especially in favour of unjust laws that are used against us for . . . exploitation.¹⁰⁸⁹

Activists in the anti-trafficking movement and activists opposed to commercial sexual exploitation and forced labor in Thailand have utilized a variety of strategies to press for reforms to the Thai government’s approach to these issues. Women’s advocates and child rights groups worked to raise awareness about exploitation in Thailand’s sex industry, drafting behind allied movements to gain legitimacy and political cover, adapting successful framing strategies to

¹⁰⁸⁷ Chutima Sidasathian, “Phuket Nightlife Raids: One Under-Age Arrest,” *Phuket Wan*, January 25, 2010.

¹⁰⁸⁸ Pornpit Puckmai, “Traditional Raids and Arrests,” *Empower Foundation*, January 28, 2010, http://www.empowerfoundation.org/sexy_en.php?id=2#.

¹⁰⁸⁹ *Ibid.*

vernacularize rights-claims once perceived as foreign and radical. “Rooted cosmopolitans” from Thailand formed NGOs, connecting local advocates with activists, academics and funding organizations in the international arena. Thai NGOs successfully mobilized their cause by joining transnational advocacy networks, triggering a “boomerang effect” that pressured a recalcitrant Thai government to take action to repair its international reputation by cracking down on trafficking and forced prostitution. Thai NGOs navigated political and discursive opportunity structures in both domestic and international arenas to access resources, forge alliances, and develop strategic frames to advance legal and policy reforms in Thailand. Finally, NGOs positioned themselves as necessary partners to implement these reforms, forging networked partnerships between state and non-state actors that transformed the governance of trafficking cases.

Social movement advocacy to address human trafficking provoked a powerful response from the state, including the passage of new laws and commitment from enforcement officials to “crack down” on forced prostitution and trafficking, while also providing more funding for protection and prevention programs. However, the collateral damage suffered by victims and voluntary migrants in the “war on trafficking” illustrates the risks of engaging security actors and institutions even when interventions are framed as advancing the human security and human rights of people vulnerable to trafficking.

The intersecting legal regimes that govern immigration, labor rights, prostitution, and human trafficking create incentives for officials to selectively enforce laws as they attempt to satisfy multiple mandates. Critiquing the raid described above, sex workers’ rights organization EMPOWER Phuket suggested that politicians and authorities continue to utilize raids and arrests of sex workers as a way to demonstrate their “good works” and advance alternative agendas:

[The entrapment, raids, and arrests are] maybe the authorities’ and politicians’ way of declaring, “See I have these problems in my area all sorted and under control,” or maybe to take the public’s mind off other issues, to answer the USA or their own superiors, to fit in with the propaganda against migrants, or to promote the anti-trafficking law, or the drug law or to get a good [U.S. Trafficking In Persons] Report or . . . or . . . or . . .¹⁰⁹⁰

The discretion afforded enforcement agents as they implement a variety of sometimes-conflicting mandates serves to further marginalize migrant women working in “entertainment establishments.” The Thai government does not allow undocumented migrants to register for entertainment work, even if they work in legally registered establishments. As one EMPOWER activist observes, this legal ambiguity allows authorities to “kill two birds with one stone” by raiding sex establishments when migrants’ permits are due for renewal, which occurs at the same time that Entertainment Places are due for inspection, registration, and tax payments – all at the same time. Sex workers’ rights advocates argue that the periodically-occurring raids of sex establishments are due to the fact that “our workplaces become one stop centre for authorities wanting to produce a good record with very little trouble,” as the government “keeps migrant sex workers as undocumented and outside the law; ready and available for arrest whenever needed!”¹⁰⁹¹

¹⁰⁹⁰ Ibid.

¹⁰⁹¹ Ibid.

Indeed, despite the encouraging reforms aimed to protect victims' rights in Thailand's 2008 Anti-Trafficking Act, the enforcement and implementation of anti-trafficking policies is taking place in a militarized political climate reflecting an increasingly hostile attitude towards migrants, refugees, and groups vulnerable to violence in border regions – all potential trafficking victims. As it has waged “wars” against drugs, terrorism, corruption and illegal immigration, the Thai government has demonstrated disregard for human rights, due process, and the rule of law. This is particularly problematic given that the villains targeted in these “wars” are often from the same migrant and ethnic minority communities that are victims of trafficking.

In July 2011, Yingluck Shinawatra, a 43-year-old businesswoman, became Thailand's first female Prime Minister. Yingluck is the younger sister of Thaksin Shinawatra, the former prime minister deposed in 2006 and banned from Thai politics. The new Prime Minister inherited a host of political challenges, including demands from domestic and international critics to investigate the murders of human rights defenders and civil society activists, as well as politically motivated violence and abuses between government security forces and UDD members, many of whom have been charged with serious criminal offenses, detained and denied bail.¹⁰⁹² As discussed in Chapter 7, the Thai government continues to enforce laws such as the Emergency Decree on Public Administration in Emergency Situation, the Computer Crimes Act, and laws prohibiting *lese majeste* (insulting the monarchy) to stifle dissent and freedom of expression. Such laws inhibit the ability of progressive activists critical of the Thai government to press for human rights reforms and accountability for abuses by Thai officials.

As the discourse of security legitimates extraordinary interventions, emergency powers are regularized as the state responds to a range of issues understood as security threats – including trafficking. Thus, the privileging of security concerns in both political and discursive opportunity structures in Thailand threatens to simultaneously enable and eclipse commitment to human rights as the “war on trafficking” continues in 2011.

Mass Deportation and Forced Repatriation: Exacerbating Migrants' Vulnerability to Trafficking

The blurry line between migrant smuggling and human trafficking, and between consent and coercion, continues to undermine the identification of exploited victims and the realization of their rights in Thailand's war against human trafficking. Migrant workers from Burma, Cambodia, and Laos suffer abuse at the hands of unscrupulous employers as well as state officials: The police, in particular, routinely arrest, abuse, and extort migrants; immigration officials deport irregular migrants back into the hands of militant groups and traffickers in Burma. A recent Human Rights Watch report notes that the Thai government's current policy towards migrant workers is “largely shaped by national security concerns,” and government officials “often regard migrant workers from neighboring countries as a potential danger to Thai communities, the interests of Thai workers, and national sovereignty.”¹⁰⁹³

In 2008, the Thai government announced a policy requiring the approximately 1.3 million migrant workers from Myanmar, Cambodia, and Lao People's Democratic Republic to provide biographical information and verify their nationality with officials of their home government by

¹⁰⁹² Brad Adams, “Human Rights Watch letter to Prime Minister Yingluck Regarding Your Government's Human Rights Agenda”, August 15, 2011, <http://www.hrw.org/news/2011/08/15/human-rights-watch-letter-prime-minister-yingluck-regarding-your-governments-human-r>.

¹⁰⁹³ Phil Robertson and Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (New York: Human Rights Watch, 2010).

February 28, 2010 or face risk of deportation. To comply with this policy, migrants from Myanmar – 80% of the migrants in Thailand – would be required to seek the permission of the military government to receive a temporary passport, which many are afraid to do for fear of criminal sanction for their prior illegal departure.

On June 2, 2010, Thailand's Prime Minister Abhisit signed Order 125/2553 creating a "Special Center to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground" to crack down on unregistered migrants. By mid-summer, Burmese migrant workers who failed to enter the National Verification process were rounded up and deported to Burma. However, the deportation process created opportunities for corruption and extortion, placing deportees at risk of trafficking. At the border, Thai authorities handed deportees over to members of the Democratic Karen Buddhist Army (DKBA).¹⁰⁹⁴ Migrants reported that the DKBA used forced labor, physical intimidation, torture, and cruel and degrading treatment to coerce migrants to pay large sums of money to be released to brokers; the brokers subsequently arranged migrants' return to Thailand with new temporary passports under a recent MOU between the Thai and Burmese governments to bring in fresh workers.¹⁰⁹⁵ Other brokers channeled deportees to smugglers to facilitate undocumented migration back to Thailand. Those deportees who could not pay the DKBA for their release were subsequently trafficked: some women were sold to brokers and trafficked into prostitution, while men were forced to become porters for the Burmese military.¹⁰⁹⁶ Thus, Thailand's deportation practices place vulnerable migrants at risk of serious human rights violations. Corrupt police, immigration, and border officials and a thriving black market teeming with unregulated labor brokers and smugglers results in an environment ripe for trafficking and labor exploitation of men, women, and children.

Subsequent crackdowns on undocumented migrants pushed these communities underground. Three hundred members of a special police force from Bangkok initiated a series of raids in Mae Sot, a town on the Thai-Burma Border with over seventy factories that employ over 100,000 Burmese migrants. The police force arrested hundreds of undocumented migrants "from factories, offices, on roads, from markets and wards," and a local church leader reported that thousands of Burmese are "fleeing and hiding in farmlands, gardens, and paddy fields. Some have no place to hide. So, they have gone back to Burma by crossing the river."¹⁰⁹⁷

More recently, extensive flooding and destruction in the fall of 2011 forced nearly 100,000 Burmese migrant workers to return to Burma via the border crossing at Mae Sot. While almost 40,000 of the returnees held temporary passports allowing them to legally cross back into Burma and return to Thailand to resume work, the majority of those fleeing the floods in Thailand do not have passports.¹⁰⁹⁸ Further, migrants who have obtained legal permits to work in Thailand are required to remain in the province of their employment; crossing the border back to Burma invalidates the permits, placing registered migrants at risk of deportation. Though migrants' rights organizations lobbied the Thai government to provide temporary amnesty for

¹⁰⁹⁴ Human Rights Watch, "Open Letter Requesting Investigation of Claims Migrants Deported from Thailand Facing Human Rights Abuses by DKBA", July 19, 2010, <http://www.hrw.org/en/news/2010/07/19/open-letter-requesting-investigation-claims-migrants-deported-thailand-facing-human->.

¹⁰⁹⁵ Ibid.

¹⁰⁹⁶ Ibid.

¹⁰⁹⁷ Arr Mee, "Thousands of Burmese migrants flee from special police," *Burma News International*, September 4, 2010, <http://bnionline.net/news/nmg/9309-thousands-of-burmese-migrants-flee-from-special-police.html>.

¹⁰⁹⁸ Simon Roughneen, "Deported Burmese Await 'January Solution' to Return to Thailand," *Irrawaddy.org*, November 24, 2011, http://irrawaddy.org/article.php?art_id=22531.

undocumented migrant flood victims, Thai authorities have deported tens of thousands of Burmese flood victims despite reports of extortion and trafficking of deportees.¹⁰⁹⁹ In addition, local authorities in Mae Sot announced in November 2011 that they plan to enforce the annual post-registration crackdown on undocumented migrants, despite the humanitarian crisis caused by the flooding.¹¹⁰⁰

The Thai government's implementation of migrant registration and immigration enforcement policies has caused hundreds of thousands of Burmese migrants to lose their legal status. This further marginalizes migrants from Thai society and increases their vulnerability to exploitation by employers, officials, and traffickers.

In addition to the abuse and exploitation suffered by migrants, Thailand's treatment of refugees from surrounding countries has placed asylum seekers at risk of trafficking. Despite its previous record of offering protection to asylum seekers fleeing conflict and persecution in neighboring countries, the Thai government has adopted an increasingly punitive approach towards refugees. In December 2009, 5,000 Thai army and police personnel forcibly returned over 4,500 Lao Hmong to Laos; the group included 158 refugees who were accepted for resettlement abroad and others who were denied access to the United Nations High Commissioner for Refugees, which was prepared to evaluate their asylum claims.¹¹⁰¹ The following year, Thai authorities sent thousands of Burmese fleeing armed conflict in border areas back to Burma.¹¹⁰² The forcible return of any asylum seeker or refugee violates the international obligation of *non-refoulement*, which forbids the expulsion of a refugee into an area where s/he may be subjected to persecution. In addition, migrants' rights and human rights' activists express concern that the Thai government will use the tenuous democratization in Burma to justify the forcible return of Burmese asylum seekers living in camps along the Thai-Burma border.

Thailand's efforts to shore up its borders, deport undocumented migrants, and restrict the right of asylum seekers to seek protection evidences the challenges advocates face in promoting reforms to increase enforcement officials' sensitivity to the rights of trafficked persons. Indeed, one of the most disheartening experiences of my field research occurred in Mae Sot, where the United Nations High Commissioner for Refugees' facility had been turned into an open-air jail by local police and immigration authorities. Detained migrants, some of whom were likely victims of trafficking or labor exploitation, were corralled behind chain link and barbed wire fences. Men and women were held in the same cell, forced to sit and sleep on a concrete floor until enough migrants were rounded up to fill a paddy wagon for the trip to the border. The sad irony of a facility once dedicated to protecting the human rights of persecuted migrants but later repurposed into an austere detention center graphically illustrated the gap between official rhetoric endorsing victims' rights and the day-to-day governance of migrants in Thailand.

Conclusion

Transformations in the web of political fields in the Greater Mekong Subregion suggest that social movement organizations promoting the rights of marginalized populations at risk of

¹⁰⁹⁹ Ibid.

¹¹⁰⁰ Jackie Pollack, "Crackdown amid crisis," *The Nation* (Bangkok, November 8, 2011), <http://www.nationmultimedia.com/opinion/Crackdown-amid-crisis-30169409.html>.

¹¹⁰¹ Elaine Pearson, "A Blot on Bangkok's Humanitarian Record," *Wall Street Journal*, December 30, 2009, <http://online.wsj.com/article/SB10001424052748703510304574626983277740064.html>.

¹¹⁰² Adams, "Human Rights Watch letter to Prime Minister Yingluck Regarding Your Government's Human Rights Agenda."

trafficking will face significant challenges to effective implementation of rights-based, victim-sensitive anti-trafficking reforms in the coming years. The chasm between the aspirations of anti-trafficking laws and the realities of enforcement clearly illustrate the tension between rights and security in Thailand's efforts to address irregular migration, labor exploitation, and commercial sexual exploitation.¹¹⁰³

In 2004, the UN Commission on Human Rights appointed Special Rapporteur on trafficking in persons, especially women and children, tasked with investigating the human rights aspects of trafficking. The Special Rapporteur visited Thailand in August 2011 to assess Thailand's response to human trafficking and forced labor. She urged the new Yingluck government to "do more to combat human trafficking effectively and protect the rights of migrant workers who are increasingly vulnerable to forced and exploitative labour" in a variety of sectors beyond the sex trade, including agricultural, construction and fishing industries.¹¹⁰⁴ In addition, the Special Rapporteur highlighted the government's need to address the "root causes of trafficking, particularly demands for cheap and exploitative labor provided by migrant workers."¹¹⁰⁵

Although the Special Rapporteur commended the enactment of Thailand's Anti-Trafficking in Persons Act of 2008, her field investigation found that the enforcement of the law and implementation of reforms remains "weak and fragmented," plagued by corruption among low-level law enforcement officers.¹¹⁰⁶ Importantly, the Special Rapporteur called attention to rights violations in Thai government's processing of migrants and trafficking victims, particularly the frequent misidentification of trafficked persons as undocumented migrants and the lengthy period of enforced shelter endured by trafficked persons, which turned shelters into "detention centers and a vehicle for violations of human rights, especially the right to freedom of movement and to earn an income and live a decent life."¹¹⁰⁷

¹¹⁰³ Anti-trafficking campaigns in neighboring countries also illustrate the problematic interface between rights-based and security-based approaches to trafficking in the implementation of new reforms. The Women's League of Burma reports that a 1997 regional directive in Eastern Shan State has forbidden unaccompanied young women between 16-25 from traveling to the Thai border, increasing their vulnerability to corrupt officials demanding bribes. As the junta ratcheted up its anti-trafficking policies in an effort to gain international legitimacy, restrictions on women's movement grew more onerous. Since 2004, young women in Eastern Shan state are required to obtain a recommendation letter or permit from the local Myanmar Women's Affairs Federation, a government-sponsored NGO, ostensibly to prevent possible cases of trafficking and ensure the security of migrating women. However, the permits cost approximately \$200 USD (in early 2006), and Burmese officials have allegedly used the permits as an opportunity to extort money from female migrants – in addition to the bribes migrants must pay to soldiers to reach the border and immigration officials to cross into Thailand. Women of Burma, *In the Shadow of the Junta: CEDAW shadow Report* (Chiang Mai, Thailand, 2008), 22–24.

In Cambodia, the anti-prostitution emphasis in its anti-trafficking campaign, driven in large part by U.S. policy and funding, has facilitated police harassment and abuse in "clear the streets" crackdowns. The discretion afforded state agents in Cambodia's anti-trafficking law has resulting in the arbitrary detention, extortion, beatings, and rape of female and transgender sex workers by law officials and social welfare authorities. Human Rights Watch recently released a report documenting cases where police and social welfare authorities wrongfully arrested and locked up sex workers in "social affairs" centers where detainees have been beaten to death; further, local NGOs acting under Cambodia's law – including American organizations and others receiving USAID funding – have unlawfully detained "victims" in closed shelters against their will. Human Rights Watch, *Off the Streets: Arbitrary Detention and Other Abuses Against Sex Workers in Cambodia*. (New York, NY: Human Rights Watch, 2010).

¹¹⁰⁴ UN News Service, "Thailand must fight mounting human trafficking more effectively, UN expert warns", August 22, 2011, <http://www.un.org/apps/news/story.asp?NewsID=39349>.

¹¹⁰⁵ Ibid.

¹¹⁰⁶ Ibid. UN News Service, "Thailand must fight mounting human trafficking more effectively, UN expert warns."

¹¹⁰⁷ Ibid.

The current political environment in many countries, including Thailand, suggests that state agents will continue to use the cloudy concept of trafficking as cover for more repressive law-and-order and anti-immigration initiatives, legitimized by the participation of NGOs. Indeed, some critics of “Thai-style NGOs,” such as those that collaborate with state-backed, CMM anti-trafficking taskforces, argue that such NGOs are “deeply politically compromised, can no longer be considered people’s organizations, and have had a dubious impact on the long term prospects for more responsive government.”¹¹⁰⁸ However, in light of the historical, cultural, and political factors described in previous chapters that have shaped Thailand political field, a social movement that includes NGOs critical of the government as well as “Thai-style NGOs” that can “enhance the service provided by an inept and untrained bureaucracy and contribute to culture-change by putting teeth in the rule of law and human rights” may be able to pressure the government for more durable reforms.¹¹⁰⁹

Nevertheless, raising awareness about human trafficking, transforming officials’ legal consciousness, and implementing rights-based reforms in the day-to-day practice of state institutions is a slow process. The integration of human rights and women’s rights reforms in capacity-building programs for enforcement officials is particularly fraught in anti-trafficking campaigns where trafficked people are still viewed as criminals and security threats by many state officials in law enforcement and social welfare agencies – either as illegal immigrants or as prostitutes engaging in illegal and immoral sexual commerce. Anti-trafficking advocates would do well to consider the untoward consequences of securitizing sex, bodies, and borders as reforms are deployed in different political fields where rights are marginally integrated in the institutional culture of state officials.

While Thailand’s efforts to reform its laws to address victims’ rights concerns are encouraging, anti-trafficking policies are being enacted in a political climate that is increasingly hostile towards rural people, economic migrants and refugees. Control through fear of insecurity, of disorder, of disruption of hierarchy and tradition have facilitated Thai authorities’ revival of the “wars” on drugs, illegal immigration, terror and trafficking. It remains to be seen whether the turn to rights will foster more victim-sensitive anti-trafficking practices. Indeed, Jackie Pollack, a well-known migrants’ rights activist in Thailand notes that “the basic tenet established by the first trafficking initiatives . . . that the trafficked person is to be considered a victim and not a criminal, has not been developed to establish that the trafficked victim is entitled to long-term rights and is to be considered a victim of neglect of her or his country of origin.”¹¹¹⁰

Although the expanding collaboration between the public and private sectors is promising in some respects, the current political and institutional pressures facing enforcement agents suggest that states will continue to use the cloudy concept of trafficking as cover for more repressive criminal justice and anti-immigration initiatives to protect national security, legitimized by the participation of NGOs. The resistance of enforcement officials to changing norms regarding women’s rights and human rights and the institutional dynamics of “preservation through transformation” demonstrate that it takes time for gender equality and victims’ rights-based approaches to take root.

The securitization of sex, bodies, and borders by state actors and social movement organizations in this context illustrates the increasing traction of “governing through crime”

¹¹⁰⁸ Munger, Rivas, and Kottakis, “Trafficking in Law: How a Thai Human Rights Lawyer Negotiates Means and Meaning.”

¹¹⁰⁹ Ibid.

¹¹¹⁰ Global Alliance Against Traffic in Women, *Collateral Damage*, 197.

approaches to social problems, as cultures of rights engage cultures of security. The discourse of human rights, women's rights, children's rights (and to a lesser extent, labor rights) has infiltrated operational guidelines and training programs for front line officials charged with implementing anti-trafficking reforms. However, the significant discretion afforded immigration, police, and social welfare officials in identifying and processing victims of trafficking suggests that there are still significant barriers to transforming these officials' understanding of trafficked persons as victims due social and legal support, rather than criminals deserving punishment. The blurry nexus between immigration law and trafficking law will continue to complicate effective identification of victims and provision of services – and therefore will hinder efforts to prosecute and convict those who profit from the exploitation and trafficking of vulnerable migrants.¹¹¹¹

The complex nature of “modern day slavery” requires a framework sensitive to the overlap between migration, forced labor, and the gender-specific vulnerabilities attending different forms of trafficking and exploitation. Interventions focused on criminal justice prerogatives – rescuing victims to serve as witnesses against traffickers – fail to address human rights violations that are both causes and consequences of human trafficking. Further, framing trafficking as a problem of crime and border control deflects scrutiny of the legal restrictions and market conditions that make people vulnerable to trafficking in the first place.¹¹¹² Convictions of individual traffickers and low-level people movers are unlikely to operate as a deterrent effect given the scale of supply and the pace of demand for cheap migrant labor. By focusing on individual cases of victimization, criminal justice and “victim-centered” protective or rehabilitative programs do exactly that – center a victim of crime, rather than mobilizing for reforms that enforce existing labor laws and empower migrants to assert their rights.

Criminalizing trafficking and tacking on “rights-based, gender-sensitive, and victim-centered” concerns is an inadequate and disingenuous way to address the problem. Clearly, the Thai experience that I described proves that it is laudable to prosecute traffickers, improve the treatment of victims in the criminal processing of trafficking cases, and assist those forced into the sex industry to escape. But that same research also proved is dangerous for advocates to articulate women's rights and human rights through the criminal justice system. In light of the incentives and obstacles described above, it is important to consider the differing and sometimes conflicting ways actors think about and use trafficking laws.

Efforts to advance the rights of trafficked persons through criminal justice interventions often create collateral consequences for the very groups they intend to assist and empower. It is only by empowering these communities and engaging them in policy development and

¹¹¹¹ Offers of long-terms stays, employment authorization, and visa-sponsorship by companies that have unwittingly employed trafficked workers exemplifies a more comprehensive response to trafficking. Victims of trafficking and bonded labor who are offered a chance to receive visas to live and work in the country of destination are much more likely to cooperate with criminal justice officials to identify traffickers to ensure their arrest, prosecution, and conviction. See, for example, the case of Thai welders trafficked into the San Francisco Bay Area to work for Trans Bay. The broker/agent who arranged their travel refused to pay them; Trans Bay ultimately hired some of the workers and secured visas for others. Some of the Thai victims applied for and received “T-Visas” under the United States’ Trafficking Victims Protection Act, and through the Equal Employment Opportunity Commission, received a settlement for their unpaid labor.

¹¹¹² Where legal channels are unavailable or difficult to access, people will continue to migrate and cross borders through irregular channels. Current anti-trafficking policies reasserting the sovereign right to exclude attempt to stymie migration flows by criminalizing the movement of people across borders. In practice, these restrictions perversely encourage clandestine movements, particularly among populations that are most vulnerable to the risks of ill-prepared, undocumented, and irregular migration. See Ratna Kapur, “Travel Plans: Border Crossings and the Rights of Transnational Migrants,” *Harvard Human Rights Journal* 18 (2005): 107-138.

implementation processes that human trafficking and labor exploitation will be remedied. When policymakers begin listening to the voices and demands of migrants themselves, efforts to combat human trafficking will become more just, more effective, and, most importantly, more humane.

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Appendix 1

Thailand – Legal and Policy Framework Addressing Trafficking in Persons

National Legal Framework

In 2008, Thailand passed the Trafficking in Persons Act B.C. 2551, a comprehensive bill that prohibits all forms of trafficking.

Other relevant laws include:

- Penal Code (1956, Penal Code Amendment Act 1997)
- Criminal Procedure Code
- Extradition Act (2008)
- Witness Protection Act B.E. 2546 (2003)
- Child Protection Act (2002)
- Money Laundering Control Act (1999)
- Labour Protection Act (1998)
- The Prostitution Prevention and Suppression Act (1996)
- Act on Mutual Assistance in Criminal Matters (1992)
- Thailand Job Placement Agencies and Job Seekers Protection Act (1985)
- Employment and Job Seeker Act (1985)
- Child Adoption Act (1979)

Regional and Bilateral Legal Framework

Thailand has signed, but not yet ratified, the Treaty on Mutual Legal Assistance in Criminal Matters among like-minded ASEAN Member Countries (2004), a regional treaty that is relevant to trafficking in persons.

Thailand is also a party to bilateral treaties with the following countries:

- Australia – extradition and mutual legal assistance
- Bangladesh – extradition
- Belgium – extradition and mutual legal assistance
- Cambodia – extradition
- Canada – mutual legal assistance
- PR China – extradition and mutual legal assistance
- France – mutual legal assistance
- India – mutual legal assistance
- Indonesia – extradition
- Korea – extradition and mutual legal assistance
- Lao PDR – extradition
- Malaysia – extradition
- Norway – mutual legal assistance
- Peru – mutual legal assistance

- Philippines – extradition
- Poland – mutual legal assistance
- Sri Lanka – mutual legal assistance
- United Kingdom – extradition and mutual legal assistance
- United States of America – extradition and mutual legal assistance

Thailand also has treaty relations with a number of Commonwealth countries as a result of the Extradition Treaty Between Great Britain and Siam 1911.

International Legal Framework

Thailand is a party to the following international treaties that are relevant to trafficking in persons:

- Convention on the Rights of the Child
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention against Corruption
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment
- International Labour Organisation Convention concerning Forced or Compulsory Labour (ILO 29)
- International Labour Organisation Convention concerning the Abolition of Forced Labour (ILO 105)
- International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182)

Thailand has signed but not yet ratified / acceded to the following relevant treaties:

Signatory to:

United Nations Convention against Transnational Organised Crime

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime

Convention against Corruption

Relevant Policy, Agreements and Guidelines

Domestic Policies

- National Policy and Plan on Prevention, Suppression and Combating Domestic and Transnational Trafficking in Children and Women (2005-2010)
- Operational Guidelines on the Prevention, Suppression, Assistance and Protection of Trafficked Persons for Labour Purposes (2008)
- Memorandum of Understanding on Operational Procedures for Concerned Agencies in Prevention, Suppression, and Solution for Human Trafficking Problem in 9 Central Lower Provinces (Thailand) (2008)
- Memorandum of Understanding on Operational Procedures for Concerned Agencies in Prevention, Suppression, and Solution for Human Trafficking Problem in 17 Northern Provinces (Thailand) (2007)
- Memorandum of Understanding on Operational Procedures for Concerned Agencies in Prevention, Suppression, and Solution for Human Trafficking Problem in 8 Southeastern Provinces (Thailand) (2007)
- Memorandum of Understanding on Operational Procedures for Concerned Agencies in Human Trafficking in 6 Southwestern Provinces (Thailand) (2007)
- Memorandum of Understanding on Common Guidelines of Practices for Agencies Concerned with Cases where Women and Children are Victims of Human Trafficking in the 19 Northern Provinces (2006)
- Memorandum of Understanding on Operational Procedures for Concerned Agencies in Combating Human Trafficking In 8 Eastern Province (2006)
- National Plan and Policy on Prevention and Resolution of Domestic and Cross-border Trafficking in Children and Women (2003)
- MoU on Common Guidelines and Practices for Government Agencies Concerned with Cases of Trafficking in Women and Children (2003)
- MoU on Procedural Cooperation between Government and Non-Government Agencies Working with Cases of Trafficking in Women and Children (2003)
- MoU on Operational Guidelines of Non-Governmental Agencies Working with Cases of Trafficking in Women and Children (2003)
- MoU on Common Guidelines of Practices for Agencies Concerned with Cases Where Women and Children are Victims of Human Trafficking in Nine (9) Northern Provinces (2003)
- National Policy and Plan on Prevention, Suppression and Combating Domestic and Transnational Trafficking in Children and Women (2002)
- Royal Thai Police: Plan: Children, Juvenile, and Women Protection and Human Trafficking (2002)
- National Policy, Plan of Action and Legal Measures in the Elimination of Sexual Abuse and Exploitation of Children (1999)

Bilateral Memoranda of Understanding

Thailand has concluded MoUs with the following countries:

- Cambodia – on Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking (2003)
- Cambodia – on Cooperation on the Employment of Workers (2003)
- Lao PDR – on Cooperation to Combat Trafficking in Persons, especially Women and Children (2005)
- Lao PDR – on Cooperation on the Employment of Workers (2002)

- Myanmar – on Cooperation to Combat Trafficking in Persons, Especially Women and Children (2009)
- Myanmar – on Cooperation on the Employment of Workers (2003)
- Vietnam – on Bilateral Cooperation for Eliminating Trafficking In Persons, Especially Women and Children and Assisting Victims of Trafficking (2008)

Regional Memoranda of Understanding

Thailand has signed a multilateral MoU with:

- Cambodia, PR China, Lao PDR, Myanmar and Vietnam – on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region (October 2004), as part of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT)