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Legal Frameworks and Challenges in the Repatriation and Reintegration of Trafficking Victims

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ABSTRACT

Human trafficking is a critical violation of human rights, affecting individuals globally, particularly in Southeast Asia. This research delves into the complexities surrounding the repatriation and reintegration of trafficking victims, focusing on Cambodia, Thailand, and Vietnam. Despite the presence of international frameworks like the UN Protocol on Trafficking and regional initiatives such as the ASEAN Convention Against Trafficking in Persons (ACTIP), significant challenges persist. These include delays in repatriation, bureaucratic hurdles, and inadequate support for victims during reintegration.

The study highlights the historical roots of human trafficking and examines the evolution of legal frameworks at both international and regional levels. It discusses the implementation challenges of these frameworks, particularly in repatriation processes, and emphasizes the need for comprehensive victim support services, including legal, psychological, and economic assistance.

Through an analysis of Thailand, Cambodia, and Vietnam, the research identifies key challenges such as corruption, insufficient legal protections, and inadequate victim support services that hinder effective repatriation and reintegration efforts. The study concludes with recommendations for improving legal frameworks, enhancing international cooperation, and developing comprehensive support systems tailored to the specific needs of trafficking victims.

This research aims to strengthen global efforts against human trafficking by providing insights into the legal

and practical challenges of victim repatriation and reintegration, with the ultimate goal of improving the effectiveness and humanity of these processes.

KEYWORDS

Human Trafficking, Sexual Exploitation, Victims

1. INTRODUCTION

Human trafficking is a grave infringement upon the fundamental rights and dignity of individuals. The heart of this worldwide problem involves a complex interaction of elements such as poverty, corruption, and the desire for cheap labour and sexual exploitation. Various legal frameworks have been implemented by the international legal bodies to address this issue, ensuring the protection of victims and the prosecution of those responsible. One significant framework is the UN Protocol on Trafficking (Palermo Protocol, 2000), which introduced a groundbreaking definition of trafficked individuals as "victims" and established an extensive foundation for their recovery in terms of physical, psychological, and social aspects[1]. In addition, the Guidelines from the UNOHCHR[2] highlight the importance of ensuring the safe and voluntary return of individuals, providing them with comprehensive support, and safeguarding the rights of child victims. Similarly, the UNICEF Guidelines on the Protection of Child Victims of Trafficking (2006)[3] and the UN Convention on the

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[1] United Nations Office on Drugs and Crime, 'Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children' (2000) <https://www.unodc.org/documents/treaties/Special/2000_Protocol_to_Prevent_2C_Suppress_and_Punish_Trafficking_in_Persons.pdf> accessed 27 June 2024.

[2] Robinson M, "Recommended Principles and Guidelines on Human Rights and Human Trafficking" (2002) <https://www.ohchr.org/sites/default/files/Documents/Publications/Traffickingen.pdf> accessed 28 June 2024

[3] UN Children's Fund (UNICEF), *Guidelines on the Protection of Child Victims of Trafficking* (September 2006) <https://www.refworld.org/policy/legalguidance/unicef/2006/en/67475> accessed 28 June 2024

Rights of the Child (1989)[4] emphasise the necessity of providing appropriate treatment and long-term care for children who have been victimized.

Regional frameworks have been instrumental in addressing trafficking, playing a crucial role in its development. The ASEAN Convention Against Trafficking in Persons (ACTIP, 2015) [5]and other relevant initiatives emphasise the significance of supporting victims, facilitating their reintegration, and ensuring their safe return in Southeast Asia. These regional initiatives are essential in areas where trafficking routes are prevalent, as they work alongside international mandates. Highlighting the extensive scope of these protections, the rights of child victims to resettle in third countries, when necessary, and the concept of local integration are prime examples.

Despite these frameworks, significant challenges remain, particularly in the repatriation and reintegration of trafficked victims. A significant problem arises from the prolonged custodial care and bureaucratic obstacles in verifying nationality, resulting in delays in repatriation. This issue is evident in the repatriation procedures between India and Bangladesh[6]. In Southeast Asia, there is a lack of adequate protection for male victims. The region's efforts to combat sexual exploitation often overlook the needs of labour trafficking victims, particularly males, who do not receive the necessary support and resources.

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[4] "Convention on the Rights of the Child Text" (UNICEF) <https://www.unicef.org/child-rights-convention/convention-text> accessed 28 June 2024

[5] ASEAN, *ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)* https://asean.org/wp-content/uploads/2021/01/ACTIP-1.pdf accessed 28 June 2024

[6] 'Homecoming: A Report on Repatriation of Trafficked and Smuggled Children - ePrints@APU' <https://publications.azimpremjiuniversity.edu.in/4132/> accessed 27 June 2024.

Hence, the research explores the complex problem of human trafficking and the same within Afro-Asian countries, with a particular emphasis on Cambodia, Thailand, and Vietnam as important case studies. The paper explores the challenges in coordinating efforts between NGOs and government agencies, which may hinder the effectiveness of repatriation and reintegration initiatives. This work focuses on the difficulties encountered in implementing anti-trafficking measures and providing support to victims. The study concludes with recommendations in the legal and political spheres, emphasising the need for policy reforms, international cooperation, and improved support services, with a particular focus on addressing the needs of different groups of victims. By addressing these challenges, the research aims to strengthen global efforts against human trafficking and improve victim assistance frameworks.

The paper delves into the multifaceted challenges faced by trafficking victims, particularly in Southeast Asia, with a focus on Thailand, Cambodia, and Vietnam. It examines the effectiveness of international frameworks like the UN Protocol on Trafficking and regional initiatives such as the ASEAN Convention Against Trafficking in Persons (ACTIP). Despite these frameworks, significant issues persist in the repatriation and reintegration processes, including delays, bureaucratic hurdles, and inadequate support for victims. The paper highlights the critical role of comprehensive legal and policy reforms, international collaboration, and community involvement in addressing these challenges and improving support systems for trafficking victims. By addressing these issues, the research aims to provide against human trafficking and provide better assistance to those affected.

2. HISTORICAL ROOTS OF HUMAN TRAFFICKING

Human trafficking has deep historical roots, extending from ancient civilizations to the modern era. In societies such as Egypt, Greece, and Rome, slavery was integral to social and economic structures, often arising from military conquests[7]. The transatlantic slave trade, spanning the 16th to 19th centuries, forcibly transported millions of Africans to the Americas and Europe, marking a brutal chapter in human exploitation and economic growth for European and American colonies[8]. Despite its abolition in the 19th century, human trafficking persisted in clandestine forms, evolving into modern practices like forced labour, sexual exploitation, and organ trafficking.

Asia continues to grapple with traditional forms of bonded labour, exemplified in India's caste system where lower castes historically faced servitude to repay debts. Southeast Asia faces widespread trafficking issues, with countries like Thailand, Cambodia, and Vietnam serving as both sources and destinations due to poverty, lack of education, and weak law enforcement. In Africa, colonial exploitation and the legacy of the transatlantic slave trade contribute to ongoing challenges with forced labour and sexual exploitation, particularly affecting vulnerable populations amid political instability and economic hardship.

The Middle East, with its historical roots in slavery, has seen the evolution of modern trafficking practices, particularly affecting migrant labourers from South Asia and Africa in Gulf countries. Despite global abolition efforts, human trafficking persists

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[7] Kara S, *Modern Slavery: A Global Perspective* (Columbia University Press 2017) <https://cup.columbia.edu> accessed 28 June 2024.

[8] Sarti R, 'From Slaves and Servants to Citizens? Regulating Dependency, Race, and Gender in Revolutionary France and the French West Indies' (2021) 67 International Review of Social History 65 <https://www.cambridge.org/core/journals/international-review-of-social-history/article/from-slaves-and-servants-to-citizens-regulating-dependency-race-and-gender-in-revolutionary-france-and-the-french-west-indies/B116464991B8994CF9C2CDA63EA85F73> accessed 28 June 2024

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worldwide, exploiting vulnerable populations and sustaining a pervasive global black market. Understanding its historical complexities and regional dynamics is critical in combating this enduring form of exploitation.

Africa's struggle with human trafficking has deep historical roots tied to colonial exploitation and the transatlantic slave trade. Even today, forced labour and sexual exploitation remain prevalent. Nigeria acts as a major source for trafficked victims, who often end up in Europe and the Middle East. Political instability, economic hardship, and armed conflicts all contribute to the prevalence of trafficking in Africa.

The Middle East has its own long history of slavery, which has evolved into modern forms of human trafficking. Countries in the Gulf region are popular destinations for trafficked labourers from South Asia and Africa. These migrant workers face exploitation akin to modern slavery, with confiscated passports, withheld wages, and even physical abuse being commonplace.[9]

Despite the abolition of slavery, human trafficking persists, exploiting the vulnerable and fuelling a global black market. Understanding its long history and complex dynamics across different regions is crucial in combating this horrific practice.

3. LEGAL FRAMEWORKS AND ITS THEORETICAL DEVELOPMENTS

3.1. *International Frameworks*

The Palermo Protocol, adopted by the United Nations in 2000[10], serves as a crucial international legal framework for combating

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[9] Chisolm-Straker M and Chon K, *The Historical Roots of Human Trafficking* (2021) <https://doi.org/10.1007/978-3-030-70675-3>
[10] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially

human trafficking. It is built on the "3-P Paradigm" of Prosecution, Protection, and Prevention, emphasizing a victim-centered approach[11]. The protocol addresses the repatriation and reintegration of trafficking victims, mandating states to facilitate their safe return and provide support for their recovery. However, implementation challenges persist, including ensuring safe repatriation, coordinating between countries, addressing root causes, and dealing with broad definitions that can lead to inconsistent application.[12]

The UN Office of the High Commissioner for Human Rights (OHCHR)[13] has developed a human rights-based approach to trafficking[14], emphasizing that it is primarily a violation of human rights. This approach integrates human rights considerations into all anti-trafficking efforts, focusing on the impact on trafficked persons and addressing discriminatory practices and unjust power distributions. The OHCHR's Recommended Principles and Guidelines on Human Rights and Human Trafficking[15] provide a

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Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319 <https://www.unodc.org/documents/treaties/Special/2000_Protocol_to_Prevent_2C_Suppress_and_Punish_Trafficking_in_Persons.pdf> accessed 5 July 2024

[11] Ibid

[12] Silver S, "Twenty Years After the Passage of the Palermo Protocol: Identifying Common Flaws in Defining Trafficking through the First Global Study of Domestic Anti-Trafficking Laws" (2021)

[13] Office of the United Nations High Commissioner for Human Rights (OHCHR), 'Human Rights and Human Trafficking Fact Sheet No. 36' (2014) <https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf> accessed 5 July 2024

[14] Haddadin Y and Klímová-Alexander I, 'Human Rights–Based Approach to Trafficking: The Work of the United Nations Office of the High Commissioner for Human Rights' <https://www.americanbar.org/groups/judicial/publications/judges_journal/2013/winter/human_rightsbased_approach_to_trafficking_the_work_of_tha> accessed 5 July 2024

[15] Office of the United Nations High Commissioner for Human Rights (OHCHR), 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (2002) <https://www.ohchr.org/sites/default/files/Documents/Publications/Traffic

comprehensive framework for addressing trafficking through a human rights lens, emphasizing the protection of victims' rights, prevention of trafficking, and prosecution of traffickers.

Repatriation and reintegration are critical components of the recovery process for trafficking victims. The OHCHR guidelines stress that repatriation should be conducted safely and voluntarily, with due consideration for the risks of reprisals or re-trafficking[16]. Reintegration programs should be comprehensive, offering a range of services including psychological counselling, legal assistance, education, and vocational training[17]. Effective implementation requires collaboration between government agencies, NGOs, and international bodies, as well as regular monitoring and evaluation of programs.[18]

The United Nations Convention on the Rights of the Child (UNCRC)[19] provides a robust legal and ethical foundation for addressing child trafficking. It emphasizes three main principles provision, protection, and participation[20]. The UNCRC's approach sometimes conflicts with the Trafficking Protocol, particularly regarding children's agency[21]. The Convention stresses that the

kingen.pdf> accessed 5 July 2024

[16] McAdam M, 'Who's Who at the Border? A Rights-Based Approach to Identifying Human Trafficking at International Borders' [2013] Anti-Trafficking Review 33 <https://doi.org/10.14197/atr.20121322> accessed 5 July 2024

[17] Thornton S and Garbers K, "Re-Trafficking: The Current State of Play" (2021)

[18] Supra note 15

[19] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 <https://www.ohchr.org/sites/default/files/crc.pdf> accessed 5 July 2024

[20] Campbell-Barr V, 'The Provision, Protection and Participation of Children's Rights in Professional Practice' in Višnjić-Jevtić A, Sadownik AR, and Engdahl I (eds), *Young Children in the World and Their Rights* (International Perspectives on Early Childhood Education and Development, vol 35, Springer 2021) <https://doi.org/10.1007/978-3-030-68241-5_16> accessed 5 July 2024

[21] Faulkner EA and Nyamutata C, "The Decolonisation of Children's Rights and the Colonial Contours of the Convention on the Rights of the Child" (2020) 28 ˜the œInternational Journal of Children's Rights 66

best interests of the child must be a primary consideration in all actions, including repatriation decisions. It also emphasizes the right to recovery and reintegration, mandating that states take appropriate measures to promote physical and psychological recovery and social reintegration of child victims.

The UNICEF Guidelines on the Protection of Child Victims of Trafficking (2006) [22]further advance the theoretical framework for repatriation and reintegration of trafficking victims, especially children. These guidelines emphasize a child-centered approach, stressing that foreign-born child victims should not be deported unless it is in their best interests[23]. They advocate for access to refugee status determination and caution against returning children to environments where they may be at risk of re-trafficking. The guidelines also highlight the importance of family tracing and reunification efforts in facilitating durable solutions for trafficked children.

Practical recommendations for repatriation and reintegration involve guaranteeing safety and voluntary participation in the return procedure, offering comprehensive support services, promoting collaboration and coordination among different parties involved, and carrying out regular monitoring and evaluation of programmes[24]. These endeavours should target the societal, financial, and individual elements that played a role in the initial occurrence of trafficking in order to deter any subsequent

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<https://doi.org/10.1163/15718182-02801009>

[22] UNICEF, 'Guidelines on the Protection of Child Victims of Trafficking' (2006) <https://www.unicef-irc.org/files/documents/d-3590-UNICEF-guidelines-on-the.pdf> accessed 5 July 2024

[23] Newell P, 'Legal Frameworks for Combating Sexual Exploitation of Children' (2008) <https://www.unicef-irc.org/files/documents/d-3743-Legal-frameworks-for-comb.pdf> accessed 5 July 2024

[24] United Nations High Commissioner for Refugees, 'Handbook for Repatriation and Reintegration Activities' (May 2004) <https://www.unhcr.org/sites/default/files/legacy-pdf/411786694.pdf> accessed 5 July 2024.

instances of trafficking.

Despite the international consensus on the importance of a human rights-based approach to trafficking, practical implementation varies significantly across states, affecting the consistency and effectiveness of anti-trafficking measures[25]. Determining state responsibility for trafficking is complex, particularly when private actors are involved. The principle of due diligence requires states to take reasonable measures to prevent trafficking and protect victims, though enforcement and compliance differ.

Policies focused on crime prevention often neglect the human rights of trafficked individuals, leading to legal and social barriers that impede victims' access to justice and support. Ensuring victims' rights to remedies, such as restitution and compensation, remains rare, although progress is being made in some countries. The OHCHR promotes its Recommended Principles and Guidelines through regional launches, training courses, and technical cooperation with member states. It also collaborates with various UN bodies and international organizations to enhance interagency cooperation and policy development[26].

4. REGIONAL FRAMEWORKS

4.1 *ASEAN Convention Against Trafficking in Persons (ACTIP)*

ASEAN plays a pivotal role in coordinating and implementing these initiatives across its member states. The organization promotes regional cooperation and collaboration to enhance the effectiveness of anti-trafficking measures. This includes the development of regional indicators of exploitation, guidelines for

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[25] Supra note 14.
[26] Supra note 15.

victim identification and referral mechanisms, and the establishment of direct channels of communication for cross-border cooperation.

ASEAN's collaborative efforts extend to international organizations and other stakeholders to ensure a comprehensive approach to combating trafficking. The Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT), works closely with ASEAN to develop and implement policies and programs that address the needs of trafficking victims and prevent future incidents of trafficking.[27]

ASEAN's efforts to combat human trafficking, particularly through the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP), emphasize a comprehensive approach to victim accommodation, reintegration, and safe return of trafficking victims[28]. This regional framework not only sets legal obligations for member states but also underscores the significance of a coordinated, victim-centered strategy to ensure the well-being and recovery of trafficking survivors.

The ACTIP outlines specific measures to ensure the accommodation of victims of trafficking, with a strong emphasis on their immediate and long-term well-being. Article 14 of the Convention[29] mandates that each member state establishes

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[27] International Organization for Migration, 'Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT Process)' (IOM, 2024) <https://www.iom.int/coordinated-mekong-ministerial-initiative-against-trafficking-commit-process> accessed 9 July 2024.
[28] Association of Southeast Asian Nations, 'ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children' (ASEAN, 2015) <https://asean.org/wp-content/uploads/2021/01/ACTIP-1.pdf> accessed 9 July 2024.
[29] Association of Southeast Asian Nations, 'ASEAN Convention against Trafficking in Persons, Especially Women and Children' (ASEAN, 2015) <https://cil.nus.edu.sg/wp-content/uploads/2019/02/2015-ASEAN-

national guidelines or procedures for the proper identification of victims, which is crucial for ensuring that victims receive the necessary protection and support. It encourages collaboration with relevant non-governmental organizations (NGOs) to enhance victim assistance services.

One of the critical aspects of victim accommodation is the provision of safe and appropriate housing. This is essential for the immediate safety and recovery of victims, who are often at risk of retribution from traffickers. The Convention stresses the importance of providing victims with counselling and information, particularly regarding their legal rights, in a language they understand. This empowers victims to make informed decisions about their future and aids in their psychological recovery.

Medical, psychological, and material assistance are also highlighted as fundamental components of victim support. These services are vital for addressing the physical and mental health issues that many trafficking victims face due to their experiences. The provision of employment, educational, and training opportunities is also emphasized, as these can significantly aid in the victims' long-term recovery and reintegration into society.

The ACTIP explicitly mandates that member states assist in the reintegration of victims into society. This process involves not just returning the victims to their home countries but also ensuring that they are provided with the necessary support to rebuild their lives.

One significant aspect of ACTIP is the development of comprehensive, individualized reintegration plans. These plans

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Convention-against-Trafficking-in-Persons-Especially-Women-and-Children.pdf> accessed 9 July 2024.

take into account the unique needs and circumstances of each victim, including factors such as age, gender, and the nature of their trafficking experience. The plans are designed to address the psychosocial, educational, and vocational needs of the victims to facilitate their sustainable reintegration.[30]

The ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children (APA) further complements the ACTIP by outlining specific actions and policies aimed at protecting victims and preventing re-victimization. This includes developing and utilizing appropriate procedures for the rescue, protection, recovery, repatriation, and reintegration of victims, with particular attention to child victims.[31]

Programs that support the reintegration process often include life skills workshops, vocational training, and educational opportunities. For instance, vocational skills training in areas such as cooking, welding, and business management can provide victims with the skills needed to secure stable employment, thereby reducing their vulnerability to re-trafficking.

The safe return of trafficking victims is another critical element of ASEAN's anti-trafficking initiatives. Article 15 of the ACTIP[32] focuses on the repatriation and return of victims, ensuring that these processes are conducted with due regard for the safety and legal rights of the victims. This involves cooperation between the sending and receiving countries to verify the victim's nationality

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[30] Martina Meng, 'Comparison of Anti-Trafficking Legal Regimes and Actions in the Council of Europe and ASEAN: Realities, Frameworks and Possibilities for Collaboration' (Council of Europe, 2018) <https://rm.coe.int/coe-asean-study-thb/16808c1b91> accessed 9 July 2024.
[31] Supra note 28.
[32] Supra note 29

or permanent residence status and to facilitate their return without undue delay.

The safe return process also includes ensuring that victims are not re-trafficked or subjected to further harm upon their return. This requires comprehensive risk assessments and the development of safety plans that consider the potential threats victims might face from traffickers or other individuals. Additionally, victims should be informed of their rights and the support services available to them in their home countries to ensure a smooth transition and reintegration.

5. CHALLENGES FACED BY TRAFFICKING VICTIMS

The repatriation and reintegration of trafficking victims present multifaceted challenges that significantly hinder the recovery process. Among the most critical issues are delays in repatriation, extended custodial care periods, and bureaucratic hurdles in verifying nationality. These problems compound the trauma experienced by victims and impede their ability to rebuild their lives.

5.1. *Delays in Repatriation*

One of the most pressing issues faced by trafficking victims is the delay in repatriation. These delays can stem from a variety of factors, including the complexities involved in verifying a victim's nationality. Bureaucratic inefficiencies often lead to prolonged periods of uncertainty and insecurity for the victims[33]. During this time, they may be held in custodial care, which, although

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[33] United States Department of State, 'Trafficking in Persons Report 2020' (US Department of State, 2020) <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> accessed 9 July 2024.

intended for their protection, can feel akin to detention. The lack of a streamlined process for nationality verification aggravates these delays, leaving victims in a state of limbo where they are neither fully integrated into the host country nor returned to their home country.

Extended custodial care periods can have severe psychological impacts on trafficking victims. The conditions in custodial facilities may not always be conducive to recovery and can sometimes mirror the control and confinement experienced during their trafficking ordeal. This environment can perpetuate feelings of helplessness and anxiety, hindering the victim's psychological recovery. Furthermore, the uncertainty surrounding their repatriation status can prevent them from beginning the reintegration process, prolonging their trauma and delaying their return to a semblance of normalcy.[34]

5.2. *Bureaucratic Hurdles in Verifying Nationality*

The process of verifying the nationality of trafficking victims is often fraught with bureaucratic obstacles. Many victims lack proper documentation, either because it was confiscated by traffickers or lost during their ordeal[35]. This lack of documentation can lead to significant delays as authorities attempt to confirm the victim's identity and nationality. Additionally, some countries may be reluctant to cooperate fully or efficiently in the verification process, further complicating and prolonging repatriation efforts.

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[34] Louise Shelley, *Human Trafficking: A Global Perspective* (Cambridge University Press 2010).

[35] United States Department of State, 'Trafficking in Persons Report 2018' (US Department of State, 2018) <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf> accessed 9 July 2024.

The bureaucratic challenges in verifying nationality also leads to a lack of consistency in the treatment of trafficking victims. Without proper identification, victims may not receive the legal protections and support services to which they are entitled[36]. This inconsistency can result in some victims being unfairly treated as illegal immigrants rather than recognized as. victims of a serious crime, thereby denying them access to crucial support systems designed to aid in their recovery and reintegration.[37]

5.3. *Reintegration Challenges*

Even after overcoming the significant hurdles of repatriation, trafficking victims face numerous challenges during reintegration. Reintegration involves not only returning to one's home country but also re-establishing a stable and safe environment in which to live and work. Many victims return to situations that are economically and socially unstable, increasing their vulnerability to re-trafficking[38]. Without adequate support systems, including economic assistance, psychological counselling, and community reintegration programs, victims may struggle to rebuild their lives and regain their independence.

The stigma associated with being a trafficking victim can further complicate reintegration. Victims often face social ostracization and discrimination upon their return, which can lead to social isolation and difficulty in finding employment. This social stigma, coupled with the psychological trauma of their experience, can significantly hinder their ability to reintegrate successfully into their communities. Comprehensive support programs that

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[36] Maggy Lee, *Trafficking and Global Crime Control* (SAGE Publications 2011).
[37] Supra note 34.
[38] Supra note 36.

address these multifaceted challenges are essential for the successful reintegration of trafficking victims.

5.4. *Legal and Policy Gaps*

Legal and policy frameworks in many countries are often inadequate in addressing the specific needs of trafficking victims during repatriation and reintegration. While international treaties and conventions provide guidelines for the protection and support of trafficking victims, their implementation at the national level is frequently lacking. Many countries do not have clear procedures or policies for the safe and voluntary return of trafficking victims, which can lead to inconsistent and often inadequate responses.[39]

In some cases, the absence of comprehensive legal protections can result in victims being treated as criminals rather than as victims. This misclassification can lead to detention, deportation, and other punitive measures that further victimize individuals who have already suffered significant trauma[40]. Ensuring that national laws align with international standards and that law enforcement and judicial systems are adequately trained to recognize and respond to the needs of trafficking victims is crucial for their protection and support during repatriation and reintegration.

6. CHALLENGES IN THE REPATRIATION AND REINTEGRATION OF TRAFFICKING VICTIMS IN THAILAND, CAMBODIA, AND VIETNAM

6.1. *Thailand*

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[39] Leslie Holmes and others, *Trafficking and Human Rights* (Edward Elgar Publishing Limited 2010)
[40] Supra note 34.

Thailand plays a central role in the Mekong subregion's efforts to combat human trafficking, influenced by domestic needs and international criminal networks. The country's strategic location, extensive borders with Myanmar, Laos, Cambodia, and Malaysia, economic disparities, and demand for cheap labour and sex services contribute to its central role in trafficking activities. Despite significant legal and policy measures, challenges persist in addressing this complex issue.[41]

The legal evolution in Thailand has seen significant milestones with the enactment of the Prostitution Prevention and Suppression Act of 1996 and the Measures in Prevention and Suppression of Trafficking in Women and Children in 1997[42]. These laws marked a pivotal shift towards viewing trafficked individuals as victims rather than criminals, mandating social assistance rather than punitive measures. Further, the Anti-Trafficking in Persons Act B.E. 2551 (2008) aligns with the UN Palermo Protocol, providing a comprehensive framework for identifying, prosecuting, and punishing traffickers, as well as protecting victims.

Thailand's government has established several mechanisms to combat trafficking. One key body is the National Committee to Combat Prostitution, which formulates policies and strategies to address prostitution and trafficking issues. Additionally, the government has developed a comprehensive National Policy and Plan of Action that includes prevention, rescue, assistance, rehabilitation, protection, prosecution, repatriation, and reintegration components. To facilitate coordinated repatriation

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[41] Naparat Kranrattanasuit, *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Vietnam* (vol 109, Brill 2014) <https://brill.com/view/title/24496 > accessed 9 July 2024.
[42] Supra note 41.

and reintegration efforts, Thailand has signed bilateral Memorandum of Understanding (MOUs) with neighbouring countries like Cambodia and Vietnam. These MOUs ensure a collaborative approach to addressing cross-border trafficking and providing support to victims.

Thailand employs a multi-agency approach involving various ministries, such as the Ministry of Interior, Ministry of Public Health, Ministry of Education, Ministry of Justice, and Ministry of Labor, as well as numerous NGOs. This approach illustrates the complexity and necessity of coordinated efforts to address trafficking effectively.

The repatriation and reintegration of trafficking victims in Thailand reveal a complex landscape of both successes and challenges. Thailand has established a range of frameworks and policies aimed at combating human trafficking, and various Memoranda of Understanding (MoUs) such as MoU on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region (2004), Agreement between govt of Thailand and govt of Vietnam on Bilateral Cooperation for Eliminating Trafficking in Persons Especially Women and Children (2007) , MoU between Government of Thailand and Government of Cambodia on bilateral cooperation for Eliminating trafficking in Children and Women and assisting Victims of Trafficking (2003) . These initiatives are designed to facilitate effective repatriation and provide support to victims.

6.2. Cambodia

Cambodia faces significant challenges in combating human trafficking, largely due to its economic conditions and high migration rates. These factors often result in the trafficking of

Cambodian citizens to Thailand and other countries. Despite efforts to address this issue, gaps in the legal framework and enforcement mechanisms continue to impede progress.

Cambodia's high poverty rate, lack of education, and limited economic opportunities make it particularly vulnerable to human trafficking[43]. The country serves as a source, transit, and destination for trafficked persons, with substantial numbers of women and children trafficked for sexual exploitation and forced labour. Internal trafficking, especially from rural to urban areas, is also prevalent[44]. These conditions create a fertile ground for trafficking, exacerbating the country's struggle to combat this pervasive issue.

Cambodia has implemented the Law on Suppression of Human Trafficking and Sexual Exploitation, which criminalizes various forms of trafficking. This legal framework aligns with the requirements of the UN Palermo Protocol, providing for the repatriation of trafficking victims.[45] The country of origin is responsible for verifying the nationality or right to permanent residence of the victim and facilitating the provision of travel documents for their return. Cambodia's approach includes a focus on the safety and status of legal proceedings before repatriation.

However, the law's effectiveness is hindered by vague definitions and the requirement to prove all elements of trafficking (action, means, and purpose), which complicates prosecution. Additionally, Cambodia's legal framework still lacks

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[43] Nurlina and Baihaqi B, 'The Human Trafficking of Cambodian Women and Children' (2020) 10(1) Jurnal Kajian Wilayah
https://jkw.psdr.lipi.go.id/index.php/jkw/article/download/285/160
accessed 16 July 2024.
[44] Supra note 39.
[45] Supra note 41.

comprehensive measures for the physical and psychological treatment of victims. The implementation often faces hurdles such as delays in verification processes and coordination challenges among different governmental and non-governmental bodies involved in the repatriation and reintegration efforts.

The Cambodian government has established several frameworks and initiatives to combat human trafficking. One of the key frameworks is the Cambodian National Council for Children, which focuses on protecting trafficked children. This council emphasizes principles of non-discrimination, confidentiality, and respect for the victims' identity. Additionally, the government has developed guidelines specifically aimed at safeguarding trafficked children.

To support the repatriation and rehabilitation of trafficking victims, the Cambodian government collaborates closely with non-governmental organizations (NGOs). These partnerships are crucial in providing temporary housing, medical treatment, and psychological support to victims. Collaboration with organizations like UNICEF has been instrumental in these efforts, offering resources and expertise to enhance victim protection and support services.

The government has also initiated the development of transit centres, such as the one in Poipet, which serves victims deported from Thailand. These centres provide essential services, including temporary shelter and basic necessities, helping victims reintegrate into society. Furthermore, Cambodia is working to promote legal labour migration as a strategy to reduce vulnerabilities to trafficking. By providing safe and regulated channels for migration, the government aims to decrease the

number of individuals susceptible to traffickers.[46]

Despite these efforts, Cambodia faces several persistent challenges in its fight against human trafficking. Corruption within law enforcement and judicial systems remains a significant obstacle, impeding the effective implementation of anti-trafficking laws. Insufficient training and resources for law enforcement officials further exacerbate this issue. Victims are sometimes treated as illegal immigrants rather than individuals needing protection and support, with a significant gap in comprehensive victim support services.[47]

The requirement to prove the three elements of trafficking (act, means and purpose) makes prosecution difficult. Moreover, the country's limited infrastructure and resources constrain its ability to provide necessary support for victim repatriation and reintegration. Issues such as insufficient focus on forced labour and inadequate protection for male victims further complicate efforts to combat trafficking[48]. The lack of comprehensive data on trafficking cases hinders effective policy-making and resource allocation.

The repatriation and reintegration efforts for trafficking victims in Cambodia have also seen both mixed results. Cambodia's legal framework, including the Law on Suppression of Human Trafficking and Sexual Exploitation, aligns with the UN Palermo Protocol, aiding repatriation efforts. The Cambodian National Council for Children and partnerships with UNICEF have been crucial in providing temporary housing, medical treatment, and

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[46] Supra note 41

[47] Yvonne Rafferty, 'The Identification, Recovery, and Reintegration of Victims of Child Trafficking within ASEAN: An Exploratory Study of Knowledge Gaps and Emerging Challenges' (2019) 7 Journal of Human Trafficking 145 <https://doi.org/10.1080/23322705.2019.1689476> accessed 9 July 2024.

[48] Supra note 7.

psychological support. However, challenges such as corruption, insufficient training and resources for officials, and complex prosecution requirements hinder the effective implementation of anti-trafficking laws. Despite these issues, Cambodia has made significant strides in repatriation, evidenced by the successful rescue and return of victims.

6.3. *Vietnam*

Vietnam faces significant challenges in combating human trafficking, influenced by historical conflicts, economic hardships, and cultural practices. The country is both a source and destination for trafficked individuals, with many Vietnamese trafficked to China, Cambodia, and other neighbouring countries for forced labour and sexual exploitation[49]. Internal trafficking also remains a considerable issue, necessitating robust and effective measures to address the multifaceted problem.

Vietnam's vulnerability to trafficking stems from its complex socio-economic landscape. Economic hardships and lack of opportunities compel many to seek work abroad, often falling prey to traffickers. Cultural practices and historical conflicts further exacerbate the situation. The country is a source of trafficked individuals, with significant numbers being sent to China, Cambodia, and other neighbouring countries. These individuals are often forced into labour and sexual exploitation. Additionally, internal trafficking, particularly from rural to urban areas, remains a persistent issue.[50]

The Anti-Trafficking in Persons Law (2011) was enacted to address these problems by strengthening legal frameworks and victim

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[49] Supra note 41.
[50] Obi N.I. Ebbe and Dilip K. Das, *Global Trafficking in Women and Children* (CRC Press 2008)

protection[51]. Despite this legislative progress, challenges persist, including insufficient coordination among government agencies, lack of victim identification and support mechanisms, and limited public awareness about trafficking issues. Corruption and weak law enforcement further exacerbate these challenges, making it difficult to implement anti-trafficking measures effectively.

Vietnam's anti-human trafficking law provides various forms of assistance to trafficking victims. These include privacy protection, victim identification, temporary or permanent immigration relief, repatriation, and opportunities for employment, education, and training. This comprehensive legal framework aligns with international standards, reflecting Vietnam's commitment to addressing trafficking.

However, the law falls short in several critical areas. It does not adequately address appropriate housing for victims or consider the age, gender, and special needs of trafficking survivors. Moreover, the law lacks provisions for protecting victims from prosecution for crimes committed as a result of being trafficked. These gaps create significant challenges in the reintegration process, as victims may not receive the necessary support tailored to their specific circumstances.

Vietnam has implemented various initiatives to combat human trafficking. The Anti-Trafficking in Persons Law serves as the cornerstone of these efforts, criminalizing all forms of trafficking and mandating victim protection measures. The government has also signed Memoranda of Understanding (MOUs) with countries like Thailand - Agreement between govt of Thailand and govt of Vietnam on Bilateral Cooperation for Eliminating Trafficking in

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[51] Supra note 41.

Persons Especially Women and Children (2007), to facilitate international cooperation in combating trafficking and supporting victims.[52]

These MOUs ensure a collaborative approach to addressing cross-border trafficking and providing support to victims. Additionally, the government has developed national action plans that include prevention, prosecution, protection, and partnership components, aiming to create a holistic response to human trafficking.[53]

To enhance victim support, the government collaborates with non-governmental organizations (NGOs) to provide essential services, including temporary shelter, medical care, and psychological support. These partnerships are crucial in filling the gaps in government resources and expertise. However, the implementation of victim support services, especially in terms of psychological care and long-term reintegration, remains inadequate.[54]

Despite the robust legal framework and various initiatives, Vietnam faces several persistent challenges in combating human trafficking. The primary issues include insufficient inter-agency coordination and inadequate victim support services. Although the Anti-Trafficking in Persons Law provides a legal basis for action, its effectiveness is compromised by weak law enforcement and limited public awareness.

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[52] Supra note 41

[53] United Nations Economic and Social Commission for Asia and the Pacific, *Combating Human Trafficking in Asia* (UNESCAP, 2003) <https://repository.unescap.org/bitstream/handle/20.500.12870/2742/ESCAP-2003-MN-Combating-human-trafficking-in-Asia.pdf?sequence=1&isAllowed=y> accessed 9 July 2024

[54] Supra note 41.

Cultural norms and practices that stigmatize victims further hinder reintegration efforts, making it challenging for survivors to reintegrate into society. Corruption within law enforcement and judicial systems also poses a significant obstacle, undermining the enforcement of anti-trafficking laws.

Moreover, the lack of comprehensive victim support services, particularly in terms of housing and tailored assistance based on age, gender, and special needs, exacerbates the reintegration process's difficulties. The absence of protection from prosecution for trafficking victims further complicates their recovery and reintegration.

6.4. *Analysis*

Thailand, Cambodia, and Vietnam have made significant strides in combating human trafficking through established legal frameworks aligned with international standards, regional cooperation for better coordination, and effective public awareness campaigns that have increased reporting of trafficking cases. However, persistent challenges undermine these successes.

In Thailand, Cambodia, and Vietnam, regional cooperation within ASEAN has facilitated better coordination, but enforcement issues such as corruption, inadequate training, and resource deficiencies continue to hamper the effective implementation of anti-trafficking laws. Legal ambiguities, including vague definitions and complex prosecution requirements, contribute to low conviction rates and allow traffickers to evade justice. Additionally, insufficient victim support services, including shelters and psychological care, further hinder successful repatriation and reintegration efforts.

Despite these challenges, various initiatives have been implemented to address human trafficking. In Thailand, Cambodia, and Vietnam, legal frameworks have been established in alignment with international standards, and public awareness campaigns have been effective in increasing the reporting of trafficking cases.

The UN Handbook for Repatriation and Reintegration Activities provides a comprehensive framework to guide reintegration programs, emphasizing early planning, joint assessments, and coordination among various agencies, including beneficiary communities, governments, UN agencies, and NGOs[55]. Effective reintegration requires a holistic approach that links all phases of post-conflict recovery, ensuring sustainability and addressing the root causes of trafficking.

Recommendations to address these challenges include

1. Comprehensive psychosocial support and job training for victims to facilitate their reintegration into society.

2. Improved legal and institutional coordination among diverse agencies to ensure effective enforcement of anti-trafficking laws.

3. Child-sensitive approaches to ensure the protection and integration of young victims.

4. Enhanced cooperation, both domestically and internationally, to strengthen legal frameworks, improve enforcement capabilities, and provide holistic support for trafficking victims across the region.

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[55] Supra note 24

Addressing these challenges requires a concerted effort from all stakeholders. Thailand, Cambodia, and Vietnam must continue to improve their legal frameworks, enforcement capabilities, and support systems for trafficking victims. By doing so, they can build on their successes and ensure a more effective and humane response to human trafficking.

7. EFFECTIVE VICTIM SUPPORT

Effective repatriation and reintegration begin with robust policy frameworks that address the legal, economic, and social needs of victims. One of the core components of repatriation is ensuring physical, legal, and material safety[56]. Legal reforms should focus on removing barriers to return, such as legal and administrative obstacles, and ensuring access to justice and property rights. Legislation should facilitate the restitution of property, provide legal support for land ownership, and ensure the registration and documentation necessary for reintegration. Additionally, policies should guarantee the non-discriminatory access to essential services like healthcare, education, and employment opportunities, which are crucial for the material safety and economic self-reliance of returnees.

It is observed that repatriation is often more effective than other methods. For instance, a report by the International Organization for Migration (IOM) found that victims who were repatriated and received comprehensive reintegration support had a significantly lower rate of re-trafficking compared to those who did not receive such support[57]. This highlights the importance of well-structured

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[56] Dell NA and others, "Helping Survivors of Human Trafficking: A Systematic Review of Exit and Postexit Interventions" (2017) 20 *Trauma, Violence & Abuse* 183 <https://doi.org/10.1177/1524838017692553> accessed 9 July 2024.

[57] International Organization for Migration, 'Causes of Re-trafficking' (IOM Publications, 2010)

repatriation programs in ensuring long-term safety and stability for trafficking victims.

7.1. *International Collaboration*

International collaboration is essential for the effective repatriation and reintegration of victims. Multilateral agreements and frameworks should be established to coordinate efforts among countries of origin, transit, and destination. These agreements should include provisions for the safe and dignified return of victims, ensuring that they are not subjected to re-trafficking or persecution upon return. Tripartite commissions involving the host country, country of origin, and international organizations like the UNHCR can help translate repatriation standards into operational modalities, such as waiving customs duties on personal property, simplifying border procedures, and ensuring medical clearance and transportation arrangements.[58]

7.2. *Development of Comprehensive Support System*

Comprehensive support services are vital for the successful reintegration of victims. These services should address the immediate and long-term needs of returnees, including psychosocial support, healthcare, housing, and vocational training. Medical and psychological interventions, as recommended by the Bangkok Accord, should include confidential and affordable care, HIV testing services, and counselling to address the trauma experienced by victims[59].

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https://publications.iom.int/system/files/pdf/causes_of_retrafficking.pdf accessed 16 July 2024.

[58] Jackie Jones and John Winterdyk, "Introduction. Human Trafficking: Challenges and Opportunities for the 21st Century" (2021) 10(1) *Oñati Socio-Legal Series* <https://opo.iisj.net/index.php/osls/article/view/919> accessed 9 July 2024

[59] Lisa Kurbiel, "Implementing the UN Trafficking Protocol to Protect Children: Promising Examples from East Asia" (2004) 24 *Children's Legal Rights Journal*

Additionally, reintegration programs should provide employment opportunities and support local government efforts in creating social support mechanisms to prevent social exclusion and re-trafficking.

7.3. *Support for Underrepresented Groups*

Special attention should be given to underrepresented groups, such as male victims, who often face unique challenges in the repatriation and reintegration process. Support services should be gender-sensitive and tailored to the specific needs of these groups[60]. This includes ensuring that male victims have access to the same legal protections, healthcare, and social services as other victims. Programs should also promote gender equality and address any gender-specific barriers to reintegration, such as discrimination in the labour market or social stigma.

7.4. *Legal and Judicial Reforms*

Strengthening legal and judicial frameworks is crucial for protecting the rights of victims and ensuring their safe return. This involves harmonizing national legislation with international norms and standards, enhancing the capacity of law enforcement agencies, and ensuring that victims have access to legal remedies and protection from retaliation. Agreements between law enforcement agencies and support organizations can help regulate the interaction between police and victims, ensuring that victims are treated with dignity and provided with necessary protection measures during investigations and court proceedings.

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75 <http://heinonline-org.egateway.chennai.vit.ac.in/HOL/P?h=hein.journals/clrj24&i=75>
accessed 9 July 2024
[60] Supra note 7.

7.5. *Community Involvement and Reconciliation*

Successful reintegration also depends on community involvement and reconciliation efforts. Programs should promote confidence-building measures, such as community-based coexistence projects and inter-community dialogues, to foster social cohesion and reduce the risk of conflict[61]. These initiatives can help integrate returnees into their communities and address any underlying tensions that may arise during the reintegration process.

8. CONCLUSION

Despite strong legal frameworks like the UN Protocol on Trafficking and regional initiatives like the ASEAN Convention Against Trafficking in Persons, major issues persist. These include administrative delays, inadequate victim assistance, and ineffective trafficking prevention. Comprehensive policies and multi-agency approaches have improved in Thailand. The country still struggles to coordinate and allocate resources. Cambodia struggles with corruption and poor victim services despite legal reforms and NGO cooperation. Socioeconomic factors and cultural practices complicate Vietnam's commendable reintegration efforts.

Repatriation and reintegration work best when victims are safe physically, legally, and financially and have access to justice and services. Effective reintegration requires international collaboration and strong support systems, as research shows that victims who receive comprehensive support have lower re-trafficking rates. Improve legal frameworks, agency coordination, and victim-specific support services to address these issues. The research aims to improve global human trafficking initiatives and victim assistance frameworks for a more

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[61] Supra note 55.

Akil K
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efficient and compassionate response.