

EIUC European Inter - University Centre
for Human Rights and Democratisation

E.MA European Master's Degree in
Human Rights and Democratisation



Otherness and Human Trafficking: The Vulnerability of Indigenous Women to Sexual Exploitation

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2012-2013

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Second Semester University : University of Seville

"Slavery was never abolished, it was only extended to include all the colors."

Charles Bukowski

Acknowledgements

First, I would like to address special thanks to my supervisor, Luis Rodríguez-Piñero Royo, who has been there for me from the beginning to the end of this Master's thesis. He has provided me with his wise advices and with support and has given to me a particular attention. He left me the opportunity to share my ideas freely in a constructive manner. I would like to express my deep gratitude for his availability and his commitment to his role of supervisor.

I would also like to thank the wonderful E.MA team of the University of Seville, Dr. Carmen Márquez Carrasco, the E.MA Programme Director for her support and the great programme she has organised for us, and Marta Gutiérrez Fernández, “our little angel”, for her smile and for all the energy she provided to make our stay in Seville incredible.

Last but not least, I would like to thank my family. Thanks to their support, I was able to realise this great and enriching E.MA experience and I will always be thankful to them.

Abstract

Cases of indigenous women being trafficked for the purpose of sexual exploitation are reported all over the world. Although evidence within the existing literature suggests a link between ethnicity and susceptibility to human trafficking, there is a lack of research on this correlation. By presenting the different systems of oppression of indigenous women, this paper explores the impact of the representation of indigenous women as “others” on their actual vulnerability to trafficking. It addresses the specific root causes deriving from this concept, such as contemporary exoticism, cultural practices, and processes of dispossession. The methods of this research are qualitative, as information has been mainly by secondary data, such as books, published articles, and reports from non-governmental organisations. This research aims at rising awareness on this issue in order to achieve a better prevention of trafficking of indigenous women.

Table of Acronyms

APA	Amerindian People's Association
AWID	Association For Women's Right in Development
CEDAW	Convention to Eliminate All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CSW	Commission on the Status of Women
ECOSOC	United Nations Economic and Social Council
EZLN	Ejercito Zapatista de Liberacion Nacional
FPA	Forest People's Alliance
ICCLR	International Centre for Criminal Law Reform & Criminal Justice Policy
ICEDAW	International Convention on the Elimination of All Forms of Discrimination Against Women
IFAD	International Fund for Agricultural Development
ILO	International Labour Organisation
ILO 169	International Labour Organisation Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries
IDP	Internally Displaced People
IFIMI/IIWF	International Indigenous Women's Forum
IWGA	International World Group for Indigenous Affairs
KIA	Kachin Independence Army
NGO	Non-governmental organisation
NWAC	Native Women's Association of Canada
OIAM	Oaxacan Institute for Migrant Affairs
OFIFC	Ontario Federation of Indian Friendship Centres
RCAP	Royal Commission on Aboriginal Peoples

THB	Trafficking in Human Beings
UN	United Nations
UNDCP	United Nations International Drug Control Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commission for Refugees
UNODC	United Nations Office of Drugs and Crime
UNPFI	United Nations Secretariat of the Permanent Forum on Indigenous Issues
U.S.	United States
WCIP	World Council on Indigenous People

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Introduction

The lack of data is the main obstacle when doing research on human trafficking, the improvements of the last years being unsatisfactory.¹ Because of its hidden nature, collecting precise data on how many people are trafficked, what are their characteristics, origin, and knowing exactly the scope of the issue is extremely complex. A number of non-governmental organisations' (NGOs) reports and academic research provide insight both of the possible scope of the problem and of the lack of awareness on the issue of trafficking of indigenous women for sexual exploitation. In countries such as Canada, Colombia, Guatemala, Guyana, India, Lao PDR, Mexico, Nepal, Taiwan, or the United States, to name only a few, indigenous women are vulnerable to being trafficked for sexual exploitation and for other purposes due to the interaction of a complex number of factors.

1. Presentation of the research question

As preventing human trafficking is highly complex,² prevention mechanisms have to address the root causes of vulnerability in order to be efficient. For that purpose, a comprehensive understanding of the context in which trafficking happens is essential. However, indigenous women have for long been forgotten in the trafficking literature. A report issued in May 2013 by UN women about violence against indigenous women and girls addresses the state of research in that area:

The review finds limited references to indigenous girls and women in the expanding research on the various dimensions of economic exploitation, sexual abuse and sexual exploitation which are issues of concern in the three regions [Africa, Asia Pacific, and Latin America]. Within the broad array of literature, the study finds that disaggregation by both sex and ethnicity are

1 Laczko, 2002.

2 UN Office on Drugs and Crimes (UNODC), 2008.

rare and references to indigenous girls and women are made to sectors which engage young people in bonded labour, forced labour, domestic labour, human trafficking in which they are also at risk of being sold.³

Indigenous women are one of the groups that have received little attention in the trafficking literature. They kind of fall into the vacuum of the research on human trafficking, as trafficking of indigenous women has specific characteristics that exactly correspond to areas in which the literature on trafficking is still obscure and not enough explored. The first instruments dealing with human trafficking, such as the Suppression of the Traffic in Women and Children (1921)⁴ and Suppression of the Traffic in Women of Full Age (1933)⁵, conceived it only in terms of the crossing of international borders, internal trafficking issues being then excluded from the scope of the agreements.⁶ If the Palermo Protocol has suppressed this element of crossing of international borders from the human trafficking definition, internal trafficking remains one of the major gaps in the literature on this issue.⁷ Yet, trafficking of indigenous women often occurs internally, inside the borders of the origin country. Furthermore, there is a lack of research on the impact of racial discrimination on the susceptibility of women and girls to become victims of trafficking.⁸ However, when attention is paid to women that are most at risk of being trafficked, the link becomes obvious.⁹ Due to the number of cases reported and the diversity of situations in which it occurs, the question asked in this thesis is what are the specific root causes that render indigenous women especially vulnerable to trafficking for sexual exploitation.

3 UN Women, 2013, p. 31.

4 International Convention for the Suppression of Traffic in Women and Children (adopted 30 September 1921, entered into force 15 June 1922) 53 UNTS 13.

5 International Convention for the Suppression of Traffic in Women of Full Age (adopted 11 October 1933, entered into force 24 August 1934) 53 UNTS 13.

6 Gallaghe, 2010, p. 13.

7 International Organization for Migration (IOM), 2009, p. 13.

8 Box, p.28.

9 United Nations Department of Public Information, 2001, p.2.

2. Importance of the topic

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, commonly referred as the Trafficking Protocol or Palermo Protocol, requires States Parties to take positive steps to address the underlying causes of trafficking and the adverse social and economic conditions that could contribute to the vulnerability to trafficking.¹⁰ Such as the Convention against Transnational Organized Crime,¹¹ the Trafficking Protocol also encourages to create specific prevention models for groups and individuals that may be at high risk of being trafficked.¹² The United Nations (UN) Guideline No.7 on Human Rights and Human Trafficking recommends States to take into consideration factors such “as inequality, poverty and all forms of discrimination and prejudice.”¹³

Without a good knowledge of the root causes of trafficking, prevention models are ineffective. A multitude of structural factors operate to shape the context in which trafficking takes place and the capacity of the individual to respond to it.¹⁴ Therefore, a specific analysis of each situation in which trafficking occurs is necessary to have a comprehensive understanding of vulnerability.¹⁵ The UN Background Paper “An Introduction to Human Trafficking: Vulnerability, Impact and Action” stresses that successfully assisting vulnerable populations is not possible without knowing precisely what makes them vulnerable to violence, abuse and exploitation.¹⁶ What constitutes

10 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 40 ILM 335 (Trafficking Protocol or Palermo Protocol) art 9 (4).

11 Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 40 ILM 335 (Organized Crime Convention) art 4.

12 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 40 ILM 335 (Trafficking Protocol or Palermo Protocol) art 9 (2).

Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 40 ILM 335 (Organized Crime Convention) art 31 (5).

13 ECOSOC, 2002, p.11.

14 Cameron & Newman, 2008, p. 1.

15 UNODC, 2008 (a), p. 68, 71.

16 Ibidem 8.

vulnerability to trafficking has to be at the center of prevention models, addressing its real root causes, according to the populations' specific needs and the contexts in which trafficking occurs.¹⁷ It has to be the first step in order to correctly assess the risks and effectively reduce them. However, the concept of vulnerability seems to be the missing link in current policies and practices.¹⁸ Human trafficking prevention models do not take enough into account the relationships between social, cultural, economic and political situation and the vulnerability of certain populations or groups.¹⁹

This thesis is aiming at presenting an overview of the trafficking of indigenous women worldwide and at creating a comprehensive framework in order to tackle the root causes of their vulnerability. If the specific vulnerability of indigenous women is not studied and taken into account, prevention policies will not be efficient and will not tackle the issue successfully. An in depth study of root causes of indigenous women is therefore required in order to create prevention programmes in function of the needs, and recognise indigenous women as a specific group at risk.

3. Literature review

Cases of indigenous women and girls being trafficked for sexual exploitation have been reported mainly in the Americas but also in Asian countries such as Burma, China, India, Malaysia, Nepal, Taiwan, and Thailand.²⁰

In the Americas, the issue of trafficking of indigenous women for sexual exploitation has been highlighted by different academics and NGOs. While every year about 3,000 women from Chiapas are trafficked to Mexico City, indigenous people were pointed out to be amongst the vulnerable groups to human trafficking in the country,²¹ as a result of poverty, lack of employment opportunities and of the agrarian conflict.²² In Guyana, indigenous women have also been reported as particularly vulnerable to human

17 UNODC, 2008 (a), p. 7.

18 Ibidem.

19 United Nations Department of Public Information, 2001, p.2.

20 Tiwari, 2004, p. 110

21 United States Department of State, 2011(a).

22 Acharya & Barragan Codina, 2012, pp. 63-69.

trafficking due to discriminatory institutional and cultural factors.²³ In Canada, studies conclude that the majority of people trafficked within the country are Aboriginal women and children victims of sex trafficking, as a result of poverty and racism.²⁴ Native women in the United States are also reported as being highly represented among the trafficking victims.²⁵

Similar patterns can also be found in Asia. According to the International Fund for Agricultural Development (IFAD), “the majority of females trafficked across state borders in south-east Asia are from indigenous communities.”²⁶ A study on adolescent prostitution in Taiwan shows that even if the indigenous population of Taiwan comprises less than 2% of the population, they represent 70% of the Taiwanese trafficking for sexual exploitation.²⁷ In Nepal, indigenous women and girls are also disproportionately involved in human trafficking, representing 47 % of the victims of trafficking for sexual exploitation.²⁸ In another study, indigenous people of Nepal represented almost 80 % of the people trafficked.²⁹ In India, the *devadasi* system, which “dedicates” girls to a life of sex work in the name of religion, is only targeting girls from poor and marginalized communities, as 93% of them are coming from scheduled castes and 7% from scheduled tribes.³⁰ In Thailand, hill tribes are pointed as one of the most vulnerable groups to internal trafficking,³¹ namely Kachin women along the China-Burma border.³² Meanwhile, women and girls from tribes in Lao PDR are also severely affected by the issue of trafficking.³³

23 Mantini, 2008, pp. 341-348.

24 Sethi, 2007, pp. 57-71; Farley, Lynne & Cotton, 2005, pp. 242-271; Farley, 2010, pp. 1252-1269.

25 Valencia-Weber & Christine P. Zuni, 1995, p. 69; Deer, 2010, in which Sarah Deer addresses the colonial past of the United States to explain the sex trafficking of Native women.

26 Rural Poverty Portal.

27 Hwang & Bedford, 2003, p. 201.

28 Bansh Jha, 2004, p. 14.

29 Committee on the Elimination of Discrimination Against Women (CEDAW), 2011, p. 9.

30 Minority Rights Group International, 2011, p. 4.

31 U.S. Department of State, 2011 (b).

32 Kachin Women's Association Thailand, 2005.

33 Ministry Of Labour And Social Welfare Lao People's Democratic Republic, 2005.

3. Problems and hypothesis

Addressing the root causes of trafficking of indigenous women cannot be done without an historical perspective and without knowledge of postcolonial studies. The history of indigenous worldwide and their actual condition are closely linked with history and with the impact of colonisation. Indigenous women are particularly at risk of being exploited³⁴ and the violence and discrimination they are facing, independently on the region where they are located, has to be considered at first place.³⁵ Policies and programmes that intent to prevent trafficking are often ineffective for indigenous women, as they do not take into account their particular situation and specific needs.³⁶ While studies on human trafficking and on indigenous women are often focused on one approach, there is a necessity of using diverse disciplines, such as gender or postcolonial studies, in order to have a picture as complete as possible. The scope of this issue being overlooked, this thesis is aiming at building a comprehensive framework in order to improve the prevention models of trafficking and at filling certain gaps of the existing literature on trafficking, bringing together various types of knowledge and disciplines.

This thesis aims to argue that what renders indigenous women vulnerable to trafficking for sexual exploitation is the long-standing patterns of discrimination they are facing all over the world. It will state that the perception of indigenous women as “others” and the consequences that are deriving from it is the main source of their vulnerability. Despite the fact that the situation of indigenous women has to be analysed on a case-by-case basis, discrimination against them can be found worldwide and create structural root causes to trafficking which are going to be analysed.

The thesis does not aim to give an overview of all the root causes that render indigenous women vulnerable to trafficking for sexual exploitation. For instance, it is true that poverty of indigenous women is of particular concern and influences directly

34 Poulin, 2003.

35 International Indigenous Women's forum (FIMI/IIWF), 2006.

36 United Nations Office of the Special Adviser on Gender Issues and Advancement of Women & United Nations Secretariat of the Permanent Forum on Indigenous Issues, p. 1.

their susceptibility of being trafficked. Every case of trafficking of indigenous women that will be analysed is linked with poverty, low access to education and health care, and lack of employment opportunities. Indeed, around the world, despite the differences of cultures and settings, indigenous peoples are nearly always disadvantaged in comparison to non-indigenous citizens.³⁷ Although not all indigenous people are poor, being indigenous is often related to have a higher risk of falling into poverty. A study of the World Bank demonstrated that indigenous people are amongst the poorest populations and are therefore disadvantaged in different fields.³⁸ Psacharopoulos and Patrinos are even talking about a ‘cost’ of being indigenous.³⁹ A study of Martinez Cobo on discrimination against indigenous people stated that “indigenous peoples were at the bottom of the socio-economic scale”.⁴⁰ For instance, in India, poverty among tribes is of 46 % against 27% for the rest of the population, while in Mexico, 81% of indigenous people have incomes that are below the poverty line.⁴¹ In Asia, it is reported that indigenous people suffer from low economic situation and poor health conditions, being often affected by diseases such as Malaria and having high rates of infant mortality.⁴²

Poverty is a root cause that concerns every person falling into the trafficking business. However, poverty cannot be considered as the only “push factor” of trafficking, as not all poor people are equally vulnerable to being trafficked.⁴³ If poverty among indigenous people is clearly a risk factor to trafficking, it is often the expression of a deeper problem, a result of a combination of discriminatory policies, of dispossession of lands, and of displacement. It has roots in colonial domination, being a “symptom of colonial loss” of traditional indigenous institutions.⁴⁴ The concept of poverty therefore helps to bring attention on patterns of discrimination:

Once a pattern is recognized, it is possible to analyse it: to follow it back to source, to understand why that pattern exists. If

37 Eversole & McNeish & Cimadamore, 2005, p. 2.

38 World Bank, 1994, p. 12.

39 Ibidem.

40 Eversole & McNeish & Cimadamore, 2005, p. 3.

41 Hanemann, 2004, p. 5.

42 Ibidem 6.

43 Moyle, 2002.

44 Eversole & McNeish & Cimadamore, 2005, p. 64.

there is observable disadvantage for a group of people, there are sure to be reasons behind it. Unearthing the reasons – discovering what creates a situation of disadvantage – is a solid first step towards understanding what can be done to reduce or eliminate poverty.⁴⁵

The perception of indigenous women as “others” is the real source of their vulnerability to trafficking. The concept of “otherness” gives a useful theoretical tool to analyse those processes of inferiorisation. Developed mainly through post-colonial studies, it has served to analyse the behaviour of the colonisers towards the colonised. The Other is referred to what is other to the Self, to what is different from the initial subject.⁴⁶ “Other” is a concept that “allows humanity to be divided into groups”.⁴⁷ Jonathan Todres has presented the relationship between otherness and the vulnerability of certain groups to be trafficked.⁴⁸ The psychological process of otherness dehumanises the Other, facilitating its abuse and exploitation.⁴⁹ Because the Other is seen as inferior, sometimes as an object not worth of consideration, the distance between the trafficker and the subject is easier to build.⁵⁰ Indigenous women, being “others” because of their ethnicity and because of their gender, are therefore vulnerable to trafficking for sexual exploitation and for other purposes.

Trafficking for sexual exploitation is a political issue, based on discrimination against women.⁵¹ Being often called the “dark side of globalisation”, it is a form of violence against women, nowadays closely linked with the development of international capitalism.⁵² It involves a range of diverse issues such as economic exploitation, sexual oppression, international and internal migration, racism and poverty. Otherness and

45 Eversole & McNeish & Cimadamore, 2005, p. 1.

46 Said, 1978.

47 Staszak, 2009, p. 85.

48 Todres, 2009, p. 607.

49 Ibidem.

50 Ibidem.

51 Bary, 1996, p. 11.

52 Njoh & Ayuk-Etang, 2012, p. 35. Article 14 of the Beijing Declaration of Indigenous women states that “the violence and sexual trafficking of Indigenous women and the increasing numbers of Indigenous women becoming labor exports, has been aggravated by the perpetuation of an economic growth development model which is export-oriented, import-dependent, and mired in foreign debt”.

racial discrimination can create a demand in the region or country of destination which contributes to trafficking in women and girls.⁵³ A study of the International Labour Organisation (ILO) has shown that discrimination based on ethnic origin is also one major determinant of trafficking of human beings.⁵⁴ Racial discrimination can on the one hand create a situation of vulnerability and on the other hand drive the demand, having an impact on the treatment in countries of destination.⁵⁵ As indigenous women are reported as being targets of traffickers, it is important to address the issue of the interaction between racial and gender discrimination as a risk factor of human trafficking.

5. Methods and limits of the research

The lack of data has been the main obstacle of this research, or has at least shaped his content and structure. The problem of trafficking of indigenous people goes far beyond the scope of this thesis. Indigenous women are trafficked for more purposes than sexual exploitation, and indigenous men are certainly also victims of this crime. Because of the lack of research on the scope of trafficking of indigenous people for other forms of exploitation, it could unfortunately not be expanded to those aspects. Although originally confined to the Americas, the study was expanded to cover different continents when the scope of the issue was realised. However, much more research is needed on this topic.

The methods used for this research are qualitative. Information has been collected through primary and secondary data, such as books, published articles, and NGO reports. Primary data has been obtained through interviews, e-mails, but also through the information collected during conferences on human trafficking. The thesis does not reflect the current situation of trafficking of indigenous worldwide, but aims at giving a first step in this direction and at building a comprehensive approach on the topic.

53 United Nations Department of Public Information, 2001, p.2.

54 International Labour Organization (ILO), 2005, p. 2.

55 United Nations Department of Public Information, 2001, p. 2.

6. Thesis overview

The first part of the thesis is aimed at building the conceptual framework. While the first chapter will briefly define the different concepts used in this thesis, the second chapter will concentrate on the concept of otherness of indigenous women. The second part will then present the different root causes of trafficking of indigenous women, each one deriving from the perception of indigenous as “others”. The third chapter will address the impact of exoticism of indigenous women and the historical legacy of sexual exploitation on the demand side of trafficking in Canada, Nepal, United States, and Taiwan. The fourth chapter will present the influence of cultural practices on trafficking for sexual exploitation of indigenous girls through the cases of Nepal and India. The fifth chapter will then focus on the relationship between discriminatory policies such as displacement and lack of citizenship of indigenous people and their vulnerability to human trafficking through the examples of Burma, Lao PDR, Mexico, and Thailand. The last section of this thesis presents the main conclusions of the research.

Part I: Conceptual framework

Chapter 1:

Definition of concepts

1.1. Trafficking for sexual exploitation

Modern democracies stated abolishing the traditional form of slavery two centuries ago.¹ This was the beginning of a new path on the way to equality and the rejection of this system of oppression. However, slavery has not ended with its abolishment.² It has only taken another form, has adapted, but has certainly not disappeared. Its modern form has different names, such as trafficking, sexual exploitation, forced labor, debt bondage. While forced labour and debt bondage can be a result of trafficking, trafficking in itself has a particular dimension. It describes the crime of bringing someone into exploitation. Far from being anecdotal, an estimated 800 000 people are trafficked across international borders every year worldwide.³

The forms that human trafficking can take are various : prostitution, sexual exploitation, forced labour, slavery, servitude, and removal of organs. Trafficking for sexual exploitation has dominated the debates, being more visible than domestic servitude or trafficking of organs.⁴ It is unfortunately a high-profit and low-risk trade for traffickers, but it destroys lives of millions of women and children being trapped in the global sex industry.⁵ Indeed, human trafficking is a deeply gendered issue, especially when it concerns sexual exploitation. According to the United Nations Office on Drugs and Crime (UNODC), approximately 79% of all human trafficking is carried out for the purpose of sexual exploitation.⁶ Amongst them, 98 per cent are women and girls.⁷ Although people often associate it with Eastern Europe or Asia, trafficking of women and children for sexual exploitation occurs all over the world.⁸The regulation

1 Carey & Kitson, 2007.

2 Stavenhagen, 2011.

3 Sun Wyler & Siski, 2010.

4 Batsyukova, 2007, p. 47.

5 Rieger, 2007, p. 232.

6 UNODC, 2009, p. 6.

7 ILO, 2009, p. 37.

8 Phinney, 2001, p. 1.

concerning human trafficking has first developed in relation to slavery, used to refer to the fraudulent recruitment for prostitution.⁹ The international agreements created at the time of the Leagues of Nations dealt with the Suppression of the Traffic in Women and Children (1921)¹⁰ and Suppression of the Traffic in Women of Full Age (1933).¹¹ Trafficking was then still conceived only in terms of the crossing of international borders, internal trafficking being then excluded of the scope of the agreements.

Because human trafficking is incompatible with the concept of dignity of human beings, states have to take positive actions in order to fight against this crime. In this connection, article 6 of the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) requires states parties to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.¹² Article 34 of the Convention on the Rights of the Child contains a similar provision.¹³ However, human trafficking, which is based on the systematic violation of human rights, continues with near impunity around the world. Over the past decades, as a result of globalisation, this shame business seems to have increased.¹⁴

Until 2000, human trafficking had no definition in international law. The reason of this gap was the major disagreements on different issues such as the main purpose of trafficking, its limitation to sexual exploitation, and its difference with other concepts such as smuggling and illegal migration.¹⁵ As the understanding of trafficking has significantly evolved over the years, these debates were resolved in 2000 by the adoption of the current main international document prohibiting trafficking : the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Trafficking Protocol or Palermo Protocol).¹⁶ Article 3, paragraph (a) of the

9 Gallaghe, 2010, p.13.

10 International Convention for the Suppression of Traffic in Women and Children (adopted 30 September 1921, entered into force 15 June 1922) 53 UNTS 13.

11 International Convention for the Suppression of Traffic in Women of Full Age (adopted 11 October 1933, entered into force 24 August 1934) 53 UNTS 13.

12 Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 December 1981) 1249 UNTS 13 (CEDAW) art 6.

13 Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990), 1577 UNTS 3 (CRC) art 34.

14 Bettio & Nandi, 2010, p. 16.

15 Gallaghe, 2010, p. 25.

16 Ibidem.

Protocol defines trafficking 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.¹⁷

This definition puts in place the three constitutive elements of trafficking: the act, the means, and the purpose.¹⁸ The act is designated to what is done such as the recruitment, transportation, transfer, harbouring or receipt of persons, while the means concern the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or the fact to give payments or benefits to a person in control of the victim.¹⁹ The purpose of trafficking is basically exploitation, such as sexual exploitation, forced labour, slavery or similar practices and the removal of organs.²⁰

Trafficking has to be distinguished from migrant smuggling which is defined by another international instrument, the Protocol against the Smuggling of Migrants by Land, Sea and Air, as:

The procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state Party of which the person is not a national or a permanent resident.²¹

17 United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) 40 ILM 335 (Organized Crime Convention) art 3.

18 Gallaghe, 2010, p. 12.

19 Ibidem 29.

20 Ibidem 34.

21 Protocol Against The Smuggling Of Migrants By Land, Sea And Air, Supplementing The United Nations Convention Against Transnational Organized Crime, (adopted 15 November 2000, entered

Migrant smuggling differs from human trafficking in four major aspects.²² The first aspect is transnationality. While for smuggling of migrants, crossing of borders is a necessary element, it is not anymore required when we talk about human trafficking.²³ Indeed human trafficking can also occur within national borders. The second aspect is the consent.²⁴ In the context of human trafficking, victim's consent is irrelevant. Indeed if the consent might be given for the act of being brought somewhere, for instance as a way to find opportunities for employment, no-one can consent to being enslaved or exploited. Concerning smuggling of migrant, in most of the cases the crime occurs with full consent of the migrants, even if it is often conditional.²⁵ The third element is exploitation. While the crime of smuggling of migrants ends when the victim arrives, the movement in the human trafficking process is only the beginning of the exploitation.²⁶ The last element is profit. In the case of smuggling, the victim is paying to cross the border. In the case of trafficking, the profit is generated by the continuing exploitation of the person.²⁷

Human trafficking is the process of bringing someone in this exploitation circle, but does not stop with this action, differentiating it from smuggling or illegal migration.²⁸ If a person is moved from a place to another without being brought into a kind of exploitation, it does not constitute human trafficking. Human trafficking leads to different kinds of exploitation and is a modern form of slavery. However, while somebody can be enslaved without being trafficked, which means without being brought from a place to another with a mean of exploitation, human trafficking has to lead to a form of slavery. Slavery is the condition, while human trafficking refers to a process and the intended result of bringing someone into exploitation.²⁹

into force 28 January 2004), 40 ILM 384 (the Smuggling Protocol), art 3(a).

22 Zamora, 2013.

23 Ibidem.

24 Ibidem.

25 Aronowitz, 2001, p. 165.

26 Iselin & Adams, 2003, p. 3.

27 Zamora, 2013.

28 Gallaghe, 2010, p. 18.

29 Ibidem 18, 34.

1.2. Vulnerability to trafficking and prevention mechanisms

Despite the lack of an agreed definition, the term “vulnerability” is commonly employed across a range of disciplines including criminal justice, human security, environmental science and health.³⁰

In a Background Paper for the UN on human trafficking, “vulnerability” is used to refer to “those inherent, environmental or contextual factors that increase the susceptibility of an individual or group to being trafficked”.³¹ These different factors are generally agreed to include human rights violations such as poverty, inequality, discrimination and gender-based violence.³² Those elements are referred as “structural factors” which describe the social, economic, and political context in which trafficking occurs.³³ Each of them contributes to create a situation in which the person does not have a freedom of choice, mainly because of social and economic factors. Therefore, those conditions make them easy targets for traffickers. In addition to these structural factors of vulnerability they are also individual specific factors,³⁴ such as gender, membership of a minority group, and lack of legal status. For example, children have been identified as inherently vulnerable to trafficking.³⁵ Each of those different factors play a role to determine the context in which trafficking happens.

Vulnerability is central to how trafficking is understood, and to how the discourse has developed around this issue. The trafficking Protocol contains the unique concept of “abuse of the position of vulnerability”.³⁶ On its part, the *travaux préparatoires* state that it has to be understood as “referring to any situation in which the person involved has no real or acceptable alternative but to submit to the abuse

30 As the term “vulnerable” is also quite controversial, this thesis will use it as meaning “in a vulnerable situation” in reference to trafficking. Indeed, considering some individuals or groups, such as indigenous women, “vulnerable” as such is problematic. Therefore, in this thesis, indigenous women are not considered as a “vulnerable” group as such because they are women and from a particular ethnicity, but because they find themselves in a particular situation of vulnerability to trafficking.

31 UNODC, 2013, p. 13.

32 United Nations General Assembly (UNGA), 2010.

33 Cameron & Newman, 2008, p. 1.

34 International Labour Office & European Commission, 2009.

35 UNODC, 2013, p. 13.

36 Gallaghe, 2010, p. 32.

involved”,³⁷ which includes “financial, psychological, and social situation, as well as linguistic, physical and social isolation”.³⁸ The interaction between those factors will create the situation of vulnerability and will explain why and where the trafficking process happens. It is therefore essential to address the issue both at countries of origin and destination.³⁹ Structural factors can be various, such as economic, social, ideological, or geopolitical.⁴⁰ It is argued that trafficking in women, especially for sexual exploitation, is a result of gender and racial discrimination:

In addition to sexism, an analysis of the forces underlying trafficking reveals that the racism prevalent in society is also a contributing factor.⁴¹

The Working Group on Indigenous Populations and the different Special Rapporteurs on the situation of the human rights and fundamental freedoms of indigenous people have pointed out several times the vulnerable situation of indigenous people, namely due to the loss of control of their lands.⁴² However, their vulnerability to trafficking is still an overlooked issue.

1. 3. Who are the “indigenous people”?⁴³

“The question of who is indigenous is best answered by indigenous communities themselves”.⁴⁴ This statement is the illustration of the principle of self-determination of indigenous adopted by the international community.⁴⁵ According to the UN Permanent Forum on Indigenous Issues, there would more than 370 million indigenous people

37 UNODC, 2006.

38 Gallaghe, 2010, p. 33.

39 Cameron & Newman, 2008, p. 2.

40 Ibidem 3.

41 Ibidem 2.

42 UNHRC, 2010, pp.11-13.

43 The vocabulary concerning indigenous people might be confusing. The terms “indigenous peoples,” “indigenous ethnic minorities,” and “tribal groups” are used in various regions to define social groups that share similar characteristics, namely a social and cultural identity that is distinct from dominant groups in society. The vocabulary mainly differs from a region to another. For instance, the term “indigenous people” or “tribes” are more used in South-East Asia, while in North America, Australia or New Zealand, they refer more to “native”, “aboriginal” or “First Nations”. In this thesis, we will each time use the term referred in accordance with the region.

44 Corntassel, 2003, p. 75.

45 United Nations Secretariat of the Permanent Forum on Indigenous Issues (UNPFII), 2006, p. 1.

across the world.⁴⁶ Being descendants of the original habitants of their living territory, there are spread in 70 different countries and their situation, traditions and culture differ from one group to another.⁴⁷ However, they share common distinct characteristics from the majority of the society in which they are found and a common history of conquest, colonisation, oppression and settlement.⁴⁸

There have been numerous debates around the definition of “indigenous people”, including during the preparation of the Draft Declaration on the Rights of Indigenous Peoples.⁴⁹ During these years of discussions, representatives of indigenous organisations rejected the idea of a formal definition agreed by States.⁵⁰ In 1977, the World Council on Indigenous People (WCIP) made clear that “only indigenous peoples could define indigenous peoples” through the adoption of a resolution.⁵¹ During the process of the adoption of the Draft Declaration on the Rights of Indigenous Peoples in 1997,⁵² the adoption of a definition was considered not necessary and, on the contrary, reducing the rights of people considering themselves indigenous to be named as such if a formal definition was adopted.⁵³

This unclear status has brought several critiques, especially from the governments.⁵⁴ If letting groups proclaimed themselves indigenous would allow not excluding any indigenous groups from the protection they need, it would also permit some other groups to declare themselves indigenous in order to benefit from the rights given in the Universal Declaration on Indigenous People and in the ILO Treaty

46 UNPFII, 2006, p. 1.

47 Ibidem.

48 Ibidem.

49 Ibidem.

50 Ibidem 2-3.

51 Corntassel, 2003, p. 75.

52 Draft Declaration on the Rights of Indigenous Peoples (adopted in 1994), UN Doc. E/CN.4/Sub.2/1994/56.

53 UNPFII, 2004, pp. 2-3. Article 8 of the Draft Declaration states that “indigenous peoples have a collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.” Article 1 of ILO Convention No. 169 also states that “self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.”

54 Corntassel, 2003, p. 76.

No.169.⁵⁵ This debate has become more and more important as indigenous have acquired a distinct legal standing in international law.⁵⁶

However, if no definition has been acknowledge, different criteria allow differentiating indigenous people from other groups, such as their relationship to the land, a common spiritual bond and a specific language used inside of the community.⁵⁷ Factors such as persistence over time, a sense of solidarity based on the territory, and ceremonial circles also allow identifying them as a “unique social group”.⁵⁸ The UN has identified a range of specific characteristics such as:

Self- identification as indigenous peoples at the individual level and accepted by the community as their member; historical continuity with pre-colonial and/or pre-settler societies; strong link to territories and surrounding natural resources; distinct social, economic or political systems; distinct language, culture and beliefs, form non-dominant groups of society; resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.⁵⁹

Therefore, if self-identification is the key of the belonging to an indigenous community, those criteria help to distinguish indigenous people from other groups.⁶⁰

55 Corntassel, 2003, p. 76.

56 Ibidem.

57 Ibidem 91.

58 Ibidem 91.

59 UNPFII, 2006, p. 1.

60 Eversole & McNeish & Cimadamore, 2005, p. 5.

Chapter 2:

Indigenous women and otherness

As recognised by the United Nations' Secretary-General at the World Conference against Racism, Xenophobia and Intolerance, indigenous women face multiple forms of discrimination because of the "nexus between gender, race, colour or ethnicity and other axes of subordination".¹ They are the most vulnerable among indigenous people, because they face double discrimination, on the basis of their gender for being women and on the basis of ethnicity for being indigenous.² As the Secretary-General explained:

Gender-based discrimination intersects with discriminations based on other forms of 'otherness', such as race, ethnicity, religion and economic status, thus forcing the majority of the world's women into situations of double or triple marginalisation... Because discrimination based on ethnicity, race, religion, etc. is imbedded in State and social structures, such discrimination decreases the rights and remedies available to women and increases women's vulnerability to violence and abuse.³

Several human rights bodies have also pointed out the necessity to ensure that gender based and ethnically-based discrimination are considered together.⁴ It is also important to point out that if racial discrimination affects both men and women, it impacts primarily on women and to a different degree.⁵ Indeed as women from ethnic or religious minority face cumulative discrimination, it has a specific impact on them and needs a particular attention. This particularity has also been highlighted by Rashida Majoo, the Special Rapporteur on Violence against Women, its Causes and Consequences, who has advocated for a holistic approach to violence against women

1 UNGA, 2001, p. 4.

2 Roy, Chandra K., 2004.

3 UNGA, 2001, p. 3.

4 Commission on the Status of Women (CSW), 2012, p. 7.

5 Committee on the Elimination of Racial Discrimination (CERD), 2000.

and various forms of discrimination.⁶

The concept of Otherness is particularly relevant in order to understand the relationship between discrimination and trafficking of indigenous women. It developed in various disciplines, such as psychology, social sciences, to explain the process of differentiating the “Self” as opposed to the “Other”.⁷ The term has been used in postcolonial studies to explain the attitude of the colonisers towards the colonised. Theorists such as Edward Said have demonstrated the inferiorisation of the colonised by the West.⁸ The concept of the “otherness” has been a major preoccupation of Western thought and postcolonial theory has primarily searched at deconstructing this process. It is also interesting to notice that this concept and its use have shifted. From a figure of the passive Other, we arrived to a demanding Other: women, natives, minorities, deviants, subalterns, are now claiming this difference as a mean of empowerment.⁹

Colonisation has brought a perception of indigenous as “others”, as a way to legitimise the conquest over the colonised. Terry Goldie described the Manichean opposition between the superior European and the supposed inferior Native.¹⁰ He describes the *indigène* as “a semiotic pawn on a chess board under the control of the white signmaker”.¹¹ For instance, during the Japanese domination of Taiwan, the government spread pictures of indigenous being “savage” and “cruel”, occupying natural resources.¹² The Japanese government started to commercialise Aboriginal traditions and lands as tourist attractions.¹³ In Thailand, hill tribes are associated with negative stereotypes of deforestation, illicit drug production, drug trafficking, and even communist activity.¹⁴ They share the same history of marginalisation, coming from official and unofficial discriminatory policies of the Thai government.¹⁵ They are

6 UNHRC, 2011, para 108.

7 Volf, 1996; Marková, 2003, pp. 249-259.

8 Said, 1978.

9 Fee, 1995, pp.242-245.

10 Goldie, 1995, pp.232-236.

11 Ibidem.

12 Munsterhjelm, 2002, p. 8.

13 Ibidem 10.

14 Johanson, 2011. Those stereotypes originally came from the Hmong who were cultivating opium and allies of the United States during the Vietnam War against Communist insurgencies in Laos. Luithui & Lasimbang, 2007, p. 242.

15 Ritchie, 2010.

called *chao khao*, or *chao pa*, designing non-Thai minority groups.¹⁶ In the nation-building process, being *chao khao* became synonym of being non-thai.¹⁷

The “hill tribe” designation reflects a condition of widely being seen as not fully Thai but as “the others” (“kon eun”) or at best falling in the middle between “the others” and Thai citizens.¹⁸

In Guyana or Nepal, the situation of indigenous women is also a result of historical discrimination, coming from colonisation and imperialism. In Nepal, the indigenous people, popularly called *Janajati*,¹⁹ have historically been excluded within the country because of their different culture and traditions, being referenced as “backward” or “excluded” groups.²⁰ In Guyana, indigenous people are portrayed as stupid and less educated.²¹

Such processes can also be found in Taiwan. Before the seventeenth century, the island remained almost entirely untouched, preserving its Aboriginal inhabitants.²² However, from 1624 to 1662, Taiwan was a Dutch colony. It has then been controlled by the Chinese troops until 1895 when it became a Japanese colony until the end of the Second World War.²³ Aboriginal objects were used and exposed as trophies for conquest of such “wild” and dangerous areas during Japanese occupation of the island.²⁴ Furthermore, Japanese scholars and anthropologists studied and classified the Aborigines, describing Taiwan as “savage”, and therefore legitimising Japanese control

16 Asia-Pacific Human Rights Information Centre, 2010.

17 In reaction, indigenous activism in Thailand used another language to define themselves as *chon phao phuen mueang*, the Thai translation of indigenous peoples, which was rejected by the Thai government. Asia-Pacific Human Rights Information Centre, 2010.

18 Nawara, 2010, p.38

19 Representing 36,4% of the Nepal's population, there 59 officially recognised indigenous people in Nepal, divided into three major groups: the Himalayan Janajatis, the Hill Janajatis and the Madhesi Janajatis. Some other 25 indigenous groups are still requesting this status from the Nepali government. Bansh Jha, 2004, p. 7-8.

20 CEDAW, 2011, p. 9.

21 UNHRC, 2009 (b), p. 23. The report was rejected by the Guyanese government.

22 Vickers, 2008, p. 68.

23 Ibidem.

24 Du, 2003, p. 14.

of the territory.²⁵ They used it as a tool for their colonial propaganda.²⁶ Under Chinese domination, a distinction has been made between the tribes living in the mountain, seen as raw and savage, and the ones living in the plains.²⁷ As mountain tribes resisted mixed marriage with the Han Chinese and managed to preserve their culture, they have been perceived as second-class citizens, “barbarians”, and were officially called “mountain people” on their identity cards²⁸, until the government changed it to “original inhabitant”.²⁹

The concept of otherness is interesting when it comes to indigenous women, as they continue to face discrimination all over the world. Both “women” and “native” have been reduced to “others” through stereotypes of virgin, whore, savage, and denied an identity freely chosen. The effect of colonialism on gender has a double effect of discrimination that postcolonial studies have taken longer to acknowledge.³⁰ Post-colonial and feminist studies have for long evolved in parallel, fighting the same patterns of oppression, but have finally converged.³¹ Patriarchy and imperialism have indeed a common system of domination of its subject.³² In the 1980s, post-colonial and gender studies developed the concept of “double colonisation”, referring to the processes by which women became colonised by imperialism but also by patriarchal systems of oppression.³³ This concept, which acknowledges the fact that colonialism impacts differently on women than on men, has been used and theorised in function of local particularities.³⁴ In *Cloud Nine*, Caryl Churchill explores the relationship between gender and colonialism through history.³⁵ In the play, women and native are described by negative stereotypes, such as wild and dangerous. In this way, she exposes the fact

25 Vickers, 2008, p. 79.

26 Surprisingly, this process has not been incorporated by many historians and anthropologists into the analysis of the colonial experience of Taiwan, as colonialism was regarded as primarily a Western phenomenon. Vickers, 2008, p. 77.

27 Ibidem76.

28 Scott, 2006.

29 Lan, 2008, p. 837.

30 Ashroft, Bill & Griffiths, Gareth, & Tiffin, Helen, pp. 249-250.

31 Ibidem.

32 Ibidem.

33 Ibidem 250.

34 Ibidem.

35 Churchill, 1979.

that everything that is not white, heterosexual, male and Western, is “other”.³⁶

The necessity of mixing disciplines, taking into account gender in colonised societies, has been developed by different academics, such as Ketu Katrak.³⁷ A woman is indeed also victim of the concept of otherness, on which is based what we commonly call gender discrimination. Chandra Talpade Mohanty defines the term woman as “a cultural and ideological composite Other constructed through diverse representational discourses”.³⁸ Although she criticises the fact to see women as having universal desires, interests, regardless of class, origin, and ethnicity, she agrees on the term “women” as a category of analysis, sharing the same gender and therefore bounded by the “sameness of their oppression”.³⁹ Indeed, the point is not to prove the general “powerlessness” of women but to look at various cases and specificities that render women “powerless” in a particular context.⁴⁰

During the Commission on the Status of Women (CSW) in New York, in March 2013, indigenous women from the Asia-Pacific region have once more highlighted the multiple forms of discrimination they are suffering.⁴¹ The Beijing Declaration of Indigenous Women states:

We, the women of the original peoples of the world,... have been and are continuing to suffer from multiple oppressions; as Indigenous peoples, as citizens of colonized and neo-colonial countries, as women, and as members of the poorer classes of society.⁴²

Being “others” because of their gender and ethnicity, the context of their discrimination cannot be separated from the wider context of exclusion that indigenous people suffer. Indeed they face many obstacles linked with land dispossession, conflict,

36 Caslin, 2013.

37 Katrak, 1989, pp. 157-179.

38 Mohanty, 1995, pp. 259-268.

39 Ibidem.

40 Ibidem.

41 Association For Women's Right in Development, 2013.

42 Beijing Declaration of Indigenous Women, 1995.

displacement, lower access to health care and education.⁴³ For instance, in Canada, indigenous women have a lower life expectancy⁴⁴ and suffer from a lack of education, as in some Aboriginal communities, 90% of the population is unemployed.⁴⁵ Aboriginal women are often found in low-paying jobs,⁴⁶ and their annual income is usually much lower than non-Aboriginal women.⁴⁷ Furthermore, they have limited access to welfare services⁴⁸ and 84% of Aboriginal people cannot afford an adequate housing.⁴⁹ The same issue can be found in Guyana,⁵⁰ where the indigenous people are marginalised, having a limited access to health care, due to the bad location of medical services.⁵¹ In Lao PDR, the low level of economic development among minority groups impacts severely on indigenous women.⁵² Discrimination is highlighted as the major cause of this poverty and situation of exclusion. Addressing the case of Guyana, Mantini states:

Poverty among indigenous peoples has substantially increased in the past 10 years with discrimination being a major factor in the deterioration of Amerindian villages and indigenous health, social and economic status.⁵³

Discrimination against indigenous women is also expressed through different forms of violence, deep rooted in patriarchal systems and practices that relegate indigenous women to an inferior status in society.⁵⁴ Violence can take various forms such as domestic violence, harmful practices, economic exploitation, sexual abuse and exploitation. Human trafficking is one of those form of violence, and the expression of discrimination against indigenous women.

43 UN Women, 2013, p. 3.

44 Status Indian women could expect to live 5.5 years less than other Canadian women.

45 McKenzie & Morrissette, 2003, pp. 13-39.

46 Lévesque, 2001. p. 17.

47 While the annual income of Aboriginal women is around \$13,300, a non-Aboriginal women has an income of more or less \$19, 350.

48 Bennett & Shangreux, 2005, pp. 89-116.

49 Sethi, 2007, pp. 57-71.

50 Wihak, 2009, p. 16.

51 Mantini, 2008, p. 343.

52 IFAD, 2012, p. 10.

53 Mantini, 2008, p. 343.

54 UN Women, 2013, p. 4.

Defining the root causes of vulnerability to trafficking of an individual is particularly difficult because it is the consequence of a multitude of different components. They cannot be separated from one to another as they all interplay and are interconnected to create a situation in which indigenous women will be vulnerable to being trafficked. However, each of them has to be considered separately in order to have a comprehensive picture of this issue. The next part will present the different aspects of discrimination of indigenous women and its effects on their vulnerability to trafficking. There are all the expression of otherness of indigenous women. The relationship to the vulnerability of certain groups to be trafficked has been highlighted by Jonathan Todres, as the process of otherness dehumanising the Other, facilitating its abuse and exploitation.⁵⁵ The aim of this part is not to give an exhaustive list of the root causes of vulnerability of indigenous women but to draw a picture of the common and specific root causes of their vulnerability to trafficking, based on the existing data and research.

⁵⁵ Todres, 2009, p. 607.

Part II. Root causes of trafficking of indigenous women for sexual exploitation

Chapter 3:

Contemporary exoticism and historical legacy of sexual exploitation of indigenous women

Discrimination of indigenous women can have different origins, depending on the region, but colonialism as well as other forms of imperialism has had terrible effect on the situation of indigenous worldwide.¹ There is indeed a trend emerging in the academic research on the question if the indigenous people of a colonised country are more likely to be victims of prostitution and trafficking than other groups.² In Canada, Nepal, Taiwan, and United States, the historical legacy of sexual exploitation of indigenous women render them particularly vulnerable of being trafficked. This part is divided in four sections, the first one presenting the link between exoticism and the sex trade, the second the dual side of exoticism. The third part will present how exoticism has been expressed through the different case studies, and the last part will address its consequences on the vulnerability to trafficking.

3.1. Exoticism and the sex trade

The representation of the “Other” has been more and more a focus in the feminist literature, especially the interaction between race and colour in the international sex trade.³ Those studies argue than more than poverty, prostitution and other types of sex trade are the result of the interaction between international relations of power and of gendered, economic, and ethnic division.⁴ The demand side of this “business” has been often overlooked in human trafficking literature.⁵ As the UN Special Rapporteur has pointed out:

Demand created by prostitute users is not the only factor that

1 Rajeswari, 2013.

2 Farley et al., 2011, p. 18.

3 Shrage, 1994; Kempadoo, 1994, pp. 69-84.

4 Kempadoo, 1994, pp. 69-84.

5 Zamora, 2013.

drives the sex-trafficking market. However, it is the factor which has received the least attention and creative thought in anti-trafficking initiatives.⁶

What makes trafficking for sexual exploitation a lucrative business is the demand for women and children in brothels, pornography, strip shows, etc. Understanding what brings demand is essential, even if it is unpleasant. As Richard Poulin states: “the sex industry is diversified, sophisticated, and specialized: it can meet all types of demands”.⁷ “Consumers” of the North are looking for “exotic” young girls from all over the world and traffickers are now able to fulfill their demands.⁸ For instance, prostitution in the Caribbean is rooted in cultural imperialism in the form of the exotisation of the “Other”.⁹

This process is commonly referred as exoticism, defined as “the romanticisation of the racial, ethnic or cultural Other”.¹⁰ The concept has been developed as a part of the ideology of imperialist and colonial projects. It has been constructed within the framework of Orientalism addressed by authors such as Said¹¹ or Rousseau and Porter.¹² In the eighteenth and nineteenth century, exoticism has been used to legitimise the European conquest, including the sexual violence towards the colonised.¹³ Exoticism brought legitimisation of control over colonised populations, distinguishing them by racist stereotypes, and by doing so, opening the way leading to murder, rape, violence and enslavement.¹⁴

Although there is currently no research on exoticism of indigenous and their vulnerability to trafficking in Guyana,¹⁵ Canada and United States provide significant data on this issue. In Canada and United States, the arrival of the Europeans provoked a

6 UNHRC, 2006, p. 15

7 Poulin, 2004.

8 Ibidem.

9 Kampaloo, 2004, p. 1.

10 Ibidem.

11 Said, 1978, p. 150.

12 Rousseau & Portr, 1990.

13 Kampaloo, 2004, p. 1.

14 Ibidem.

15 However, the stereotypes have already been pointed at as a risk factor. The Equal Rights Trust, 2012, pp. 46-48.

shift in gender roles inside indigenous communities. Indeed, the colonialists' view of Aboriginal women were the “exact counter-image of their own culture’s ideal”.¹⁶ As Jean Barman states, the sexual desire was defined by the Christian dogma as “an unreasoned force differentially possessed by women, which threatened the reason of man and the inherent moral supremacy of men.”¹⁷ Women's sexuality in Victoria was a picture of purity and sexual innocence, separated between spheres and class.¹⁸

Colonisers, which were organised socially according to patriarchy, were surprised by the autonomy of indigenous women.¹⁹ They have therefore brought certain stereotypes of Aboriginal women and girls, such as their sexual availability and willingness, as a result of which they have suffered sexual violence and abuse.

1. 2. From idealisation to demonisation

Exoticism has the particularity of being a dual sided. On the one hand, there is a kind of attractive, idealised picture of the Other, and on the other side, the Other is seen as inferior. The Other is both attracting and terrifying.²⁰ As Rousseau and Porter explain:

Labeling the anthropological Other as exotic legitimated treating the peoples of the “third world” as fit to be despised - destroyed even, or at least doomed, like the Tasmanian aborigines, to extinction - while concurrently also constituting them as projections of Western fantasies.²¹

Indeed, there is ambiguity between the Self and the Other, expressed in the shifting of representations of the other as “bad” or “good”.²² Terry Goldie explains the change in the perceptions of the Other in function of the needs: “We can move from

16 Stevenson, 1999, p. 57: “Where European women were fragile and weak, Aboriginal women were hard-working and strong; where European women were confined to affairs of the household, Aboriginal women were economically independent and actively involved in the public sphere; where European women were chaste and dependent on men, Aboriginal women had considerable personal autonomy and independence—they controlled their own sexuality, had the right to divorce, and owned the products of their labour.”

17 Barman, 1997, p. 239.

18 Hawkes, pp. 8, 14, 42.

19 Barman, 1997, p. 239.

20 Kampaloo, 2004, p. 1.

21 Rousseau & Porter, 1990.

22 Gilman, 1985, p. 18.

fearing to glorifying the Other. We can move from loving to hating”.²³ In this sense, he describes this complex transition between the idealisation to the demonisation of indigenous people. Indeed, the differentiation between the Self and the Other does not exist so it can shift quickly.²⁴ Said also addressed this phenomenon, as European colonisers started by idealise the Orient for its “primitiveness”, as opposed to the decadent West.²⁵ It was enhanced for having values of spirituality, longevity, stability, but as Said pointed out, it was always followed by a counter-response, being then considered as being “backward”, “barbaric”, or “under-humanised”.²⁶

This double side of the Other is clearly represented by the case of Taiwan. The pictures spread about Aborigines were going from demonisation to idealisation.²⁷ Before Dutch colonisation, statements about the primitiveness of the indigenous people pictured them as morally superior compared to the decadent contemporary civilisation.²⁸ They were considered positively, as a living museum of traditional values and lifestyles.²⁹ However, negative pictures came soon enough to devaluate what had been first admired. Exhibitions were made in Japan about Taiwan Aborigines, reinforcing this picture of “exotic” other, in opposition to Japanese modernity.³⁰ Indigenous men were feminized, and indigenous women were hypersexualized.³¹ They were viewed as stupid, cruel and without having any proper family organisation.³² The Han population has been united under Confucian culture and against the coexistence of the racial Other.³³ The picture of these “exotic” tribes arrived to China, presenting them as “bloodthirsty head hunters, quaint native farmers, and exotically-attired, alluringly uninhibited native females”.³⁴

23 Gilman, 1985, p. 18.

24 Ibidem.

25 Said, 1978, p. 150.

26 Vickers, 2008, p. 75.

27 Ibidem.

28 Ibidem 76.

29 Ibidem.

30 Ibidem 79.

31 Lan, 2008, p. 835.

32 Vickers, 2008, p. 76.

33 Lan, 2008, p. 835.

34 Vickers, 2008, p. 77. Interestingly, the Aboriginal culture, completely ignored until the 1990s, has been recently used as tools to build a Taiwanese identity, and to distance it from China.

Ye_eno_lu refers to “the production of a systematic knowledge and to the site of the unconscious desires and fantasies.”³⁵ In Canada, at the beginning of colonisation, local women were used for sexual gratification.³⁶ Even if the topic was more or less taboo, it was generally accepted that indigenous women were used for sexual purposes in the absence of colonial women.³⁷ This practice has even been referred as “the casual use of a social inferior for sexual pleasure.”³⁸ As Jean Barman points out,

In British Columbia gender, power, and race came together in a manner that made it possible for men in power to condemn Aboriginal sexuality and at the same time, if they so chose, to use for their own gratification the very women they had turned into sexual objects.³⁹

The process of erotisation of women from a different ethnicity was part of the colonial project. Their sexuality began to be associated with pictures of natural primitiveness and lower order.⁴⁰ It represented uninhibited sensuality, temptation, a mixture of pleasure and danger.⁴¹ Some cultural practices also reinforced those stereotypes, perpetuating the myth of the exotic Other. Western colonisers discovered practices such as the harem of Persia, the Devadasis of India, the Ronggeng of Indonesia, and polygamous lifestyles.⁴²

In order to deal with these oppositions, imperialist thinking has a concrete solution for the Other, being found in assimilation policies, in a version of indigenous women that would have been “domesticated”.⁴³ The imperialist philosophy has therefore the choice either to reject them, either to incorporate them within its society.⁴⁴ The next section presents the latest option.

35 Ye_eno_lu, 1998, p. 23.

36 Barman, 1997, p. 240.

37 Ibidem.

38 Mason, 1970, p. 88.

39 Barman, 1997, p. 240.

40 Kampaloo, 2004, p. 1.

41 Ibidem 237.

42 Kampaloo, 2004, p. 1.

43 Goldie, 1995, p. 232.

44 Ibidem 234.

1.3. Historical legacy of sexual exploitation

Threatening the patriarchal family, indigenous sexuality, and in particular sexual independence, became the centre of the colonial project.⁴⁵ Because of the fear of indigenous sexuality and autonomy, colonisers passed legislation to regulate housing, social institutions, and child care.⁴⁶ Every act of an indigenous woman was sexualized, as their sexuality was perceived as wild, out of control, and as an act of provocation. Indigenous women were seen as prostitutes or, at best, as potential concubines.⁴⁷

The example of Canada shows how colonisers regulated indigenous bodies. Bringing together the former colonial and Federal legislation concerning Indians, the Indian Act is a set of laws first passed by the federal parliament of Canada in 1876.⁴⁸ Even it was amended several times, the residual sex discrimination has been felt by the successive generations of Native people.⁴⁹ The Indian Act has brought a patriarchal system of organisation, taking away the socio-economic autonomy of Aboriginal women and the cohesion of their communities. Although Aboriginal women resisted,⁵⁰ forming the core of indigenous resistance to genocide and colonisation,⁵¹ they experienced culture loss and became extremely vulnerable to sexual exploitation.⁵² The current policies and legislations continue to marginalise Aboriginal people, especially girls. For instance, the policies concerning matrimonial property rights force Aboriginal girls to leave their homes when they divorce.⁵³ They move then to cities, live in high

45 Barman, 1997, p. 241. Interestingly, they never perceived Aboriginal men as sexual threats, which also participated in this process, wanting to be well seen by the missionaries.

46 Ibidem 258.

47 Ibidem 264.

48 The Act aimed at assimilating First Nations people into the society, and dealt with different issues, such as land rights, membership, and organisation of local government. Colonisers have also imposed their own definition of Indianness, without any consideration of how Aboriginals were identifying themselves. Furthermore, the Indian Act did not consider an Indian as a person before the law. It also contained specific discriminatory rules towards indigenous women, such as property rights and loss of Indian status. Since 1876, it has been amended several times, the last modification being passed in 1985. Lawrence, 2003, p. 4; Harry, 2009, pp. 18-22.

49 Harry, 2009, p. 24.

50 Ibidem 8.

51 Ibidem.

52 Sethi, 2007, p. 62.

53 Ibidem 64.

poverty and become highly vulnerable to human trafficking.⁵⁴ It is also relevant to highlight that Section 67 of the Canadian Human Rights Act states that nothing in the Act affects any provision of the Indian Act.⁵⁵ Today the Indian Act is still regulating the daily lives of Status Indians, including determining who belongs to this group.

In United States, if any women could have been affected by sex trafficking during colonisation, American Indian women suffered much more from sexual violence and exploitation than any other ethnic group:⁵⁶

Traded for their sex and labour by colonizers and westward settlers, American Indian women and girls were continuously subjected to sexual exploitation— often by state actors—well into the twentieth century as part of their forced removal by the U.S. government to reservations, boarding schools, foster homes, and urban centers.⁵⁷

The exploitation of Native women for sexual exploitation was justified by stereotypes concerning their supposed depravation, promiscuity, and inability to be controlled by Native men.⁵⁸ Native men were portrayed as passive and this perception was used as a justification for using Native women as they wished, often for sexual or labor exploitation.⁵⁹ During U.S. westward expansion, rape of a Native woman was not considered illegal because of Indian bodies being “dirty” and therefore “rapable”.⁶⁰ In the 1850’s in California, it was frequent that Native women were often captured for sexual purposes.⁶¹ At that time, mass killings of American Indians occurred, and Native traditions became outlawed in 1881.⁶² During the forced migrations to reservations, sexual assaults of Native women by military forces were a common practice, soldiers

54 Sethi, 2007, p. 65.

55 Ibidem.

56 Perry, 2004, p. 6.

57 Johnson, 2012, p. 619.

58 Ibidem 632; Smith, 2003, p. 70-85.

59 Pierce, 2009, p. 6.

60 Smith, 2003, p. 73.

61 Johnson, 2012, p. 632.

62 Heart, 2003, pp. 8-9.

offering them food, clothing, and shelter in exchange of sexual ‘favors’.⁶³ When the forced migrations ended in 1800's, Native children started to be removed by the government in order to enter boarding schools, where many of them suffered from sexual and physical abuse.⁶⁴ In 1940 began the relocation programmes, sending American Indians from reservations to cities, with false promises of employment⁶⁵, which left them isolated from the support of their communities.⁶⁶

In Nepal, the historical legacy of sexual exploitation of indigenous girls has led to a circle in which indigenous girls and women have been seen as commodities.⁶⁷ The districts of Sindhupalchowk and Nuwakot, pointed as originating areas for human trafficking, are historically associated with the relationship between the ruling Hindu castes of Kathmandu and the indigenous Tamang communities of the area.⁶⁸ In the 19th century, Ranas of the Kathmandu Valley,⁶⁹ a line of prime ministers ruling Nepal from 1846 to 1951,⁷⁰ started the practice of using girls from the Tamang community as concubines, recruiting them from the Helambu region of Sindhupalchowk.⁷¹ Owning “Helambu girls” in their palace became a sign of wealth and of high social status.⁷²

In the 1950s, after the fall of the Rana regime, indigenous women were facing the challenge to find other sources of income. The girls already trafficked were taken with the Ranas to India, and have been sold to brothels when they became older.⁷³ Therefore, the indigenous women of the Tamang community became easy targets for traffickers, who took profit from their vulnerability. The opening of the border between Nepal and India for trade and travel at the end of the Rana regime enhanced the

63 Deer, 2010, pp. 661–62.

64 Johnson, 2012, p. 633.

65 Heart & DeBruyn, 1998, p. 64–65.

66 Johnson, 2012, p. 634.

67 Cultural practices play also an important role in the vulnerability of indigenous girls. See 52.

68 Kumar & Subedi & Gurung & Adhikari, 2001, p. 18.

69 Bansh Jha, 2004, p. 14.

70 Human Rights Watch, 1995.

71 Kumar & Subedi & Gurung & Adhikari, 2001, p. 18.

72 Human Rights Watch, 1995. This process of recruiting indigenous women for sexual use also spread inside of the British army. Along with the Rana regime, they recruited young girls from different hill ethnic groups, obliging the Tamangs to send their daughters to the brothels. Kumar & Subedi & Gurung & Adhikari, 2001, p. 18.

73 Kumar & Subedi & Gurung & Adhikari, 2001, p. 18.

internationalisation of trafficking of women and girls and allowed this hideous business to develop.⁷⁴ The tradition of recruiting Tamang girls perpetuated, with the complicity of girls that had been previously trafficked. Indeed, those prostitutes opened their own brothels in India, especially in Bombay and Calcutta, and started to go back to Nepal in order to bring more Tamangs girls into the sex trade.⁷⁵ The districts of Nuwakot, Sindhupalchok and other around Kathmandu became famous for trafficking. The Indian demand for Nepali prostitutes grew, and girls begun to be sold regularly to brothels in India.⁷⁶ This practice still reflects the current situation of Nepal, trafficking for sexual exploitation being reported in every district and from all castes and ethnic groups.⁷⁷ Already marginalised in the Nepalese society, their sexual exploitation has reinforced stereotypes and discrimination against indigenous women.

Native women from Canada, Taiwan and United States suffer from an historical legacy of sexual violence, which has normalized their sexual exploitation.⁷⁸ Decades of government policies towards Native people have created an environment that currently facilitates the trafficking of Native women and girls.⁷⁹

1.4. The generational trauma

Though law or practice, the sexual exploitation of indigenous women has had terrible consequences on their health and has normalised violence against them. The consequences of the imperialist and colonialist use of the indigenous bodies have been felt by the next generations. It has been showed that indigenous people who experienced colonisation, forced displacement and settlement, and have been victims to assimilation policies, are subjected to dramatic decline in health and wellbeing.⁸⁰ This historical background has been name “the generational trauma”.⁸¹ Evans-Campbell defined the generational trauma as,

74 Human Rights Watch, 1995.

75 Kumar & Subedi & Gurung & Adhikari, 2001, p. 18.

76 Human Rights Watch, 1995.

77 Ibidem.

78 Johnson, 2012, p. 643.

79 Ibidem 621.

80 Survival, 2007, p. 1.

81 Johnson, 2012, p. 621.

A collective complex trauma inflicted on a group of people who share a specific group identity or affiliation—ethnicity, nationality, and religious affiliation. It is the legacy of numerous traumatic events a community experiences over generations and encompasses the psychological and social responses to such events.⁸²

Consequences of those discriminatory policies include poverty, violence, alcohol use, suicides, poor physical health and destruction of communities and families.⁸³ It has brought feeling of shame, sadness, and anger in indigenous communities and a feeling of inferiority.⁸⁴ Self-identity has been controlled, denied, and has left a impression of powerlessness.⁸⁵ The same patterns can be found in Canada:

Years of colonization and attempts at forced assimilation have led to the devastation of First Nations communities and cultures... [First Nations peoples] are more likely to encounter stressful experiences in adulthood, including poverty and unemployment, violence, homicide, assault, and witnessing traumatic events... [T]he current health and social conditions, coupled with continued discrimination, act as reminders of, and are a continuation of, the historical traumas that persist in the thoughts of Aboriginal people and continue to impact them.⁸⁶

Aboriginals of Canada are facing numerous issues related to health because of their historical oppression.⁸⁷ Policies of displacement and assimilation have destroyed family and community bounds and cultural knowledge, rendering generations vulnerable through ongoing discriminatory policies.⁸⁸ Indigenous children were brought to residential schools in order to be assimilated.⁸⁹ Exposed to violence, racism,

82 Evans-Campbell, 2008, p. 320.

83 Pierce, 2009, p. 4.

84 Ibidem.

85 Ibidem.

86 Bombay & Matheson & Anisman, 2009, p. 7.

87 Urban Society for Aboriginal Youth, 2012, p. 6.

88 Tocher, 2012, p.5.

89 Ibidem 9.

exclusion, criminalisation of spiritual ceremonies, loss of culture and lands, they lost identity and experienced emotional and physical abuses.⁹⁰

Furthermore, they are subjected to important rates of violence both inside and outside of their community.⁹¹ For instance, the mortality rate due to violence is three times higher for Aboriginal women than non-Aboriginal women, being five times higher for Aboriginal women between the ages of 25 to 44 years old.⁹² Aboriginal women are also three and a half times more likely to be victims of spousal violence than non-Aboriginal women.⁹³ Youth is particularly at risk in British Columbia, 14 to 60% of Aboriginal youth being sexually exploited, depending on the community.⁹⁴ Furthermore, 75% of Aboriginal girls under 18 have experienced sexual abuse, 50% under 14, and almost 25% under 7 years old.⁹⁵ Perpetrators are rarely punished, and if they are, they are only condemned to light sentences.⁹⁶ Amnesty International has also pointed out the issue of disappearances and murders of indigenous women.⁹⁷

In Guyana, the Amerindian Peoples Association (APA) is denouncing the abuses and rapes of indigenous women, and accuses police forces to be corrupted and to ignore the situation.⁹⁸ In Alaska, violence against Native women is the expression of deep discrimination as in Anchorage, between 2000 and 2004, the rate of sexual assaults against Native women was five times higher than for African American women, and seven times higher than for white women.⁹⁹ Furthermore, almost 58% of perpetrators against Native women have been non-Natives.¹⁰⁰ White male have been identified as common perpetrators of sexual violence against Native women.¹⁰¹

Indigenous groups from Taiwan are also pointed out as having psychological

90 Tocher, 2012, p. 9.

91 United Nations Office of the Special Adviser on Gender Issues and Advancement of Women & UNPFII.

92 Hunt, 2010, p. 28.

93 Statistics Canada, 2004.

94 Assistant Deputy Minister's Committee on Prostitution and the Sexual Exploitation of Youth, 2000.

95 McIvor & Nahanee, 1998, pp. 63-69.

96 Hunt, 2010, p. 29.

97 Amnesty International, 2004, p. 2.

98 CERD, 2006, p. 38.

99 Pierce & Koepplinger, 2011.

100Ibidem.

101Greenfeld & Smith, 1999, p. 7.

troubles as a result of historical discriminatory policies deriving from colonisation.¹⁰² Consequences include risks of suicide, social disintegration and disadvantage.¹⁰³ Psychological stress has also been found in indigenous groups of Taiwan due to social assimilation policies, with higher risk of alcoholism, depression and suicide.¹⁰⁴ Having low self-esteem and seeing exploitation as a normal process, the long-standing oppression that indigenous people had to face has rendered indigenous girls especially vulnerable.¹⁰⁵

1.5. Consequence on the current vulnerability to trafficking

The historical background of Canada, Nepal, Taiwan, and United States illuminates the understanding of indigenous women's vulnerability to trafficking. Sarah Hunt describes the roots of sexual violence in Canada and United States are as “deep as colonialism itself”¹⁰⁶:

Tactics of traffickers are consistent with many of the tactics used by colonial and American governments to subjugate Native women and girls. Indeed, the behaviour is so deeply ingrained in American history that it is often rendered invisible and thus becomes normalized.¹⁰⁷

In Canada, the majority of people trafficked are Aboriginal¹⁰⁸ women and children.¹⁰⁹ Even if the socio-economic situation of Aboriginal women in Canada explains easily why they are at such risk of being trafficked,¹¹⁰ the historical legacy of

102 Hill & Lau & Sue, 2010, p. 40.

103 Ibidem.

104 Ibidem.

105 Johnson, 2012, p. 619.

106 Hunt, 2010, p. 27.

107 Deer, 2010 (b).

108The term Aboriginal refers to the descendants of the original inhabitants of North America. The Canadian Constitution recognises three groups of Aboriginal people: the Indians, the Métis and the Inuit.

109 Sethi, 2007, p. 62.

110 Hunt, 2010, p. 28. In a study on domestic trafficking in Canada, poverty has been pointed at as a major cause of sexual exploitation. Affecting primary women and children, 52.1% of all Aboriginal children are living in extreme poverty and single Aboriginal mothers live often below the poverty level. Because of this situation of severe poverty, aboriginal women often flee their villages to find

their exploitation is directly related to their proportion in the trafficking for sexual exploitation. In Vancouver alone, 60% of sexually exploited youth are Aboriginal.¹¹¹ Aboriginal girls are still perceived as “easily available” due to the discriminatory and sexist policies, and their unequal status in the Canadian society.¹¹² As Cornet and Lendor have stated,

the sexual discrimination that [Aboriginal] women face on a day-to-day basis cannot be separated from the twin legacies of colonialism and racism, which continue to marginalize Aboriginal peoples and devalue their cultures and traditions.¹¹³

In United States, cases of trafficking of Native women and girls for sexual exploitation has also been reported in different states such as Alaska, Washington, Oregon, Minnesota, and South Dakota.¹¹⁴ In some states, the percentage of Native women being involved in prostitution is incredibly high compared to the percentage of actual Native women present in the country. For instance, in 2007, while there are only 2,2 % Native women in the city of North Minneapolis, they represented 24% of the women on probation for prostitution.¹¹⁵ In Alaska, recent data have showed the particular vulnerability of Alaska Native women from rural communities to be trafficked to Anchorage for sexual exploitation¹¹⁶ because of the perceptions of being “versatile” and “vulnerable”.¹¹⁷ Traffickers target them because they can “post them (online) as Hawaiian, as Native, as Asian, as you name it”.¹¹⁸ They are often recruited

jobs, and become at higher risk of being trafficked. Aboriginal girls in rural areas are trading “sexual favours” for transportation, food, clothes, shelter, drugs and alcohol. Assistant Deputy Minister’s Committee on Prostitution and the Sexual Exploitation of Youth, 2000, p. 9; Bowen, 2006, p. 20.

111 Sethi, 2007, p. 59.

112 Mann, 2005.

113 Cornet & Lendor, 2002.

114 Johnson, 2012, p. 619-620.

115 Ibidem 620.

116 D’Oro, 2012. While Native women and girls represent 8 % of the city population, 33% of them are trafficked for sexual purpose in Anchorage. In 2012, about one-third of the women arrested for prostitution in Anchorage were Alaska Native, although they comprise only 16% of the population. Aware of this problem, police officers are now spreading information about trafficking among Native population. Farley et al., 2011, p.17; The Associated Press, 2013.

117 Goeden, 2013, p. 11.

118 The Associated Press, 2013.

by other Native women trapped in the trafficking process.¹¹⁹

The generational trauma of indigenous in Canada, Taiwan or United States, has provided easy targets to human traffickers.¹²⁰ According to Koeplinger, a generational trauma such as the one of American Indian leaves “entire communities unable to internalise a healthy sense of self and to protect themselves against sexual exploitation”.¹²¹ Not only have Native women experienced factors that increase their vulnerability to trafficking for sexual exploitation, such as relocation, poverty, lack of education, and societal trauma,¹²² but they are also not able to respond positively to this threat.¹²³ Studies have also shown a high percentage of post-traumatic stress disorder among American Indian women and the fact that Native girls are subjected to extreme emotional vulnerability,¹²⁴ going until the point of hurting themselves or having suicidal thoughts.¹²⁵ Indigenous women experience a diminution of self-esteem, a feeling of not being safe and of physical and emotional damage.¹²⁶ They also often blame themselves for the harm that is made to them. All these conditions have negative impact on children and on the financial security of indigenous women and facilitate their exploitation.¹²⁷

In Taiwan, although the indigenous population of Taiwan comprised not even 2% of the population, they represented 70% of the Taiwanese trafficking for sexual exploitation.¹²⁸ Most girls trafficked into prostitution were coming from the Atayal community.¹²⁹ Today, 40,000 to 60,000 children are involved in prostitution in Taiwan, 40% being aboriginal girls.¹³⁰ Aboriginal women face a low economic situation and have to face the discrimination of being born as “subordinated”.¹³¹ Girls from Aboriginal communities can be affected by this stigma and therefore fall easily into the

119 The Associated Press, 2013.

120 Johnson, 2012, p. 631.

121 Ibidem 617.

122 Deer, 2010, p. 676.

123 Pierce, 2009, p. 5.

124 Johnson, 2012, p. 636.

125 Pierce, 2009, p. 84.

126 National Clearinghouse, 2008, p. 3.

127 Newfoundland Labrador, 2005, p. 1.

128 Hwang & Bedford, 2003, p. 201.

129 Ibidem.

130 Kelly & Maghan & Serio, 2005, p. 150.

131 Ibidem.

sex trade.¹³² As the economic situation of Aboriginal is poor, parents expect support from their children, seeing prostitution as a justifiable option.¹³³ Shu-Ling Hwang addresses the pressure Atayal girls suffer inside of their community and family, being seen as merchandises to be exchanged.¹³⁴ The combination of the degradation of family units, involvement in prostitution and social marginalisation has been pointed as contributing to the trafficking of Aboriginal girls for the next two decades.¹³⁵

In Nepal, the historical exploitation of indigenous women can explain their disproportionate proportion in human trafficking in Nepal, representing 47 % of the trafficking for sexual exploitation in the country.¹³⁶ In 2006-2007, of 233 children rescued from the trafficking circle in Nepal, 217 were girls, and 78.55% were from ethnic groups.¹³⁷ It has also been highlighted that for decades, women and girls from Buddhist communities, such as the Tamangs Sherpas, Lamas, Gurungs, have been brought to Indian brothels.¹³⁸

The generational trauma also influences the reporting of these crimes. A study of

132 Au, 2012, p. 267. Most of the girls start working between 15 to 19 years, usually not finishing high school. Racial stereotypes continue to discriminate them as Han Chinese bosses are reluctant to employ them.

133 Hwang, 2005, p. 186.

134 Ibidem.

135 Ibidem. Connie Au addresses what she calls the “six levels of oppression” of aboriginal women involved in the sex trade in Taiwan: “First, as an aboriginal, she is subordinate to Han Chinese, considered an uncivilized person, without good education, proper social manners and moral standards. Second, as a person coming from a village, she is discriminated against by people in the city. Third, as a woman, she is subordinated to men. In her family, she is considered a sexual object by her father, brother or husband. In the society, she is considered by brothel owners as a commodity selling sex for their benefit. Fourth, in the Confucian society, if she is a young woman, she is expected to obey her parents' command and support her family. She is required to sacrifice herself as a person and to sacrifice her body to solve her parents' financial problems and to support her sibling's education... The years of her childhood and adolescence are crucial for building up her self-identity and confidence, but she is shaped as a sex worker, being educated that her value as a person lies in her body, but her personhood and body are controlled by sex traders and customers... Fifth, as a sex worker, she is considered morally inferior in the society and is isolated by the "good" people. Finally, if she is a forced sex worker, she is under the threat of the merciless violence of brothel owners, brokers and parents, especially if she escapes or reports to the police.” Au, 2012.

136 Bansh Jha, 2004, p. 14.

137 Commission on the Status of Women (CSW), 2012, p. 28. 26 to 29 districts of Nepal are considered source areas of international trafficking, especially around the Kathmandu Valley. Concerning internal trafficking, 26 out of the 75 districts of Nepal have been highlighted as originating areas, indigenous groups being again the most predominant victims, especially those from Sindhupalchowk, Makwanpur and Chitwan districts. Sijapati & Limbu & Khadka, 2011, p. 8; Kumar & Subedi & Gurung & Adhikari, 2001, p. 11.

138 Human Rights Watch, June 1995.

Amnesty International described the current sexual violence indigenous women are facing as a result of impunity for past crimes.¹³⁹ Native women see those practices as a continuation of colonisation, as 62% of the women interviewed made the link between colonisation and prostitution of Native women.¹⁴⁰ Therefore many Native victims do not submit a complain because there is neither trust or belief it will be listened and investigated.¹⁴¹ A culture of silence developed inside of Native communities, as sexual violence against Native women has been normalised.¹⁴² There is also a high risk of marginalisation. Victims of abuse often do not dare to complain because they fear to be blamed or hurt in their own communities.¹⁴³ For the same reason, building a response coming from the community itself is also particularly difficult.¹⁴⁴ This whole combination of risk factors has rendered American Indian women especially vulnerable to being trafficked.

Indigenous women and girls are at risk not only because of poor economic condition, but also because they suffer from racism and exclusion.¹⁴⁵ The sexual exploitation of indigenous girls is nothing more than another form of racial discrimination. Therefore, understanding the processes in which colonialism has shaped indigenous identity is essential to have a comprehensive picture of the current situation of indigenous women in those countries.¹⁴⁶ Juan Miguel Petit, the former Special Rapporteur on the sale of children, child pornography and child prostitution, has mentioned that stereotypes concerning indigenous women and girls had an important impact on their vulnerability to trafficking for sexual exploitation.¹⁴⁷ He has also addressed the fact that racial discrimination had an impact on the way traffickers choose their victims, as they are more likely to target people from a different class or ethnicity.¹⁴⁸ The trafficking of indigenous girls and women is considered as result of

139 Amnesty International, 2007, p. 5.

140 Farley et al., 2011, p. 32.

141 Johnson, 2012, p. 636.

142 Ibidem.

143 Ibidem.

144 Pierce, 2009, p. 106.

145 Kumar & Subedi & Gurung & Adhikari, 2001, p. 11.

146 Lawrence, 2003, p. 4.

147 UNCHR, 2004, p. 11.

148 Farley, 2006, p. 111: "Pornography, prostitution, and trafficking are rooted in sexism, racism and

globalisation and of increasing demand for younger women from more “exotic” origin.¹⁴⁹ For instance, indigenous girls of Ethiopia are found in brothels because of inciting posters in the streets of the city.¹⁵⁰ This kind of advertising contributes directly to the sex trafficking of “Other” girls, especially indigenous girls. In Nepal, a recent ILO study revealed a strong demand for girls from indigenous groups, the Hills and below the age of 18.¹⁵¹ More than 52% of the “customers” interviewed declared preferring girls from ethnic minorities.¹⁵²

Article 31 of the Beijing Declaration of Indigenous women addresses specifically this issue, asking the media “to realise that Indigenous women refuse to continue to be treated and considered as exotic, decorative, sexual objects, or study-objects”.¹⁵³ A study highlighted the racial attitudes in the practice of sex tourism in Southeast Asia, Latin America and the Caribbean.¹⁵⁴ Through interviews of white men, they discovered the influence of perceptions of “sexualised others” on the sex trade. Cheryl O’Brien also addresses the commodification of women’s bodies and the demand for “Other”, “exotic, foreign” women in the sex trade.¹⁵⁵ According to her, it reveals racist and neo-colonialist mentalities, some “customers” arguing that “what you do to a foreign woman is different, it doesn’t count”¹⁵⁶. She also highlights that in countries where prostitution has been legalised, such as the Netherlands and Germany, there is a high demand for “exotic” women, the local prostitutes not fulfilling the demand.¹⁵⁷

As trafficking for sexual exploitation is based on racial and colonial mentality subordinating the “Other”¹⁵⁸, historical legacy of exploitation of indigenous women is

class prejudice, all of which are sexualized. Women in prostitution are purchased for their appearance, including skin colour and characteristics based on ethnic stereotyping. Racist stereotypes in prostitution are driven by johns’ demand for “something different.”

149 O’Brien, 2008/2009, p. 7.

150 Ibidem.

151 World Education Brighter Futures Program, 2009, p. 9.

152 Frederick, & Singh, 2006.

153 Beijing Declaration of Indigenous Women, NGO Forum, UN Fourth World Conference on Women Huairou, Beijing, 1995.

154 O’Connell, 2001, pp. 5-24.

155 O’Brien, 2008/2009, p. 5.

156 Seabrook, 2001, p. 89.

157 O’Brien, 2008/2009, p. 7.

158 O’Brien, 2008/2009, p. 7.

still leading to violence, abuse and exploitation. Stereotypes about indigenous women persist and create a situation of vulnerability for these women to be trafficked. For a long time, sexual exploitation of indigenous women and girls has been framed in the context of prostitution or sex work, rather than in the context of trafficking.¹⁵⁹ Efforts to prevent human trafficking have to take into account the demand side of the trafficking process and its historical root causes in order to make policies efficient. They have to be made in parallel with other actions in order to erase all forms of abuse and marginalisation.¹⁶⁰ Amnesty International has highlighted that the scope of violence against indigenous women is yet to be investigated, as there is a cruel need of comprehensive analysis.¹⁶¹

159 Sethi, 2007, p. 57.

160 Hunt, 2010, p. 27.

161 Amnesty International, 2004, p. 2.

Chapter 4:

Cultural practices of sexual exploitation of indigenous women

Root causes of trafficking are often related to social, cultural and religious practices. Indeed, harmful traditional practices can have an important impact on the vulnerability of indigenous women and facilitate their exploitation.¹ Otherness can play a role in the way indigenous women are considered and used in different systems of oppression. The current state of research on that issue in Nepal and India suggests that what brings indigenous women and girls into the trafficking processes in those countries comes from historical and cultural roots. Nepal was indeed never colonised but invaded by the Hindus, although it was a British protectorate and has supplied indigenous girls to the British Army.² India has been under British rule but the lack of research in that area does not allow to make a direct link between the influence of colonisation and the exploitation of indigenous girls.

4.1. Harmful practices and human trafficking

There is more and more awareness and interest on the link between harmful traditional practices and discrimination against women and girls.³ As the United Nations Special Rapporteur on Traditional Practices Affecting the Health of Women and girls has highlighted since 1989,⁴ certain social and cultural practices can indeed increase the vulnerability of indigenous women and children to trafficking:⁵

Many forms of gender-based violations, such as rape, domestic violence and harmful traditional practices, are linked to social and cultural situations that contribute to the vulnerability of women to being trafficked.⁶

1 United Nations Economic and Social Commission for Asia and the Pacific, 2009, p. 97.

2 Kumar & Subedi & Gurung & Adhikari, 2001, p. 18.

3 Ras-Work, 2006, p. 2.

4 ECOSOC, 1999.

5 Ras-Work, 2006, p. 2.

6 UNODC, 2008 (b), p. 18.

Gender roles can have an important impact on the vulnerability to trafficking. Indeed, the perception of a girls' duty in a family will influence the normalisation of her exploitation.⁷ Marrying a girl is sometimes perceived as the most important thing she can achieve.⁸ In Togo, girls are especially vulnerable to trafficking because the parents see their daughter as a way to complement their own income.⁹ In Asia, preference is given to sons, creating a situation in which girls feel the obligation to find quickly a husband in order not to be a charge for the family.¹⁰ They even accept offers of marriage without knowing well the other person, which leads sometimes to trafficking.¹¹ For instance, in Nepal, fake marriages have been reported as the second most used means of deception of girls for trafficking purposes.¹² Age is also an important factor, as it is estimated that “more girl children under 16 are in domestic service than in any other category of work or child labour”.¹³ The role of women and the violence they are subjected to inside of their society, family, community, increases their vulnerability and their ability to get out of the trafficking circle:

If a woman wants to leave a violent relationship or household she has to start from scratch. She has to change everything including where she lives and where she works. This is why women are so attracted by ads for jobs in other countries. They are often desperate to get out and go somewhere new. If you tell them they are likely to be forced into prostitution they say “well better to be a prostitute than to be raped and abused by my husband”.¹⁴

7 Cameron & Newman, 2008, p. 40.

8 Ibidem.

9 Ibidem 41.

10 Cameron & Newman, 2008, p. 41.

11 Ibidem.

12 Ibidem.

13 Ibidem.

14 Ibidem 42.

4.2. The impact on indigenous women

Indigenous women are also particularly affected by these gender roles. The situation of indigenous women depends from a community to another and the perceptions of cultural practices will also be perceived differently by indigenous women.¹⁵ Indigenous women are considered and consider themselves being the guardians of traditional indigenous knowledge and spirituality.¹⁶ They are responsible for the continuity of their culture, as they have specialised skills related to traditional health care, ceremonies, and stories.¹⁷ However, they are also subjected to expressions of gender discrimination. There are different practices that affect directly indigenous women such polygyny, exclusion from property rights and collective decision-making, etc.¹⁸ They also suffer from different types of gender violence and harmful traditional practices such as female genital mutilation, domestic violence or gender based violence in situations of armed conflicts.¹⁹ They are aware that some traditional practices may affect their well-being and have to be questioned, as tradition and culture are often used as a justification for their oppression and subordination:²⁰

We are against violence, attacks, raping. It is not right that we are sold for money. These were our customs before but we have also got to change. It is also unfair that because of custom we cannot be represented or have rights to land.²¹

If patriarchal systems of oppression can be found everywhere, the forms they are taking and the degree of violence will vary from a given situation to another. In Nepal, several practices have rendered indigenous women more vulnerable to trafficking.²² The *deukis* system is pointed at one of the historical exploitation of indigenous girls.²³ Rich families were indeed buying young girls in order to offer them to the temples. They

15 International World Group for Indigenous Affairs (IWGA), 1999, p. 9.

16 Ibidem 8.

17 Ibidem.

18 Ibidem 9.

19 Ibidem 8.

20 Ibidem 9.

21 IWGA, 1999, p. 9.

22 See 42.

23 Locke, 2010, p. 50.

were then forced into prostitution and could not marry. Originally, those girls were beneficiaries of a high status and property rights.²⁴ But this status has decreased and the girls are now recruited from poor and low social status communities. Nepal has abolished the *deuki* system, and the Nepalese Constitution forbids human trafficking and exploitation in the name of religion and culture.²⁵ However, it seems that the system has been increasing. Although there is a lack of data, it is estimated that there are currently more than 30,000 Deukis in Nepal compared to 17,000 in 1992.²⁶ Although this practice was originally was linked to some kind of faith, it currently has become a real business, girls being sold for a high price.

It is also known in India under the name of *devadasi*²⁷ system. Only targeting women from poor and marginalized communities, 93% of the girls involved are coming from scheduled castes and 7% from scheduled tribes.²⁸ The fact that this system chooses only girls from poor, discriminated and marginalised areas, show the will to target population that will not have other choice than to accept this cruel practice. They are sold to the temples by their families without consent, “married” to the divinity of the temple before puberty and are usually raped soon afterwards, in order to become available to “offer sexual services” to any man in the region.²⁹ They are not allowed to marry, which deprive them from the right to lead a normal family life and reinforce the social exclusion. Although it has been forbidden since the independence, thousands of women are still victims of this practice in India.³⁰ It continues clandestinely and has shifted as a way to bring girls into the sex trade.

In Nepal and India, children resulting from this practice are also severely disadvantaged.. In both countries, as citizenship is transmitted by the father, they are not officially citizens and are therefore denied access to education and health care.³¹ They are discriminated because of their origin and the stereotypes about their “mother’s

24 Locke, 2010, p. 50.

25 Sanghera & Kapur, 2000, p. 24.

26 Datta, 2005, p. 12.

27 Meaning literally “a slave of God”.

28 Minority Rights Group International, 2011, p. 4.

29 Ibidem.

30 Black, 2007, p. 2.

31 Whisnant & Stark, 2004, p. 410.

availability”³² In India, it is believed that the status of *devadasi* is transmitted through generations.³³ As this system is already a form of trafficking for sexual exploitation, getting out of it is particularly difficult. Indeed, once the girls entered in this system, they are facing discrimination and social stigma of being prostitutes.³⁴ They are therefore at high risk to be trafficked again as they are already in a situation of deep marginalisation and exclusion.

Another practice has been pointed out as being the cause of the exploitation of indigenous girls in Nepal, called the *Kamaiya* system. The *Kamaiya* system is an ancient system of forced labour in the South of Nepal.³⁵ Originally concerning a system of servitude linked with the right to stay on an owner field in exchange of services and of a low salary, often leading to debt bondage, it has also evolved in the selling of young girls by parents for a period of one year or more to richer families.³⁶ According to Pranati Datta, the *Kamaiya* system was “nothing more but ritualised form of prostitution”³⁷, responsible for the fall of Nepali women into the sex trade. The *Kamaiya* system has been abolished but as a result of the absence of programmes of rehabilitation, children are still at high risk to fall into the trafficking circle.³⁸ For instance, the Tharu, one of the ethnic groups of Nepal, is living in severe poverty and misery because of this system.³⁹ Traffickers, aware of this vulnerable position, do not hesitate to take advantage of it.

Nepal and India have been chosen because of the well-documented data and reports on this issue but cases have been also reported elsewhere, for instance in Pacific Islands. In Papoua Guinea, indigenous girls are also pointed as vulnerable to trafficking:

Children, especially young girls from tribal areas, are most vulnerable to commercial sexual exploitation; they are also subjected to forced labour by members of their immediate

32 Minority Rights Group International, 2011, p. 4.

33 Black, 2007, p. 2.

34 Ibidem.

35 Anti-Slavery, 2009, p. 1.

36 Pradhan, 2006.

37 Datta, 2005, p. 12.

38 Pradhan, 2006.

39 Ibidem.

family or tribe. Families traditionally sell girls into forced marriages to settle debts, leaving them vulnerable to forced domestic service, and tribal leaders trade the exploitative labour and service of girls and women for guns and political advantage.⁴⁰

Those examples show the link between traditional harmful practices and the sexual exploitation of women and girls, also within indigenous communities. In the Pacific Islands, traditional forms of power such as village elders, religious tribunals, traditional chiefs, may legitimise violence against women under the excuse of tradition and religion.⁴¹ In general, customary law will allow practices such as killing, rape, abduction, and will not punish the perpetrator.⁴² By doing so, patriarchal systems often contribute and perpetuate discrimination against women. Women bodies are therefore seen as commodities to exchange, to be bought and sold. Different actors play a role in the enforcement of sexual norms on women, such as the state, the family, the community.⁴³ In order to fight those systems, gender hierarchies have to be addressed. Women in the Pacific encounter many challenges when they want to question those beliefs and practices.⁴⁴ For instance, in the Vanatu island, where the population is at 98,5 % indigenous, the *kastom* system is pointed at having important consequences on gender roles and perpetuates a culture of silence regarding violence against women.⁴⁵ Being a parallel system of justice, the *kastom* system perpetuates the discrimination against women and girls.⁴⁶ They are sometimes given as payments during trials, women being unable to participate in the decisions of the tribunal.⁴⁷

The same patterns can also be found in Africa, especially in Ghana, Togo, and Benin. A study about human trafficking in Africa has pointed out the influence of deep rooted practices of slavery inside of indigenous communities and its link with current

40 United States Department of State, 2012 (a).

41 Ras-Work, 2006, p. 8.

42 United Nations Economic and Social Commission for Asia and the Pacific, 2009, p. 98.

43 Amnesty International, 2013.

44 United Nations Economic and Social Commission for Asia and the Pacific, 2009, p. 98.

45 Ibidem109.

46 Forsyth, 2009, p. 123.

47 Ibidem 121.

human trafficking.⁴⁸ The *trokosi system*, an indigenous practice of selling girls to priest for a certain period, has increased their vulnerability to being trafficked.⁴⁹ The custom is aimed at giving a virgin of the family as a punishment of the gods for crimes committed by a family member.⁵⁰ This system of domestic servitude is subjecting indigenous girls to sexual exploitation and forced labour.⁵¹ Brought by family members, the girls are sometimes very young, some of them being only 8 years old.⁵² When becoming a *trokosi*, the girl has to perform ritual duties, but also domestic work, without any compensation or remuneration.⁵³ Without education, the girls are particularly vulnerable when getting out of this process. They might indeed be released if the family pays the price.⁵⁴ Even if they have the possibility to marry afterwards, they are often marginalised inside of the society.⁵⁵ Children born from this practice are also victims of discrimination. The government of Ghana passed a law against the *trokosi system* in 1998 but cases are still reported.⁵⁶ Defenders of this practice argue that it is part of indigenous culture and religion.⁵⁷ Although much more research is needed, the region of Volta, where this practice has been used in Ghana, has been pointed at one of the originating area for trafficking for sexual exploitation.⁵⁸

As trafficking of girls and women is linked with deep cultural practices and is historically embedded, knowing and understanding those historical harmful practices can help to reduce it:⁵⁹

Cultural and religious practices such as *trokosi* in Ghana or the similar *devadasi* and *devaki* in India and Nepal, show clearly how trafficking and slave-like practice can be institutionalised

48 Njoh & Ayuk-Etang, 2012, pp. 30-52.

49 Ras-Work, 2006, p. 8.

50 Refugee Documentation Centre of Ireland, 2010, p. 1.

51 Ibidem.

52 Ibidem 2.

53 UNHRC, 2008, p. 14.

54 Ibidem 15.

55 Ibidem.

56 Ibidem.

57 Ibidem 16.

58 United States Department of State, 2012 (b).

59 Long, 2004, p. 5.

and accepted by a society as a normal cultural practice.⁶⁰

In those different examples, indigenous women are exploited by different actors, both outside and inside of their community. It shows the complex discrimination they are facing, because of their gender, but also because of their belonging to a certain group inside of the society. The devaluation of women and girls facilitates their exploitation and renders them more vulnerable to trafficking.⁶¹ Gender hierarchies have to be deconstructed, as they create an inherent culture of oppression and exploitation.⁶² Furthermore, rehabilitation programmes have to ensure to those girls alternative sources of income in order to avoid them to fall into the trafficking circle.⁶³ Much more research is needed on the issue but this section gives an idea of the impact of traditional practices on the trafficking of indigenous girls for sexual exploitation.

60 Global Alliance Against Traffic in Women, 2000, p. 39.

61 UNODC, 2008, pp. 454-456.

62 Jackson, 2001, p. 1999.

63 Mensah & Godwylll, 2010, p. 58.

Chapter 5:

Processes of dispossession

Geopolitical risk factors can have an important impact on the vulnerability to trafficking. This section will present two specific processes of dispossession: internal displacement and statelessness. The deprivation of lands and identity have been experienced by indigenous people through history and are unfortunately still prevalent today. Being subjected to displacement because of development projects or because of conflicts, they find themselves disconnected with their land and their community. This issue is closely linked with statelessness, as lack of citizenship is often the consequence of displacement. This chapter will present the relationship between the discriminatory policies of displacement and lack of citizenship of indigenous people and their vulnerability to human trafficking through the examples of Burma, Lao PDR, Malaysia, Mexico, and Thailand.

5.1. Internal displacement

To be displaced refers to the fact to “move from the proper or usual position and force someone to leave their home, typically because of war or persecution”.¹ This social phenomenon has often heavy consequences on the socio-economic positions of people displaced. Internally displaced people (IDPs), unlike refugees, are people moved inside of the country borders.² The factors causing internal displacement are usually conflict-induced displacement, natural disaster-induced displacement and development-induced displacement.³ The "Guiding Principles on Internal Displacement" is the main instrument specifically dealing with internally displaced persons (IDPs).⁴ Although not legally binding, it gathers the relevant human rights and humanitarian law on internal displacement and provides a useful protection for IDPs.⁵ They define IDPs as:

Persons or groups of persons who have been forced or obliged to

1 Soanes & Stevenson, 2004.

2 UN High Commissioner for Refugees, 2007, p. 10.

3 Kovac, 2009, p. 11.

4 UN High Commissioner for Refugees, 2007, p. 5.

5 Ibidem.

flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁶

Unlike the definition of refugee, the IDP definition is not a legal one, as it does not give any special legal status. It is a description of “the factual situation of a person being uprooted within his/her country of habitual residence”.⁷

Displacement affects the social structures of any population, but impacts more heavily indigenous people.⁸ Indeed, indigenous cultures are closely linked with agriculture, land rights and farming. Their relationship with their lands forms a part of their identity.⁹ Stella Tamang, an indigenous leader from Nepal, summarises this relationship saying,

[I]ndigenous peoples...have an intimate connection to the land; the rationale for talking about who they are is tied to the land. They have clear symbols in their language that connect them to places on their land....in Nepal, we have groups that only can achieve their spiritual place on the planet by going to a certain location.¹⁰

Therefore, displacement and relocation to cities affect directly their cultural and economic survival and increase their vulnerability to trafficking. The loss of their lands has a close relationship with the marginalisation, exclusion, discrimination, and poverty of indigenous people.¹¹ Poverty of indigenous people is often related to the negation of their lands' rights and the dispossession of their territories and resources.¹² The most affected are women and children, who become especially vulnerable to abuse and

6 Inter-Agency Standing Committee, 2010, p. 8.

7 Ibidem.

8 Akee & Basu & Chau & Khamis, 2010, pp. 691-716.

9 United Nations Secretariat of the Permanent Forum on Indigenous Issues, 2007 (b), p. 2.

10 Ibidem.

11 Ibidem.

12 Ibidem.

exploitation, including to human trafficking for sexual exploitation.¹³ During the Commission on the Status of Women (CSW) in New York, in March 2013, indigenous women from the Asia-Pacific region have once more highlighted the importance of land rights regarding the situation of indigenous women and their vulnerability:

Occupation of indigenous peoples' land, evictions and sexual harassments, including rape and murder of indigenous women by military and settlers continues... Dispossession goes hand in hand with violence by state armed forces, settlers or the security personnel of private companies. The occupation of indigenous peoples' land not only means forced eviction but murder and sexual harassment including rape of indigenous women.¹⁴

Being generally linked with the concept of human security¹⁵, displacement can have important consequences on the vulnerability to trafficking. Mass displacements of indigenous people have rendered them easy targets for traffickers.¹⁶ The consequences for indigenous people are dramatic, as they encounter landlessness, cultural loss, or health problems.¹⁷

This section is divided in two parts, according to the types of displacement, and shows the effects on the vulnerability of indigenous women to be trafficked, through the cases of Lao PDR, Thailand, and Guyana to address development-induced displacement, and the cases of Burma and Mexico concerning conflict-induced displacement.

5.1.2. Development-induced displacement

Development-induced displacement is also heavily affecting indigenous people worldwide. Development projects, such as dams, highways, or other types of large-scale projects, often result in the displacement of populations.¹⁸ It is estimated that 250

13 Akee & Basu & Chau & Khamis, 2010, pp. 691-716.

14 Association For Women's Right in Development (AWID), 2013.

15 MacFarlane & Khong, 2006, p. 220.

16 Eversole & McNeish & Cimadamore, 2005, p. 132.

17 Ibidem 133.

18 Norwegian Refugee Council & Internal Displacement Monitoring Centre, 2013.

million people have been displaced by development-induced projects in the last twenty years.¹⁹ Development projects are increasing, causing more and more involuntary displacement and can be of various types, from water supply, to urban infrastructure or transportation.²⁰ Often, displacement is not compensated and resettlement assistance is not provided by States. Several consequences have been associated with development-induced displacement such as landlessness, increased poverty, risk of unemployment, homelessness, but also marginalisation, food insecurity, increased mortality rates, and social disintegration.²¹

Indigenous people are disproportionately affected by those projects. Often politically marginalised, they are the primary victims of those processes of dispossession:

In India, the Adivasi or tribal people, although only representing eight percent of the total population, make up 40-50 percent of the displaced. In Nepal, indigenous groups displaced by a dam on the Kaligandaki river have lost their land and livelihood and have reportedly been inadequately compensated. The livelihood of an estimated 35,000 indigenous Ibaloi people is threatened by the construction of the San Roque Dam in the Philippines. Mon, Karen and Tavoyans in Burma are probably among the worst off, displaced by large infrastructure projects and subject to forced labour and abuses by the military.²²

Different human rights instruments impose obligations on states regarding the protection of indigenous people. The ILO Convention 169 states that indigenous people should have a say in the process and implementation of development plans that concern them.²³ If development-induced displacement is not contained as such in the definition

19 Hoshour & Kalafut, 2010, p. 1.

20 Norwegian Refugee Council & Internal Displacement Monitoring Centre, 2013.

21 Ibidem.

22 Norwegian Refugee Council & Internal Displacement Monitoring Centre, 2013.

23 Convention concerning Indigenous and Tribal Peoples in Independent Countries (adopted 27 June 1989, entered into force 5 September 1991) C169 art 7

of IDPs, the UN Guiding Principles on Internal Displacement explicitly covers development-induced displacement.²⁴ The displacement is not prohibited as such, but cannot be used as a mean of discrimination and needs to have a legitimate justification.²⁵ Nevertheless, development-induced displacement can also sometimes be the consequence of discriminatory policies, used as a tool in order to target specific areas and communities.²⁶ For instance, in Burma, according to NGOs, dams' construction projects have been undertaken on the Salween river, at the exact place when the government of Burma has a policy of ethnic cleansing.²⁷ Development-induced displacement is catching more and more the attention of human rights specialists, as it can cause irreversible marginalization or even extermination of populations.²⁸

In Thailand, discriminatory attitudes and actions are still prevalent among government officials of Thailand. Until the 1980s, the concern of policies of the Thai government about hill tribes was mainly focused on opium cultivation and communist insurgency.²⁹ They developed a language and policy on “solving the hill tribes' problem”.³⁰ Public opinion on the hill tribes has been shaped by government policy and influenced by the stereotypes that have been spread against them, leading to discrimination and relocation.³¹ The increasing number of developments projects and tourism has pushed the hill tribes to cultivate cash crops instead of their original subsistence agriculture.³² When displacement occurs, girls are expecting to leave their community to work in the cities to complement their parents' income.³³ Studies have demonstrated the damaging effect on the socio-economic situation of indigenous women and girls, being stuck in a debt cycle because of lack of resources.³⁴ They start to prostitute as a mean of survival as they can no longer be dependent on their lands'

24 United Nations Office For The Coordination Of Humanitarian Affairs (OCHA), 2003, p. 4.

25 Norwegian Refugee Council & Internal Displacement Monitoring Centre, 2013.

26 ECOSOC, p. 2002, p. 18.

27 Eversole & McNeish & Cimadamore, 2005, p. 133.

28 Fernandes, 2006, p. 112.

29 Luithui & Lasimbang, 2007. p. 242.

30 Ibidem.

31 Ibidem.

32 Nawara, 2010, p. 38.

33 Phonklieng, 1999, p. 53.

34 O'Brien, 2008/2009, p. 2.

production. Often, they are sold at very young age to provide some income to the family.³⁵ Thailand is an example of environmental destruction for the benefit of development, contributing to trafficking for sexual exploitation of women in general and of indigenous women in particular.³⁶

Development projects and displacement of indigenous population have also been pointed out as one the major root causes of trafficking of indigenous tribes in Lao PDR. Massive developments projects have been launched, resulting in the displacement and relocation of many indigenous communities.³⁷ A study clearly showed the consequences of these policies on the trafficking of indigenous children.³⁸ Available data suggest that indigenous girls, between 12 and 18, are the most at risk of being trafficked.³⁹ All the reported indigenous trafficking victims in a study on this issue had been subjected to earlier displacement and relocation.⁴⁰ The Mon-Khmers are apparently the most represented, as they make up 27 % of the cases reported, followed by Tibeto Burman (10%) and Hmong-Mien (1%).⁴¹ Although further research is needed, it appears that indigenous girls are mainly trafficked for sexual exploitation.⁴²

The problem of trafficking of indigenous women and girls in Lao PDR is a logical consequence of long-standing discriminatory policies from the government. For instance, Hmong population is targets of systematic violence and discrimination coming from the Lao Government.⁴³ They have been displaced by force in order to build dams, being therefore deprived from their lands and traditional lifestyles.⁴⁴ They also have been the most target group of drug control policies. Even if the numbers are not known,

35 O'Brien, 2008/2009, p. 4.

36 Ibidem 2.

37 United Nations Secretariat of the Permanent Forum on Indigenous Issues, 2013, p. 12-13.

38 Ministry Of Labour And Social Welfare Lao People's Democratic Republic, 2005, p. 6.

39 United Nations Secretariat of the Permanent Forum on Indigenous Issues, 2013, p. 12-13.

40 Ministry Of Labour And Social Welfare Lao People's Democratic Republic, 2005, p. 18, 11. Laos is designed as a source country for trafficking, and to a lower extend, as a transit country. It is particularly vulnerable to trafficking because of its geographical position, having as neighbouring countries Thailand, Cambodia, Vietnam, China and Myanmar. Trafficking of human beings is indeed a major issue of this region, as 250,000 and 400,000 women and children are trafficked each year.

41 Ibidem 26.

42 Ibidem.

43 United Nations Committee on the Elimination of Racial Discrimination (CERD), 2012.

44 Ibidem.

it is estimated that around 65,000 indigenous people have been displaced because of drug control.⁴⁵ Even if those policies included a strategy in order to provide alternative sources of income for the producers,⁴⁶ a study pointed at the social and cultural dynamics that underline the displacements of population, putting light on the government will to remove indigenous people from their lands and relocate them to lowlands areas.⁴⁷

According to Russell and Othan Hall, Guyana is an interesting case study regarding the relationship between globalisation and colonial past and the way it reinforces poverty and ethnic divisions.⁴⁸ Although some NGO reports are mentioning the issue, there is one and only academic research about trafficking of indigenous girls in Guyana.⁴⁹ According to this study, the major root cause of their vulnerability would be their long-standing institutional discrimination, indigenous people being marginalised in the Guyanese society.⁵⁰ Inheriting from an important colonial past, the country is composed of diverse ethnic groups and none of them is representing the majority of the population. The Amerindian People's Association (APA) and the Forest People's Alliance (FPA) stated that discrimination against indigenous people was not an issue of the past, but was reflected in current policy and practice.⁵¹ As the Equal Rights Trust states:

[W]hen examining evidence of discrimination and inequality in Guyana, it is impossible to avoid the politicisation and polarisation of ethnicity which dominates political life, with a number of damaging consequences for the promotion of equality and non-discrimination.⁵²

45 Fawthrop, 2005.

46 United Nations International Drug Control Programme (UNDCP), 2000, p. 10.

47 Evrard & Goudineau, 2004, p. 937.

48 Russell & Otha Hall, 2010, p. 130.

49 Indigenous people of Guyana are asking to be called “indigenous” rather than “Amerindians”, which is the name given by missionaries. For this reason, this section will talk about the “indigenous people” of Guyana. Guyanese Organization of Indigenous Peoples (GOIP), 2008, p. 2.

50 Mantini, 2008, p. 341.

51 CERD, 2006, p. 2.

52 The Equal Rights Trust, 2012, pp. 46-48.

The main concern expressed by different NGOs or non-state actors is the issue of land rights.⁵³ The Amerindian People's Association (APA) has showed the expression of discrimination through some legislation, such as the Amerindian Act 2006, and the unwillingness of the government to recognise indigenous land rights and protect them from the effect of development projects on their traditional lifestyles.⁵⁴ Different reports have highlighted the failure of the state to ensure effectively land rights to indigenous communities,⁵⁵ especially due to weak regulations on mining.⁵⁶ Concessions of lands are sometimes granted with the consent of indigenous communities, and information is not given to them on time, affecting their full participation.⁵⁷ The issue of mining in Guyana is becoming one of the major factor bringing girls into the trafficking process.⁵⁸ Much of the human trafficking in Guyana concerns indigenous girls,⁵⁹ pointed out as particularly vulnerable to trafficking for sexual exploitation.⁶⁰ Usually, it occurs from the hinterland to the coast, as girls are endured into prostitution because of false promises of employment.⁶¹ Hoping to find employment opportunities such as cooks, they are attracted to the mining camps but are trapped in the trafficking circle or are victims of rapes.⁶²

The increasing numbers of development-projects and the denial of indigenous lands' right through their displacement and relocation is rendering them at high risk to be trafficked. Indigenous people have to be consulted and give their prior consent before such projects are launched. Without taking into account the situation of indigenous people, such development-projects participate directly to their vulnerability, as a driving force of the trafficking process.

53 Ethnic Relations Commission of Guyana, 2008, p. 4.

54 CERD, 2006, p. 2.

55 Colchester & La Rose, 2010, p. 29.

56 Harvard Law School Human Rights Clinic Programme, 2007, p. 38.

57 American Peoples Association (APA), 2010.

58 Mantini, 2008, p. 342, 343, 345.

59 National Amerindian Development Foundation, 2008, p. 3.

60 U.S. Department of State, 2010. It is interesting to note that the trafficking discourse in Guyana is distinguishing Amerindian and migrant women that felt into the sex trade. While Amerindian women are presented as passive victims in the government discourse, illegal migrant women are victims of racist stereotypes of "ethnic other" that destroys the purity of the nation. Kampaloo, 2006, p. 83.

61 USAID, 2006, p. 25.

62 CERD, 2006, p. 38.

5.1.2. Conflict-induced displacement

It is estimated that 26 million people are displaced worldwide by conflict.⁶³ If some of them manage to return, the majority has to integrate in their place of displacement or to find another settlement in the country.⁶⁴ The UN Guiding Principles on Internal Displacement provides protection for displaced women against violence and exploitation.⁶⁵ Rape and sexual exploitation of women and children have indeed always been part of conflict, and displacement is increasing this position of vulnerability.⁶⁶

Latin America, where about 3 million people are internally displaced⁶⁷, has the particularity that the majority of displacement occurred due to indigenous conflict, such as in the state of Chiapas in Mexico and in Colombia. While every year about 3,000 women from Chiapas are trafficked to Mexico City, indigenous people were pointed out to be amongst the vulnerable groups most likely to become victims of human trafficking in the country.⁶⁸ Indeed, NGOs have pointed out the government policy aimed at removing indigenous communities from their ancestral lands during the agrarian conflict in Chiapas.⁶⁹ In 1944, the Ejercito Zapatista de Liberacion Nacional (EZLN), known under the name “Zapatistas”, led an uprising calling for the recognition of property and civil rights for indigenous people.⁷⁰ As a response, the government sent military and paramilitary groups into Chiapas, where violent conflict was concentrated. Forced to flee because of the conflict, 40,000 people, mostly indigenous peasants from Chiapas⁷¹, left their lands and homes.

The agrarian conflict has worsened the condition of indigenous people, rendering them particularly vulnerable. Many of them claim to have been both physically and sexually abused by military personnel.⁷² This has been proved to have an

63 Birkeland, 2009, p. 491.

64 Ibidem 492.

65 Ibidem 502; United Nations Office For The Coordination of Humanitarian Affairs (OCHA), 2003.

66 Ibidem.

67 Which makes up 10 per cent of the world's total internally displaced persons.

68 United States Department of State, 2011.

69 Acharya & Codina, 2012, pp. 63-69.

70 Ibidem 4.

71 Ibidem.

72 Ibidem 12.

important impact on their vulnerability to trafficking.⁷³ To escape from such discrimination and violence, the majority of affected indigenous people have migrated to various cities of Chiapas and other parts of Mexico.⁷⁴ Most of the indigenous spoke only their native language, making women and girls especially vulnerable to sex traffickers.⁷⁵ They are still living in precarious conditions today, mostly in unhygienic conditions, unable to cultivate land because of the control of the paramilitaries.⁷⁶ This situation pushes these people into extreme poverty, making them particularly vulnerable to exploitation. Indigenous women, who often do not speak Spanish⁷⁷, have a lower level of education, are an easy target for repression and sexual violence, such as rape, assault, harassment and trafficking for prostitution or forced labour.⁷⁸ As they lost their cultural and traditional environment and the connection to their community,⁷⁹ they are less resistant to face threats such as abuse or exploitation.⁸⁰

In South Asia, in Burma, due to the conflict between the government and the Kachin Independence Army (KIA), more than 75,000 people have been internally displaced. 40,000 were living in the Kachin state, controlled by the KIA and where international aid could barely not arrive.⁸¹

The Kachin population lives in the north-eastern of Burma, representing 1 to 1,5 millions of people.⁸² As a result of decades of armed conflict, many indigenous people were displaced from the highland to the lowland of the Kachin state.⁸³ Nowadays 80%

73 Acharya & Codina, 2012, p.1.

74 Ibidem 13.

75 Ibidem 4.

76 Ibidem.

77 25 per cent of the population in Chiapas is classified as indigenous, while one third of them are unilingual speakers of an indigenous language. Ibidem 6-7.

78 Acharya & Codina, 2012, p. 4.

79 Ibidem 2.

80 The health and living conditions of indigenous women in the region are significantly lower than non-indigenous women. They also suffer from a lack of education, where 50 per cent of them never went to school. This low socio-economic situation has been fueling the trafficking process in Chiapas. Eversole & McNeish & Cimadamore, 2005, p. 44.

81 Internal Displacement Monitoring Center, 2013.

82 Kachin Women's Association Thailand, 2005, p. 11. This part of the territory of Burma was administrated during British ruling (1886-1948) as a frontier area. When Burma accessed to independence, those territories were officially declared as Kachin State. From then, indigenous from the northern mountains suffered from discriminatory policies of the government. This led to their uprising in 1961, through the Kachin Independence Organization, an armed resistance movement.

83 Ibidem.

of the Kachin population live on the plains.⁸⁴ The agreements of 1988 between China and Burma, opening the border for trade, had an important impact on the trafficking situation. Indeed, Burmese women started to migrate in search of employment but the demand for sex workers was high.⁸⁵

Since June 2011, the Burmese Army has led numerous offensives in the Kachin State against the Kachin Independence Army, resulting in the forced displacement of 100,000 people.⁸⁶ The majority of the Kachin population has find shelter in IDPs' camps next to the Chinese border. However, those camps do not receive international aid, as international organisations have been denied access in Kachin-controlled areas.⁸⁷ Being desperate, many try to pass illegally the Chinese border, hoping to find some kind of job opportunities there.⁸⁸ They become therefore easy targets for traffickers. The government of Burma does not provide any kind of protection to IDPs in Kachin State.⁸⁹ Furthermore, the management of resources from the Kachin State has basically consisted in land confiscation, forced displacement and relocation.⁹⁰

The relationship between human trafficking and conflict or post-conflict situations, or between conflict and displacement, has been for long highlighted. Women and children have been pointed as “particularly at risk of being trafficked”.⁹¹ Indigenous women, because of their connection to their lands, are disproportionately affected by this issue. Unable to find alternative sources of income, they are more prone to migrate and lose the bound with their communities. They become then more vulnerable to fall into the trafficking circle. Lands' rights have to be insured in order to better prevent poverty of indigenous people and therefore their vulnerability to trafficking.

84 Kachin Women's Association Thailand, 2005, p. 11.

85 Ibidem 13.

86 Ibidem 9.

87 Ibidem.

88 Ibidem 5.

89 Ibidem.

90 Ibidem.

91 Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), 2004, p. 13.

5.2. Statelessness

5.2.1. Another expression of otherness

In Thailand, Burma and Malaysia, the “otherness” of indigenous people has been expressed through one of the most obvious way, as some indigenous people of those countries do not have citizenship.⁹² Although governments pretend to be actively fighting against trafficking, they do not tackle the root causes of the problem, being the continuous discrimination of indigenous people. In international law, a stateless person is someone who is “not considered a national by any State under the operation of its law.”⁹³ They have been major campaigns of the United Nations Children’s Fund (UNICEF) for universal birth registration, and the situation has been slowly improving.⁹⁴ However, there is still a lack of research on this important issue.⁹⁵ According to a study of the United Nations, in 2001, 14% of births in Latin America were unregistered.⁹⁶ As the report states:

For adults in Latin America basic identity documents are vital for opening bank accounts, voting, holding a formal sector job, owning property and receiving social services. The lack of proper documentation has a direct bearing on an individual’s ability to fully participate in society.⁹⁷

According to a study of the United Nations High Commission for Refugees (UNHCR), only 54,1% of the states surveyed had procedures to identify statelessness

92 Problems of indigenous people to get birth certificates was also reported in Guyana but a lack of research on this issue does not allow to give any data about how many indigenous people would be unregistered. The Equal Rights Trust, 2012, p. 46.

93 Convention Relating to the Status of Stateless Persons, 360 UNTS 117, done Sept. 28, 1954, entered into force June 6, 1960 (Status of Stateless Persons Convention), at Art 1(1). The Universal Declaration of Human Rights declares that “Everyone has the right to a nationality. No one shall be deprived of his nationality, nor denied the right to change his nationality”. Several other human rights instruments address this issue such as article 7 of the Convention on the Rights of the Child that states “Every child has the right to acquire a nationality”, or Article 9 of of the CEDAW that states that “State parties shall grant women equal rights with men to acquire, change, or retain nationality.”

94 United Nations Children’s Fund (UNICEF) & Innocenti Research Center, 2002.

95 Duryea, & Olgiati, & Stone, 2006, p. 6.

96 United Nations Children’s Fund (UNICEF), 2001, p. 30.

97 Duryea, & Olgiati, & Stone, 2006, p. 5.

persons, and 44,6% of the countries had mechanisms in place in order to evaluate the scope of this issue in their territory.⁹⁸

Citizenship is closely linked with politics and history, and statelessness of indigenous is reflecting the lack of political recognition from the government. Usually indigenous people have been denied citizenship during colonisation, or have been attributed a definition of indigenous identity without being consulted.⁹⁹ Citizenship is the symbol of belonging to a community.¹⁰⁰ Therefore, statelessness is a reflect of different types of discrimination. Racial and gender discrimination are both influencing the processes of citizenship, for example in South Asia, as it is seen as a gendered phenomenon, and it is therefore not a priority on the political agenda.¹⁰¹

In Malaysia, trafficking of indigenous women and girls in Malaysia has been pointed out as an emerging trend.¹⁰² Although there is no available data on the scope of statelessness of indigenous in the country,¹⁰³ Penan women have been pointed as particularly vulnerable to sexual exploitation and trafficking,¹⁰⁴ half of Penan villagers lacking identity cards and/or birth certificates.¹⁰⁵ Racial discrimination has been highlighted by NGOs as the main force driving the citizenship policy of the Malaysian government.¹⁰⁶ Traffickers take benefit from the vulnerable situations of indigenous women.¹⁰⁷ The trafficking process usually occurs from rural areas to cities where girls are brought to brothels.¹⁰⁸ They are trapped with false promises of employment and are lured into a system looking for young tribal girls. The indigenous groups are trafficked mainly internally.¹⁰⁹ The government is neglecting the issue and does not take any action

98 Batchelor, 1998, p. 16

99 Peterson & Sanders, 1998, p. 1.

100 Ibidem.

101 Banerjee, 2009, p. 345.

102 Kuppusamy, 2008.

103 Child Rights Coalition Malaysia, 2012, p. 23.

104 Kuppusamy, 2008.

105 The Penan Support Group & the Asian Forum for Human Rights and Development (FORUM-ASIA) & the Asian Indigenous Women's Network (AIWN), 2010, p. 43.

106 Soong, 2012.

107 Kuppusamy, 2008.

108 Ibidem.

109 Ibidem.

to protect indigenous women.¹¹⁰ As poverty of indigenous people in Malaysia is of particular concern, they are easily trapped in the trafficking circle because of their hopes to find better employment opportunities. There is also a high demand for indigenous women in the sex trade. As they are rare in the capitals, they become precious targets for traffickers.¹¹¹

In Thailand, The government mentioned “security reasons” as justification, reinforcing stereotypes of hill tribes as dangerous for the integrity of the State.¹¹² Although those tribes live in the Northern hills of Thailand since generations, half of them are still denied citizenship.¹¹³ In doing so, it perpetuates their discrimination and exclusion. Indeed, Thailand is merely a source, transit and destination country for trafficking, and hill tribes are pointed as one of the most vulnerable groups.¹¹⁴ The obstacles to get citizenship, such as time, poor communications, lack of administrative capacity, prejudices, corruption¹¹⁵ and money requirements, undermine the possibility for those hill tribes to access the Thai nationality.¹¹⁶ In Malaysia, long procedures, high fees, long distance between the villages and the places to register, have also been reported as obstacles in order to get citizenship,¹¹⁷ some indigenous having asked it more than four times before getting it. In Burma, in order to obtain identity cards, they have to pay a big amount of money, becoming a motivation for women and girls to migrate and find better job opportunities.¹¹⁸ Therefore, their only solution is to pay a bribe or to come with an older person with a card.¹¹⁹ The lack of identity card also

110 Kuppusamy, 2008.

111 Ibidem.

112 Buergin, 2008, p. 7.

113 Vital Voices, 2007, p. 10. 60,21 per cent of the hill tribes population is listed as possible groups eligible to get the citizenship. The 40 per cent left are under the House Registration for Hill Tribe People of 1992 and its 1996 Amendment, a legislation that lead to more complex procedures in order to get citizenship.

114 U.S. Department of State, 2011. Hill tribes from Thailand are composed of different tribes, but the government of Thailand only recognises nine of them: Karen, Mong, Yao, Muser, Lisu, Akha, Thin, Lua and Khamu. The Karen represent the largest group, as they comprise 46,18 per cent of the hill tribes, followed by the Mong with 16,32 percent.

115 Nawara, 2010, p. 38.

116 Vital Voices, 2007, p. 10.

117 The Penan Support Group & the Asian Forum for Human Rights and Development (FORUM-ASIA) & the Asian Indigenous Women’s Network (AIWN), 2010, p. 43.

118 Kachin Women’s Association Thailand, 2005, p. 24.

119 Ibidem 17.

compromises their education, as they need it to pass the final high school exam or to enter university.¹²⁰

5.2.2. Consequence on the current vulnerability to trafficking

Being considered by some NGOs as “a forgotten human rights crisis”,¹²¹ statelessness can have an important impact on the vulnerability to trafficking.¹²² The United Nations recognised the particular vulnerability to trafficking of ethnic minority groups who have no citizenship.¹²³ Some studies consider the lack of citizenship as “the greatest risk factor for a hill tribe girl or woman to be trafficked or otherwise exploited.”¹²⁴ Indeed, citizenship involves political issues but also practical concerns,¹²⁵ as people not having citizenship face numerous obstacles to establish their identity and have proper access to state services.¹²⁶ Their chances to find a job are extremely reduced, making them especially vulnerable to exploitation.¹²⁷ Citizenship is the key leading to a range of states services such as education¹²⁸, healthcare¹²⁹, or other social services. Without citizenship, indigenous people are denied access to those services and opportunities. Therefore, it directly has an impact on their socio-economic position in the society and render them more vulnerable to trafficking and exploitation. The lack of citizenship also makes the process of finding job opportunities much more complex, as they cannot travel freely in the country.¹³⁰ In Thailand, few jobs exist in the Karen region as there is almost no land available.¹³¹ Even when they manage to go out of the region in search of better opportunities, employers are logically reluctant to employ people without official work permits.¹³² Again, this pattern impacts more severely on women and children. Hill

120 Kachin Women's Association Thailand, 2005, p. 24.

121 Webster University College of Arts & Science, 2013.

122 Banerjee, 2009, pp. 343-354.

123 UNODC, 2008, pp. 433-434.

124 Feingold, 2005, p. 32.

125 Peterson & Sanders, 1998, p. 1.

126 UNODC, 2008, pp. 433-434.

127 Ibidem.

128 Without citizenship, hill tribes have a lower access to education. Janchitfah, 2005.

129 For instance, a part of Northern hill tribes are denied access to the universal healthcare plan launched by the government, called the “30-baht plan”. Physicians for Human Rights, 2004, p. 27.

130 Vital Voices, 2007, p. 12.

131 Ekachai, 2002.

132 Vital Voices, 2007, p. 13.

tribe women are especially vulnerable to fall into trafficking for sexual exploitation, as a result of not having other alternatives.¹³³ The implications of not having citizenship are dramatic. They cannot manage their lands as they do not have any legal right to remain in the areas of settlement, no matter for how long they have been there. As a result, they are numerous cases of indigenous women and children trafficked for sexual exploitation. For that reason, obtaining citizenship has become the key priority for the indigenous of Thailand.¹³⁴

In Mexico, many indigenous people lack citizenship, as a result of non-birth registration.¹³⁵ There is a correlation, yet to be studied, between the states where indigenous are pointed at especially vulnerable to trafficking, such as Chiapas, Guerrero, Oaxaca and Puebla, and states where there is a low rate of birth registration. In Chiapas, for example, 61.7 per cent of children of one year have been registered in 2009.¹³⁶ Mexican children that are not registered are facing obstacles afterwards to access different kind of states services, such as health care or education.¹³⁷ It is recognised and known that among the Mexican children that do not attend schools, most of them do not have citizenship.¹³⁸ They are also excluded from health insurance programmes and therefore do not have access to health care. Unregistered children are at particular risk of abuse and exploitation and are targeted by human traffickers. Every year, around 300 000 children aged between 6 and 14 years old migrate with their families in order to find jobs in the North of Mexico.¹³⁹ Many of those children do not have birth certificate.¹⁴⁰ For instance, in April 2011, the General Director of the Oaxacan Institute for Migrant Affairs (IOAM), Rufino Domínguez, stated that 15,000 of the 60,000 indigenous people working in Oaxaca in the fields of Baja California, did not

133Vital Voices, 2007, p. 13.

134Luithui & Lasimbang, 2007. p. 245.

135Asencio, 2012.

136UN News Centre, 2011.

137Asencio, 2012.

138Indeed free education is ensured in Mexico by the article 3 of the Constitution but a proof of citizenship is required.

139Asencio, 2012.

140Ibidem.

possess birth certificates.¹⁴¹ Without being registered, indigenous people cannot benefit from any kind of protection from the State.

A similar situation can be found in Burma, where the issue of citizenship for indigenous women and girls is pointed out as one of the major factors contributing to their vulnerability to trafficking.¹⁴² The Kachin population lives in the north-eastern of Burma, representing 1 to 1,5 millions of people.¹⁴³ In some areas of Kachin state, two thirds of the population do not have identity cards¹⁴⁴, facilitating the trafficking of women and girls:

In several cases in this report, girls were tricked about where they were being taken, because they were not familiar with routes or towns outside their home vicinity. Girls without ID are entirely dependent on others, who can wind up being traffickers, to arrange their travel.¹⁴⁵

Since 1962, identity cards are necessary to travel inside the territory of Burma.¹⁴⁶ Many indigenous from rural, more isolated areas, are not officially registered and do not possess them. The regime in place since 1997 regulating the travel of women between the ages of 16 to 25 to the Thai border is pointed as increasing the risk for them to be trafficked.¹⁴⁷ They actually seem to make the tasks for traffickers easier as they have to be accompanied to cross the border and become therefore easy targets for exploitation and deception.¹⁴⁸ Corruption is also highlighted as local officers benefit from smuggling and trafficking, bribes being given at every checkpoint.¹⁴⁹ Some of them are trafficked to China and become even more dependent on their trafficker as they become illegal migrants, susceptible of arrest. In most cases, the girls are trafficked at the border or

141Asencio, 2012.

142Kachin Women's Association Thailand, 2005, p.5.

143Ibidem 11.

144Ibidem 24.

145Ibidem.

146Ibidem.

147Ibidem 16.

148Ibidem 24.

149Ibidem 17.

within China, and are sold to Chinese men as wife.¹⁵⁰ Although the Burmese government states its determination to stop trafficking, it does not tackle the root causes of those women into the trafficking process.

Lack of citizenship is a disadvantage also at the end of the trafficking process, as victims receive limited protection and assistance and even be denied entry in the source country.¹⁵¹ They are the primary targets of traffickers, as they legally do not exist. It renders women and girls powerless as they cannot report crimes to the authorities.¹⁵² This also makes impossible for families to look for their daughters because they do not have identity cards themselves and are therefore unable to travel.¹⁵³ When women manage to escape from their traffickers and to go back to Burma, they face new obstacles. The testimony of one survivor from Burma, who found refuge in a woman's house, is enlightening:

The Shan woman asked me my ethnicity. When she knew that I was Kachin, she advised me to go to Mai Ja Yang (Kachin village), because many girls who were sold and returned back had to pay fines or go to prison. She suggested that I run away.¹⁵⁴

In Burma, the issue of lack of citizenship has got worst, as people wanting to request a border pass in order to go to China must meet strict conditions.¹⁵⁵ Furthermore, border offices close to places with important number of IDPs have been closed.¹⁵⁶ For example, in Pakahtawng, only 800 out of 2699 IDPs have identity cards.¹⁵⁷ According to Kachin Women's Association Thailand, the policies of the Burmese government towards Kachin people are simply fuelling the trafficking of women and girls for sexual exploitation in China.¹⁵⁸ This situation has been exacerbated by the on-going conflict

150Kachin Women's Association Thailand, 2005, p. 29.

151UNODC, 2008, pp. 433-434.

152The Penan Support Group & the Asian Forum for Human Rights and Development (FORUM-ASIA) & the Asian Indigenous Women's Network (AIWN), 2010, p. 43.

153Kachin Women's Association Thailand, 2005, p. 29.

154Kachin Women's Association Thailand, 2005, p. 35.

155Ibidem 12.

156Ibidem.

157Ibidem.

158 Ibidem 2.

and the displacement resulting from it.¹⁵⁹

Statelessness renders indigenous people especially vulnerable, as they cannot access to state services such as health care or education. They have therefore a lower education, fewer job opportunities and become at high risk to be trafficked. They also become unable to get out of the trafficking circle as they are dependent on their traffickers.

¹⁵⁹ Kachin Women's Association Thailand, 2005, p. 5.

Conclusions

Trafficking of indigenous women and girls is an issue of particular concern, being for too long neglected. It requires much more attention and will soon or later become a focus of agencies specialised in human trafficking. Different factors have played a role in the neglect of the indigenous women as a particular vulnerable group to trafficking. Among them, the development of the trafficking literature, for long focused on the crossing of international borders, but also the absence of taking into account the demand side and the link between discrimination and sexual exploitation.

The specific root causes rendering indigenous women are diverse and all interconnected, but the origin has to be found in long-standing patterns of discrimination against indigenous women. They face multiple forms of discrimination because of the “nexus between gender, race, colour or ethnicity and other axes of subordination”.¹ Developed in various disciplines, the concept of otherness therefore helps to create a comprehensive framework to address both gender and racial discrimination and its relationship with trafficking.

The first root cause is an ideological structural factor, as exoticism of indigenous women seems to have an important impact on their vulnerability of being trafficked. Colonisation has brought a perception of indigenous as “others”, as a way to legitimise the conquest of the territories, but also of the bodies of indigenous. The literature on this topic has been rare but studies in Canada, United States, Nepal and Taiwan has shown the negative impact of stereotypes of indigenous women. Colonialism and imperialism have created pictures of indigenous women that are still rampant today and that leads directly to violence and discrimination. It creates a situation that facilitates the recruitment of young indigenous women and increases the demand. The historical background of oppression of indigenous people has created what academics call a “generational trauma”, affecting the well-being of generations of indigenous women, impacting on their self-esteem, and therefore on their ability to respond to the threats of human trafficking.

¹ United Nations General Assembly, 2001, p. 4.

Social factors can also be an important root cause, as discrimination is sometimes expressed through cultural practices, such as in India and Nepal, where indigenous women are sold in temples at very young age and falls in that way in the trafficking circle. Perceptions of indigenous communities make them easy targets for traffickers and cultural practices are transformed into a trafficking business. Otherness has different components, indigenous women being discriminated because of their ethnicity and their gender. Therefore, patriarchal systems often contributes and perpetuates discrimination against women and gender hierarchies inside of their community also impact on their vulnerability to be trafficked, such as in Ghana, Togo and Benin.

Root causes can also be found in geopolitical factors, as otherness can also lead to processes of dispossession, such as lack of citizenship and displacement. In Thailand, Burma, and Malaysia, the lack of citizenship has rendered indigenous women particularly vulnerable to trafficking. Statelessness is a particular risk factor to trafficking, as citizenship is the key to various states services such as healthcare, social security and education. Indigenous women who do not have citizenship find themselves even more marginalised and at high risk of being trafficked. Displacement can also have a significant impact on the vulnerability to trafficking. The last chapter addressed different types of displacement. The cases of Mexico and Burma highlighted the vulnerability of indigenous linked to conflict-induced displacement, while Lao PDR and Guyana provided examples of development-induced displacement. As they lose connection with their land and their community, indigenous women are forced to search for alternative sources of income and are therefore easily trapped into the trafficking circles. Different reports have highlighted the failure of governments to ensure effectively land rights to indigenous communities, especially when it comes to development projects, Involving destruction of their environment, pollution of water, increase in alcoholism, development-displacement has also an important impact on trafficking of indigenous women.

The trafficking business is complex and always searching for new victims. Therefore, prevention policies have to be built on a long-term basis, tackling the root

causes such as poverty, human rights abuses and discrimination. Indeed, in order to build efficient prevention programmes, a complete understanding of the situation of vulnerability of certain individuals or groups is essential. Therefore, much more research is needed on the vulnerability of indigenous women to be trafficked. The relationship between discrimination and trafficking has to be further analysed. The concept of otherness can provide a useful tool to build comprehensive studies on the issue. Understanding the link between racial discrimination and trafficking can help to know the primary targets, but can also serve as a mean to fight the trafficking process. As the situation of indigenous women is a result of multiple discriminations, fighting against trafficking requires a strong political will. Coordination of different actors, such as governments and civil society, is necessary to fight efficiently against the human trafficking business. Discrimination against indigenous people is still prevalent in many countries worldwide through different forms and has to be addressed in anti-trafficking programmes. Issues of perceptions of indigenous women, citizenship, and systems of oppression have to be considered when tackling their vulnerability to trafficking. Land rights have to be recognised and indigenous cultures preserved, and land reforms have to focus on the protection of indigenous people territories.²

Information and education can have positive results on the vulnerability to trafficking. Therefore, raising awareness on this issue among indigenous communities is essential. Indigenous women and girls have to be informed on the risk of human trafficking. As they are often located in remote areas, awareness campaigns have to be accessible and to be organised in order to target indigenous women. However, if it can help to reduce the risks for a certain group, it can also only move the problem. It is therefore essential to tackle structural factor of human trafficking, such as gender and racial discrimination. Policies against human trafficking have to be built in a comprehensive manner that comprises the different factors rendering indigenous women vulnerable. The demand side has to be further analysed and taken into consideration when identifying the vulnerable groups to trafficking. This side of the trafficking process has been for too long overlooked as it is the driving force of this “business”.

² CEDAW, 2011, p. 30.

Indeed if the collection of data concerning trafficking victims is generally taking into account characteristics such as gender and age, they rarely consider ethnicity. Data has to be collected by categories of indigenous ethnicity and gender in order to ensure a better understanding of the issue and the development of appropriate prevention programmes.³ Human trafficking of indigenous women is nothing more than another form of violence against them. It is an expression of racial stereotypes but also of devastating discriminatory policies from governments. Even if their situation differs from countries to countries, continents from continents, the scope of this study shows the wide range of places where indigenous women are facing the same patterns of discrimination. Trafficking of exploitation is facilitated by a continuous normalisation of their sexual exploitation.

Human trafficking is a hideous business taking advantages and benefit from the human rights abuses and position of vulnerability suffered by certain individuals or groups. Slavery has maybe been legally abolished but it remains under different forms of oppression. Because of the hidden nature of the crime, there is an important lack of data on the scope and on the vulnerable groups to be trafficked. Indigenous women have been pointed out as a vulnerable group to trafficking but the real scope of this issue is still unknown. Much more forms of exploitation have to be addressed such as forced labour or debt bondage. Even if women are particularly affected, indigenous men are not spared but the issue is also enough investigated. More research is also needed on the relationship between displacement and trafficking, particularly its impact on indigenous people, and especially on indigenous women and children.

When I started to think about writing my thesis about the issue of trafficking of indigenous women and to share my ideas with different people, several experts on human trafficking and on indigenous people answered me :“No, this is not really an issue”. This thesis shows unfortunately the contrary. However, aware of its limits and weaknesses, this research did not aim to give an exhaustive picture of the problem or to pretend that trafficking of indigenous people only concern women or sexual exploitation. Although it will present “only the tip of what is almost certainly a much

³ CEDAW, 2011, p. 30.

larger iceberg”⁴, giving a fraction of the whole picture of trafficking of indigenous people, I believe that this work can bring awareness on this issue, often undermined and neglected, and, hopefully, inspire other academics, NGOs, international organisations, to pursue the work in this direction. As it has been stated by a former Minister of Thailand,

By recognizing the task of combating trafficking, you are saying to the world that the suffering and the agony of children and women victims matters, and that there is an urgent need to rescue, assist and empower them. Their lives are as important as our own lives.⁵

4 Johnson, 2012, p. 621.

5 Vital Voices, 2007, p. 1.

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