Genealogy of Thailand's Policy and Approach to Human Trafficking for labor and Sexual Purposes[1]

Yanuar Sumarlan[2]

Abstract

This paper discusses the genealogy of the anti-trafficking policy in Thailand since the needs for such policy arose from the recent past to the present practices (1900-2017). The explicit question this paper asks are blow-by-blow narrative of the policy changes and the relatively recent stationary position of such policy evolution. The methods are historical narratives, turning points, and other necessary steps in the genealogy and political economy approach. The materials are taken from some research data and secondary data from the larger research project entitled "Technologies and Human Trafficking in Thailand" which is done in Samut Sakhon Province. To follow the clues from Sorajjakool's (2013) clues on the most important issues in trafficking, this paper takes two of the most important aspects of human trafficking in Thailand: trafficking for sexual purposes and for labor. The analysis of the two phenomena is based on [policy] genealogical methods (problematization, episodical retrace, exemplary narrative, and cyclical recurrence). Using the political economy

---

[1] *Yanuar Sumarlan, PhD is a lecturer who teaches Research Methodologies for Human Rights Research, Rights of Marginalized Groups, and Applied Research in the Institute of Human Rights and Peace Studies, Faculty of Graduate Study, Mahidol University.*

[2] *Lecturer at Institute of Human Rights and Peace Studies, Mahidol University, Editor at Journal of Human Rights and Peace Studies*

analysis, the paper shows that Thailand recently has ended up with a rather mixed way between the micro-level and intermediate-level of analysis and policy approach through the creation of border and immigration/ security system to manage migration along with the care of the victims through government-sanctioned “raids” to trafficking sites.

Keywords: Thailand Anti-Trafficking Policy, Policy Genealogy, Political Economy of Anti-Trafficking Policy, rescue industry, micro-level, and intermediate-level analysis and interventions

1. Introduction

History and genealogy of policy on human trafficking of any country are always fascinating to analyze. For example, historical narratives and turning points are possible through genealogical methods. First, the paper problematizes the present situation of the human trafficking policy of Thailand using the annoying fact that the mixture between micro-level and intermediate-level of policy analysis and the reaction is distractive to the policy-makers and implementation.

Sorajjakool (2013) divides types of trafficking in Thailand into five types: fishing vessels and sea-food factories, agriculture, domestic work, sex trafficking, and child labor, and child trafficking. Out of these five, however, Sorajjakool (2013, pp. 119-131) begins the explanation mostly from the continuing evolution of any type of Anti-Trafficking Regulatory Edicts on Trafficking or Exploitation of Women and Children for Sexual Purposes since the colonial time. Bertone (2000, p.8) insists that prostitution has existed for thousands of years in many societies; South and Southeast Asia are just one of the areas where sexualized work and sex trafficking developed. Thailand’s

sex tourism can be traced back through local forms of prostitution and concubinage, and colonial sex trading (Bertone 2000, p.8).

Genealogy is competent by virtue of being episodical and exemplary (Bartelson, 1995, p.73). It must start from an analysis of the present and identify something as problematic (Bartelson 1995) in that present in order to write a history of it. Aiming at those that look unproblematic and held as timeless, genealogy's task is to explain how these present traits in all their vigor and truth were formed out of the past. Genealogy is episodical as far as it does not aim to supply a history of the past as it actually was, or to recover a past age in its full density or significance. Instead, genealogy discusses episodes which are involved in the effective formation of that which was identified as problematic in the present (Bartelson 1995, p.73). Genealogy is exemplary because it relies on examples. Genealogy presupposes cyclical recurrence at the level of narrative time that it can account for the formation of its own point view, and then justify itself and its choice of examples as a coherent and locally true narrative (Bartelson 1995). As genealogy is episodical, it does not go back in time in order to restore and unbroken continuity; it does not seek to demonstrate that the past actively exists in the present (Bartelson 1995, p. 75 citing Foucault 1977). Instead, genealogy attempts to show how the past exists only by virtue of being reconstructed from a present, and how this present is contingent upon that past (Bartelson 1995, p.75).

This paper is divided into six parts. The first part is the introduction. The second part explains the methodology (data types, data sources, and data analysis means) of the paper. The third part shows the recent situation in Thailand (micro-, intermediate-, and macro-level analysis and interventions) in terms of anti-human trafficking policy to follow the genealogical process of "beginning from the present." The fourth part shows how the paper

retraces the previous phases or turning points in Thailand's genealogy of anti-trafficking policy in history. The fifth part is where the paper explains such occurrence of the produced policy in regulations/policies or implementation through the intervention of external political-economic forces. In this sixth part, the paper offers the analysis of such a situation that leads to the distraction of the public and the government from other approaches.

2. Methodology, Research Questions and Objectives

Policy genealogy is just one of three lenses through which a policy could be analyzed. The other two are policy historiography and policy archaeology. The first one asks three questions of (1) What were the public issues and private troubles within a particular policy domain and how were they addressed? (2) What are they now? Furthermore, (3) What is the nature of the change from the first to the second? The second one asks for (1) the conditions that allow the emergence of a particular policy agenda, (2) the rules or regularities that determine a policy problem, and (3) the ways the rules shape policy choices.

The heart of the interest in this policy genealogy is the particulars of temporary policy settlements or "the modalities of power" (Davidson 1986, p. 224). Genealogy enables insight into policy 'realizations' that are defined by [archeological] rules of their formation (Foucault 1972, p.207). Instead of finding the discovery of simple continuities between past and present (and parameters and particulars), genealogy seeks out discontinuities where others found continuous development (Dreyfus and Rabinow, 1986). Policy genealogy is not working through analyses of policy production explained by 'bounded rationality' (Simon 1960) or 'incrementalism' achieved through

'partisan mutual adjustment' (Lindblom 1959). Indeed, this approach asks for (1) how policies change over time, and to determine (2) how the rationality and consensus of policy production might be problematized and (3) how temporary alliances are formed and reformed around conflicting interests in the policy production process (Gale 2001). Gale's research (2001) on educational policy in Australia applied six strategies in the negotiation of settlement typically developed from the data: strategies of trading, bargaining, arguing, stalling, maneuvering, and lobbying. Trading, for example, involved negotiating the exchange of interests of actors; bargaining means negotiating the moderation of interests among the actors.

Political economy, the other necessary methodology for this paper, seeks to understand and address the problem of contemporary unfree labor or labor under exploitative practices often described as forced labor, human trafficking, and 'modern slavery' (LeBaron and Phillips, 2019, p. 1). Proposing a framework to understand how national states shape the political economy of unfree labor, LeBaron and Phillips (2019) apply three arenas of governance through which states have been central to enabling the conditions for unfree labor. These arenas are the regulation of labor mobility (boundaries of intermediate-level), labor market regulation (micro-level), and business regulation (macro-level). This paper answers the question around the genealogy or evolution of the Thai Government's anti-trafficking policy (for labor and sexual exploitation or more generally known as "unfree labor" since the abolition of slavery/forced indenture in the late 19th century. The materials used to answer this question is mainly the secondary information collected from libraries as well as journals and reports available publicly (around 11 Thai scholars and 17 foreign scholars on Thai or other trafficking policy). This triangulation of information from many sources and types is important to be part of the data quality control for the paper's

accuracy. This paper's objective is to expose the genealogical, historical, and political-economic processes of Thai Government's anti-trafficking policy to date. The method is a secondary data analysis by using qualitatively described information, history, processes, turning points, etc around Thailand's trafficking policy evolution.

3. Literature Review

The literature of anti-trafficking policy shows about three types of policy analysis and interventions: micro-level analysis and interventions, intermediate-level, and macro-level analyses and interventions. Thailand's recent approach to trafficking is a mixture between a limited micro-level and intermediate analysis and interventions after a long genealogy since the abolition of slavery in the early 20th century. The genealogy of Thailand's anti-trafficking policy to be told soon reveals that the most natural reaction against trafficking (for sexual purposes) was the micro-level analysis and interventions. This level of policy tends to individualize, infantilize, and disempower "genuine" victims while de-humanizing individual criminals assumed to be fully responsible for human trafficking (O'Connell Davidson 2015). Furthermore, such a level of policy renders certain types of victims more publicly visible and legitimate (Yea 2015, p. 1090). Micro-level analyses in mainstream

discourse consider how some people participate in the exploitation and human trafficking as part of 'deviant' behavior (Mendel and Sharapov 2016). However, little consideration is given on how "normal" public and private sector employers facilitate and benefit, directly or indirectly, from the exploitation of migrant labor (Crane 2013; Quayson and Arhin 2012). Consumers' reliance on goods and services that may have been produced

with the involvement of exploited labor, and consumers' culpability in creating demand (cheap labor, goods, and services, or sex) remain widely unacknowledged (Wylie and McRedmont 2010).

Most current anti-trafficking policy work typically focuses on the intermediate level of analysis and interventions that cover border control issues, law enforcement, and victim support (Mendel and Sharapov 2016). More literature appeared to highlight how dominant anti-trafficking policy discourses focus mainly on an intermediate level of analysis and action (Kempadoo 2015; Weitzer 2014). The understanding of policy reduces the discussion to merely "securing national borders, 'clamping down' (on trafficking as organized crime from crossing 'our border') and providing limited support to narrowly defined 'victims' of human trafficking (Mendel and Sharapov 2016, p. 666). This type of approach tends to use individualized criminal or victim profiles as crucial elements of anti-trafficking initiatives by giving trafficking a human (for victims) or inhuman (for perpetrators) face (Mendel and Sharapov 2016).

What evolves in Thailand since the early 20th century to the first two decades of the 21st century is the uniform mixture of the micro-level and intermediate-level analysis and interventions in dealing with human trafficking. This type of focus on the intermediate level of anti-trafficking strategies and a very limited micro-level of individual interventions forces policymakers to remain ignorant of other aspects of the human trafficking (especially now in the internet and mobile technology era) (Mendel and Sharapov 2016, p. 667). The first part of the genealogy appeared when the Thai State was pushing through with the country development with the help of Chinese immigrants during the time of the abolition of slavery by King Chulalongkorn at the turn of the 19th century (the 1908 Law). The second part involves the implementation of the 1928 Law concerning the trafficking

and exploitation of women. The third moment was the replacement of the 1928 Law on trafficking and exploitation with the Law of 1960 of the Suppression of Prostitution Act. The fourth moment was the announcement of the Entertainment Places Act of 1966 to accommodate the R & R for American soldiers in the Vietnam War. The fifth moments were the accession to the Child Rights Conventions of 1989 (signed in 1992 by Thailand), the announcement of Prevention and Suppression of Prostitution Act of 1996, and the issuing of the Measures in Prevention and Suppression of Trafficking to Women and Children in 1997. The sixth moment appeared since early 2000 (with the Palermo Protocol) followed by the Anti-Trafficking in Persons Act (B.E. 2551/2008). The seventh moment was the arrival of what Shih (2017) termed as "market-based humanitarian" or "modern slavery abolitionism" (begun by Kevin Bales in the late 1990s) (Kempadoo 2013).

This modern-day slavery abolitionism is just one of three strains of the modern-day debates on human trafficking under the "Modern Day White Wo(man)'s Burden" genre (Kempadoo 2013). The others are "abolitionist feminism" and "celebrity humanitarianism" (termed by Kapoor 2013). The "abolitionist feminism" led by Josephine Butler in the nineteenth century through to the CATW (the US-based Coalition Against Trafficking in Women). Abolitionist feminism draws nothing from the earlier black slavery abolitionism as do the modern-day anti-slavery thinkers. Instead, the abolitionist feminists pull from the analysis and moral outrage from anti-white slavery campaigns. These feminists focus on the workings of patriarchy and exclusive focus on sexual violence against women. This perspective offers the notion that prostitution is a male-created, patriarchal institution for the terrorization, control, and exploitation of women, similar to the institutions of marriage, the family, and the veil (Barry, 1984; Jeffreys, 1997). The abolitionist feminist discourse is close to what has been known in feminist circles as "Radical

Feminism" from the North American and Western European women's movement in the 1960s. Many ideas from Radical Feminism have been contested by Black, "Third World," and postcolonial feminists (with criticisms on the Euro-American centrism in the theorizing and politics), and the abolitionist feminists have rethought, reconstructed, and adopted an unexamined definition of prostitution. Prostitution is unconditionally and without exception viewed as violence against women. Moreover, abolitionist feminism introduced the notion of "sex trafficking" at the turn of this century to view that all types of prostitution constitute female sexual slavery (see Raymond and Hughes, 2001). With this idea widely circulating to date, trafficking has become a conflated concept with prostitution.

Confounding in this approach, as Quirk (2011) points out, is a blurred dividing line between slavery and freedom, and it becomes difficult to establish that line in the twenty-first-century given that many people experience force and coercion in legal work situations and where the difference between forced labor and poor working conditions is hard to determine (O'Connell Davidson, 2006). In this perspective, slavery does not exclusively focus on the sex trade, although much attention is given for women and girls in what is identified as forced prostitution. Slavery is generally understood to cover the four practices included in the 1956 U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery—debt bondage, serfdom, servile (arranged) marriage, and child servitude. However, it is also related to definitions in the U.N. Protocol on trafficking that emphasizes the forced sexual exploitation of women and girls and to ideas of forced and compulsory labor as contained in the International Labor Organization (ILO) Forced Labor Convention. The campaign maintains its own definitions of slavery and trafficking. As Bales explained in a 2011 television program, "Trafficking is

simply a process by which a person is placed into slavery. If they don't end up in slavery in the end, it's not called trafficking, it's called smuggling." Apart from muddling trafficking and slavery in such a way, two other dimensions surface in anti-slavery campaigns. The first dimension is of an individual forcing another into servitude, which is woven into the movement more generally.

Walk Free Foundation (2014) puts "a significant characteristic" of modern slavery" that it involves one person depriving another people of their freedom: their freedom to leave one job for another, their freedom to leave one workplace for another, their freedom to control their own body." This individualization of the

problem has important ramifications for modern anti-slavery interventions and solutions. The second one is the importance of morality, which guides the movement and which is commonly expressed through religious notions of "good" and "evil." In the absence of a clear definition, the term "slavery" is invoked to appeal to emotion and a generalized sense of right and wrong in the world today (Brennan, 2014; Chuang, 2013). President of Not for Sale (another US-based anti-modern slavery organization) puts it, "The moral clarity we need to end this issue is to call it slavery" (as quoted in Persaud, 2012, p. 13). It is then also a moral campaign rather than one based on evidence.

The third strain of debate comes in the form of "celebrity humanitarianism" identified by Ilan Kapoor (2013) the book of the same title through Kapoor examines global charity and philanthropy of entertainment stars. These stars cover Bono and Geldof, billionaires such as Soros and Gates, and "spectacular" nongovernmental organizations (NGOs) such as Save Darfur and Medicines Sans Frontiers. Some Hollywood stars in the past decade have also adopted human trafficking and modern-day slavery as social issues

to speak out (Kempadoo 2013). For example, Julia Ormond set the NGO (the Alliance to Stop Slavery and End Trafficking or ASSET) in 2007; Susan Sarandon joined the Body Shop "End Demand" and Somaly Mam campaigned against child sex trafficking; Demi Moore and Ashton Kutcher started the Demi and Ashton (DNA) Foundation in 2009 to bring child sexual slavery into public sphere and many others stars. Mira Sorvino, the star in the 2005 TV series "Human Trafficking" and movies "Trade of Innocents" became a UNODC Goodwill Ambassador in 2009 on the issue. Daryl Hannah brought the Oregon Police Department to fight sex trafficking on the streets. Lindsay Lohan made a BBC documentary on the trafficking of women and children in India.

The main idea behind such campaigns and attention is the rescue of women, particularly young women and underage girls from "modern-day slavery" and "sex trafficking," which are terms introduced by the groups of earlier abolitionists (Kempadoo 2013). The activities are the DNA "Real Men Don't Buy Girls" campaign with videos that make parodies of things that "real men" avoid (such as driving with blindfold, making a cheese sandwich with an iron, shaving with a chainsaw) and the Thompson documentary that depicts the physical and psychological harm that young women face in very graphic detail, and which is seen to typify the trafficking/sex slavery episode. The film shows a naive teenage girl from an Eastern European country, who is deceived by her girlfriend, bought by a group of men speaking in a Slavic language, brutally raped, kept in a brothel; she cuts her wrists and dies (Kempadoo 2013). Celebrity humanitarianism is broadcast in the popular media. The celebrities' hearts are seen pure, their pockets deep, and their star status quickly brings attention to a problem believed to be the most heinous.

The strongest ***connection*** between these main strains of "modern-day slavery" genre and Thailand's policy appears where the national policies are affected directly by international development of policies through international bodies such as the UN, powerful countries' watchdog activities (like the US with TIP Reports Series), or the internationally-based campaigns such as the US anti-trafficking organization like "Not for Sale." TIP Report, for example, affects Thailand at the policy level because of the Thai government's concern with economic loss and criticism on its performance (Jirawoot 2017, p. 94). After getting Tier 3 since 2013, the Thai government and business sectors foresee the potential impact of Tier 3 on Thai exports (Jirawoot 2017) through non-tariff barriers, loss of GSP (Generalized Scheme of Preferences), and reputation damages to Thai exports. Allegedly linked with forced labor, Thailand's primary industries, especially fishery, brought revenue of USD 7 Billion in 2013 alone (Jirawoot 2017, p.100). When in 1928, the Anti-Trafficking Act was passed to prohibit the trafficking of women and girls in Thailand effectively, prostitution was not totally criminalized. Prostitution was officially prohibited in 1960 with the passing of the Suppression of Prostitution Act as a result of the UN's campaign against the legalization of prostitution (Sorajjakool 2013). Under this Act of 1960, prostitutes and pimps are subject to penalties, while their customers are absolved of guilt and blame (Seabrook, 2001, p.83).

The use of "officially-sanctioned raids" began in 2015 when the Minister of Interior, General (ret.) Anupong Paojinda, was appointed as the Vice-chairman of the Subcommittee on Suppression of Human Trafficking by the Prime Minister on 17 February 2015 (MFA 2015). On 24-25 December 2014, Minister Anuphong held a meeting with 909 officials from at-risk provinces at Miracle Grand Hotel, Bangkok, to discuss how to combat human trafficking more effectively. In particular, the Minister ordered the Ministry of

Interior officials to mobilize the Damrongdhama Centers throughout the country to actively engage in the suppression of human trafficking and related illegal activities. In January 2015 alone, Damrongdhama Center in Takuapa District, Phangnga Province, received information from local citizens regarding humantrafficking. Along with the Takuapa Chief District Officer and with the police, the Ministry of Social Development and Human Security, and local volunteers, Damrongdhama Center was able to arrest two smugglers (Thai nationals) and rescued 53 foreign victims. On 27 January 2015, the Damrongdhama Center in Udonthani Province, upon hints from local citizens regarding human trafficking (with the help of Governor of Udonthani in cooperation with the police, the Army, the Ministry of Social Development and Human Security) raided four prostitution venues. The raid rescued 33 Laotian female victims and two children under the age of 18 who were victims of human trafficking. On 30 January 2015, the Damrongdhama Center in Thanyaburi District,Pathumthani Province, with information from a local NGO group called the "Counter Human Trafficking Unit" (CTU) and the Thanyaburi Chief District Officer (in cooperation with the police, the Army, MSDHS and members of CTU) raided a karaoke venue and rescued 11 foreigners (10 Laotian and 1 Vietnamese) (MFA 2015). On 18 July 2014, the NCPO (Military Government) instructed every province to set up a Fair Justice Center or "Damrongdhama Center" to handle complaints by the public. These complaints normally include problems with debts, prices, and other social problems. However, they have also been increasingly playing an active role in combating human trafficking in every province across Thailand. The NCPO's instruction on setting up Damrongdhama Centers is available at http://thainews.prd.go.th/centerweb/newsen/NewsDetail?NT01_NewsID=WNPOL5709010010004 and http://www.isranews.org/announcement/item/31453-aa_31453.html).

Since 1 October 2014, 146 Thai laborers (70 are from Ambon Island, and 76 are from nearby islands of Indonesia) on fishing vessels have been given assistance and returned to Thailand after an investigation by the Department of Special Investigation (DSI) and the Royal Thai Police. Three Thai nationals involved in trafficking on the Mahachai Navy 24 fishing vessel (a broker, a captain, and a technician) were arrested on human trafficking charges. On 27 March 2014, some representatives from the Labor Rights Promotion Network (LPN) were joining the Thailand Team to provide a civil society perspective and assist with the support and protection of victims. In a public forum, Executive Director of Thailand-based Labor Protection Network praised the response from the Thai government, remarking that the government understands the true nature of the problems (MFA 2015).

4. Findings into Genealogy of Thailand's Policy

From the late nineteenth century to 1960, the population in Thailand grew from merely 8 million to 26.2 million people. In 1960 the labor force totaled around 12.7 million people, and in 1970 the number grew to 16.5 million (Sorajjakool 2013, p. 30 citing Chandravitoon 1972). The labor market was divided into two types during this time, the primary labor market and the secondary labor market (Sorajjakool 2013): the primary labor market requires academic qualifications and specific skills; the secondary labor market requires less qualification and specific skills (with lower income, benefits, and protection).

Thailand's industries had an impact on the labor force in specific ways. In 1960, for example, 58 percent of the labor force was non-remunerated (family-based) in agricultural sectors (Sorajjakool 2013, p. 32); however, this proportion went down to 46 percent in 1980. Sorajjakool (2013) believed

that this change took place because more laborers were needed more in industrial sectors such as construction works or service-related labor. In the late 1980s, the available Thai workforce had dwindled to meet labor demand (Environmental Justice Foundation (2015) to create an imbalance in the country's labor market. The phenomenon this paper would dub as "brawn-drain" took place when Thai workforce avoided the "three Ds" (difficult, dirty, dangerous) work and applied for visas to work aboard. The available data from 2009 reported that around 161,852 Thai workers were granted permission to work overseas on production, construction, or agriculture (Sorajjakool 2013, p. 39). Around 48 percent of these workers (majority from the North and Northeast) had an elementary school education, 36 percent high school, 8 percent associate degrees (vocational), and 7 percent bachelor degrees (Sorajjakool 2013).

With many jobs available for the Thai labor force, unsurprisingly, the labor force flocks to the job with more desirable conditions and good payment (Stephens 2017). Thus, industries with undesirable conditions have trouble finding enough supply of workers to fulfill labor demand.

One of these industries was Thailand's fishing industry that requires "long hours, low and unpredictable pay, physically demanding work, and long periods at sea" (Environmental Justice Foundation 2015).

The earliest genealogy of anti-trafficking law to the anti-trafficking for sexual purposes began in 1908 when King Chulalongkorn (1868-1910) drafted the first legal document to deal with sexually transmitted diseases relating to prostitution (Sorajjakool 2013, p. 120). The Contagious Diseases Prevention Act (1908) addressed the diseases and also legalized prostitution (Sorajjakool 2013). This Act legalized prostitution, added structures (like registration) to the business, addressed street fighting among men,

prevented STDs, and collected tax from business owners and sex workers (Sorajjakool 2013).

Because King Chulalongkorn also abolished slavery soon after this Act was announced, many former Chinese female slaves were released and joining into sex work. Because of the demand set by incoming Chinese migrant labor during the development of rice export industry, prostitution became a profitable and socially acceptable industry in Thai society (Boonchalaksi and Guest 1998). As Thailand also became the trafficking hub of Chinese women to Singapore and Malaysia, Thailand got more concerns about the diseases and other troubles related to prostitution. Legislation of exploitation and trafficking of women appeared in 1928 to allegedly protect women and children from being deceived, coerced, and transported (to other geographical places) into sex work (Sorajjakool 2013). Later, for controversies and other troubles, some gaps appeared in the implementation of this 1928 Law. Thus, the number of registered prostitutes declined significantly: for 524 prostitutes getting registered in 1957 appeared (and arrested) around 12,358 non-registered prostitutes during the same period (Sorajjakool 2013). (The proportion of registered from non-registered prostitutes was about 1 out of 24.) The fact that more cases of sexually transmitted diseases among non-registered prostitutes indicated a dire need to adjust the legislation (Sorajjakool 2013, p. 121 citing Puttanurak, Raksachat, and Somsawat, 2007). The gaps in the implementation of the Law of 1928 and pressures from the UN against the legalization of prostitution induced Thailand in 1960 to repeal the Contagious Diseases Prevention Act of 1908 and the Act on the selling of women and children of 1928 (Sorajjakool 2013, p. 121). The Thailand government announced the Suppression of Prostitution Act of 1960 to eradicate prostitution by targeting prostitutes more than other people involved in this sex work. The repercussion of such type of policy or

legislation was reported by one of Sorajjakool's (2013) sources. Targeted in suppression and treated as criminals, prostitutes looked for "protection of procurers who had influence with law enforcement officials." This Act of 1960 not only failed to suppress prostitution but also increased the prostitution in numbers and forms: within 36 years of the Act's use, prostitution had grown and prospered unchecked. Organized criminal rings around prostitution grew stronger in power and influence (Sorajjakool 2013, p.122, citing Roujanavong 1999).

By 1990, Thailand's four separate legal regimes (Penal Law/Code, Immigration Act, Anti-Prostitution Law, Entertainment Places Act, etc) addressing various and overlapping components of both trafficking and prostitution only produced inconsistencies and contradictions (Sorajjakool 2013, p.122). Passed in 1966, the Entertainment Places Act was a reaction to the increased demand for entertainment service for 'Rest and Relaxation' (R & R) destination for American soldiers stationed in Vietnam (Mah 2011). The Act indirectly legitimized prostitution by regulating nightclubs, bars, massage parlors, and any other establishments that catered to the demand of male clients; Seabrook (2001, p.83) claimed that "the law normalizes the traditional subordination of women and commodification of their sexuality." Although other anti-prostitution laws appeared to uphold the rights of women and girls, in reality the laws served to condone the practices of the sex trade and then allowed for the explosive growth of the industry (Mah 2011). For example, the Penal Law penalizes persons who have sex with minors, but the Anti-Prostitution Law does not; the Anti-Trafficking Law exempts women trafficked into prostitution from imprisonment and fines, but the Anti-Prostitution Law has no such exemptions (Sorajjakool 2013, p.122). The Suppression of Prostitution Act penalizes prostitution while the Entertainment Places Act regulates and even taxes it (The Sex eZine 2010).

The inconsistencies undermined the development of a clear legal sanction on prostitution and trafficking and contributed to several Thai government's failures to suppress and control prostitution and/or trafficking, both of which rapidly expanded between 1960 and 1990.

This period of thriving ***sex trafficking*** awakened the Thai government's awareness to reform the legislation through the Prevention and Suppression of Prostitution Act of 1996 that was designed to address types of abuse, loopholes, and the existing gaps in the legal system. The staggering level of abuse taking place from 1960 to the 1990s—with many stories and news on horrible practices and tragedies—invited the international community and local NGOs to increase pressures to Thailand to address the issue of sex trafficking. However, the Prevention and Suppression of Prostitution Act of 1996 perceives those forced into prostitution as victims in need of protection and nurture (Sorajjakool 2013, p. 123) while maintaining that prostitution is still a crime; this Act of 1996 calls for severe punishment of procurers, pimps and parents who sell their children. The Act of 1996's Sections 10 to 12 punished biological parents, owners of prostitution businesses, traffickers or pimps or managers of prostitutes, and police or other officials who are found to be involved in prostitution and/or trafficking with both imprisonment and fines.

In 1992, Thailand acceded to the United Nations Convention on the Rights of the Child (CRC 1989) (Pink 2013). Article 34 of this Convention demands that State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse ... take all appropriate national, bilateral, and multilateral measures to prevent: (1) the inducement or coercion of a child to engage ..., (2) the exploitative use of children in prostitution ..., (3) the exploitative use of children in pornographic ... . Article 35 states that State Parties shall take all appropriate national, bilateral, and

multilateral measures to prevent the abduction of, the sale of, or traffic in children ... . Nevertheless, the Convention's provisions were not readily transferable into Thai law (Pink 2013, p. 168) with two immediate effects. First, education and capacity building within the judicial branches of Thailand on children's rights and the international legal obligations incumbent upon Thailand are not fully developed. Second, legal cases addressing child trafficking and child sexual exploitation issues, which are related to Articles 34 and 35 of the CRC, are not adequately subsumed into Thai case law and general Thai legal culture (Pink 2013).

The Thai government issued the Measures in Prevention and Suppression of Trafficking in Women and Children Act in 1997. This Act of 1997 defines those who conspire to commit an offense related to sex trafficking of women and children are part of the criminal activity. The Act of 1997 even allows searches homes or vehicles "in cases there are reasons to believe that if the action is not immediately taken, the woman or child may be assaulted, or the offender may relocate or conceal that woman or child" (NOCHT 2010). Beginning in 1998, the Prevention and Suppression of Prostitution Act and the Measures in Prevention and Suppression of Trafficking in Women and Children Act, as well as other sociological factors, had brought another major shift in the forms of expression for commercial sex work in Thailand. Bhatiasevi (1998) reported in the Bangkok Post that "number of persons engaged in prostitution per type of sex industries: 11,665 persons in restaurants ... a survey conducted nationwide in January 1998." The Ministry of Health's official (Chokevivat 1997) reported that "The number of prostitutes is falling while the number of venues for prostitution is rising. In 1996, the number of venues increased 5 percent but he number of prostitutes decreased in 1990 and in 1997."

To follow through, on 29 October 2004, Permanent Secretary of the Ministry of Social Development and Security signed the Memorandum of Understanding on Cooperation Against Trafficking in Persons in the Mekong Sub-Region, together with representatives from Cambodia, China, Vietnam, Myanmar, and Lao PDR (Sorajjakool 2013, p. 126). Abbreviated as COMMIT or the Coordinated Mekong Ministerial Initiative Against Human Trafficking, the MoU stood as a mandate for four Ps and the three Rs (Policy Coordination, Prevention, Prosecution, Protection and Recovery, Repatriation, and Reintegration). The Prime Minister of Thailand announced the following on 6 August 2004 (Sorajjakool 2013).

Victims must be regarded as victims, not criminals, and they must not be subject to prosecution. Instead, rehabilitation and services must be provided to reintegrate them into society. On the contrary, traffickers must be treated as criminals, and heavy penalties must be imposed on them regardless of any form of trafficking they are involved in ... Human trafficking is now a national agenda; all stakeholders should cooperate in combating all aspects of the problem in a sincere and serious manner with sympathy for trafficking victims.

On its way to fulfilling its earlier accession to the Convention of Child Rights (CRC), Thailand finally decided in 2008 to implement the Prevention and Suppression of Human Trafficking Act of 2008 (B.E. 2551). The authoritative Trafficking in Persons (TIP) Report, produced by the US Department of State, ranked Thailand on the Tier 2 Watch List. This status meant that high levels of child trafficking occurred within Thailand, and the government had not instituted an effective enforcement regime to combat human trafficking (Pink 2013, p. 164). Four years after the implementation of this Prevention and Suppression of Human Trafficking Act of 2008, the 2012 TIP Report

concluded on Thailand's performance on child trafficking as the following. "The Royal Thai Government does not fully comply with the minimum standards for the elimination of trafficking. The government has not shown evidence of increasing efforts to address human trafficking compared to the previous year; therefore, Thailand is placed on Tier 2 Watch List for third consecutive years" (United States Department of States, Trafficking in Persons (TIP) Report, 2012).

The arrival of the US-based anti-trafficking organization Not For Sale (NFS) in Northern Thailand in 2009 began a new episode of this stage of "market-based humanitarianism" (Shih 2017). Hosting the Free2Play Camp in Northern Thailand, this organization provides an opportunity for over some US volunteers to teach, play, and dance with around 150 children who live at "home."

5. Conclusion

In the conclusion, the genealogy of Thailand's evolution of anti-trafficking policy appears in seven stages: (1) immigration-based development, (2) anti-trafficking of women (1928), (3) suppression of prostitution, (4) Entertainment Places Act (1966), (5) accession to Convention of Rights of Child (1992), (6) Palermo Protocol (2000), and (7) market-based humanitarian era (2009).

The first part of the genealogy of Thailand's anti-trafficking policy involving the state's development reveals the "micro-level" analysis and intervention. During the early developmental stage (with migration), the State, through words of O'Connell-Davidson (2015), worked to "individualize, infantilize and disempower 'genuine' victims while de-humanizing individuals presumed responsible for trafficking." Concerned about the

transmission of sexually-transmitted diseases, the Thai State utilized the Contagious Diseases Prevention Act of 1908 to individualize prostitutes without any overt attempt to stop the trafficking itself. Thus, when Thailand suddenly became either the popular hub or destination of transportation of women and children to and from other surrounding countries, the lawmakers began to feel the heat of not managing the "borders" and "immigration matters" properly.

Only 20 years later, in 1928 the Thai Government announced the Act on Selling of Women and Children of 1928. Still individualizing, infantilizing, and disempowering the women and children—this time as 'genuine' victims—the State expanded the border of what the traffickers (along with other exploitative agencies) could and could not do. The women and children, this time truly treated as victims, are exempted from imprisonment and fine but might be required to go to a reform house for 30 days. In a way, the State was moving into the intermediate-level of analysis and treatment of the trafficking problems. This intermediate-level of analysis and intervention focuses on the issues of border control, law enforcement, and victim support (Mendel and Sharapov 2014). Nevertheless, this intermediate-level of analysis and intervention was not sufficient.

The following policy after policy on anti-trafficking stays almost the same: the combination of micro-level and intermediate-level analyses and interventions. The results also stay the same. The Trafficking in Persons Report (or TIP Report) for Thailand has been poor: Tier 3 in the 2014 and 2015 TIP Reports, Tier 2 Watch List in the 2016 and 2017 TIP Reports (Jirawoot 2017). (TIP Reports is the US Government's diplomatic tool in advocating other governments to adopt and implement anti-trafficking policies.) After the release of the 2017 TIP Report, the Thai Government (mostly known as National Council for Peace and Order or NCPO) issued the announcement

No. 70/2557 on "Interim Measures in Solving the Problem of Migrant Workers and Human Trafficking" and the Order No. 73/2557 to establish the Policy Committee on Migrant Worker and Human Trafficking (Jirawoot 2017, pp.95-96). (Earlier on 31 March 2015, Thailand's Ministry of Foreign Affairs published a 119-page long report entitled "Thailand's Progress Report on Anti-Human Trafficking Efforts." The main things this Report gave were the number of cases of human trafficking that the Thai Government was handling in 2014 and 2015 as well as some future Policy Plan on pages 69 to 93 around Labor, Trafficking, Child Pornography, Labor Management, Law Enforcement, etc. (This report is available at http://mfa.go.th/main/contents/files/media-center-20150430-161606-980768.pdf.) The Plan includes the scheme for "Persecution" (on MFA 2015, p. 10 on Diagram 1) "Prevention" (MFA 2015, p. 18 on Diagram 2) "Systematization of Labor-Management" (MFA 2015, p. 19 on Diagram 3) "Monitoring of Labor Movement" (MFA 2015, p.22 on Diagram 4) or "Holistic Approach in the Fishery Sector" (MFA 2015, p.23 on Diagram 5) as well as summary of Thailand's Anti-Trafficking Efforts from January to March 2015 (MFA 2015, p. 35 on Progress Report Table). The main concerns of the Thai government and business sector are the potential impact of Tier 3 status in the TIP Report on Thai exports (LPN Staff cited by Jirawoot 2017, p. 100). This status could bring non-tariff barriers, loss of General Schemes for Preferences (GSP), or reputation damages to Thai exports (Jirawoot 2017). The Thai Government still needs a lot of things to consider and discuss beyond this "temporary" set of anti-trafficking policies during the 2015-2016 episodes of anti-trafficking policy genealogy. Thailand exported USD7 Billion worth of fish and seafood; the top destinations were the US (22.8 percent of products), Japan (20.4 percent of products), and Australia (5.4 percent of products) (Sea Fish 2015).

In Davidson's language (1986, p.224), these particulars of temporary policy settlements or the "modalities of power" took place as the seventh moment in the Thai Government's anti-trafficking policy development. After the episodical flow of events through narratives and stories (including scandals and blown crises) that recur cyclically, the Thai Government finally decided to come up with a set of reactionary policies and a Policy Plan. Covering the prevention, policy management, and persecution, this policy oversees a set of rather large arenas of regulation of labor mobility (through controls over vessels or establishment in which the unfree labor work), labor market regulation, and the business regulation (although apparently weak). Appearing as a strange mixture of "abolitionist feminism," "celebrity humanitarianism," "anti-modern slavery," this set of the policy finally really represents what is called the "*rescue industry*" (Mendel and Sharapov 2016, p. 678) that does not deeply cater the preventive aspects of human trafficking. The rescue industry raises concerns on the risks of larger space (offline and online) for the victimization of ordinary people into trafficking both to unfree labor and sexual purposes. Rescue industry, perceived this way, can now move beyond a focus on abuse in particular spaces to find "victims" and abusers who are now everywhere (Mendel and Sharapov 2016, p. 678). Thus, much more 'mundane' and low-tech ways of trafficking and exploitative labor relations appear as our part of everyday lives (Strauss 2012).

The critique of such approach (broad intermediate-level and fledgling micro-level analysis and intervention) can be termed "Agnotology" or "the study of the production of ignorance" (Slater 2014). Micro-level analysis (through individualization of victims or registration of prostitute in Thailand case, infantilization of victims, and disempowerment/detention), for example, considers the exploitation and human trafficking as 'deviant behavior'

(Mendel and Sharapov 2016, p. 666-667). This analysis considers very little of how "normal" public and private sector employers facilitate and benefit from the exploitation of migrant labor or migrant unfree labor in the context of cross-border movements (Crane 2013; Quayson and Arhin 2012). Consumers' reliance on goods and services that might have been produced by exploited unfree labor and culpability in creating demand and in excluding unfree labor remain unspoken and undiscussed (Wylie and McRedmond 2010, p.8).

Intermediate-level intervention such as legislation (creation of "borders") and policing of the internet's dark webs like backpage.com (Mendel and Sharapov 2016, pp. 669-670) would "make service providers from Facebook to bloggers responsible for enforcing every relevant state and local criminal law in the country against the users" (Zimmerman 2013). Such an understanding of policy reduces the scope of discussion to merely 'securing national borders' and clamping down on trafficking as organized crime from crossing that borders (Mendel and Sharapov 2016, p. 666).

In the methodological aspect, this paper finds that the policy genealogy is not a complete set of steps and methods to analyze the genealogy of a country's anti-trafficking policy over time; beside this policy genealogy, any researcher would need additional methods such as political economy approach to complete the methodological rigor of the research or paper. Based on these failures to deal with victims as "individuals" and with "creation of borders" and "surveillance" over dark websites, this paper recommends the Thai Government to discuss the macro-level analysis and policy-making on trafficking of women. The state and capital can no longer work to render deportable migrant labor as a manageable and tractable object (De Genova, 2011, p. 106). The Thai Government can no longer just raid and deport the victims of trafficking from brothels or karaoke bars

because the network of trafficker would easily re-victim these young foreigners once they were out of the Thailand borders or regulations. The Thai Government needs to re-think to understand the systemic context underlying the exploitation of immigrants (typically undocumented) within Thai State borders and regulations. The most concrete form of this re-thinking is an ASEAN-level discussion on cooperation to deter, track, and pursue trafficking in women and children through international borders.

6. References

Antaseeda, P. (1997, November 24). More Foreign Workers Join Sex Industry as Fewer Thai Girls Enter Flesh Trade, *Bangkok Post*.

Bales, K. (1999). *Disposable people: New slavery in the global economy*. US, Oakland, CA: University of California Press.

Barry, K. (1984). *Female sexual slavery*. US, NY: New York University Press.

Bartelson, J. (1995). *A Genealogy of Sovereignty*, Cambridge: Cambridge University Press.

Bernstein, E. and Shih, E. (2014). "The Erotics of Authenticity: Sex Traffickingand 'Reality Tourism' in Thailand." *Social Politics: International Studies in Gender, State, andSociety* 21, no. 3, 430–60.

Bertone, A.M., (2000). Sexual Trafficking in Women: International Political Economy and the Politics of Sex, *Gender Issues*, Winter 2000, 4-22.

Bhatiasevi, A. (1998, June 17). Vice Purge Hinders Campaign as Prostitutes Go Underground, *Bangkok Post*.

Boonchalaksi, W., and Guest, P. (1998). Prostitution in Thailand. In L.L. Lim (Ed.), *The Sex Sector: The economic and social bases of prostitution in Southeast Asia* (pp. 130-169). Switzerland, Geneva: International Labour Organization.

Brennan, D. (2014). *Life interrupted: Trafficking into forced labor in the United States*. US, Durham: Duke University Press.

Chandravitoon, N. (1972), *Raeng ngan Thai kap utsahakam*, Thailand, Bangkok: Samnak Pim Smakhom Sangkhomsat Haeng Prathet Thai (in Thai).

Chokevivat, V. (1997, July 29). "Sex Industry Census Shows More Venues", *The Nation*.

Chuang, J. (2013). *Exploitation creep and the unmaking of human trafficking law*, American University, WCL Research Paper. Washington, DC: American University-Washington College of Law.

Crane, A., (2013). Modern slavery as a management practice: Exploring the conditions and capabilities for human exploitation, *Academy of Management Review* 38(1), 49-69.

Davidson, A.I. (1986). Archeology, genealogy, ethics. In D.C. Hoy (Ed.), *Foucault: A Critical Reader* (pp. 221-233). UK, Oxford: Blackwell.

De Genova, N. (2011). Alien powers: Deportable labour and the spectacle of security. In V. Squire (ed.) The Contested Politics of Mobility Borderzones and Irregularity (pp. 91-115). UK, Abingdon: Routledge.

Dreyfus, H., and Rabinow, P. (1986). *Michel Foucault: Beyond Structuralism and Hermeneutics*, UK, Brighton: Harvester Press.

Foucault, M. (1972). *The Archeology of Knowledge*. UK, London: Travistock.

Foucault, M. (1977). 'Nietzsche, Genealogy, History.' In D.F. Bouchard (Ed.), *Language, Counter-Memory*, Practice, Ithaca: Cornell.

Gale, T. (2001). Critical Policy Sociology: Historiography, archeology and genealogy as methods of policy analysis. *Journal of Education Policy*, Vol. 16, 379-393. doi:10.1080/02680930110071002.

Jeffreys, S. (1997). *The idea of prostitution*. Australia, Melbourne: Spinifex.

Jirawoot, Y. (2017). Anti-trafficking Through Reporting: The Case of the TIP Report and Thailand. *Journal of Political Economic of Burapha*, Year 5, Edition 1, 90-125.

Kapoor, I. (2013). *Celebrity humanitarianism: The ideology of global charity*. New York: Routledge.

Kempadoo, K. (2013). The modern-day white (wo)man's burden: Trends in anti-trafficking and anti-slavery campaigns. *Journal of Human Trafficking* 1(1), 8-20.

Le Baron, G., and Phillips, N., (2019). States and the Political Economy of Unfree Labour, *New Political Economy*, Vol. 24 No. 1, 1-21. doi:10.108 0/13563467.2017.1420642.

Lindblom, C. (1959). The science of muddling through, *Public Administration Review* (19), 79-88.

Mah, M. (2011). Trafficking of Ethnic Minorities in Thailand: Forced Prostitution and the Perpetuation of

Marginality. *Undercurrent Journal* Vol. VIII Issue II: Fall/Winter, 65-72.

Mendel, J., and Sharapov, K. (2014). "*Human Trafficking and Online Networks*". Policy Briefing, Center for Policy Studies, Central European University. Retrieved from http://cps.ceu.edu/sites/cps.ceu.edu/files/cps-policy-brief-upkat-human-trafficking-and-online-networks-2014.pdf.

Mendel, J., and Sharapov, K., (2016). Human Trafficking and Online Networks: Policy, Analysis, and Ignorance, *Antipode* Vol. 48 No. 3, 665-484.

MFA (Ministry of Foreign Affairs) (2015). *Thailand's Progress Report on Anti-Human Trafficking Efforts*. Retrieved from http://mfa.go.th/main/contents/files/media-center- 20150430-161606-980768.pdf.

National Operation Center on Prevention and Suppression of Human Trafficking (NOCHT), (2010). "*Measures in Prevention and Suppression of Trafficking in Women and Children*." Retrieved from http://nocht.m-society.go.th.

O'Connell-Davidson, J. (2015). *Modern Slavery: The Margins of Freedom*. Basingstoke: Palgrave Macmillan.

Ouyyanont, P. (2001). The Vietnam War and Tourism in Bangkok's Development, 1960-70. *Southeast Asian Studies*, Vol. 39, No. 2, 157-187.

Persaud, S. (2012). Sex work and media discourses of "slavery": Unpacking Al Jazeera's "Slavery: A 21st Century Evil." In K. Kempadoo and D. Daydova (Eds.), *From bleeding hearts to critical thinking: Exploring the issue of human trafficking* (pp. 11–19). Toronto, Canada: Centre for Feminist Research, York University. Retrieved from http://cfr.info.yorku.ca/fbh/.

Pink, R.M. (2013). Child Trafficking in Thailand: Prevention and Prosecution Challenges. *Asian Affairs: An American Review*, 40, 163-174.

Puttanurak, J., Raksachat, C., and Somsawat, N., (2007). *Kan kha manut: Phinit nai naeo satri niyom, nai puenthi internet, krabuan kan thang kotmai, lae nuai ngan ratchakan*, Chiang Mai: Women's Study Center Chiang Mai University.

Quayson, A., and Arhin, A., (2012). *Labour Migration, Human Trafficking, and Multinational Corporations: The Commodification of Illicit Flows*, New York: Routledge.

Quirk, J. (2011). *The anti-slavery project: From the slave trade to human trafficking*. Philadelphia, PA: University of Pennsylvania Press.

Raymond, J. G., and Hughes, D. M. (2001). *Sex trafficking of women in the United States: International and domestic trends*. New York: Coalition Against Trafficking in Women.

Roujanavong, W. (1999). *Trafficking in Women and Children*, Bangkok: Amarin.

Seabrook, J. (2001). *Travels in the Skin Trade. Tourism and the Sex Industry*. London: Pluto Press.

Sea Fish (2015). *Thailand Profile*. Retrieved from http:www.seafish.org/Publications/ThailandEthicsProfile_201509.pdf.

Shih, E. (2017). *Freedom Markets: Consumption and Commerce across Human-Trafficking Rescue in Thailand*.

Retrieved from https://read.dukepress.edu/positions/article-pdf/25/4/769/51097/1/post254_07shih_ff.pdf.

Simon, H. (1960). *The New Science of Management Decision*, Englewood Cliffs, NJ: Prentice Hall.

Slater, T. (2014). The myth of "broken Britain": Welfare reform and the production of ignorance, *Antipode* 46(4), 948-969.

Sorajjakool, S. (2013). *Human Trafficking in Thailand: Current Issues, Trends and the Role of the Thai Government*, Chiangmai: Silkworm Books.

Stephens, S. (2017). Show, don't tell: How Thailand can and must make advancements in the fight against human trafficking in the Thai fishing industry, *Emory International Law Review*, Vol. 31 Issue 3, 477-503.

Strauss, K., (2012). Unfree again: Social reproduction, flexible labour markets, and the resurgence of gang labour in the UK. *Antipode* 45(1), 180-197.

The Sex eZine. (2010). Sex Trafficking in Burma and Thailand—Slavery and Prostitution. Retrieved from http://www.lilith-ezine.com/articles/sex/Sex-Trafficking-in-Burma-and-Thailand.html.

Walk Free Foundation. (2014). *About the Global Slavery Index: Walk Free Foundation-Global Slavery Index 2014*. Retrieved from http://www.globalslaveryindex.org/about/#modernslavery.

Weitzer, R. (2014). New directions in research on human trafficking. *Annals of the American Academy of Political and Social Science* (653), 6-24.

Wylie, G., and McRedmond, P., (2010). Human Trafficking in Europe. In G. Wylie and P. McRedmond (Eds.), *Human Trafficking in Europe: Character, Causes and Consequences* (pp. 1-17), Basingstoke: Palgrave MacMillan.

Zimmerman, M. (2013). State AGs ask Congress to gut critical CDA 230 online speech protections. *Electronic Frontier Foundation* 24 July. Retrieved from https://www.eff.org/deeplinks/2013/07/state-ags-threaten-gut-cda-230-speech-protections.