



The Nexus between Statelessness and Human Trafficking in Thailand

Conny Rijken, Laura van Waas, Martin Gramatikov and Deirdre Brennan



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THAILAND REPORT

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EXECUTIVE SUMMARY

Statelessness and human trafficking are grave and widespread human rights problems which the international community is committed to tackling. The two issues have even been linked, through the common claim that statelessness puts a person at greater risk of becoming a victim of trafficking. However, the causal link has never been decisively demonstrated using empirical data. This research project focused on developing a methodology that would enable the interaction between statelessness and trafficking to be mapped. The methodology uses Subjective Legal Empowerment (SLE) theory as a way to measure the impact of statelessness and to identify vulnerability. This report discusses the research findings of an empirical study of the nexus between statelessness and human trafficking among hill tribe people in the Northern Part of Thailand. The steps taken in the design and development of the research methodology are extensively described in the report *A methodology for exploring the interaction between statelessness and human trafficking*.

The aim of the research was twofold: first, to develop a research methodology to identify the nexus between statelessness and human trafficking, and second, to identify the nexus between statelessness and human trafficking among hill tribe people in the Northern part of Thailand. Answering the central research question on how to measure the impact of statelessness on a women's vulnerability to human trafficking and piloting the developed research instrument among the hill tribe people in Thailand helps to close the knowledge gap on the link between statelessness and human trafficking. A variety of research methods was used for the identification of consequences of statelessness among the hill tribe people and risk factors for human trafficking, and how they impact on the vulnerability and empowerment of stateless women, in comparison to citizens and to men: desk review, key-informant interviews, survey, qualitative interviews, focus groups and finally additional interviews with key informants. The research commenced in September 2012 and the analysis of data was completed in September 2014. For the research in Thailand two field trips were undertaken; the first in January 2013 to conduct key-informant interviews and to set-up the survey, and the second in January and February 2014 to set up and supervise the in-depth interviews and focus groups and to conduct additional interviews with key-informants to verify and discuss some provisional findings of the project. For the data collection, cooperation was sought with the law clinic of Chiang Mai University who also provided advice on how to set up the data collection, helped with establishing contacts in research locations and provided input on the questionnaire and interview protocol.

The desk review was used to explore the situation of stateless populations in Thailand and to learn more about the situation of trafficking and risk factors

for human trafficking in Thailand. To test our findings from the desk review and our assumptions on the situation of statelessness as well as trafficking in the Thai context, over twenty key informant interviews were held in January 2013. From the desk review and the key informant interviews we learnt that Thailand reports a stateless hill tribe population of just over half a million people, one of the largest stateless groups in the world. They are an indigenous community within the region, with ancestral ties to the territory and an ethnic minority community comprising a multitude of different tribes, each with its own linguistic and cultural traits. Stateless hill tribe people face severe difficulties in their day to day life as a consequence of being stateless. Travel restrictions, discrimination and lack of job opportunities are among the most frequently reported consequences in literature and by key informants.

Trafficking in Thailand is severe and widespread. In 2014 the country was degraded to Tier 3 in the ranking of the US State Department as it fails to implement its anti-trafficking legislation as well as to adequately investigate and prosecute cases of trafficking and to protect the victims. Thailand must be considered a country of source, transit and destination both for sexual exploitation and labour exploitation for men, women and children. In October 2013 Thailand ratified the Palermo Protocol to the UN convention against Transnational Organised Crime but its Anti-Trafficking in Persons Act originating from 2008 already complies with the definition in the Palermo Protocol.

On the basis of the literature review carried out, supplemented by data from the key informant interviews, the following table was drawn up to compare the reported consequences of statelessness and the reported root causes of TIP.

Consequences of being stateless	Root causes of TIP
Fear being arrested	Lack of awareness
Travel restrictions	Seeking adventure
Lack of land rights	Becoming independent/ risk tolerance
Drug abuse	Enhance life chances/ Materialism
Not going to the police	Family responsibility
Being trafficked	Crisis / situation of conflict
Poverty	
Lack of employment opportunities	
Lack of (access to) education	
(gender) Discrimination	
Corruption	
Lack of access to health care/ acute need of medical treatment	

This table already shows a significant overlap, namely, poverty, lack of employment opportunities, lack of (access to) education, (gender) discrimination, corruption and lack of access to health care/acute need of medical treatment. In the area of overlap, an increased vulnerability for stateless hill tribe people exists for exploitation. The next question is how the various consequences and root causes interact and are interlinked. Many of the consequences and root causes seem to influence one another, for instance not going to the police is also influenced by corruption and discrimination impacts on the willingness to go to the police as well. Poverty is generally understood as a consequence and a root cause but is difficult to define. Especially in an area in which all people have difficulties in achieving an adequate standard of living, the role of poverty needs a closer investigation. However, the considerable overlap between the reported consequences of being stateless and the recognised root causes of trafficking is striking and a strong indication, if not proof, of the nexus between statelessness and human trafficking.

That question on how the consequences of statelessness and causes of human trafficking impacts on one's vulnerability and what factors are important for people to shield oneself against such influences was addressed in the survey and the in-depth interviews. A survey questionnaire was developed based on the outcomes of the literature review and key informant interviews. Survey interviews were conducted with 485 persons, approximately half of whom were stateless. To further understand, contextualise and correctly interpret the survey outcomes, the data was supplemented with qualitative data from 30 interviews with hill tribe people (14 stateless women, 4 stateless men, 8 citizen women and 4 citizen men) and two focus groups (9 stateless women in total). Additional key informant interviews were conducted with the same aim as well.

In the survey, with respect to the consequences of being stateless, the respondents most frequently cited the inability to travel as something they consider makes the life of the stateless difficult. Eighty two percent of all interviewed pointed out these travel restrictions (23% of all responses). Less job opportunities is the second most frequent consequence of statelessness, selected by 70% of the respondents and representing 18.2% of all responses to the question. Work opportunities for the stateless people are restricted in several ways. They cannot travel, have lower access to education, and owning land is difficult. Stateless people have little access to capital outside of their social network which again limits their opportunities to open businesses and use their most valuable resource – their work. Not surprisingly, poverty is the third most often cited consequence of statelessness with 59% of the respondents and 15.3% from all problems. Lack of health care, limited education and restricted ownership of land come next with respectively 41%, 35.1% and 30% of the respondents selecting these consequences. Lack of respect and the risks of labour and sexual exploitation are perceived to be somewhat less serious consequences of not having nationality. There is some difference in how stateless and citizen respondents perceive the

consequences of statelessness. Stateless respondents more often consider poverty as a consequence of statelessness. Apparently they identify themselves as stateless and attribute part of their economic struggles to the lack of nationality. The interrelatedness and vicious circle caused by the various consequences of being stateless clearly follows from the above. Poverty does not necessarily directly occur as a consequence of being stateless but is reinforced and triggered through the presence of other consequences and at the same time causes or triggers other consequences such as lack of access to education.

Education

The survey outcome confirmed that stateless people were less educated and are significantly more likely to have no education compared to citizen. People in the in-depth interviews and the focus groups were less convinced that stateless were less educated but expressed the view that if there is a difference then it is due to stateless people not being able to access educational loans for higher education. Other issues flagged by stateless women in relation to low educational levels were lack of confidence at school, being needed to mind children at home and disinterest in completing schooling because even with an education a stateless person will still not be accepted for work. But there is a cyclical link here that our respondents do not interpret as interconnecting; lower education which impedes job opportunities and thus increases poverty; and even if they are educated they have less options to get a formal job. A cycle that is likely to be inescapable for stateless people without better financial support towards their education.

Travel restrictions

Travel restrictions seriously impair the mobility of stateless hill tribe people. Because of a fear of being arrested and charged if traveling without a permit, stateless people remain in the villages. Without prior permission they are not allowed to work or travel outside the district. The role of the community leader is key in acquiring a travel permit and they sometimes need to accompany the applicant to the district office to get a permit. The integrity, willingness and cooperation of the community leader determines the effects of the travel restrictions imposed on stateless people.

Job opportunities and poverty

Stateless people are restricted in several ways to find a job and generate an income: they cannot travel freely, have lower access to education, owning land is difficult and they have little access to capital outside of their social network which again limits their opportunities to open businesses. Here the interrelatedness and the interconnectedness of the various consequences of statelessness reappear. Most

of the respondents in the survey sample are farm workers (54%), with near equal proportion of men and women working in the fields. The mean reported household monthly income is around 6000 THB (around 200 USD or 155 EUR). Notably, the respondents with citizenship report significantly higher household income ($M = 6700$ THB) than stateless respondents ($M = 4900$ THB). Three main issues came to light during discussions on job opportunities in the in-depth interviews: employers prefer to hire citizens, stateless people have to stay in the village to work where payment is worse, stateless people receive lower payment than citizens for the same work. In the in-depth interviews, it was less directly highlighted that poverty is a consequence of being stateless, even though factors causing poverty (lack of job opportunities, less income) were widely recognised as consequences of statelessness. Their statelessness influences their ability to earn as much as citizens and thus increases their vulnerability to poverty – or at least it decreases their ability to earn as much as citizens.

Willingness to migrate, risk taking behaviour and crisis

To further understand the link between statelessness and vulnerability to human trafficking the likelihood of stateless people to enter into a migratory process, the risks they are willing to take to migrate for a job, the ability to deal with crisis that might trigger migration or exploitation and to what extent stateless hill tribe people are resilient to such forms of crisis, as compared to citizen hill tribe people have been measured. The self-perceived likelihood for hill tribe people to migrate is low in general. From the survey respondents only for 10.2%, migration to find a job elsewhere is somewhat likely and for just 6.2% it is highly likely they would migrate for economic reasons. Statelessness alone is not affecting the perceived likelihood of moving to another community to search for a job. Stateless persons reported to be more likely to consider paying a middleman to find a job elsewhere than hill tribe people with citizenship. Paying a middleman has been found, in existing research, to increase the risk of exploitation even though a middleman can also be a trustworthy person and may be able to provide support and assistance if the person is in trouble and is outside the safe environment of the community. There is a clear correlation between those who perceive themselves as risk takers and those who are willing to migrate to search for a job. For most of the survey respondents, mobilizing sufficient resources in times of crisis would be very difficult (44.5%) or difficult (26.3%). Only about one sixth of the respondents report that finding money for medical treatment of a sick family member would be somewhat easy (14.7%) or very easy (2.1%). Stateless people are significantly less confident that they will be able to mobilize the required resources when a severe hardship occurs. When such a situation occurs, one of the likely options for the hill tribe people, and particularly for the stateless, would be to seek quick money in the more developed areas of the country – big cities and tourist areas. Clearly, the acute need and urgency in such situations will put them in greater risk of entering into

a migratory process and exploitative practices. The in-depth interviews confirm that in times of emergency and acute need for money, people accept that they may need to take more risks to generate money. They are pushed to do so if safe options (loan at a bank, extra work) are limited. These limitations are imposed by lack of access to banks, lack of education, lack of land rights, travel restrictions and lack of job opportunities. As we have learned from both the survey and the in-depth interviews stateless hill tribe people are more easily affected by these limitations and thus find themselves more readily pushed to accept increased risk while looking for money-generating activities such as migration for work via untrustworthy networks.

Human trafficking and exploitation

In general, it can be stated that stateless respondents are significantly more likely to perceive labour exploitation as a serious problem and are more concerned about sexual exploitation. According to respondents, young women are more at risk of becoming victims of labour exploitation as well as sexual exploitation. Poverty is considered as the most serious risk factor for exploitation (both labour and sexual exploitation). In addition, statelessness is considered a significant cause of labour exploitation and somewhat less serious cause of sexual exploitation. Stateless people are also more concerned about the risks of sexual exploitation. From the survey analysis, we learned that stateless hill tribe people have less income than citizens, are less educated and lack proper ID documents. These three elements are also the top three causes of exploitative practices indicated by respondents, meaning that these causes are more prevalent among stateless hill tribe people than among hill tribe people with citizenship. In the in-depth interviews there was consensus on the matter that stateless people are most at risk of exploitation or trafficking. The focus groups with stateless women further highlighted stateless people's plight as outlined in the individual interviews. Stateless people are hired for difficult work such as farming and fruit picking, they earn less than citizens and work opportunities outside the village boundaries are not open to them.

Subjective legal empowerment

There are noticeable differences in the ways in which stateless and citizen hill tribe people respond to problems that might have legal solutions. Stateless respondents refer more often for help from community institutions – leaders, village commissions and religious leaders. On the other hand, those who have Thai citizenship are more likely to solve the problem with their own action. They are also twice as likely to refer the problem to the Thai police. In the survey, interview respondents were confronted with a hypothetical situation of severe labour exploitation. About one third indicated that it is possible that they might need to deal with such a challenge in their lives. Stateless people report a higher

chance that this type of situation might occur in their lives. Almost 60% of all respondents do not see even a remote chance to deal with such a situation if it occurred. Calling the police is the first thing that most of the citizen hill tribe people would do in such a scenario (55%). Almost half as many of the stateless hill tribe people (31%) would dare to seek protection from the police. Instead, they are more willing to seek protection from community leaders, middlemen or attempt to solve the problem on their own. Here, the respondents showed a different role of the middlemen, namely, a person who can help them in case of trouble. This hypothetical scenario confirms a general trend that the citizenship status has significant effect on the abilities of the hill tribe people to involve public institutions, notably the police, in the process of solving their legal problems and the reluctance of stateless hill tribe people to ask the police for help. Some of the women in the in-depth interviews have experiences of exploitation and others know a person who has been exploited, specifically cases where stateless people were not paid for their work. In the in-depth interviews the experiences with police and coping strategies were thoroughly discussed. In line with the survey outcomes, all interviewees reported that they will primarily contact the community leader when they have a problem. Differences in treatment and maltreatment by the police are reasons to avoid going to the police in case of problems. Citizens agree that stateless people can be treated differently by the police. They explained that they were afraid of talking to the police when they were stateless as they feared being fined, furthermore they believe some officer's greed leads them to abuse stateless people.

Acquiring citizenship

In 2008, a highly promising amendment to the Thai Nationality Law was passed. It determined that anyone whose nationality was revoked by the 1972 Declaration or who failed to acquire nationality while this Declaration was in force (1972-1992) acquires Thai nationality if they have evidence of their birth and subsequent domicile in Thailand and demonstrate good behaviour. Both the survey and the in-depth interviews indicated that a considerable number of stateless hill tribe people would actually be eligible to acquire citizenship, but many had not pursued this. The following reasons were given for not applying for citizen status; they think they are not eligible, it is too time consuming, they don't know what to do, they don't have the necessary documents, or they do not have the money. Of the nearly 50% of the stateless respondents in the survey who had applied for Thai citizenship but were still stateless at the time of the interview, nearly 30% said their application was rejected, while in 64.4% of the cases, the application is still pending. The average duration of the applications for this category of applicants is 55 months, i.e. more than 4.5 years. This corresponds with the findings in the in-depth interviews in which 'waiting' or 'waited' are possibly the most frequented words used by both citizens and stateless people when the topic of citizenship applications was discussed. There is an abundance

of documents needed in each application. Presenting such documents at the district office appears to be a bureaucratic process where applicants queue for several hours and can be asked to return again if their documents are incorrect. Those who applied and were successfully granted citizenship needed the assistance of the chief throughout the procedure. Stateless people are not making independent applications at the district office for citizenship. Several of those who have not applied yet haven't done so because they are waiting on 'news' from the community leader. In both villages in which the in-depth interviews were conducted, the option of a mobile district office was discussed and considered by community leaders and stateless persons as an intervention that would be very helpful to overcome the problems they have in acquiring citizenship.

To conclude, in relation to the nexus between statelessness and human trafficking three important conclusions can be made:

First, many of the consequences of being stateless are at the same time, found to be known external root causes for human trafficking. Factors that appear in the overlapping area are: poverty, lack of job opportunities, lack of education, discrimination, corruption and lack of access to health care. When looking more closely into these areas, it was discovered that these factors reinforce one another as indicated above. For instance, a person who did not finish school because he needed to help his family with the farm work, will not have many options to find a job other than farm work and furthermore because of being stateless he will not be able to work outside the village. Farm work generates only a low income and the person cannot go elsewhere (legally) to find a well-paid job.

Second, stateless hill tribe people seem to be more affected by triggers, not necessarily because detrimental events or crises more often happen to them, but because they have less options and therefore are less able to deal with such an event. Stateless people have indicated that they are less able to find money when in dire need and their options to generate extra income are limited. Many expressed that they would try to find work outside the village when in such a situation and were willing to take more risks if needed.

Third, the presence of internal root causes is not necessarily influenced by being stateless although there are indications that they are more at risk because of a higher willingness to migrate. On attitudes to migration the study finds that individual predisposition to risk plays a significant role. Hill tribe people who are more risk-tolerant are more likely to consider labour migration. The analysis shows that when we control for risk-tolerance, being stateless is associated with increased willingness to migrate. This is an indication that stateless people are more exposed to the risks of migration and therefore to risks of trafficking and exploitation.

Furthermore, stateless hill tribe people are reluctant to go to the police in case of problems. The lack of confidence in the police seems to be compensated by

reliance on the community leader. A common thread throughout most subjects but especially stateless people was the pivotal position of the community leader in the lives of the respondents. Stateless hill tribe people are highly dependent on this person which includes risks of abuse as well.

Based on these conclusions the following five key-recommendations can be made:

- Improve stateless people's coping strategies in case of acute crisis for instance through informal community fund or utilising micro credit opportunities.
- Create a safe and familiar environment for stateless hill tribe people when outside the community. Such intervention includes, awareness raising, how to prepare before migrate, inform family and relatives on migration plans, look for community members when migrating outside the village for work.
- Improve confidence in the police by stateless hill tribe people and research why hill tribe people distrust the police. A study of discriminatory practices and corruption within the Thai police should be part of such research.
- Create possibilities for safe migration. The abolishment of travel restrictions should be part of a safe migration procedure.
- Explore possibilities to start procedures for acquiring citizenship in the communities for instance through mobile teams. Acquiring citizenship would (partly) solve problems such as lack of (access to) education, lack of job opportunities, and unequal payment.

1. NARRATIVES

A. The case of Y¹

“I really want to get the nationality so that I won’t be deceived to work again like when I worked in Chiang Mai at the age of 16, the employer cheated on me. He didn’t pay me a wage of one year. And I wasn’t able to go back home because I had no money. I can’t even pay for the travel back home.”

Y is a stateless woman who lives in Northern Thailand. She is 30 years old and is married, although like most people in her village the marriage is not registered. Y was born in the Thai village where she still lives today. Her parents died when she was young and she was raised by her sister. As she was growing up, a lack of funds meant that Y could not go to school. She now hopes that her children will have the opportunity to study. A driving force behind this dream is that she wants to ensure that her children will not be deceived into work or be looked down on, like she was. If her children have a chance to study she *“will be content with life”*. Y does not have a birth certificate and she has never applied for nationality as she heard it is difficult. Her 40 year old sister has nationality, as does Y’s husband and children.

If she acquires nationality and her children grow up she will go outside the village to work, something she cannot currently do because of being stateless. At the moment, Y’s income is unstable. She grows vegetables and keeps chickens, sometimes selling a chicken if someone comes to buy one. Some days, if there is no work in the village, they do not have money, yet they survive on the chickens and vegetables they have to eat. Outside the village it is easier to get a job. However her past experience with work outside the village is a cautionary tale. *“I had worked for one year but without wage. Thinking about it still makes me feel angry.”* At the job in question she was a baby sitter and has done general housework. It was her friends who suggested the job to her, *“they knew about the offer and informed me but they didn’t know that I would be deceived. The employer even sold her old clothes to me. She didn’t give me the clothes. Food was given sometimes.”* Y did not ask for help from anyone, explaining that it was about 10 years ago and she did not speak Thai very well. She was able to escape because her sister helped her, *“Luckily, she remembered my address. At that time, I had no money and no phone. I can’t ask for help. My employer prohibited me to go out of the house. I can finally go out because*

¹ Stateless female no. 17 from village 001. Note that the communities in which empirical data was collected for this study are numbered 001–004. Individual respondents in the in-depth interviews are also given a number.

my sister lied to them that our mother was dead. That's why they allowed me to go." She feels fortunate that her sister remembered her address, otherwise she doesn't know what she would have done and whether she could have gone back home.

Y feels that experiences of poverty differ between people who have nationality and those who don't. She believes the difference exists if a citizen gets into trouble: unlike a stateless person like herself, they will have priority receiving help from the government or other administrative organisations. She gave the example of access to hospitals, saying access is more convenient for people who have nationality. For Y, if her child were to fall ill and she needs money urgently she will ask for help from someone in the village, namely a relative or the community leader. If Y was experiencing a legal problem or was arrested she also said that she may contact the community leader for suggestions. Y believes that people who don't have nationality don't dare to ask for help from the police, *"Because when we don't have an identity card, we're scared to be arrested. If something happens to us when we're outside the village, we have to tolerate it. But if it happens in the village, we can notify the community leader."*

B. The case of X²

"I was taken advantage of once. I was tricked to go work in other province. They took all commission. It was very difficult."

X is a 24 year-old man who now holds Thai citizenship. He was born in Thailand to Burmese parents. He grew up stateless and held a pink ID card issued by the Thai authorities. He had wanted to pursue the highest level in education that he could, but there were many family and social difficulties, the issue of his statelessness being one of them. Travelling to study was a problem as he had to obtain a travel permit. Moreover, his parent's financial status was not very good and he could not get a study loan because he was stateless. When he had the chance, he went to non-formal school. X received a vocational certificate in agriculture at a non-formal education centre. He believes there are differences between stateless people and citizens in terms of the educational opportunities available, pointing to the lack of access to study loans for stateless people.

X received his citizen ID card in 2010. He is the only member of his family of 7 to have received citizenship. His child has citizenship but his wife does not. As is common practise in the community, his marriage is unregistered.

X does not believe that statelessness is creating poverty, however he does point

² Male citizen 3 from 003

out that citizen get a higher rate of payment in factory work. X does believe that there are many chances to be exploited or deceived for those who leave the village to work and that this is particularly true for stateless people. *“I was taken advantage of once. I was tricked to go work in other province. They took all commission. (He was uncomfortable to tell.) It was very difficult. I needed to survive on my own. I decided to start working there to save up some money to go home.”* X said it was convenient applying for jobs through an agent but that he didn’t get the job as promised. He believes many villagers have been tricked to work. When asked how they managed to get for help or to survive he replied, *“Most of them yielded to working till they saved up enough money for tickets back home. Some had to yield to abuse or oppression.”* X also commented that he did not reach the stage of asking for help from the community leader or the police when he was tricked.

X believes that if situations *“reach there”* he would definitely go to the police. He says treatment by police towards citizens and stateless people depends, *“some officers are greedy, trying to abuse people without the card.”* X commented on what a good police person should be like, referring again to corruption *“a good one should give advice. If we are out of the area, or if we do something wrong, the good ones should advise us to make it right in order to be permitted. Unfortunately some are far away from it, asking for bribery.”* X says that he is still approached with offers of jobs, sometimes by people from the flatland. From time to time, the villagers who had good jobs outside the village come back to convince others to go. His friend is trying to convince him to go but he has decided not to.

2. INTRODUCTION OF THE RESEARCH

A. Introduction

Hill tribe communities are not divided by citizenship status: stateless and citizen people live side by side. Yet, the two narratives presented above offer a glimpse of the difficulties *stateless* hill tribe people encounter, including differences in access to education and in job opportunities and rates of pay, travel restrictions and exposure to exploitative situations. This report presents the research findings of a detailed empirical study of the nexus between statelessness and human trafficking among hill tribe people in the Northern part of Thailand. The problems Y and X endure or have endured are among those that have been identified in the empirical study and are elaborated upon in this report which explores whether, how and why stateless persons are more vulnerable to human trafficking.

The methodology for this research is thoroughly described and explained in the report '*A Methodology for Exploring the Interaction between Statelessness and Human Trafficking*' (the methodology report) and therefore will only be outlined briefly, where relevant, in this report.³ The two reports supplement each other but can be read as separate reports as well. The current section will shortly introduce the background of the research. After this introduction the consecutive sections follow the steps of the project meaning that first the findings of the literature review and key-informant interviews are discussed, followed by the analysis of the empirical research (which includes a survey, in-depth interviews, focus groups and additional key informant interviews). The final section includes the overall conclusions and sheds some light on what opportunities there are, based on the research results, to take further action.

B. Research background

Statelessness is a significant and global human rights challenge. Today, more than 10 million people worldwide are stateless,⁴ i.e. not considered as a national by any state under the operation of its law.⁵ Moreover, new cases of statelessness continue to arise every day due to the incomplete incorporation and implementation of legal safeguards that would ensure that everyone enjoys a nationality somewhere,

³ Laura van Waas, Conny Rijken, Martin Gramatikov and Deirdre Brennan, *A methodology for exploring the interaction between statelessness and human trafficking*, Oisterwijk, Wolf Legal Publishers, 2014.

⁴ UNHCR, "Addressing Statelessness" in *Global Appeal 2014-2015*, p. 56, available at: <http://www.unhcr.org/528a0a1316.html>.

⁵ Article 1 of the 1954 Convention relating to the Status of Stateless Persons.

as well as a range of other factors such as discrimination and state succession. The reality is that, despite some real progress in recent years to prevent and resolve statelessness, it is a phenomenon that will continue to confront the international community for some time to come. Therefore, there is a need to better understand the impact of statelessness on the lives of individuals and the fabric of communities, in order to better inform policies that would address this impact and ultimately also provide fuel for discussions on the need to commit more effort to the avoidance of statelessness. While no region is left untouched, South East Asia and Thailand in particular is home to some of the world's largest stateless populations and was therefore identified as a prime target for promoting further research-based policy development.⁶

There are many reports of the difficulties encountered by stateless hill tribe people in Thailand, both in the media and from organisations that work with the communities on the ground. To date, the most significant research project to map these problems was the Hill tribe survey conducted by UNESCO, in cooperation with the government's Bureau for Social Development in 2006. The survey captured information on 65,000 people in 192 sample villages and collected data on a variety of issues. The survey concluded, for instance, that those Hill tribe people who did not hold Thai citizenship (37% of the respondents) were far less likely to attend school at every level and were much less likely to have access to healthcare.⁷ However, the full results of this survey have not been made publicly available, nor has the outcome of a second and expanded survey subsequently conducted by UNESCO to better understand the issues affecting the population.

In terms of identifying the impact of statelessness, many studies have been largely restricted to capturing a basic snapshot, through relatively superficial qualitative analysis, involving a limited number of participants. Where more detailed or quantitative assessments have been conducted, these have focused on the overall impact of statelessness on a particular population and have stopped short of exploring the specific position of stateless women. Thus, while numerous sources point to statelessness placing women in a situation of extreme vulnerability, there is little data available on the specific protection needs of stateless women.

⁶ In Asia, for instance, a study was carried out in the Philippines in 2012-2013, identifying more than 6,000 persons of Indonesian descent whose nationality is undetermined, see UNHCR, *Stateless in the Philippines: Indonesian descendants feel torn between two lands*, 15 September 2014, available at: <http://www.unhcr.org/5416d3519.html>; and in Malaysia, mapping is currently ongoing as part of a wider legal assistance programme, see DHRRA Malaysia, *Mapping and Registration Project: Fact Sheet*, September 2014, available at: <http://dhrmalaysia.org.my/publications/fact-sheet-on-mapping-registration/>.

⁷ K. Clement, "Stateless in their own home" in *UNESCO VOICES*, 2011, http://www.unescobkk.org/fileadmin/user_upload/culture/Trafficking/resource/Clement_VOICES_Article.pdf.

As explained in the methodology report the present project contributes to closing this gap in humanitarian knowledge by developing, implementing and documenting a research methodology specifically dedicated to assessing the impact of statelessness on women. Given that the data gaps in this field are significant, the present project focused its assessment by homing in on one of the most pressing concerns with regard to the impact of statelessness on women: their increased vulnerability to victimisation of human trafficking. It has been widely reported and generally understood that statelessness increases vulnerability to become victimised by human trafficking. It is assumed that especially a lack of access to education and the formal labour market as well as exclusion from social benefits and health care are key factors making stateless people more open to accept jobs and money-generating activities outside the formal labour market. Understanding why and how the consequences of being stateless impact on people's daily life and how these consequences might evolve to become an increased risk factor for victimisation of human trafficking is still not fully researched or understood. Both the situation of stateless people and trafficking is country specific and sometimes region specific. Additionally it is not only external factors that determine the link between statelessness and human trafficking but an individual's personal situation and characteristics as well, the so-called internal factors.

For measuring the vulnerability of stateless persons to practices of exploitation the theory of Subjective Legal Empowerment (SLE) was applied. SLE is a method for measuring legal empowerment as a personal trait. People are considered empowered when they have high self-confidence in their abilities to solve successfully particular problems. SLE measures an individual's perception on how confident they are to cope with difficult situations that might have legal implications. Unlike other measures, such as cognitive and affective trust in justice providers or a feeling of security, SLE is domain specific. This means that the construct recognizes that a person can feel empowered in one area of law and disempowered in another. Domain specificity also suggests that SLE may be influenced by context-specific factors such as the power position of the other party, social and cultural beliefs etc. In adapting the SLE research framework for the assessment of the subjective legal empowerment of stateless women, as described above, the focus was on areas that most closely relate to these women's vulnerability to human trafficking as evolved from the literature review and the key-informant interviews. Neither the problems nor the coping strategy need to have a legal nature per se. If one is able to deal with a problem with other than legal means the SLE of that person is also high. SLE is an important indicator of empowerment and access to justice. Research shows that people who believe in their capacities to solve successfully situations that might have legal implications, are more likely to take active steps when a problem arises, persevere when there

are difficulties and ultimately use the law more effectively to improve their lives.⁸ Translated to the context of the nexus between statelessness and human trafficking the proposition states that people with higher level of (legal) empowerment are more resilient to (legal) problems and particularly to trafficking. Thus the perceived belief in own capabilities is an indication of the extent to which the hill tribe people can resolve their legal problems, e.g. a conflict with an employer. In this way the analysis of the nexus between statelessness and human trafficking has been further deepened with a particular focus on one's perceived ability to solve and end a situation of exploitation.

The identification of the consequences of statelessness and the risk factors for human trafficking, the way they affect one's vulnerability and empowerment to exploitative practices enabling the testing of the assumed interconnectedness between statelessness and human trafficking, is applied in Thailand and in particular in the Northern part of Thailand, where a large number of stateless people live in the hill tribe communities. To that end a research methodology specifically dedicated to assessing the impact of statelessness on women in relation to risk factors to become victim of human trafficking has been developed.⁹ This research methodology can be used in other countries and regions when adapted to the country specific situation on statelessness and human trafficking.

C. Summary of the methodology

The research commenced in September 2012 and the analysis of data was completed in September 2014. For the research in Thailand two field trips were undertaken; the first in January 2013 to conduct key-informant interviews and to set-up the survey, and the second in January and February 2014 to set up and supervise the in-depth interviews and focus groups and to conduct additional interviews with key-informants to verify provisional findings of the project. For the data collection cooperation was sought with Chiang Mai University who provided advice on how to set up the data collection, helped with establishing contacts in research locations and provided input on the questionnaire and interview protocol. Students from the law clinic from Chiang Mai University were contracted to conduct the empirical research for us after they were taught and duly informed about the project, trained on conducting the survey and in-

⁸ See Bandura, Albert. 1997. *Self-efficacy : the exercise of control*. New York: W.H. Freeman.; Campbell, Nancy K. and Gail Hackett. 1986. "The effects of mathematics task performance on math self-efficacy and task interest." *Journal of Vocational Behavior* 28:149-162.; Wood, Robert and Albert Bandura. 1989. "Impact of Conceptions of Ability on Self-Regulatory Mechanisms and Complex Decision Making." *Journal of Personality and Social Psychology*: 407-415.

⁹ See methodology report 'A methodology for exploring the interaction between statelessness and human trafficking'.

depth interviews and after both research tools were piloted. These students were selected based on their experience with outreach activities of the law clinic, language skills and knowledge about the research topic.

For the identification of consequences of statelessness among the hill tribe people and risk factors for human trafficking and how they impact on one's vulnerability and empowerment on stateless women, in comparison to citizen and men a variety of methods was used; desk review, key-informant interviews, survey, qualitative interviews, focus groups and finally additional interviews with key informants.

The desk review was used to explore the situation on stateless populations in Thailand and to learn more about the situation of trafficking and risk factors for human trafficking in Thailand. Twenty key informant interviews were held during a first research visit to Thailand in January 2013 to test our findings from the desk review and our assumptions on the situation of statelessness as well as trafficking in the Thai context. Additionally these interviews aimed at finding out whether other factors impacted on statelessness and/or Trafficking in Persons (TIP) than we had distilled from desk review and to collect additional information about the situation of the hill tribe communities and the situation of human trafficking in Thailand.¹⁰

Based on the outcome of the desk review and the information from the key informants a questionnaire was drafted for a survey among the hill tribe communities. The aim of the survey was to find out to what extent the identified risk factors for human trafficking in (the Northern provinces of) Thailand were present among stateless people from the hill tribe communities, how they impacted on their daily lives and especially on becoming vulnerable for exploitative practices and the level of empowerment to solve problems they might face. To that end survey interviews were conducted with 485 persons from the hill tribe communities.

For the qualitative research in-depth interviews with a total of 30 hill tribe people were conducted first, to further understand the findings of the survey, second, to find out why some of the root causes of human trafficking are more prevalent among stateless hill tribe people and third, to learn about the consequences of such increased prevalence. The interviews were conducted by the students in

¹⁰ Interviews were held with experts from the following organisations: UNIAP, Asia Foundation, Plan, NEXUS, UNHCR (regional and Thailand offices), UNESCO, Independent trafficking consultant, New Life Centre Foundation, International Justice Mission, COSA, TRAFCORD, IMPECT, CMU Law Clinic, Empower, Foundation for Women, IOM (regional and Thailand offices), Tamar Centre, Thailand Office of the Attorney General. The research team attended an informal round table with other NGO representatives organised by NLCF and a half-day seminar on statelessness among Thailand's hill tribes hosted by the Faculty of Social Sciences at Chiang Mai University on 13 February 2013.

two of the four villages in which the survey was done. Some of the students had been involved in the survey as well. In addition focus groups were organised with a group of 4 and 5 stateless women in each of the villages.

The next section contains the results from the desk review and the key-informant interviews. In section 4 the results from the empirical research consisting of the survey, in-depth interviews, focus groups and additional interviews are presented. In section 5, the overall conclusions of the research are drawn based on which opportunities for an intervention strategy are formulated.

3. STATELESSNESS AND HUMAN TRAFFICKING IN THE THAI CONTEXT; A COMPLICATED MARRIAGE

A. Introduction

The findings of the desk review and the key-informant interviews are presented in this section. As mentioned the interviews had multiple aims; checking the findings of the desk review, identifying additional consequences of statelessness and root causes of trafficking, and learning about the situation of hill tribe communities in Northern Thailand. In total 20 key-informants were interviewed. Some of them were experts on statelessness, some on human trafficking, and others on the situation of hill tribe communities or Thai governance and prosecution more generally. Although we worked with an interview protocol, the protocol was adjusted in accordance with the expertise of the interviewee. Consequently, not all key informants were posed the same questions, which makes it impossible to quantify the outcomes of the interviews with key informants. The results of the desk review and key informant interviews are integrated in the presentation of statelessness and trafficking in Thailand in the current section.

B. A large stateless population

Today, Thailand reports a stateless population of just over half a million. In the global leagues, the country is therefore still very much a heavy hitter. Most of Thailand's stateless people are members of the community known collectively as the 'hill tribes' (or sometimes 'highlanders'), because they traditionally reside in the mountainous Western and Northern areas of the country, in particular along the borders with Myanmar and Lao PDR. The Thai government currently estimates there to be 506,197 stateless hill tribe people in the country.¹¹ This makes it the second largest stateless population in the region (after the Muslims of Northern Rakhine State, "Rohingya", in Myanmar) and one of the largest stateless groups in the world. They are an indigenous community within these regions, with ancestral ties to the territory. They are also an ethnic minority community – distinct from the Thai majority population – and comprise a multitude of different tribes, each with its own linguistic and cultural traits.

¹¹ UNHCR, *Global Trends 2013*, Table 1, June 2014, available at: <http://www.unhcr.org/5399a14f9.html>.

While the issue of access to nationality is a sensitive one in Thailand, as it is in many countries, there is a relatively active debate about the situation of the stateless hill tribes and the measures needed to address their plight. Reports of the problems they face are often presented in the media, there are a variety of civil society and UN initiatives to improve the enjoyment of rights by this group and/or promote their access to nationality and there have also been numerous government ‘strategies’ and other initiatives to address their situation, especially over the past 15 years and with a particular intensification since 2008. Importantly, a widely reported problem and one of the major motivations for the various initiatives to tackle the situation of the stateless hill tribes, is their vulnerability to human trafficking. There has, in particular, long been concern about the exposure of stateless hill tribe women and girls to trafficking into Thailand’s sex industry.¹² There is therefore a common understanding of this intrinsic link between lack of nationality and vulnerability to trafficking – although detailed research of the nexus between these issues has never been published – hence the selection of Thailand as the pilot country for the research methodology that is being developed through this project.

The term “hill tribe” describes the population of semi-nomadic people who are indigenous to the mountainous border regions of Thailand and neighbouring Myanmar and Lao PDR, as well as China and Vietnam. In Thailand, they are also sometimes referred to as “Highlanders”. Hill tribe people form a majority in the Northern regions of Thailand, but they can now also be found living in towns and cities around the country, including in the capital Bangkok. They are a linguistically and culturally diverse group, with as many as 20 different tribes, including the Akha, Karen, Lahu, Lisu and Meo (also known as Hmong). All are also distinct from the majority Thai population. Although exact numbers are not known, there may be as many as 2 million hill tribe people in Thailand – half a million of whom, according to current government estimates, are stateless.

Many hill tribe people and their ancestors have inhabited Thailand for hundreds of years. Others arrived in the country during various waves of migration in the 18th and 19th and 20th centuries – in particular during periods of upheaval

¹² D. Feingold, “UNESCO Promotes Highland Citizenship and Birth Registration to Prevent Human Trafficking” in *UNESCO Bangkok Newsletter*, September 2006, http://www.unescobkk.org/fileadmin/user_upload/culture/Trafficking/project/abc/Selected_Articles_and_Publications/Pages_from_DAF_UNESCO_Newsletter_Citizenship_Article.pdf. Y. Lertcharoenchok, “Searching for identity” in *Step-by-Step Newsletter from the Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-Region*, 2011. K. Clement, “Stateless in their own home” in *UNESCO VOICES*, 2011, http://www.unescobkk.org/fileadmin/user_upload/culture/Trafficking/resource/Clement_VOICES_Article.pdf. Vital Voices Global Partnership, “Stateless and vulnerable to human trafficking in Thailand”, June 2007, http://www.humantrafficking.org/uploads/publications/Vital_Voices_Stateless_and_Vulnerable_to_Human_Trafficking_in_Thailand.pdf.

in the countries of origin. During much of this time, the borders themselves were not yet asserted in the sense of there being a policy on the admission, stay or expulsion of migrants. There was also no concept of civil registration, nor a tradition of issuing identity documentation, in the region, meaning that people's origin and movements were not documented. There is ongoing mixed and largely undocumented migration across the still-porous border into Thailand today, bringing people fleeing unrest or persecution in Myanmar, labour migrants in search of better economic opportunities and individuals who are the victims of international trafficking networks. In view of the foregoing, it can be difficult to distinguish in practice between people whose ancestors have always inhabited Thailand and more recent arrivals, since both groups commonly lack any formal documentation. This has long been a complicating factor in the treatment that hill tribe people have received, including in their ability to obtain recognition as nationals, even where there would be an entitlement under the law.

It is of interest to note that a smaller indigenous population which is also grappling with statelessness can be found further south in Thailand, along the Andaman coast. Known as the Moken, Chao Lay or simply 'Sea Gypsies', they are a relatively small group (a few thousand people) who have lived semi-nomadic lives in this part of the country for hundreds, if not thousands, of years. Following the devastating 2004 tsunami, several projects were launched in the area to support the re-documentation of people and the re-building of livelihoods. It was then that this population's lack of citizenship came to light and there has been some work since to try to resolve their statelessness. Our research into the impact of statelessness on women in Thailand does not include the Moken – it is limited to the experiences of Thailand's stateless hill tribe people.

Statelessness has been a phenomenon among Thailand's hill tribe population ever since the country first began to really document its nationals, in the 1950s. For many, exclusion was a result of the poor enumeration of people or villages – some simply lived in such remote areas that they did not come into (regular) contact with the state authorities and were overlooked when civil registration and nationality documentation systems were implemented. Others may have had the opportunity to register as citizens, but did not see the importance of doing so, since the whole concept of nationality was alien to their lives. During various later attempts to fill in the gaps in census and civil registration records, the Thai authorities did not necessarily recognise those encountered – who were not previously registered – as Thai nationals. Instead, a system of different coloured cards was implemented to grant some form of temporary status to the ethnic minority groups, pending a more durable solution. For many, the difficulty in accessing Thai nationality was then compounded by a revision of the nationality policy to exclude from the country's *jus soli* rules anyone whose parents were deemed to be illegally residing in Thailand. In other words, children born on Thai soil to illegally present parents – including many of the groups who held the aforementioned temporary statuses, which were not considered

lawful residence – were excluded from nationality and would also be stateless. As such, statelessness became a protracted and hereditary phenomenon within these communities and there are many families which have been stateless for generations.

Despite the protracted nature of statelessness in Thailand and the sheer scale of the problem, the country's stateless have drawn relatively little attention beyond its borders. Competing for the already marginal interest that different international actors have demonstrated in relation to statelessness to date, they have clearly lost out against other communities. This is especially unfortunate given the opportunities that the current legislative framework present in Thailand for the large-scale reduction of statelessness among the hill tribes and to which far more attention and resources should be directed to finally effect real change.

i. Thai law on nationality and statelessness

There is no definition of a stateless person in Thai law and Thailand is not a state party to the 1954 Convention relating to the Status of Stateless Persons in which the international legal definition is housed. As articulated in Article 1 of this convention a stateless person is someone who “is not considered as a national by any state under the operation of its law”. The statelessness of many of Thailand's hill tribe people stems from the combined operation of nationality, civil registration and immigration policies, in particular during the second half of the 20th century. Under the original Thai Nationality Law¹³, nationality could be acquired at birth both by descent from a Thai parent (*jus sanguinis*) and by virtue of birth on Thai territory (*jus soli*). Any child born in Thailand automatically acquired Thai nationality, even if the parents were foreigners and regardless of whether they had permission to reside in Thailand at the time of the child's birth. Hill tribe people whose ancestral home was Thailand were entitled to Thai nationality under the law and those whose ancestral links lay in e.g. Vietnam or China would only remain foreign in the first generation – once arrived in Thailand, any children born would also be Thai.

In 1956, Thailand introduced a civil registration act and took steps to document its citizens for the first time. A national census was executed with a view to registering everyone in the country, but many hill tribe people were overlooked because they resided in remote locations and the government did not take the necessary measures to reach out to them, or because of a lack of interest on the part of the population in participating in the registration. They remained undocumented and invisible to the Thai authorities. When efforts were made

¹³ Nationality Act B.E. 2456. Note that Thai legislation usually references the year of the Buddhist calendar in which the law was enacted (prefixed by B.E.). This calendar is 543 years ahead of the Gregorian calendar, thus 2456 is the year 1913.

some decades later to register these communities, while many were recognised as citizens, many others were issued coloured identity cards which documented their presence in Thailand, but did not recognise them as citizens. A variety of similar coloured cards were also issued at different times in response to the arrival of specific waves of immigrants. Moreover, in December 1972, Revolutionary Party Declaration No. 337 (Por Wor 337) brought in a significant restriction on the *jus soli* enjoyment of Thai nationality. Where a child is born in Thailand to foreign parents, both parents must have permanent residence for the child to be granted Thai nationality *jus soli*. This rule was introduced not just for children born after this date, but was applied retroactively, resulting in revocation of nationality. In 1992, the Declaration was repealed, but the *jus soli* restriction it sets out was incorporated into the Nationality Law proper (section 7bis) and it remains in force today. This *jus soli* restriction had a significant impact on the enjoyment of nationality by Thailand's hill tribes, in particular because of the combined effect of this policy with problems experienced by this population in the area of civil registration and immigration.

There is a complicated array of coloured card statuses, with perhaps as many as 20 distinct categories, some of which encompass hill tribe people. Children born to these coloured card holders were (retroactively) barred from *jus soli* entitlement to Thai nationality. Thus, many members of Thailand's hill tribe population missed their initial window for registration as Thai nationals, were subsequently cast together with other categories of tolerated "illegal migrants" and found that their children were later stripped of any right to Thai nationality. Instead, these children inherited the same temporary immigration status held by the parent. It should be noted that this picture is improved somewhat by a range of policies adopted at different times over the last few decades to "upgrade" the temporary immigration status of some of these groups to permanent residence and to recognise an entitlement of some people (or their children) to Thai nationality.

In 2008, a highly promising amendment to the Thai Nationality Law was passed. It determined that anyone whose nationality was revoked by the 1972 Declaration or who failed to acquire nationality while this Declaration was in force (1972-1992) acquires Thai nationality if they have evidence of their birth and subsequent domicile in Thailand and demonstrate good behaviour.¹⁴ Section 23 of the Nationality Act (No.4) of 2008, amending the Nationality Act of 1965 reads as follows:

¹⁴ Section 23 of Nationality Act (No. 4) of 2008, amending the Nationality Act of 1965.

Section 23. A person of Thai nationality born within the Kingdom of Thailand but whose nationality was revoked by Section 1 of the Declaration of the Revolutionary Party No. 337 on the 13th of December 1992 (B.E. 2535); a person who was born within the Kingdom of Thailand but did not acquire Thai nationality by Section 2 of the Declaration of the Revolutionary Party No. 337 on the 13th of December 1992 (B.E. 2535) – including children of persons who were born within the Kingdom of Thailand before this act comes into force and did not acquire Thai nationality under Section 7 bis paragraph one of the Nationality Act 1965 (B.E. 2508) as amended by the Act 1992 (B.E. 2535) No. 2 – shall acquire Thai nationality from the day this Act comes into force if the person *has evidence by way of civil registration proving a domicile within the Kingdom of Thailand for a period consecutive to the present* [emphasis added] as well as good behaviour, official service, or having done acts to the benefit of Thailand. Persons who have already acquired Thai nationality at the discretion of the Minister before this Act comes into force are exempt. 90 days from the day this Act comes into force, a person possessing the qualifications under paragraph one shall be able to apply for Thai nationality registration in the civil registration system with a district or local registrar at the district of the person's present domicile.

This provision has the potential to benefit a large number of hill tribe people whose statelessness is owed to the 1972 Declaration, however there remains a question of whether they can satisfy the evidentiary requirements and implementation of this provision is ongoing. It is important to realise that many hill tribe people still lack any form of documentation, including a birth certificate – a problem that was compounded by the fact that until a 2008 amendment to the Thai Civil Registration Act, it was unclear whether a child born in Thailand to an “illegal migrant” was entitled to a birth certificate and many were denied access to birth registration procedures.¹⁵

The coloured-card system has been reformed such that it has been merged with other registration systems and every identity card holder in Thailand is now issued with a 13-digit personal identity number, the first digits of which reflect the holder's status. Based on the foregoing we expected a mixture of new cards held under this system and old (potentially expired) coloured or migrant identity cards. During the first field trip our findings from the desk review were extensively discussed with experts in Thailand working on statelessness and nationality issues Plan International

¹⁵ In 2012, Thailand passed an additional legislative initiative dubbed the “displaced Thais bill” that introduced further reforms to the nationality law and was designed to address the statelessness of people of Thai descent who lost Thai nationality due to changes in sovereignty over parts of Thai territory (historic changes in border demarcation). It is expected to benefit up to 20,000 people.

(a child-centred community development organisation) and UNHCR (United Nations High Commissioner for Refugees) amongst them. We were informed that nowadays most of the Thai population has an identity card with the 13-digit personal identity number although it cannot be determined with certainty whether in the hill tribe communities, those living in rural areas and who may not even speak Thai language know the importance of documentation. In addition the NGOs working in the North of Thailand are not always accurately informed about the laws and requirements on acquiring citizenship and the position of stateless persons. However, Plan informed us that nowadays some 95% of the new births are registered although there is still a huge lack of knowledge about procedures to receive Thai nationality. As we will see below, this is confirmed in the survey as well as the in-depth interviews. In practice, acquiring Thai nationality turns out to be a complicated process with many hurdles to be taken. Among those hurdles to get Thai nationality that were mentioned by key-informants is corruption from officials involved in nationality procedures and discrimination of people from hill tribe communities which is manifested in a negative attitude towards ethnic minorities.

ii. Consequences for the hill tribe people of being stateless

Based on the literature review and the key-informant interviews the following elements can be seen as consequences of being stateless. The problems that stateless hill tribe people face as a result of being stateless include:¹⁶

- Fear of arrest, harassment, detention or deportation due to their precarious legal status as tolerated “illegal migrants”. Those without any status or documentation are particularly at risk. This makes stateless hill tribe people reluctant to come forward in case they experience problems or when they are victimised.¹⁷

¹⁶ *Statelessness in Thailand: Preliminary Gaps Analysis*, UNHCR, 2010, *Triple jeopardy: Young, migrant and stateless*

Jane Bloom, International Catholic Migration Commission (ICMC); *Background Study on Legal Empowerment of the Poor for the Minority and Ethnic Groups in Thailand*, UNDP, 2010, *Guidance document on measuring stateless populations*, Commissioned by Field Information and Coordination Support Section (FICSS) Division of Programme Support and Management (DPSM) in collaboration with Statelessness Unit Division of International Protection (DIP) UNHCR Geneva May 2011; *Minorities at Risk Project, Assessment for Northern Hill Tribes in Thailand*, 31 December 2003, available at: <http://www.unhcr.org/refworld/docid/469f3adcc.html>; *Minorities at Risk Project, Chronology for Northern Hill Tribes in Thailand*, 2004, available at: <http://www.unhcr.org/refworld/docid/469f38e8c.html>; Phunthip Kanchanachittra Saisoonthorn; *Development of Concepts on Nationality and the efforts to reduce statelessness in Thailand*, *Refugee Survey Quarterly*, Vol. 25, Issue 3; D.E. Brennan, *Victim-Centred Prevention Methods of Human Trafficking in the Greater Mekong Sub-Region – an Examination of Grass-roots and Governmental Efforts*, undergraduate thesis.

¹⁷ “Con artists fleece the stateless” in the Bangkok Post, 17 October 2012, <http://www.bangkokpost.com/opinion/opinion/317327/con-artists-fleeing-the-stateless>.

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- Restrictions on movement within the country. Stateless people need permission from the District Officer for travel to another district within the province; permission from the Provincial Governor is required for travel outside the province. Travelling without such authorisation amounts to a crime for which a fine or a period in detention can be incurred. People without any identity papers cannot travel at all. Although, this point was frequently mentioned in key informant interviews, the consequences of these restrictions are subject to different opposing interpretations. Although the general understanding of the consequences is that because stateless hill tribe people cannot legally move to another place they use illegal means and face risky and exploitative situations when going elsewhere to find work some experts stated that the travel restrictions actually shield stateless persons against being exploited because they remain within the security of their communities with family, friends and the community leader. Hence the importance of further digging into the consequences of certain aspects in relation to vulnerability of exploitation is obvious.
- Lack of access to the regular labour market because Thai companies face heavy penalties for employing people who do not hold the appropriate residence status or work permit. Key informants did mention this point as a direct consequence of being stateless impacting on the vulnerability for human trafficking. They stated that because stateless people do not get regularised jobs they have to accept jobs outside the formal industry or in agriculture where wages are low and where protection against violations of labour rights is absent. In addition it was mentioned that stateless people are less likely to complain in case such violations occur and are even threatened by employers that they will report them to the police if they complain e.g. for leaving the area without permission. Lack of access to land rights may further exacerbate the possibilities to earn an income and as such contribute to poverty.
- Poor levels of education, despite Thailand's introduction in 2005 of an "education for all" policy allowing all children to access schooling, even if they do not hold citizenship or even any form of identity document (education is compulsory to age 15). This is another aspect frequently mentioned by interviewees and especially the lack of access to study loans was seen as an impediment for stateless people to receive formal education.
- Difficulty accessing healthcare, in particular due to exclusion from the so-called "30-Baht scheme" which offers universal access to healthcare facilities for a flat and nominal fee of 30 baht. The restricted access to health care was mentioned by a number of key informants as a consequence of being stateless.
- As mentioned above being trafficked and (sexually) exploited is often considered as a consequence of being stateless.

That the difficulties described above are explicitly apparent among stateless hill tribe people does not mean that citizen hill tribe people are free from ill treatment and discriminatory behaviour. In general hill tribe people are looked down on and prone to deprivation. Regardless of these difficulties some key-informants told us that overall people from hill tribe communities are able to cope with their situation and are actually quite satisfied. They thought this was not different for stateless or citizen but applied to the hill tribe communities in general.

In addition to these consequences in the key-informant interviews the interviewees identified the following additions on the consequences of being stateless:

- Cumulative discrimination. In some way the consequences above are also related to discriminatory practices. Being additionally discriminated was often translated as stateless people from the hill tribe communities are being looked down upon, are bribed, targeted for corruption including by the police and governmental authorities, excluded from services, etc. One interviewee indicated that because of such discriminatory practices stateless victims of human trafficking from the hill tribe communities are less easily identified as victims of trafficking and consequently easier excluded from services provided to trafficking victims. The multiple discrimination against stateless hill tribe people has been indicated as a reason for low self-esteem of this group, by interviewees. On a more general note, discrimination is not reserved for stateless hill tribe people but applies to citizens from the hill tribe communities as well. This makes it more difficult to determine to what extent consequences as indicated above are imputed to being stateless or imputed to belonging to the hill tribe communities. To be able to answer this question the sample of the empirical research (see below) was composed of stateless and citizen from the hill tribe communities.
- Related to the question of subjective legal empowerment a number of interviewees indicated that stateless hill tribe people will not ('never') go to the police or the official authorities in case of problems. This significantly impacts on the options a person has when in trouble (e.g. in case of exploitation or human trafficking) and catalyses a person to stay in that situation. This aspect was plugged into the questionnaire and the qualitative research as it was identified as an important aspect of SLE worth exploring in relation to human trafficking.
- Drug addiction was indicated by a number of respondents as a consequence of being stateless and one of the problems people from hill tribe communities endure more often.

The consequences of being stateless in the hill tribe communities are reflected in table 1.

Table 1: Consequences of being stateless

Consequences in literature and key-informants	Additions from key-informants
Fear of arrest, harassment, detention or deportation	Cumulative Discrimination
Travel Restrictions	Do not go to police
Lack of access to the regular labour market (including running own business)	Distrust official authorities – corruption
Poor levels of education	Drug addiction
Lack of access to health care	
Lack of access land rights	
Poverty	
Being trafficked for (sexual) exploitation	

C. Human trafficking in Thailand

The push and pull factors of both migration and trafficking reflect a complex constellation of social, economic and political constraints in which individuals decide to look for opportunities elsewhere or abroad, hoping to make a better living. In a context of many legal and practical constraints to migrate legally, and a large supply of aspiring migrants, the latter can easily become targets for individual smugglers of humans, traffickers and (organised) criminal groups that offer illegal routes and make migrants dependent on them.¹⁸

The broader context of socio-economic impacts, including globalisation and global migration are regularly addressed and researched in the context of human trafficking.¹⁹ Wealth disparities, is one of the causes for internal and external labour migration. Gallagher makes a difference between survival migration (migration to escape economic, social and political distress) and opportunity seeking migration, (search for better job opportunities).²⁰ Although *trafficking* is

¹⁸ S. Castles, H. de Haas, M. J. Miller, *The Age of Migration, International Population Movements in the Modern World*, fifth edition, 2014, Palgrave Macmillan, S. Kneebone and J. Dbeljak, *Transnational Crime and Human Rights, Responses to Human Trafficking in the Greater Mekong Subregion*, 2012, Routledge, p.28-36.

¹⁹ Chuang, Janie (2006) "Beyond a Snapshot: Preventing Human Trafficking in the Global Economy," *Indiana Journal of Global Legal Studies*:Vol. 13: Iss. 1, Article 5. Anne T. Gallagher. *The International Law of Human Trafficking*. Cambridge University Press, 2010, 159-160, 418-426, 486-489

²⁰ A. Gallagher, *Trafficking, smuggling and human rights: tricks and treaties*, *Forced Migration Review*, 2002, p. 25-28.

often portrayed as a forced situation it is important to realise that in a large number of situations (some say the majority) the initial step to *migrate* or to move is a conscious one. Traffickers, being opportunity-seeking by nature, simply take advantage of the resulting vulnerabilities to make a profit.

Thailand must be considered a country of source, transit and destination both for sexual exploitation and labour exploitation for men, women and children. Because of its relatively good economic situation people from other countries seek economic opportunities in Thailand. It is believed that the majority of persons trafficked in Thailand originate from the neighbouring countries. Especially in the Thai fishing industry exploitation and human trafficking is severe and widely reported.²¹ It is generally acknowledged that migrants, ethnic minorities and stateless people in Thailand are more vulnerable to practices of trafficking, especially because they face withdrawal of travel documents, work permits or migrant registration cards by their employers.²² In addition 'Undocumented migrants remain particularly vulnerable to trafficking, due to their economic status, education level, language barriers, and lack of knowledge of Thai law.'²³ This has been reiterated in the 2014 TIP report which states that: 'Foreign migrants, members of ethnic minorities, and stateless persons in Thailand are at the greatest risk of being trafficked, and they experience various abuses that may indicate trafficking, including the withholding of travel documents, migrant registration cards, work permits, and wages. They may also experience illegal salary deductions by employers, physical and verbal abuse, and threats of deportation.'²⁴ The report continues that because of a lack of legal status especially highland men, women and children in the Northern part of Thailand are vulnerable to trafficking, both sexual exploitation and various other forms of exploitation, such as forced begging, selling of flowers on the street, and domestic servitude. However, the majority of identified Thai victims were exploited in the sex industry, and many were exploited abroad.

After being placed on the Tier 2 Watch list by the US State Department for four consecutive years, Thailand was degraded to Tier 3 in 2014. According to the US State Department it fails to implement the anti-trafficking legislation and to adequately investigate and prosecute cases of trafficking and to protect the victims. In addition it reported that there are indications that law enforcement officials are involved in practices of trafficking and that attempts to investigate these cases

²¹ US State Department, Trafficking in Person Report 2014, available at: <http://www.state.gov/documents/organization/226849.pdf>

²² US State Department, Trafficking in Persons Report (TIP report) 2012 available at: <http://www.state.gov/j/tip/rls/tiprpt/2012/192368.htm>

²³ TIP report 2012

²⁴ US State Department, Trafficking in Persons Report, TIP report 2014 available at: http://www.state.gov/j/tip/rls/tiprpt/2014/?utm_source=NEW+RESOURCE:+Trafficking+in+Persons+R, p. 373.

did not lead to convictions. Corruption in Thailand is seen as an important reason why human trafficking is prospering. There have been no investigations or convictions of public officials or private individuals reported to be involved in the exploitation of Rohingya asylum seekers in Thailand, especially in the fishing sector. Although the Thai government reported a more than 50% increase of investigations into trafficking cases and 225 convictions, the continuous reports on collaboration between police and prosecutors, lack of adequate information exchange, long procedures and inadequate victim protection led the State Department to decide to downgrade Thailand.²⁵ In relation to victim protection the Thai government was found unable to identify a single Rohingya trafficking victim despite the many reports of their victimisation. Alternatives for return of victims to the home country where victims risk hardship and ill treatment do not exist. Receiving compensation for victims in criminal proceedings turned out to be extremely difficult despite a provision to this end in the 2008 Anti-Trafficking Law (see below). Three quarters of the identified victims were minors. Because of inadequate victim identification procedures it could not be established to what extent the non-punishment clause was being upheld. According to the US State Department there are credible reports that officials protect brothels and other venues where trafficking might occur and that there are indications that officials engaged in sexual activities with children victims of trafficking. The overall conclusion is that (law-enforcement) efforts to combat human trafficking remained insufficient given the considerable size of the problem of trafficking in Thailand.

i. Thai anti-trafficking legislation

As in many countries the Thai anti-trafficking legislation is based on the Palermo Protocol to the UN Convention against Transnational Organised Crime. In 2000, it was considered a great breakthrough when an international definition of TIP was agreed upon:

“trafficking in persons shall mean 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.”

This definition was included in Article 3 of the so-called Palermo Protocol, which is a protocol to the UN Convention against Transnational Organised Crime (UNCTOC or the Convention). Despite its title the convention does not imply that trafficking can only take place from one country to another, it can

²⁵ TIP report 2014.

also occur in one and the same country.²⁶ Generally the definition is understood to include the following constitutive elements; *acts* (recruitment, transportation, transfer, harbouring or receipt) and *means* (use of force or other forms of coercion, abduction, fraud, the abuse of power or of a position of vulnerability, etc.) *for the purpose of exploitation*.

In October 2013 Thailand ratified the Palermo Protocol and on many occasions it has committed itself to combat human trafficking. Thailand adopted anti-trafficking legislation in 2008 criminalising all forms of trafficking with penalties ranging from four years up to ten years imprisonment. Legislation that prohibits human trafficking can be found in the Penal Code Amendment Act (No. 14), the Prevention and Suppression of Prostitution Act, and the Measures in Prevention and Suppression of Trafficking in Women and Children Act.²⁷ Section 6 of the 2008 Anti-Trafficking in Persons act reads as follows:

Whoever, for the purpose of exploitation, does any of the following acts:

- (1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or
- (2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child;

is guilty of trafficking in persons.

Exploitation is defined in section 4 as:

“Exploitation” means seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labour or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion, regardless of such person’s consent.

This means that long before Thailand had ratified the trafficking protocol it had national legislation in place that complied with the trafficking protocol and even has a broader interpretation of exploitation. Chapter four provides for the protection and assistance to victims of trafficking including for compensation of damages, safety and protection. Section 39 extends protection to Thai victims

²⁶ UN Office on Drugs and Crime, Legislative Guides for the Implementation of the United Nations Convention Against Transnational Organised Crime and the Protocols thereto, New York 2004, pp. 10-11.

²⁷ The Penal Code Amendment Act (No. 14) B.E. 2540, § 282 (1997).

trafficked in another country to persons who do not have Thai citizenship but of whom there is 'a reasonable ground to belief that such person has, or used to have a domicile or residence in the Kingdom lawfully' that person is allowed to return to Thailand. As such stateless hill tribe people if in possession of an ID card could ask for help if trafficked abroad. Regardless this legislation we have learned from the TIP reports that anti-trafficking efforts are lacking in practice.

ii. Trafficking root causes in the Thai context

The desk review revealed the following factors which are generally recognised as root causes of human trafficking²⁸: poverty, unemployment, discrimination, gender based violence and lack of opportunities. Other causes frequently mentioned but very much related to the local situation are situations of war or environmental distress or other disasters, big events (e.g. football World Cup), lack of education. These factors can only partly explain the vulnerability since not all unemployed persons with little education and living in poverty become a victim of trafficking. It seems to be more complicated and the local situation and other factors play a role.²⁹ For instance the causes mentioned are accompanied by facilitating factors such as: lack of legal migration or abuse of legal migration possibilities, existence of networks facilitating the migration or the employment either abroad or internally.³⁰ This means that availability of relational networks adds to vulnerability. This equally counts for the number of brokers used in the migratory process.³¹ It is estimated by one of the interviewees that each broker used in this process increases the risk for exploitation. However, another interviewee indicated that a broker might also be a person to protect you while

²⁸ Gallagher 2010, J. Chuang, Beyond a Snapshot: Preventing Human Trafficking in the Global Economy, *Indiana Journal of Global Legal Studies*, Volume 13, Issue 1, Winter 2006, pp. 137–163, A. Aronowitz, Smuggling and trafficking in human beings: the phenomenon, the markets that drive it and the organisations that promote it, *European Journal on Criminal Policy and Research* 9: 163–195, 2001, OSCE toolkit to combat trafficking in persons Action Plan 2005, p. 423–458, action plan see: https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_9-2.pdf; La Strada International on root causes: <http://lastradainternational.org/human-trafficking/root-causes>.

²⁹ Siren methodology, UNIAP, *Targeting Endemic Vulnerability Factors to Human Trafficking*, 2007. Because of the complexity of root causes it has been recommended by UNIAP to conduct qualitative and quantitative research as well as focus groups for understanding and identifying the real factors that contribute to vulnerability.

³⁰ P. Marshall, Rethinking trafficking prevention, A guide to applying behaviour theory, 2011, available at: <http://www.ungift.org/doc/knowledgehub/resource-centre/rethinking-Trafficking-Prevention.pdf>

H. de Haas, 2009 Migration System Formation and Decline. A theoretical inquiry into the self-perpetuating and self-undermining dynamics of migration processes, working paper, International migration institute, Oxford University.

³¹ SIREN Trafficking Estimates, Estimating Labor Trafficking, UNIAP 2011, especially p. 51.

in another place or at least be a person you can go to in case of trouble, as one interviewee explained. In some cases people actually call the person who trafficked them to collect them and bring them home and they pay him or her on the way back. Again multiple interpretations of the consequences of a perceived risk factor are possible and there is not a 'one size fits all' explanation how this factor impacts on vulnerability. As we will see in the next section in which the results of the qualitative research are presented, people in the community that is located on a highway were more often approached by a person offering them work in another place, most likely because of the specific location of the village. Another factor that influences the potential of persons who want to migrate which is rarely recognised in literature is the exposure to success stories of migration. An increase in wealth of people who did migrate or of the family of the migrated person, makes other people want to migrate as well, regardless of the possible trafficking circumstances the person might be in. In conclusion a definite list of root causes and risk factors for human trafficking does not exist. Some root causes are universally recognised but not all people to whom these apply end up in a situation of trafficking. The specific situation of the country, the region and the person need to be taken into account as well. It is often a combination of several vulnerability factors acting together to create vulnerability.

Zooming in on the situation in Northern Thailand, flows of migrants coming from Burma especially ended up in the Northern part of Thailand, in order to escape human rights violations or to seek better opportunities abroad. They can, at the same time, become victimised by human trafficking. Crawford gives the following explanation for that: 'As regular means for migration are unavailable, the movement takes the form of smuggling or other forms irregular migration. The exploitation occurs during or after the movement. The fact that the migrant is irregular and undocumented is precisely what makes her vulnerable to trafficking and/or exploitation. It is Thailand's very migration and refugee policy that contributes to the incidence of trafficking in the face of an ever-increasing flow of migrants to Thailand. This issue must be addressed for any anti-trafficking efforts to be truly effective.'³² She considers a combination of cultural, economic and legal factors as the reasons for the vulnerability of people in the Northern part of Thailand, to fall victim of trafficking. These factors include Thailand's economic interest in the sex industry, discrimination of ethnic minorities and demand for cheap migrant labour. In her paper Crawford elaborates on the historical and societal particularities of Thailand and based on that she interprets today's practices on prostitution and links this to the vulnerabilities for trafficking practices. In addition she states that the sex industry in Thailand has turned into

³² Christa Foster Crawford, Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and their Impact on Women and Girls from Burma, *Thailand Law Journal*, 2009, Spring issue 1, volume 12, Full text available at: <http://www.thailawforum.com/articles/Trafficking-in-Thailand%20.html>

a multi-million dollar industry and is therefore of great interest to the Thai government. The tourist industry is partly linked to the reputation of prostitution in Thailand and is another profitable income source for the Thai government.

Crawford explains that since the 1980s, women and girls from hill tribe communities living in Northern Thailand were most vulnerable to be trafficked into prostitution. They had restricted land use and therefore moved to big cities for employment. However, due to lack of education and lack of knowledge of the language they became vulnerable to exploitative practices. Rende Taylor has a somewhat different understanding of the root causes of trafficking among the hill tribe communities. She articulates that the role of daughters who are culturally deemed responsible for the welfare and wellbeing of the family including education of siblings, put girls at risk. Additionally, the birth order is decisive for determining who bears such familial obligations; the youngest daughters are expected to take care of the parents when they get older. Furthermore, a lack of or weaker stigma against sex workers in the Northern part of Thailand contributes to the 'acceptance' of working in prostitution among hill tribe communities. The fulfilment of familial obligations is more important than the way in which these obligations are fulfilled.³³ Although working in prostitution needs to be distinguished from being trafficked into prostitution, once in prostitution a person can easily be targeted for exploitation especially if the person does not have citizen status.³⁴ Several key informants responded during the interviews that many women from hill tribe communities voluntarily work in sex business, and that is quite accepted in the hill tribe communities. This makes the authorities less willing to look into the real situation because they think all sex workers work voluntarily. Therefore, sex work is not prioritised by the police, according to one respondent. In addition because hill tribe people are often not granted citizenship they become even more vulnerable to exploitative practices. Crawford even considers the lack of citizenship the main reason for their vulnerability to trafficking.

When root causes are considered, the demand side needs to be focussed on as well. As long as the demand side is not addressed, new patterns of (forced) migration and trafficking will evolve and it has been reported that over the last decade especially girls and women from ethnic minorities from other countries residing in Thailand fall victims to trafficking.³⁵

³³ L. Rende Taylor, *Dangerous Trade-offs: The Behavioral Ecology of Child Labor and Prostitution in Rural Northern Thailand*, *Current Anthropology*, Vol. 46, No. 3 (June 2005), pp. 411-431.

³⁴ L. Rende Taylor, *Dangerous Trade-offs: The Behavioral Ecology of Child Labor and Prostitution in Rural Northern Thailand*, *Current Anthropology*, Vol. 46, No. 3 (June 2005), pp. 411-431.

³⁵ Crawford states: 'Deep-rooted prejudice on the part of the receiving country where the demand exists must also be addressed. For hundreds of years, the Burmese and Thai kingdoms have been political enemies. Shan people are also known as "Tai Yai" or "Big

Thus, in the context of the hill tribe communities in Thailand there are two aspects that are of particular importance when speaking about root causes, namely, statelessness and gender discrimination. Although statelessness is often seen as an important factor for vulnerability for TIP it must be regarded in combination with other factors as well. Especially where statelessness is also a burden for schooling and legal working opportunities it feeds other factors of vulnerability. In that way statelessness is not only a root cause in and of itself but affects the root causes that are identified below and further increases one's vulnerability.

A report on statelessness in Thailand, by the Vital Voices Global Partnership, demonstrates how lack of citizenship and complex challenges to obtain legal citizenship creates vulnerabilities in people, causing them to be susceptible to traffickers:

'The consequences associated with lacking citizenship, such as the inability to access state benefits like healthcare services or education or travel permits to freely travel around Thailand, imposes huge impediments on villagers applying for jobs outside their villages. As a result, they become more vulnerable to exploitation, the black-market and human trafficking. If trafficked, victims without proof of citizenship receive limited protection, little assistance and may be denied re-entry into Thailand.'³⁶

Gender discrimination is another factor that can impact in many ways on one's possibilities and opportunities throughout a life cycle. We have to further study how this exactly is the case for the hill tribe communities as key informants have pointed to culture and traditions in Thailand that are inherently oppressive and victimizing for women. Furthermore, it is necessary to examine the resistance towards so-called oppressive traditions through the migratory waves of young persons seeking adventure and modernity in bigger cities.

Thai." Ethnically, they are cousins to the Northern Thai. However, with ethnic ties, like family relations, intra-family hatreds often run deeper than inter-family ones. When the major source of trafficked women and girls consisted of ethnic Thais, Thailand responded. When the source changed to ethnic minority girls living within Thailand's borders, Thailand responded, albeit with less enthusiasm, as is illustrated by the fact that many ethnic minorities living in Thailand for generations still lack citizenship, thus increasing their vulnerability to trafficking. However, when a major flow of trafficked women and girls come from across the border, the temptation is for policy makers, both inside and outside of Thailand, to shift the responsibility to the supply side.' Christa Foster Crawford, Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and their Impact on Women and Girls from Burma, Thailand Law Journal, 2009, Spring issue 1, volume 12, Full text available at: <http://www.thailawforum.com/articles/Trafficking-in-Thailand%20.html>

³⁶ Vital Voices Global Partnership, 2007. See also further below on the nexus between statelessness and human trafficking.

When further elaborating on the root causes in literature³⁷ and translating these to the context of the hill tribe communities in Thailand, with the input from key informants, the root causes indicated below seem to be most pertinent for the hill tribe communities. We have seen that a combination of different factors both external and internal influenced by a person's individual situation can provide for a toxic mix in which human trafficking occurs. The mere prevalence of root causes might represent an increased risk but does not tell if or when a person could/will/can end up in an exploitative situation. When addressing all relevant factors and assessing these in an integrated way one will be able to predict the exploitation with more certainty. Based on the outcomes of the literature review supplemented with the information from key-informants the root causes have been divided into three categories which will be discussed below: External root causes, internal root causes and the prevalence of triggers, as shown in the table below (table 2).

Table 2: Root causes of human trafficking

External root causes	Internal root causes	Triggers
Poverty	Seeking adventure	Situation of conflict
Lack of Education	Becoming independent	Acute (financial) crisis
Lack of employment opportunities	Lack of self-confidence	Acute need of medical treatment
Corruption	Enhancing life chances/ Materialism	
Lack of awareness	Family responsibility	
(gender) Discrimination		

External root causes

External root causes are considered those factors that can objectively be measured and which are present among a group of persons and/or which affect a group of persons as a whole. These causes have a different nature and require different intervention strategies to deal with. In the context of the hill tribe people the following external root causes have been identified.

³⁷ UNIAP: The Human Trafficking Situation in Thailand (last updated 2008), 2011 Department of State Trafficking in Persons Report, D. Brennan, Victim-Centered Prevention Methods of Human Trafficking in the Greater Mekong Sub-Region –an Examination of Grass-roots and Governmental Efforts.

1. Poverty

Poverty and the need to improve one's living conditions generally is seen as one of the main causes of trafficking. However, it is in general not the poorest who migrate and use the (illegal) migration routes. The ILO's experts on human trafficking and exploitative working conditions believe that it is in fact rarely the absolute poor who travel and seek new employment. Instead it is people with just enough income to afford to travel.³⁸ Taking into consideration that because of a lack of opportunities to legally migrate, one has to turn to illegal practices for migration, people are driven into the hands of those who want to make a profit out of their vulnerability. People often have to pay a considerable amount of money for these services, money the absolute poor do not have. In the key informant interviews a direct causal link between poverty and human trafficking in general was denied by some. 'The people who are the poorest of the poor, they don't get to invest a lot in education for their kids, they may not feel the pressures of when you are in a rural area...'... 'It's the people with a little bit of money and a little bit of education that actually feel compelled to make up for the opportunity costs of the time being in school.'³⁹ Nevertheless, poverty implicates vulnerability to exploitative practices, something confirmed in the empirical research as well.

2. Lack of education

For various reasons, lack of education is seen as one of the root causes of human trafficking for the hill tribe communities in Thailand. First of all, if one did not receive any formal education or job training one would not be able to find a decent job which is well paid. Second, the person would not be able to understand an employment contract, for instance, nor have the possibility to apply for a job. Third, and that is particular for young girls from the hill tribe communities, as long as children are at school they are not able to work and in that way prevented from being exploited. Positive experiences with compulsory schooling in this area were reported by Crawford and the DEPDC/GMS (Development Education Programme for Daughters and Communities in the Greater Mekong Sub-region) on education:

*"DEPDC/GMS applies prevention as the pathway, and education, protection and development as the preventive tools. These components are viewed as the most effective approach in reducing the vulnerability of girls and boys from entering prostitution or other sex-labour situations. It is widely acknowledged that measures to prevent a child from entering prostitution rather than channelling resources entirely into rehabilitation are preferable both to the individual and to society as a whole. Prevention is more cost-efficient and has a considerably higher success rate for each child involved than efforts to rehabilitate a child who has already experienced life as a prostitute"*⁴⁰

³⁸ ILO Action Against Trafficking in Human Beings, ILO report, 2008.

³⁹ Also L. Rende Taylor, p. 422.

⁴⁰ DEPDC/GMS, 2011, p. Strategy, <https://depdcblog.wordpress.com/about-us/strategy/>

In the interviews with key informants some NGOs recognised the importance of education. Although education is now free up to grade 9 it still costs money because the children cannot work while they are at school. However, many parents of stateless children find education important and their attitude in stimulating their children to go to school is pivotal. Some girls are determined to finish school regardless a negative attitude of parents or social environment.

3. Lack of employment opportunities

Clearly linked to the former factors is the lack of access to the formal labour market. Women are in particular vulnerable to be subjected to exploitative practices in the informal labour market. In addition and in relation to the hill tribe communities because many of them are stateless, have reduced possibilities for land use and to earn an income in agriculture, have no access to higher education, their chances at the formal labour market are low. For women, due to the lack of employment opportunities they are easily targeted for exploitation in prostitution as well as other forms of labour which are referred to as the three D jobs: Dirty, Dangerous and Degrading.

4. Corruption

As was already pointed out above and reported by the US State Department in its TIP reports, corruption of law enforcement officers in Thailand is an important factor for exploitative practices. Officials are easy to bribe as was reported by Brennan who was an eye witness to such practices herself.⁴¹ Corruption is also a burden for investigations and prosecutions into practices of human trafficking, making it an even more attractive option of criminals, namely, high profit with low risks.

5. Lack of awareness

Lack of awareness of their vulnerability for exploitative practices is one of the reasons people believe the promises of traffickers who offer them a decent job in the big cities, or who promise to pay a good salary. If people are not aware of their own vulnerability and indeed have limited other options they easily fall prey to these practices.

6. Discrimination

Discrimination of ethnic minorities in general and hill tribe people is seen as one of the root causes of human trafficking. Discrimination of people makes it more difficult to acquire work and education and to deal with problems in daily life more in general. Discrimination of certain groups in society place these groups outside the civil society making it impossible to participate in society in an equal fashion making them vulnerable to exploitative practices.

⁴¹ D. Brennan, *Victim-Centred Prevention Methods of Human Trafficking in the Greater Mekong Sub-Region –an Examination of Grass-roots and Governmental Efforts*.

Internal root causes

In addition to these external causes of trafficking some internal factors can be identified as well. Hemming and Piper who specifically looked into the Thai and Asian region take a broader approach on root causes, stating that seeking adventure, becoming independent and modern as well as enhancing life chances are among the motivations for traditional Thai women to migrate internally.⁴² Another internal factor, having an opposite effect and mentioned in the interviews was self-confidence, which can shield a person from negative influences and discrimination. Thus lack of self-confidence can as well be considered an internal risk factor. Furthermore, in relation to this observation, a growing materialism and desire to escape poverty amongst Thai people is contributing to the wish especially for young people to ‘not miss the boat’ and to profit to the maximum extent possible from this increased wealth. They seek employment in bigger cities and leave rural life behind, taking the risk of unemployment, exploitative practices and living on the side-lines, called risk tolerance by interviewees. Key informants told that success stories and increased wealth of villagers and their families who have worked outside the village or abroad make people more optimistic about their own chances and ready to take more risks. Especially where persons who are in a position of trust but have less than trustworthy intentions, recruiting labourers from the extended family or within the village, this is considered a risk factor by a number of interviewees.

One of the root causes identified by key informants is the cultural responsibility and moral obligation for daughters (rather than sons) to take care of the parents and help them financially and with work, for good karma, called Bun Khun. In relation thereto Rende Taylor looked at birth order to find out how it is determined especially within larger families, who needs to take care of other children or for parents when they get older. As indicated above the youngest daughter needs to take care of the parents but the middleborn daughter(s) ‘are at significantly higher risk of migration and hazardous labor than firstborns and lastborns’.⁴³ How the money for Bun Khun is collected is less important. A small research study conducted in 2013 into the ways in which culture can create vulnerabilities for stateless women in Northern Thailand sought to dissect the present belief that Bun Khun is gendered and harmful. Young women interviewed for the research insisted on the importance and prevalence of Bun Khun in the lives of *both* men and women. They also believe Bun Khun is not inherently harmful and stated that Bun Khun need not always be repaid on a financial basis. The current dialogue instead amongst young Thai women favours modernity over tradition as harmful to young people.⁴⁴

⁴² J. Hemming and N. Piper; *Trafficking and Human Security in Southeast Asia: A Sociological Perspective*. Their paper can be found at: http://www.childtrafficking.com/Docs/piper_01_human_asia_0708.pdf

⁴³ L. Rende Taylor, p. 422.

⁴⁴ D. Brennan, ผู้ชายช้างเท้าหน้า ผู้หญิงช้างเท้าหลัง, *Husband is elephant's front legs, wife is*

Triggers

As mentioned before, a person's individual situation can trigger risk factors indicated above and make dormant risk factors become real risks. The presence of events in one's personal situation that might have such an effect will be called triggers. In key informant interviews a situation of conflict or an acute crisis were considered situations that can activate dormant root causes. For instance when a family member has had an accident and is in need of acute medical treatment the family might feel obliged to collect the money. At such a moment risk factors like poverty and lack of job opportunities that were present before but not felt as a burden to the family might become a threat in such a situation of distress. One interviewee explicitly mentioned lack of affordable health care as one of the vulnerability factors for people in general and for stateless persons more specific. Other crisis triggering risk factors might be a divorce or an addicted husband. The individual's circumstances is only one aspect of the full answer to the question why certain stateless people more easily fall victim to exploitative practices. A person's perception and previous experiences are relevant for understanding what a person might consider as a risk. Sometimes the trafficking experience is one of many negative experiences. If people are used to bad conditions a situation in which the conditions are a bit worse than before might not feel as exploitative for that person. Furthermore, a person's resilience, self-confidence and availability of options to deal with a trigger are other determining factors of the risk whether latent root causes will turn into real root causes. It is therefore of interest to investigate a person's resilience and empowerment in the face of a conflict, crisis or other trigger, to see how likely a trigger is to have the effect of pushing a person into an exploitative situation. The predictability of whether the presence of triggers will turn into exploitation is hard to tell but can be done more safely if all three categories of root causes are taken into account. This, however, does not say anything about the likelihood of those triggers to occur to a person.

iii. Additional factors related to vulnerability to human trafficking

The information given on the root causes was sometimes quite confusing. For instance an interviewee informed us that especially in the Northern province people with citizenship are exploited in factories or agriculture, it is generally understood that lack of citizenship make people more targeted for such practices. It was indicated by some that because stateless people are restricted to leave the community this protects them to a certain extent against exploitative practices.

Several interviewees indicated that the situations of human trafficking, especially

elephant's hind legs: An investigation into the ways in which culture can create vulnerabilities for stateless women, in Northern Thailand.

in sex work, against Thai people including stateless people have decreased over the last ten years and that exploitative practices seem to have become less violent and less visible. The number of identified trafficked victims reported by the Thai authorities confirms this impression. The very low numbers or absence of Thai victims exploited in Thailand begs the question whether this group of victims is not overlooked by the Thai authorities and the many NGOs working with trafficking victims in Thailand. Some interviewees had the idea that nowadays women from the hill tribe communities are more often trafficked outside Thailand and even that the trafficking of ethnic minorities in hill tribe communities in exploitative situation in Thailand is not a big issue in absolute terms.

It has been reported by a number of interviewees that drug abuse is a major problem in many of the Northern parts of Thailand, including the hill tribe communities. The money needed to fuel the addiction makes people an easy target for risky and exploitative practices and can therefore be considered a risk factor for human trafficking, not only for the addicted person but the broader family who might be/feel obliged to help collect money.

The community leader in hill tribe communities is considered a central person who can protect his villagers but put them at risk as well. If he is sensitive to corruption and bribery and does not really care about the wellbeing of the village, especially the weak persons in the village or persons with weak legal status (illegal residing, migrants, stateless) are at risk.

Already indicated in the literature and confirmed in the interviews is the idea that statelessness is one of the risk factors for human trafficking. The variety in interpretation of the consequences of being stateless as well as on the risk factors for human trafficking evidently requires further exploration of both consequences of statelessness and causes of human trafficking.

D. The nexus between statelessness and human trafficking

There are many reports on the difficulties encountered by stateless hill tribe people in Thailand, both in the media and from organisations that work with the communities on the ground. To date, the most significant research project to map these problems was the hill tribe survey conducted by UNESCO (United Nations Education, Scientific and Cultural Organisation), in cooperation with the government's Bureau for Social Development in 2006. The survey captured information on 65,000 people in 192 sample villages and collected data on a variety of issues. The survey concluded, for instance, that those hill tribe people who did not hold Thai citizenship (37% of the respondents) were far less likely to attend school at every level and were much less likely to have access to healthcare.⁴⁵

⁴⁵ K. Clement, "Stateless in their own home" in *UNESCO VOICES*, 2011, <http://>

However, the full results of this survey have not been made publicly available, nor has the outcome of a second and expanded survey subsequently conducted by UNESCO to better understand the issues affecting the population. UNESCO is also widely cited as the source for the understanding that statelessness is the “single greatest risk factor” for hill tribe people to be trafficked or otherwise exploited.⁴⁶

“Without citizenship, people are unable to obtain certificates that recognize educational qualifications, to obtain titles to land, or to find legitimate employment outside of their immediate area. They are also denied the right to political participation. As a result, they are often employed in informal labour arrangements that are highly exploitative. Because of residence and travel restrictions, the further they travel away from their communities, the more vulnerable they become”.⁴⁷

In 2007, the Vital Voices Global Partnership also noted the link between statelessness and trafficking following interviews with hill tribe village representatives who explained that “lack of citizenship meant lack of opportunity for education, employment and health care services reserved to citizens, *thereby* causing such members to be much more vulnerable to human trafficking”.⁴⁸ Here too, the report goes on to focus on the obstacles to obtaining citizenship, rather than digging deeper into this connection between statelessness and vulnerability to trafficking. Elsewhere, there have also been unverified reports of village heads being hesitant to provide basic documentation required to obtain Thai nationality (e.g. birth or residence attestation) because they are benefiting financially from the practice of trafficking vulnerable stateless people for the purposes of labour exploitation or the sex industry.

Looking at the consequences of being stateless and comparing this list with the listed root causes of trafficking indicated above shows already a significant overlap. In the area of overlap, an increased vulnerability for stateless hill tribe people exists. This risk area is shown in table (3) below. The next question than is

www.unescobkk.org/fileadmin/user_upload/culture/Trafficking/resource/Clement_VOICES_Article.pdf.

⁴⁶ Y. Lertcharoenchok, “Searching for identity” in *Step-by-Step Newsletter from the Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-Region*, 2011.

⁴⁷ D. Feingold, “UNESCO Promotes Highland Citizenship and Birth Registration to Prevent Human Trafficking” in *UNESCO Bangkok Newsletter*, September 2006, http://www.unescobkk.org/fileadmin/user_upload/culture/Trafficking/project/abc/Selected_Articles_and_Publications/Pages_from_DAF_UNESCO_Newsletter_Citizenship_Article.pdf.

⁴⁸ Emphasis added. Vital Voices Global Partnership, “Stateless and vulnerable to human trafficking in Thailand”, June 2007, http://www.humantrafficking.org/uploads/publications/Vital_Voices_Stateless_and_Vulnerable_to_Human_Trafficking_in_Thailand.pdf.

how the various consequences and root causes interact and are interlinked. Many of the consequences and root causes seem to influence one another, for instance not going to the police is also influenced by corruption and discrimination impacts on the willingness to go to the police as well. Poverty is generally understood as a consequence and a root cause but is difficult to define. Especially in an area in which all people have difficulties in surviving the role of poverty needs a closer look. However, the considerable overlap between the reported consequences of being stateless and the recognised root causes of trafficking is striking and a strong indication, if not proof, of the nexus between statelessness and human trafficking.

Table 3: Nexus between statelessness and TIP

Consequences of being stateless	Root causes of TIP
Fear being arrested	Lack of awareness
Travel restrictions	Seeking adventure
Lack of land rights	Becoming independent/ risk tolerance
Drug abuse	Enhance life chances/ Materialism
Not going to the police	Family responsibility
Being trafficked	Crisis / situation of conflict
Poverty	
Lack of employment opportunities	
Lack of (access to) education	
(gender) Discrimination	
Corruption	
Lack of access to health care/ acute need of medical treatment	

While the above already provides a rather strong indication of the problems that stateless people encounter and how/why this makes them more vulnerable to human trafficking, the empirical research will tease out this link in more detail. In developing the research framework for this project, it was important to focus on those areas which are widely recognised to generate a high risk factor to trafficking and adapt the Subjective Legal Empowerment methodology to measure the experiences/perceptions of stateless people in relation to those areas. Therefore, the empirical research, consisting of a survey, in-depth interviews, focus groups, and additional key informant interviews of which the results are presented in the following section, focuses on the areas revealed in the literature review and the key informant interviews. The identified consequences of being stateless and root causes of human trafficking for Thai hill tribe people are further researched. What however, remained uncertain in the literature and key informant interviews are the role of Bun Khun in relation to statelessness

3. STATELESSNESS AND HUMAN TRAFFICKING IN THE THAI CONTEXT; A COMPLICATED MARRIAGE

and human trafficking, the role and occurrence of triggers, the prevalence of poverty and lack of education among hill tribe people and especially to what extent a difference exists between stateless hill tribe people and citizen, how travel restrictions impact on the lives of stateless hill tribe people and what the complications are for stateless hill tribe people if they want to acquire citizenship. These are among the aspects addressed in the empirical research.

4. OUTCOME OF THE EMPIRICAL RESEARCH

A. Introduction

In this section the outcomes of the empirical research are presented. This part of the research consists of a survey, in-depth interviews, focus groups with stateless hill tribe women and additional interviews with key informants among whom two community leaders and two district officers. The aim of the research is to find out if, how and why stateless hill tribe people are more vulnerable to trafficking than citizen hill tribe people. Because statelessness and citizenship were our proxy's, a reliable, justifiable and verifiable way to distinguish between stateless and citizen hill tribe persons is crucial.

For the data collection in the research Chiang Mai University was our local partner providing us with feedback on the research tools and guidance and advice on how to conduct the research. They facilitated the contact with and in the villages and gave advice for choosing the research areas. For the collection of the empirical data students from Chiang Mai University law clinic were selected based on their language skills, knowledge about the topic of the research and experience with outreach work for the law clinic in hill tribe communities.

In the survey a total of 485⁴⁹ effective interviews with people from four hill tribe communities in the Thai Northern provinces of Chiang Mai and Chiang Rai were conducted in the spring of 2013. On average it took about 20 minutes to complete an interview. During the design of the questionnaire and the piloting of the instrument the intention was to keep the length of the interview at 20 minutes maximum in order to guarantee that the collected survey data is reliable and that respondents were willing to respond to the questions. Logistical complications necessitated a change in the randomization strategy. After the first approach it was estimated that during day time most of the inhabitants of the targeted hill tribe communities work in the fields. Due to the remoteness of the research sites it was impossible to conduct interviews in the evening hours. An agreement was achieved with the village leaders that people will be asked to come to the village at a particular time and place where the interviews took place. This approach has inevitably introduced selection bias although the alternative solutions would have significantly under represented the economically active members of the survey population. This arrangement guaranteed that the sample

⁴⁹ In total 489 interviews with hill tribe people were conducted. In 2 cases the ID card of the respondents were registered as Colored card (number starts with 6) and in additional 2 cases as Other. These four cases were not included in the analysis. Thus the following analysis is based on 485 responses.

was balanced for the two most important demographic variables in this project – statelessness and gender. Most importantly, the sample contains approximately 50% stateless respondents (who hold white or pink ID-cards) and approximately 50% citizen (who hold blue ID-cards). Balanced distribution of this variable is crucially important for the study design and findings since the type of card is our proxy for statelessness. As explained in the methodology report it is important to note that a blue card signifies that the respondent is a Thai national whereas possession of a pink or white card points to a stateless person (see below).

In the survey sample there was a good representation of several different ethnic groups. However, the sample was too small to subdivide the findings based on ethnicity. We realise that considerable differences exist between ethnic hill tribe groups, that some seem to be more empowered than others that some are less inclined to migrate and stick more to the traditional way of living, whereas others have more history of migrating. When looking for ways to use the outcomes of our research these limitations need to be taken into account.

Qualitative data was primarily collected through in-depth interviews. Initially, the aim was to gather qualitative data on the link between statelessness and human trafficking from in-depth interviews with trafficking victims. However, this aim was revised for several reasons. First it turned out to be impossible to identify a reliable sample of trafficking victims meeting our criteria.⁵⁰ Second, understanding the survey data in full was only possible with additional in-depth interviews at the locations in which the survey took place. Especially the question “why” particular impacts that the survey demonstrates statelessness to have were more prevalent, and the “relational” question regarding the impact of statelessness e.g. on income or education and the effect this has on a person’s perceptions and behaviour, were left unanswered. Therefore it was decided not to interview victims of trafficking but to go back to two of the villages where the survey was conducted to gather further information on the following questions:

1. Why are certain factors which are generally understood to be root causes of human trafficking more prevalent among stateless hill tribe people than those with citizenship; including the impact on women versus men?
2. What is the relationship between the factors which are generally understood to be root causes of human trafficking and the actual perceptions and likely behaviour of stateless hill tribe women?

To answer these questions an interview protocol was written, translated, piloted and interviews conducted by a group of students from Chiang Mai University under the supervision of the research team, after they were trained. Two villages

⁵⁰ Our criteria were: 18 years or above, victim of human trafficking, from ethnic minority (2/3 of the sample), two-third must be women, 20% victim of labour exploitation, at least 50% must be stateless. The trafficking experience may be recent with a maximum of six years ago.

were selected because; First, they differ a lot on accessibility: 001 is 31 km from the main road and only accessible through a rough gravel road, whereas 003 is located close to the main road. We wanted to know how this impacted on the migratory behaviour and the risks thereof of the villagers. Second, in the village reports, respondents have reported very differently on the role the community leader has in the villages, which is important when trying to understand the level of SLE of the community and the options people have to solve problems. And third in 003 a high number of stateless people reported they were approached for work outside of their village over the last six months and we wanted to further understand why that is the case in that particular place. For the qualitative part a total of 30 interviews were conducted after the interview protocol was piloted in one of the communities among seven persons. The sample was divided as follows: 14 stateless women, 4 stateless men, 8 female citizen and 4 male citizen, equally divided between the two villages.

Finally, focus groups were conducted in the two villages. The aims of these focus groups were first to receive additional information to contextualise outcomes of the survey and second, to identify possible avenues for intervention strategies to solve problems identified in the survey and in-depth interviews, together with the stateless women from the communities. Furthermore, the community leaders of both villages were extensively interviewed and additional interviews with experts on DNA-testing and district officers were conducted. Possible interventions identified in the focus groups were not only discussed with the community leaders but also with experts and organisations in Thailand that might be able to play a role in implementing the strategies in the future.

The analysis of the results of the survey and in-depth interviews is discussed in this section together with the outcomes of the focus groups and additional interviews.

i. Identifying respondents

As explained above, the ID-card system in Thailand is quite elaborate and complex due to the manifold amendments to the system adding new cards each time. More recently the system has been simplified with the introduction of the personal 13 digit code. This raised the question whether and how the type of card could serve as a proxy for statelessness. After extensive consultation with experts from UNHCR and Plan, amongst others, the distinction between pink/white card holders (representing stateless people) and blue card holders (representing citizens), was considered the most reliable way to distinguish between stateless and citizen. This method has been applied throughout the research but admittedly includes some biases. First, it cannot be determined with absolute certainty that all pink/white card holders are stateless in accordance with the international definition. Given the information from the survey that a relatively high number

of pink/white card holders was born outside Thailand (40%) or with (one or both of the) parents born in Myanmar (49%) or China (4%) further in-depth research would be required to verify their statelessness which goes beyond the scope of the current research. At the same time the percentages of blue card holders born outside Thailand or with one or both parents born outside Thailand was quite high as well.⁵¹ We found out that respondents who were born outside Thailand were living in their current location for 24 years on average, against 29 years on average for those who were born in Thailand. Given this average of 24 years to live in Thailand it is highly unlikely that for stateless hill tribe people another state will take responsibility over them. Further, and in order to avoid unreliable self-identification, e.g. 86% of the stateless people consider themselves Thai, we have verified the ID card of all respondents in the empirical research realising this excludes an extremely vulnerable group of hill tribe people, namely, those who do not possess an ID card at all.

ii. The data set

The data of the empirical research includes 485 surveys, 30 in-depth interviews, two focus groups with respectively five and four stateless women and additional interviews to further contextualise our findings.⁵²

A total of 485 effective survey interviews were conducted in 4 communities (which we will call 001 village, 002 village, 003 village, and 004 village, see table 4).

Table 4: Survey sites

	001 village, Chiang Rai	002 village, Chiang Rai	003, Chiang Mai	004, Chiang Mai
Number	294	71	82	42
Percentage	60,1%	14,5%	16,8%	8,6%

Thus the majority of the respondents in the survey were interviewed in 001 village. Regarding the age of the respondents 45% are below 36 years of age and only 17% are 55 or older. Most importantly, the sample contains approximately 50% respondents with white and pink cards. Balanced distribution of this variable is crucially important for the study since the type of card is our proxy for statelessness/citizenship.

⁵¹ 7,2% of the Blue card holders were born outside of Thailand; 46% and 49% reported that respectively their mother and father were born outside of Thailand.

⁵² Additional interviews were conducted with the two community leaders in which the qualitative research took place, interviews with UNHCR Regional Office and UNHCR Thai Office, UNIAP, NLCE, COSA, PLAN International, district officers at Chiang Mai district office and Mae Sai district office, staff members of the DNA clinic in Chiang Mai.

From the survey we learned that some of the root causes for human trafficking identified through the literature review and the key informant interviews were more prevalent among stateless hill tribe people. The survey was not primarily designed to reveal cause-and-effect relationships between the root causes, statelessness and exploitation. Some of the more remarkable findings which will be further analysed below, are that stateless hill tribe people are less likely to be educated or, if they have had some schooling, this is to a lower level than hill tribe people with citizenship, they have a lower level of household income than hill tribe people with citizenship and they are more likely to consider paying a middleman to find a job elsewhere. In addition the group of stateless respondents below the age of 35 showed a higher prevalence of trafficking root causes than the group with an age above 36 years. Furthermore, there were some areas in which significant differences between stateless and citizens were not identified e.g. there is no statistically significant difference between stateless people and citizens with regard to how satisfied people reported to be with their lives, how safe people reported to feel in their village/community, or how likely they think they are to be able to solve a problem involving debt or petty crime.

To further understand, contextualise and correctly interpret the survey outcomes, the data was supplemented with qualitative data, directly from the hill tribe population in two of the four villages in which the survey took place. Therefore in-depth interviews (30) and focus groups (2) were conducted with hill tribe people in the communities with the following objectives; to explore *why* certain factors which are generally understood to be root causes of human trafficking are more prevalent among stateless hill tribe people than those with citizenship; and to further explore the relationship between the factors which are generally understood to be root causes of human trafficking and the actual perceptions and likely behaviour of stateless hill tribe women. The survey data indicated that those under 35 score higher in terms of indicators that are considered as potential risk factors for trafficking than those over 35 (e.g. risk taking behaviour, more willing to migrate for work). Therefore age was chosen as another criteria for our respondents for the in-depth interviews meaning that interviews were only conducted with persons below the age of 35. In order to be able to control for gender and statelessness/citizenship, in-depth interviews were conducted with 14 Stateless women, 4 Stateless men, 8 citizen women and 4 citizen men, equally divided between 001 village and 003 village. Interviews with the community leaders of both villages were additionally conducted. In order to collect data using another method that may prompt a greater depth of detail on a limited number of aspects a focus group discussion was held in each of the two villages to further understand and contextualise the survey outcomes. Finally, additional information was collected through interviews with selected experts on issues that were not clarified or that raised new questions. Below, the findings of the empirical research are presented.

B. Consequences of being stateless

From the literature review it followed that one of the major consequences stateless people face is that they cannot travel freely within and outside the country. They have limited work perspectives and encounter numerous challenges in finding a job outside the village and accessing basic public services such as health care, study loans or bank services. People without nationality also have limited opportunities when it comes to ownership of land. To explore further the perspectives of the hill tribe people towards statelessness we asked the survey-respondents to list the consequences of a person being stateless. Most frequently, the respondents report inability to travel as something they consider makes the life of the stateless difficult. Eighty two percent of all interviewed have selected this travel restrictions (23% of all responses). Less job opportunities is the second most frequent consequence of statelessness, selected by 70% of the respondents and representing 18.2% of all responses to the question. Work opportunities for the stateless people are restricted in several ways. They cannot travel, have lower access to education, and owning land is difficult. Stateless people have little access to capital outside of their social network which again limits their opportunities to open businesses and use their most valuable resource – their work. Not surprisingly, poverty is the third most often cited consequence of statelessness with 59% of the respondents and 15.3% from all problems. Lack of health care, limited education and restricted ownership of land come next with respectively 41%, 35.1% and 30% of the respondents selecting these consequences. Lack of respect and the risks of labour and sexual exploitation are perceived to be somewhat less serious consequences of not having nationality. There is some difference in how stateless and citizen respondents perceive the consequences of statelessness. Stateless respondents more often consider poverty as a consequence of statelessness. Apparently they identify themselves as stateless and attribute part of their economic struggles to the lack of nationality. In the table below the top 5 of consequences identified in the survey are listed (table 5)

Table 5: Survey top 5 of consequences of being stateless

Consequences of being stateless	Percentage that indicated the consequence (multiple answers possible)
Travel Restrictions	82%
Lack of access to the regular labour market	70%
Poverty	59%
Lack of access to health care	41%
Poor levels of education	35%

The community leader of 003 summarised the advantages of having citizenship in relation to travel restrictions by linking it to job opportunities:

“They’ll get better concerning the right of travelling and the job opportunity. If they don’t have the nationality, they can’t go elsewhere. They must ask for permission every time. If they get the nationality, they have the liberty of travelling, the right to vote, the access to healthcare, the right to social security and so on. They’ll have a better life. They will be able to take out a loan for studying.”

In the following text these outcomes in terms of peoples’ perceptions are tested against the further findings of the survey, the in-depth interviews and the additional interviews that were conducted. From the demographics of the survey a huge discrepancy on education level between citizen and stateless was uncovered. Because of the direct impact of lack of education on the other consequences we first elaborate on the issue of education before discussing travel restrictions, lack of job opportunities, poverty and discrimination more in general.

i. Education

Stateless people have lower education – they are significantly more likely to have no education than citizens (see table 6). Almost 4 out of 5 stateless people from our survey sample report that they did not have any sort of education. Interestingly the education of the stateless people does not vary by gender meaning that men and women are equally deprived of education.

Table 6: Percentages of educated citizens and stateless

	None	Thai formal education	Alternative or informal education	Other
Citizens	54%	43%	2%	1%
Stateless	78%	16%	4%	2%

Another concerning finding is the increasing inter-generational gap between the stateless and the citizens. Respectively 98.2% and 99.5% of the citizens and stateless respondents said that their fathers did not have any education. Stateless people, however, are significantly less likely to have more education than their parents. When asked about the education of their parents stateless are rarely exceeding their educational levels. This happens significantly more often in the group of respondents with citizenship. To explore further how statelessness affects inter-generational educational attainment we construct a multivariate nominal regression model. The independent variable in the model has 3 levels: 1) both

respondent and father have no education;⁵³ 2) only respondent has education; 3) both respondent and father have education. As predictors we use age, gender, nationality status and income. The model suggests that gender and nationality status explain to a large extent the variation in educational levels between the respondents and their parents. Being stateless and woman significantly decreases the chances that someone will have better education than their parents. For instance, the stateless people are 7 times less likely than citizens to have any form of education when their fathers were not educated.

Following the outcome of the survey that stateless people are far less likely to reach higher level of education than citizens to receive any education at all, we were interested in knowing the reasons for this and understanding in what way statelessness and possibly other factors affect access to education? There is a significant difference between men, women, stateless and citizens on how they view access to education in Thailand. This section teases out the sometimes contradictory information gathered relating to education in the in-depth interviews.

In Thailand educated is for free until grade 9 and after this it is down to the individual to support their higher level education. Difficulties experienced by stateless people in regard to reaching high levels of education, or any education at all is illustrated in the following two quotes. The first is from a stateless female describing how lack of economic stability has a direct impact on access to education. Moreover it is not only the opinion of stateless people that see their nationality status effecting their educational opportunities. The second quote is from a female citizen who has also witnessed how being stateless deters any incentive to continue in education.

“Mom supported [me in education], but Dad didn’t. It was too difficult. I saw mom struggled very much, and I felt pity for her. So I decided to quit studying. When I was a kid, I wanted to go to school, but Dad said not to. Dad said mom already struggled on. There was my sister. Mom couldn’t cope with everything. That’s why she needed my help. If not, we wouldn’t have anything to eat. Sometimes my parents couldn’t go to work, I had to go alone and got paid for 50 or 60 baht to pull out onions for the whole day. Some were very nice. They thought I was just a child, so they gave me 50 baht. Some 20 baht. I started [working] when I was nine. I helped Mom raise my sister.”⁵⁴

⁵³ Education in this model is constructed as a dichotomous variable in which any sort and duration of education is coded as 1 and no education is coded as 0.

⁵⁴ Stateless female no. 26, 003

“Yes, [it is possible for stateless people to study for vocational certs]. A person in the same class with me didn’t have a card, he became teacher now. But, he isn’t a civil servant, he can’t be. And his salary is less than the minimum salary of 15000 Baht. He graduated with a Bachelor degree.” ... “No, there’s no difference [between stateless and citizen]. We all can study. But, there’s a difference in terms of work, even when you have a card relevant to the nationality transferring, it’s difficult to find a job.”⁵⁵

The male citizen respondents of the in-depth interviews were the only group to unanimously agree that there is a difference in access to education between stateless people and citizens. They had all been stateless at one point and so were able to speak from an experienced standpoint, citing financial struggles and inability to access educational loans as the obstacles for stateless people. All but one of the female citizen group stated there is **no** difference between stateless and citizens access to education. Despite stating there are no differences, the majority of the citizen female group believe **if** there is a difference then it is due to stateless people not being able to access educational loans for higher education. Moreover respondents have mentioned that although a stateless person may obtain higher education, they cannot receive the same job opportunities as an equally educated citizen. Where is the incentive for stateless people to continue their education? There was a slight deviation amongst the opinions of stateless women on access to education, the majority of the women believe there is **no** difference in access to education between stateless and citizens. As with the group of female citizens, the stateless females also form a general consensus on the fact that there is a financial obstacle to education for stateless people, including loss of income while at school. Other issues flagged by stateless women in relation to low educational levels were lack of confidence at school, being needed to mind children at home and that even with an education a stateless person will still not be accepted for work.

There was an overwhelming consensus amongst stateless women and male citizens that they would like their children to reach Bachelor level education. The importance of education in gaining good employment was expressed across all groups because the undesirable alternative is factory work or outdoor work. Other motivations for women to send their children to school is in the hope that their children won’t be discriminated against or deceived in work. Several of the stateless women specifically desire their children to gain an education so that they will have “*a better life*”⁵⁶. For stateless women the biggest concern is whether or not they will be able to afford high level education for their children.

Stateless respondents have also identified their issues with access to education as inaccessibility to financial loans and personal financial struggles. One of the

⁵⁵ Citizen female no. 12, 003

⁵⁶ Stateless woman no. 18, 001, stateless woman no. 21, 001 and stateless woman no. 29, 003.

stateless men has flagged an ideology that is reiterated throughout many of the interviews: oppression is not a result of nationality but more a result of financial status. He explains:

*“I don’t think [people having the nationality have a chance to study higher than stateless people]. It depends **more** on the financial status than the nationality.”*⁵⁷

In this context he explains the restricted access to higher education being a result of a poor personal financial status. But there is a cyclical link here that our respondents do not interpret as interconnecting; lower education which impedes job opportunities and thus increases poverty and even if they are educated they have less options to get a formal job. A cycle that is likely to be inescapable for stateless people without better financial support towards their education. This cycle is highlighted throughout the findings when other topics, such as job opportunities, are presented below.

ii. Travel restrictions

When the consequences of being stateless were discussed above the travel restrictions proved to be a serious impediment in many aspects of life. The travel restrictions are particularly burdensome when stateless people want to travel outside their district for work purposes. Although indicated in the survey as one of the most frequently reported consequences of statelessness the constraints on stateless people’s ability to travel has not, for the majority of the respondents of the in-depth interviews, prevented them from travelling outside of their district. Most of the interviewees, both stateless and citizens, men and women have at one time bought a travel permit and left the district. However their experiences acquiring a travel permit differ between both communities. There appears to be a greater struggle acquiring travel permits for people in 001. Respondents from 003 claim there is a fee anywhere from 20THB to 100THB for the travel permit, while those from 001 have reported a fee of up to 300THB. Respondents from 001 have also said the permit is difficult to get, specifically it seems that the process takes longer than in 003 where supposedly it only takes 30 minutes. A stateless woman from 001 explains her experience with travel permits:

*“It’s difficult [to get a permission to go out of this area]. Mostly, we must ask for an attestation from the community leader and renew it monthly. It’s complicated because we have to go back every month to renew the attestation. We don’t have much money. We’ve hardly any money but we have to pay. It’s about 100-200 Bahts.”*⁵⁸

⁵⁷ Stateless male no. 13, 003

⁵⁸ Stateless female no. 18, 001.

People in both villages reportedly require participation by the community leader in the acquisition of a travel permit, this includes asking the community leader for permission and also obtaining an attestation. One reason for the difference in difficulties acquiring a travel permit could be interpreted from an explanation given by a stateless woman from 003. She has said that going to the district office takes too long and instead they can go to the Tambon⁵⁹ chief where forms are provided for them. There were no reports of a similar process in place at 001.

There is a fear amongst interviewees that they will be arrested while travelling. Stateless women, women with citizenship and men with citizenship have either never travelled or have done so rarely because they are/were stateless. It is the opinion of one stateless woman that citizens leave the village more than stateless people because of the restrictions in place.⁶⁰ For the majority, they have travelled only in possession of a travel permit. However one stateless woman describes the time she travelled without an adequate permit:

*"I have been to Bangkok with my husband 4-5 years ago. I was inspected at Chiang Rai check point. I was fined 200THB. My traveling permit was expired. First, the police ask me to pay 500THB. Then, my husband said that we don't have money. Thus, the police said that 200THB is okay. No [the police did not issue a ticket]."*⁶¹

Stateless teenagers have their own coping mechanisms to travel, as a student they will use their student card to present at check points. One respondent has done so several times, she lied to the police saying she was visiting her cousins. In reality she was going to different districts for work.⁶² Additionally, risky methods for leaving the village have also been reported:

*"Some take a risk going [to work outside the village] since the police officers don't verify every day. Maybe because the truck owners pay them in advance. They skip some trucks saying that the trucks have permissions."*⁶³

This respondent, a stateless woman from 003, further elaborated on how travel restrictions do not only have negative consequences on one's access to job opportunities but they have the capacity to negatively impact several areas of life. She highlighted the inconvenience and stress travel restrictions can impose during times of emergency. When her parents were admitted to hospital the officials did not believe she had an emergency, applying for a travel permit to visit them slowed down the whole trip.

⁵⁹ Tambon is an administrative area. A Tambon consists of many villages, and a district consists of many Tambon.

⁶⁰ Stateless female no. 20, 001

⁶¹ Stateless female no. 23, 001.

⁶² Stateless female no. 24, 003.

⁶³ Stateless female no. 26, 003.

To summarise the above, travel restrictions seriously impair the mobility of stateless hill tribe people. Because of a fear of being arrested and charged if traveling without a permit, stateless people remain in the villages. Again the role of the community leader is key in acquiring a travel permit and they sometimes need to accompany the applicant to the district office to get a permit. The integrity, willingness and cooperation of the community leader determines the effects of the travel restrictions imposed on stateless people. It is striking that there are differences in fees between the districts as well as within the districts although this might be due to the duration of the permit and additional costs such as traveling to the office.

iii. Income Level and Job Opportunities

In the survey, lack of job opportunities was the second most frequently cited consequence of statelessness, selected by 70%, after travel restrictions which was selected by 82%. Although these two consequences are interconnected other aspects impact on job opportunities as well. Stateless people are restricted in several ways to find a job and generate an income: they cannot travel freely, have lower access to education, owning land is difficult and they have little access to capital outside of their social network which again limits their opportunities to open businesses. Here the interrelatedness and the interconnectedness of the various consequences of statelessness reappear.

Most of the respondents in the survey sample are farm workers (54%), with near equal proportion of men and women working in the fields. The mean reported household monthly income is around 6000 THB (around 200 USD or 155 EUR). However, the household income varies in broad intervals – from a minimum of 400 to a maximum of 100 000 THB. Notably, the respondents with citizenship report significantly higher household income ($M = 6700$ THB) than stateless respondents ($M = 4900$ THB). Furthermore, Thai citizens report an average of 2,49 income earners per household whereas the stateless respondents report 2,18 income earners on average. Not surprisingly, poverty has been the third most often cited consequence of statelessness in the survey (59%).

Three main issues came to light during discussions on job opportunities in the in-depth interviews. The first issue was expressed by a significant number of the participants from each sub-group (citizen, stateless, male and female). It is believed to be difficult to find a job as a stateless person and employers prefer to hire citizens. A male citizen outlines his experience before he acquired nationality:

“There probably are [differences in job opportunities]. When I had a pink card, I applied for a job and was rejected. They want a Thai citizen for working at big shop. But for working in a farm, they hire us.”⁶⁴

⁶⁴ Citizen male no. 4, 003.

His sentiment brings us onto the second biggest issue outlined in relation to job opportunities; stateless people have to stay in the village to work. Payment is better for jobs outside the village yet these opportunities are stunted for stateless people as travel restrictions are firmly implemented by law in Thailand. The options available to stateless people in both of the villages visited are limited to farm work and hard labour. Specifically in village 003 “work for hire” is one of the most common types of employment amongst stateless people, it is mostly work on orange orchards. This type of work is seasonal and has been described as unstable and uncertain. Two stateless females describe the issues with employment faced by stateless people in their villages:

“[It’s harder to earn money] because, the people who have an identity card can easily do things, they can go and work wherever they want. But those who don’t have the identity card can’t work everywhere.”⁶⁵

“There aren’t many [jobs in the village]. There’re only farming jobs here.”⁶⁶

As we have learned from the discussions on education, many stateless people would like their children to reach high levels in education so they will not be subjected to hard labour on farms etc.

The third most popular issue that arose during the discussions on employment was the fact that stateless people receive lower payment than citizens. Principally, stateless people do not have access to jobs in “big shops” as the male citizen has already described, this means multi-national companies such as 7/11 and Tesco Lotus. Companies such as these pay by government standards i.e. 300 baht per day. Factories hire both stateless and citizens yet they will not be paid equally, as two stateless women described:

“We get paid less when working. Others get 200 baht a day, but I get 150 baht. We work equally. I used to work in a factory. I worked as equal as they did but were paid less than them.”⁶⁷

“In factory, people with the pink cards get paid of 250 baht, but people with the ID cards get 300. I think...well, we do the same job, my job is even harder, but get paid less. Yes [I feel it’s unfair]”⁶⁸

Payment for work on farm orchards may be equal between citizens and stateless people, but the overall issue is that stateless people do not earn the same as citizens as a direct result of their limited opportunities to travel and work for official companies. Stateless people are limited to work in the village and as one interviewee explains the opportunities to earn a better income lie outside the village boundaries:

⁶⁵ Stateless woman no. 18, 001

⁶⁶ Stateless woman no. 19, 001.

⁶⁷ Stateless woman no. 26, 003.

⁶⁸ Stateless woman no. 30, 003.

*“Thai Citizens earn more, though, since they are able to have jobs outside the area.”*⁶⁹

Other causes believed to be inhibiting stateless people's access to jobs are that stateless people are looked down upon. A small number of participants believe there are equal opportunities for accessing employment and additionally that accessing work depends more on the efforts made by people.

iv. Poverty

In both the survey and the in-depth interviews the issue of poverty was addressed, however, without defining what poverty is in the context of the hill tribe communities. The survey questions on level of income discussed above are an objective control factor to identify differences in financial wealth. Questions relating to poverty are more aimed at a subjective evaluation of one's financial situation which does not necessarily correspond to one's actual income level. Consequently, the issue was more elaborated on in the in-depth interviews than in the survey. In the survey about 59% of the respondents indicated poverty as a consequence of being stateless. In the in-depth interviews, it was less directly highlighted, even though factors causing poverty (lack of job opportunities, less income) were widely recognised as consequences of statelessness. First it will be explored whether or not the limited access to employment that stateless people experience accounts for the fact that stateless people have a lower average household income.⁷⁰ A very small number of the participants believe being stateless influences one's financial status. More specifically the respondents believe it is due to stateless people's inability to leave the village for work that influences their poor financial state, thus only indirectly recognising the effect on poverty of being stateless. One stateless female and one female citizen from each of the villages share this sentiment:

*“Maybe [citizenship has something to do with poverty] It's like we can't go anywhere to work and earn more money.”*⁷¹

*“[Being poor] is related to stateless [because] a stateless person cannot find a job outside the village”*⁷²

A surprising half of all participants do not believe statelessness is a contributing factor to poverty. The group with the highest percentage believing statelessness is not a cause of poverty are the female citizens. 75% of the female citizens expressed this sentiment, while around 50% of each other group also believe it is

⁶⁹ Stateless male no. 15, 001.

⁷⁰ Survey results found that respondents possessing blue ID cards report significantly higher household income (M=6700TBH) than the stateless hill tribe people (M=4900TBH).

⁷¹ Stateless female no. 25, 003

⁷² Female citizen no. 5, 001.

not a cause. Interestingly the majority of people who consider statelessness to be unrelated to poverty are from 003. It is believed by many that citizens are equally poor as stateless people and the most popular explanation for poverty is said to be a result of one's laziness:

*"I don't know [why they are poorer people]. They don't work hard. If they work hard, they will have a means for living."*⁷³

*"Some [of the people poorer than me] have citizenship, some of them not." "People who have citizenship are poorer [because] he's addicted to drugs and not working."*⁷⁴

*"Yes I think the stateless people and the one having Thai nationality have the same poverty. The areas are all the same [in terms of poverty] because we don't have the land to work for"*⁷⁵

These quotes highlight additional issues effecting members of the villages, be they citizens or not. The participants explained that all the land belongs to people in the town and the villagers rent it when the owner does not want to use it.⁷⁶ It is not the case that only stateless people cannot buy land because of their legal standing and therefore suffer from poverty. In 003 it is very rare in general that a villager has the means to purchase land of his own. Instead the villagers are subject to pay rent for growing products and thus suffer from limited profits. It is the wish of many of the interviewees that they would have the financial means to purchase land of their own. It should be noted here that even if a stateless person did have the means to purchase land the title deeds cannot be in their name.⁷⁷ From the focus groups it follows that in 001 the villagers have land to work on, but it seems they do not own the land as they cannot afford to buy it and they do not have title deeds over 'their' land. In 003 there are problems in acquiring land to work on, they say they don't have land for farming and that they can't have a title deed for the land. As explained by the community leader this is because the village is in the area of the national park and therefore villagers can only have the possessory rights and not the property rights. He stated that as a result they do not have the land to mortgage in order to secure loans. Nobody has title deeds for land in either villages. However this is not explicitly caused

⁷³ Stateless male no. 16, 003

⁷⁴ Stateless female no. 22, 001.

⁷⁵ Female citizen no. 10, 003.

⁷⁶ Stateless male no. 16, 003: "Each year, I grow beans. I rent the land of the people in town. No, all lands belong to the people in town. We just live here."

⁷⁷ Male citizen no. 4 from 003 describes the position of stateless people in circumstances concerning ownership "Speaking of land, since I hold this card (the pink card), I can't own any title deeds. Back when I held the pink card and wanted to buy a motor bike, I needed to find a Thai citizen to get it for me. We were relatives. It's trustworthy. We needed a witness, who was the community leader. [If the person tried to claim ownership of the motor bike] we would ask the community leader to help talking to him."

by one's nationality status. One woman explains that it is not necessary to have nationality to possess a piece of land:

"No, it's not necessary [to have nationality to possess land]. It's enough to have money to buy it. You can ask the Thai people to buy it for you. You can buy a piece of land in the name of the people who have the nationality."

This quote relates to the problem of false identities and buying and selling of fake ID cards that was indicated in some of the in-depth interviews in the villages as well as by one respondent⁷⁸ in an additional interview. The use of false identities was primarily ventilated in relation to acquiring land rights. These practices were articulated by other respondents as well which, of course, creates problems in terms of inheritance in case the stateless 'landowner' dies. The use of another person's documents was also reported in cases of registration of a child being born out of stateless parents.⁷⁹ An uncle or aunt with a blue ID card is then paid for registering the child while pretending he/she is the parent. Again this might lead to complicating and confusing situations in future.

Another issue raised in 003 village was drug abuse. The presence of a drug problem, specifically amongst men, was disclosed during a group discussion with stateless women at 003. This shows that the consensus that drug abuse/laziness causes poverty may be a communal attitude and village-specific to 003. The community leader at 003 is aware of the drug problem. He does not believe that punishments or being arrested is the solution, he says teenagers aren't scared of being punished. He believes rehabilitation is a better solution. He would like a project that brings teenagers together to do activities with the purpose of preventing a drug problem. The community leader believes there are many risks to drug addiction in his village as they live near the border with a high intensity of movement of people.

Contrary to the survey, in the in-depth interviews questions on poverty did not directly substantiate that statelessness effects experiences with poverty. Yet, taking into account the fact that stateless people cannot travel to cities for work, they cannot access jobs where companies will pay the legal minimum wage and that they are paid less than citizen for the same work, makes it possible to draw conclusions on how statelessness effects poverty. Their statelessness influences their ability to earn as much as citizens and thus increases their vulnerability to poverty or at least it decreases their ability to earn an income level similar to citizens. This conclusion does not intend to disregard the strong opinions by the interviewees that laziness is a cause of poverty but it is intended to account for the wider picture.

⁷⁸ Interview with COSA, field trip 2.

⁷⁹ Informal conversation with white card holder during Mae Sai visit, field trip 2.

There is one final issue that arose around the topic of income levels, job opportunities and poverty, this is concerned with gender discrimination. Stateless women and women with citizenship reflected upon the presence of inequality between genders, be it at home or in the workplace:

“In my point of view, I think there’s a difference [between the sexes] because generally women go outside for work but men stay at home. It’s not good.”⁸⁰

“Man and woman earn variously; a woman gets paid 200 Baht while a man earns 250-300 Baht. It’s always like this. Women are always being looked down upon. They can work many kinds of work, however they get only 200 Baht paid. We get paid 200-250 Baht maximum. After buying food we still have 200-220 Baht. A man get paid 300 Baht, if they don’t get food they will earn 350 Baht. It depends on the work if it’s hard or not. But for women, it does not matter how hard the job is, you still get 200.”⁸¹

“The wage for men is 300 and 200 for women. Because men work harder. They have to lift the heavy objects but women only sit while working.”⁸²

The stark contrast in attitude toward the status quo of gendered wages is intriguing. Why is the woman from 001 more challenging on her reduced payment? The above quotes speak to gender discrimination on a wider level, a male privileged society, the effects of which trickle down to the private sphere in financial terms. What these quotes do not confirm or deny is how this position of women as income earners, less paid income earners in fact, puts women at a greater risk to exploitation or trafficking.

v. Marital status

The survey data revealed a significant difference between citizens and stateless people in the form of the family relationships. Stateless hill tribe people are less likely to be in a formal marriage and therefore more often report a de facto cohabitation. Overall 70% of the respondents live in de facto cohabitation meaning that informal marriages exist in both groups, although with a higher percentage among stateless (56,5% compared to 43,5% among citizen). Even when we control for income levels being stateless decreases significantly the likelihood of being married. This means that statelessness is a factor which affects negatively the prospects of people with different socio-economic status to be married. Overall, the rate of co-habitation is remarkably high. Only a small proportion of the interviewed said that they live in a formal marriage. Religion plays a noticeable role in the form of marriage. Despite the small sample, there

⁸⁰ Female citizen no. 6, 001.

⁸¹ Female citizen no. 7, 001.

⁸² Female citizen no. 9, 003.

is some indication that Christians are more frequently reporting marriage than Buddhists (respectively 8.5% vs 5.1%). This reflects also in the rates of cohabitation (Christians – 65%; Buddhists – 76.3%).

Table 7: Marital status⁸³

	Single	Married	Divorced	Widowed	Co-habitation
Citizens	16%	13%	1%	8%	62%
Stateless	12%	2%	1%	6%	77%

The high prevalence of co-habitation raises numerous concerns of legal character. Usually marriage provides some certainty about the rights and entitlements of children and women. Issues such as paternity, parental rights, spousal support and inheritance are better regulated for those who are in marriage. The high proportion of co-habitation among the hill tribe people and particularly among those without nationality (or Thai nationality) may raise concerns about the legal rights of children and women. Therefore, further questions were asked during the in-depth interviews, focus groups and additional interviews.

Only one of the total twenty-four married interviewees had a registered marriage, she is a citizen and these were her thoughts on marriage registration:

*“Many people ask if we registered. When we had no ID cards, we could not register for marriage. When we received our IDs, we could register. Our villagers don’t really care about the registration but the outsiders often ask about it. Not at all [are there problems with assets or heritage], if anyone want to be separated, so be it.”*⁸⁴

Her thoughts were shared by anyone who spoke about marriage registration. Marriage registration is not common in either village and the fact that *‘nobody does it’* seems to be as good a reason as any for the interviewees. Across the board, the interviewees stated there are no effects, problems or consequences related to not having marriage registration. Without ownership of property many of the respondents feel there is no need to be registered. However, in the case that a couple does own property and decides to divorce, the villagers have ways of dealing with this:

*“If we have property and we divorce, we separated our properties equally. We let the head of the village do for us. For example, we sold out a land to get money then separated equally. In another case it depends on who is right or wrong, and the one who is wrong gets nothing.”*⁸⁵

⁸³ Two categories with low frequencies are omitted from the table.

⁸⁴ Female citizen no. 7, 001.

⁸⁵ Stateless female no. 28, 003.

The lack of registered marriages is only partially a result of nationality status. Many respondents said they cannot register their marriage because they are stateless or because their spouse is stateless. However marriage registration is not commonplace, it is unnecessary without great financial means and as there are strategies in place to deal with separation, statelessness appears to be irrelevant to marital status in both villages surveyed. Once again it is learned in one of the focus groups that registered marriage as a stateless person is impossible. In the case of separation, however, there are amicable ways to do so. An agreement will be made on children and property and 200 baht will be paid to the community leader for damages as they ‘do wrong to the spirit’.

Once more the important role of the community leader in the many aspects of the people’s lives in the villages come to the fore with the advantages and disadvantages indicated before.

C. Attitudes towards Migration and Triggers for Migration

A person’s willingness to migrate depends on a number of aspects such as personal circumstances, options for safe migration, possibilities in place of destination, experiences from other people, adventurous nature of the person, etc. But even if a person is willing to migrate, migration does not always happen and *vice versa*, if a person is *not* willing to migrate he or she might end up in a migratory situation. We have learnt from the literature review and the key informant interviews that migration is often triggered by an event, situation or acute need for money. In this section we explain whether and to what extent stateless hill tribe people are more open to migration than citizens, what factors trigger migration and how and to what extent stateless hill tribe people are more easily affected by these triggers.

Although positive effects of migration are not denied, migration includes a heightened risk for being targeted for abusive practices especially if the person ends up in a situation where there is no community or family to fall back upon or in case people are actually not able to undertake the migration legally. In some cases such abusive practices might increase the risk of exploitation. For stateless people this risk is reinforced by the travel restrictions and the limitations of getting a job in the formal labour market because they cannot easily arrange for migration in a legitimate way. The travel restrictions and limited access to the labour market of stateless people requires a certain level of organisation if one wants to migrate and/or take up a job outside their district. For those reasons stateless persons often refer to a broker or middleman for organising the migration, who can be a relative or friend. Although it has been articulated in literature that using a broker increases the risk of being exploited⁸⁶ we will learn that a broker or middleman can have

⁸⁶ UNIAP (2010), Human Trafficking Sentinel Surveillance: Poipet, Cambodia 2009-2010 (Bangkok: United Nations Inter-Agency Project on Human Trafficking).

positive effects as well. For instance in case things turn out to be different at the place of work the middlemen can be a person to assist in returning to the village. Again there is no one size fits all interpretation of the role of the middlemen in line with our findings in literature and key informant interviews.

We will try to unravel the relatedness between statelessness, attitudes towards migration and triggers for migration by looking into the likeliness of stateless people to migrate and their risk taking behaviour first. As a second step we will identify situations what can trigger migration, after which we will assess to what extent stateless hill tribe people are resilient to such forms of crisis or able to deal with an acute need, as compared to citizen hill tribe people.

i. The likelihood of stateless hill tribe people to migrate

The self-perceived likelihood for hill tribe people to migrate is low in general. Only for 10.2% of the respondents, migration to find a job elsewhere is somewhat likely and for 6.2% it is highly likely they would migrate for economic reasons. Statelessness alone is not affecting the perceived likelihood of moving to another community to search for a job. Age, education and gender are better predictors, with younger male respondents reporting a higher probability of labour-related migration. Overall, women are generally less enthusiastic about migrating for a job, however, among the small group that indicated a high likelihood for migration the majority is female (59.4%). The marital status also gives a positive correlation between young single men and the willingness to migrate to look for a job. Stateless reported to be more likely to consider paying a middleman to find a job elsewhere than hill tribe people with citizenship. 80% of respondents with citizenship indicated that it is *very unlikely* they would consider this.

As follows from section 1 internal factors such as the willingness to take risk affect how people assess the perceived benefits and dangers of migration. Thus, risk taking plays a role in the likelihood of migration and the process of trafficking victimization. We assumed that hill tribe people who are more risk tolerant will be more prone to the idea of economic migration and therefore more exposed to the risks of trafficking. Alternatively, individuals who are risk averse are expected to see less appeal in the idea of moving from their communities in search of better employment. To measure risk tolerance we asked the respondents how often they take a risk as compared to the other people from their communities. Most of the interviewed hill tribe people self-assess themselves as extremely risk-averse, which is not surprising in relatively homogeneous and isolated hill tribe communities where people live simple lives and rely on protective social structures. Citizenship was not found to affect self-assessment of risk taking, which is logical since risk taking behavior is more a personal trait shaped by social and cultural factors. However, after regressing the perceived likelihood to move

to another place on willingness to take risks and citizenship status⁸⁷ we found that statelessness increases the willingness to migrate. In summary, the model shows that after controlling for risk tolerance the stateless hill tribe people are more susceptible to moving outside their communities than the citizens. Again age and education are significant predictors of risk taking behavior. Younger and more educated hill tribe people say that they take risks more often than other people in their communities. For this reason the qualitative research focused on the hill tribe people below the age of 35. Thus there is a clear correlation between those who perceive themselves as risk takers and those who are willing to migrate for job search. This further correlates with the marital status; widowed and married hill tribe people are less likely to move for a job, singles are more open to migration. As mentioned citizenship does not affect self-assessment of risk taking.

Table 8: Cross-tabulation risk taking and migration for work

Compared to the people in your village/community how often do you take risk?	How likely is it that you will move to another place to look for a job?					Total
	Very likely - more than 80%	Somewhat likely - more than 50%	Uncertain - around 50%	Somewhat unlikely - less than 50%	Very unlikely - less than 20%	
Very often	9,1%	8,2%	4,5%		1,8%	2,9%
Quite often	3,0%	24,5%	9,1%	5,9%	4,0%	6,4%
Often	15,2%	10,2%	4,5%	5,9%	1,8%	4,1%
Average	21,2%	20,4%	18,2%	11,8%	4,3%	8,5%
Not often	30,3%	24,5%	31,8%	39,2%	18,3%	22,6%
Hardly often	21,2%	12,2%	31,8%	37,3%	69,7%	55,4%
Total	100,0%	100,0%	100,0%	100,0%	100,0%	100,0%

Because of the possible devious interests of brokers or middleman and their perceived role in exploitative practices we were interested in the role and activities of such middlemen in view of their possible links to exploitation. We therefore asked respondents to assess the likelihood that they personally would pay a middleman for finding them a job outside their community. Almost three out of four respondents (73.8%) consider it highly unlikely that they will pay for such a service. Nine per cent would consider the option and another 6% are certain they would pay if such an opportunity is present. Stateless respondents are significantly more likely to consider paying a middleman to find a job elsewhere (see table 9). Gender is also significantly associated with the perceived willingness to use the services of a middleman. Male respondents report that

⁸⁷ The overall multivariate model is statistically significant, Chi-square=83.9, p=.000

they are slightly more willing to pay than women. Income, age and education do not affect the willingness to pay a middleman.

Table 9: Willingness to pay for the services of a middle man

	Citizens	Stateless
Very likely - more than 80%	3%	9%
Somewhat likely - more than 50%	8%	11%
Uncertain - around 50%	3%	3%
Somewhat unlikely - less than 50%	5%	9%
Very unlikely - less than 20%	80%	68%

In addition about a quarter (24.8%) of the interviewed hill tribe people say that they have been contacted in the past 6 months by someone offering a job outside of their community. About half (48.4%) of those who were offered a job were contacted by a person from their community and whom they knew. Twenty seven per cent were offered a job by someone outside of their community but whom they knew. A stranger did the job offer in about 20% of the cases. Younger and more economically active people are more often targeted with job offers. Stateless hill tribe people are offered jobs outside of their communities more often than those who have citizenship.⁸⁸ Almost 30% of the stateless report such an experience against 20% of the citizens. Particularly high is the percentage in the 003 village where more than half of both stateless and citizen hill tribe people report that an offer for working away has been made in the past 6 months. When the respondents from 003 (in which a higher number of stateless people were interviewed) are excluded from the sample the difference between stateless and citizens disappear. This finding raised questions about the unusually high proportion of respondents from 003 who have been offered a job recently and was one of the reasons to select this village for the qualitative research.

Further analysis of the data shows that being a citizen and having some form of education reduces more than twice the likelihood that a respondent would have encountered an offer for work outside the community. Again being stateless and having no or little education increases significantly the risk of receiving an offer to work away from the village. Also people who are more willing to take risks are more likely to report that someone approached them and offered to leave the community for a new job. Once more here the interrelatedness of consequences of statelessness (no or little education, lack of job opportunities) reinforces risks for abusive and exploitative practices. Of course, not every job offer should

⁸⁸ Chi square=4.43, p=.035

be considered as the beginning of labour exploitation but it is important to note that statelessness together with a host of other factors (little education, risk taking, lack of opportunities, use of middleman) increases vulnerability and susceptibility.

The results from the in-depth interviews show a considerable divergence between the two villages. In general, job opportunities, increased pay, no land to work on and a better life are the main reasons contributing to people's desire to migrate for work. Contrary to stateless women in 003 all stateless women in 001 expressed a desire to leave the village for work. They did not consider travel restrictions too big an impediment to migrating, instead filial commitments were articulated by a number of respondents as a preventative to migration. The familial responsibilities were reported by double the amount of women in 001, both stateless and citizens. Such familial commitments were not expressed by any of the men interviewed who overall are less likely to migrate for work. The effect of one's statelessness on the likelihood to migrate is hard to determine as many factors impact on such likelihood and the impact of one isolated factor cannot be objectively assessed but depends on various internal or personal aspects as followed from the literature review and key informant interviews. The respondents in the in-depth interviews sometimes provided contradictory information regarding stateless people's likelihood to migrate. What is clear from the respondents is that if stateless people want to go outside the village for work it is more complicated and risky for them than for citizens. However, the perceived risks for exploitative practices are expressed by both stateless and citizens and especially in 003, while in 001 such risks were especially articulated by women (both stateless and citizens). Other deterrents to migration include the risk of being arrested for stateless people and the costs of travelling for work.

To decipher the role of middlemen in the migration process and further understand why so many stateless people in 003 were approached by a middleman specific questions were posed in the in-depth interviews. A number of the interviewees have lamented on the fact that middlemen cannot always be trusted and the job doesn't usually turn out as proposed. Some indicated that it is safer to migrate for work with a friend. In particular, women from 001 would be reluctant to use the services of a middleman and would prefer to migrate for work by contacting friends they know already working in other cities. Although women from 003 prefer agencies to organise the migration they also preferred to go to work outside the village with someone else instead of on their own, as it is safer. The practice of using friends or relatives for guidance in the migration process is widely reported especially in 003. Some stateless interviewees explicitly expressed having declined job offers from agencies or middlemen out of fear of being deceived. It has been expressed that middlemen sometimes directly withdraw a fee and costs from salaries, of which the employee doesn't know what costs were made. Interviewees seem to be well aware of the risks of exploitative practices while migrating for work. They will try to

convince others of possible risks of migrating through a middlemen if they are willing to take an offer from middlemen especially if it concerns work outside the country. It is not conclusive if middlemen actively target a specific group with job offers but some indicated that it is too risky for middlemen to recruit people without documents.

The awareness of migration risks were expressed in the focus groups as well. In addition, women in the focus groups also feared being looked down on if they were outside of the village. Although there is a high number of stateless women in 001 wanting to migrate and a high percentage of stateless people in 003 who have been offered a job by middle-men, it is positive to note from the in-depth interviews that there is strong awareness on risks of migration and the use of middlemen.

When considered risk taking behaviour and likelihood to migrate in isolation, these findings suggest that statelessness might not be having the effect of “pushing” people to take risks that could leave them vulnerable to exploitation. Interpreting this in light of the literature and key informant interviews, it would appear that this aspect, that is generally understood to increase a person’s vulnerability to trafficking, is not specifically aggravated by statelessness. However, as will be shown below, these factors often cannot be considered in isolation but are provoked by other factors and situations, based on which this preliminary conclusion cannot be upheld.

ii. Triggers for migration

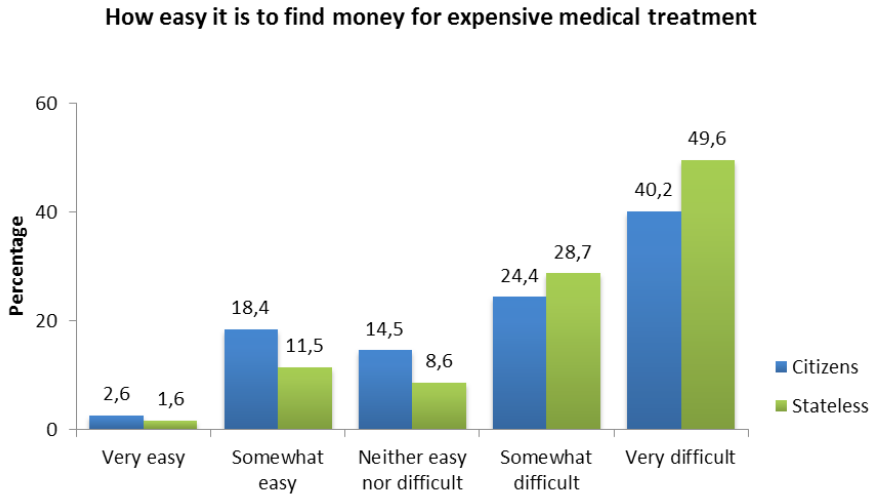
The literature review and especially the key informant interviews flagged that apart from external and internal factors, a person’s individual situation impacts on a decision to migrate for work. These situational factors can trigger a migration process and occur in case a person is in an immediate need for money because of an unexpected and impactful event. For instance in case a child in the family is in need of medical treatment that needs to be paid, the main income contributor is sent to prison, a person loses his or her job, a family member is a drug addict and consumed the household reserves. These situational factors in and of themselves do not necessarily push a person to migrate but when combined with external and internal risk factors such as lack of income generating opportunities, lack of possibilities to safely enter into a loan and willingness to take risks, situational factors can predict the moment a person enters into a risky migration process. Especially in cases in which a person doesn’t have any alternative to generate money a person feels more pressed to go elsewhere to look for income generating activities. This can mark the difference between a person remaining in the village in poverty but still able to feed the family and to survive, and the person for whom a status quo would actually mean a deterioration of one’s situation because of the direct need for money caused by the situational factor.

The person in such situation will find him or herself urged to undertake action. And with the limited options in the villages it becomes more attractive to look for possibilities outside the villages. How respondents perceive their ability to cope with difficult situations is tested in the survey and in-depth interviews. This aspect relates to the subjective legal empowerment of persons; the perceived ability to deal with a problem or situation that might occur. The higher one's subjective legal empowerment the more confident the person is he/she will be able to find a solution for the problem or situation which decreases the risk he/she becomes vulnerable to exploitative practices. Moreover, do situational factors impact differently on stateless hill tribe people's than on citizens hill tribe people's vulnerability to exploitative practices, in other words, do citizen hill tribe people have a higher subjective legal empowerment than stateless hill tribe people?

To explore the linkages between calamities, migration and risks of exploitation we asked the respondents about a hypothetical situation in which a family member is seriously ill and the interviewee must find the required money for an expensive medical treatment. We asked "how easily can you find the money for the treatment?" For most of the interviewed hill tribe people mobilizing sufficient resources in times of disaster would be very difficult (44.5%) or difficult (26.3%). Only for about one sixth of the respondents finding money for medical treatment of a sick family member would be somewhat easy (14.7%) or very easy (2.1%). Finding resources in such a situation is more difficult for women but the relationship to gender is not statistically significant. Age is also not significantly related to how respondents perceive their ability to cope with difficult situations. Nevertheless, there are some indications that younger respondents would have more trouble if they had to raise significant resources to help a family member.

Stateless people are significantly less confident that they will be able to mobilize the required resources when a severe hardship occurs (see table 10). A higher proportion of the stateless respondents says that it would be very or somewhat difficult to find money to solve the situation. When such a situation occurs, one of the likely options for the hill tribe people, and particularly for the stateless, would be to seek quick money in the more developed areas of the country – big cities and tourist areas. Clearly, the acute need and urgency in such situations will put them in greater risk of entering into a migratory process and exploitative practices.

Table 10: Ability to collect money in crisis situation



Not surprisingly socio-economic variables such as income and education play an important role in the perceived ability to respond to a sudden and impactful situation that requires money. Respondents who report higher personal and household income are more confident that it will be easy to handle the hypothetical situation.⁸⁹ Education is also playing a role in the perceived ability to find money for expensive medical treatments. Respondents who have received some education are more confident in their ability to raise funds than those who report no education at all. It should be noted that on both variables (income and education) stateless people have less opportunities, they have lower income than the citizens and are less likely to have any sort of education which means a correlation between being stateless and ability to finding money when in need. This correlation is negatively enhanced because of the lack of income opportunities and lack of education of stateless hill tribe people.

Furthermore, we explored the avenues that would make it possible for the hill tribe people to address a situation in which a family member is seriously ill and money is needed. Fifty nine percent of the respondents say that they can pay a significant amount of money only if they can borrow the money from relatives (46% of all responses).⁹⁰ One out of five reports that they would seek money from a money lender (16% of all response). For about 13% of the interviewed (10% of all responses) the solution of the crisis would be to find a job outside the community to earn money for the treatment. Serious crises and life events

⁸⁹ Bivariate correlation between *Combined household income* and *How easy it is to find money for expensive medical treatment*: Pearson's $r = .16$, $p < .00$

⁹⁰ More than one answer was possible to this question

can urge the hill tribe people to take significant risks. It should be noted that the stateless respondents are more likely to consider the option of looking for a job outside the community in a situation of distress. Sixteen percent of the stateless selected this option against 10% of the citizen respondents. Education might be a confounding factor – people with some form of education are significantly less frequently mentioning the option of finding work outside the village compared to those who have no education. Again taking into account that stateless hill tribe people are more likely to have no or little education puts them at heightened risk for migration for work.

To measure the degree of forced mobility we asked the respondents how likely it would be that a wife of an alcoholic husband leaves the community. Almost sixty percent of the respondents (58.8%) say that this is an unlikely option and further 11% consider it somewhat unlikely. One in five respondents sees a chance that a distressed woman flees the situation and seeks refuge in another community. There is no difference between male and female respondents. However, those who have better education are more likely to answer positively to the question.

The likelihood of the occurrence of situational factors and the perceived responses were addressed in the in-depth interviews. We asked questions about the options to collect money when in acute need thereof, the risks they are willing to take and the likelihood of migration for work in such a situation. The general consensus was that participants could ask their relatives for money, as long as it was not a large sum. This option was certainly the case for all stateless women in 001, however stateless women in 003 were less optimistic about borrowing from relatives as their families are also poor. Some women there even said they would not ask anyone and pointed to the risks that type of a situation could put them in:

“Yes [there is a chance to be exploited in this situation] because I have no choice or just few choices.”⁹¹

Several stateless people (men and women from both villages) pointed to this risk and the possibility that they would leave the village for work if they had to, even taking a job from a person who seems dishonest. Stateless people believe they may find themselves in an unfair situation if they needed to borrow money urgently. A ‘community savings’ or ‘village fund’ seems firmly established in both communities, however only one male citizen from 001 and one stateless female from 003 said they would borrow from it if needed. Membership is necessary for the village fund, and while it seems stateless people can be members, those with no cards do not have access to the fund. Stateless people need a witness to verify they will be able to pay back the loan if they want to make use of the fund. Stateless people cannot open a bank account and while people in the village

⁹¹ Stateless female no. 29, 003.

with citizenship can join a bank none of them believe they are eligible for a bank loan. A woman with citizenship explains that to borrow from the bank one must have estate such as the title deed of a piece of land but they do not have property in 001. The pillar of both societies, the community leader, also comes to people's aid in urgent financial times. Respondents have said they will ask the chief for help and even borrow from him.

The in-depth interviews confirm that in times of emergency and acute need for money people accept that they may need to take more risks to generate money. They are pushed to do so if safe options (loan at a bank, extra work) are limited. These limitations are incurred by lack of access to banks, lack of education, lack of land rights, travel restrictions and lack of job opportunities. As we have learned from both the survey and the in-depth interviews stateless hill tribe people are more easily affected by these limitations and thus find themselves more pushed to accept increased risk while looking for money-generating activities such as migration for work via untrustworthy networks.

iii. Exploitation

In line with the goal of the research, namely exploring the nexus between statelessness and human trafficking among the hill tribe communities in Thailand, the issue of human trafficking and exploitative practices has been addressed extensively in the questionnaire and the in-depth interviews.

In general, it can be stated that stateless respondents are significantly more likely to perceive labour exploitation as a serious problem and are more concerned about sexual exploitation. According to respondents young women are more at risk of becoming victims of labour exploitation as well as sexual exploitation. Poverty is considered as the most serious risk of exploitation (both labour and sexual exploitation). In addition, statelessness is considered a significant cause of labour exploitation and somewhat less serious cause of sexual exploitation.

As an outcome of the survey the interviewed respondents are more concerned about the everyday problems, such as money and family disputes, than about labour or sexual exploitation. Labour exploitation is perceived as a slightly more worrying problem than sexual exploitation. It should be noted, however, that the stateless respondents are significantly more likely to perceive labour exploitation as a serious problem.⁹² Thus 6.7% of the stateless respondents report that labour exploitation is a problem to a very large extent. About 2.2% of the citizen respondents perceive it as a very serious problem. Stateless people are also more concerned about the risks of sexual exploitation although the

⁹² Pearson Chi-square=10.97, p=.027

difference is not statistically significant at the conventional .05 level.⁹³ There is no significant difference in the level of concern by gender, age and education. However, there is a difference in the perceptions of the individuals who have experienced justiciable problems and those who did not. Hill tribe respondents who encountered one or more problems are considerably more concerned about labour and sexual exploitation in their communities.⁹⁴ In the following section the results related to those at risk of being trafficked are discussed, starting with a section on who is at risk, the likelihood of being trafficked and coping strategies and other factors impacting on vulnerability.

Who are at risk and what are the causes of trafficking?

We asked who of the hill tribe people are most at risk of labour and sexual exploitation. In relation to labour exploitation the respondents indicated that *young women* are more exposed to the risk of becoming a victim of labour exploitation. Almost half of the respondents and 30% of all answers to this question refer to the category of young women. *Young men* are the second most vulnerable to labour exploitation category with 24.6% from all responses. *Children* (11.9%) are the third most exposed category but we also see that girls are perceived to be at higher risk for labour trafficking than boys. When it comes to sexual exploitation *young women* are perceived as the most vulnerable group – 60.4% of all responses. *Girls* are perceived to be the second most threatened group (17.4%) followed by *all women* (8.4%). Interestingly, male respondents are much more willing than women to consider *Young men* as exposed to the risks of sexual exploitation.

We also asked the respondents about the external causes of labour and sexual exploitation. Poverty is the most frequently selected cause for both types of exploitation (see table 11). According to the respondents, poverty is a more serious cause for sexual exploitation than for labour exploitation. Statelessness is considered a significant cause for labour exploitation (17% of all response) and somewhat less serious cause of sexual exploitation. Lack of education, proper ID documents and the lack of jobs in the region together make almost 50% of the answers in both categories.

⁹³ Pearson Chi-square=8.80, p=.066

⁹⁴ Labour exploitation: F=19.49, p<.000; Sexual exploitation: F=9.04, p=.003

Table 11: Causes of labour and sexual exploitation from survey

Causes	Percentage of all responses	
	Labour exploitation	Sexual exploitation
Poverty	23%	31%
Lack of education	19%	22%
Lack of proper ID docs	17%	12%
Statelessness	17%	11%
Lack of jobs in the region	12%	13%
Obstacles to job opportunities	4%	3%
Lack of respect/discrimination	3%	3%
Lack of protection	4%	5%
(Police) corruption	2%	1%

This shows that the hill tribe people understand exploitation as a complex process which is predominantly a consequence of poverty. Desperation caused by poverty makes people more prone to take the risks. They also have less protection against the predatory strategies of traffickers and other agents that seek to exploit them. Particularly serious is the problem for the stateless and those who do not have proper ID documents allowing them to migrate freely and realize their full potential. For them, many impediments make migration a risk of trafficking rather than an opportunity for development.

Again if we look into the causes of exploitation ranked by the respondents and comparing these with the consequences of being stateless as indicated above, we see a considerable overlap. From the survey analysis we learned that stateless hill tribe people have less income than citizens, are less educated and lack proper ID documents. These three elements list the top three of causes of exploitative practices indicated by respondents meaning that these causes are more prevalent among stateless hill tribe people than among hill tribe people with citizenship. Based on these findings we could conclude that according to the survey respondents stateless hill tribe people are more at risk of becoming victims of exploitative practices.

In the in-depth interviews the biggest consensus on who is at risk to exploitation or trafficking are stateless people, a large number of women from both villages believe it to be so. However one woman has an opposing opinion. She explains:

“I think the people having the nationality are the most at risk [of human trafficking]. As there are many limitations for the people without nationality such as the restriction of travelling so they can’t travel easily. Like me, I don’t go to somewhere else so I’m not at risk of being deceived. No, it can’t happen to me because I just stay at home.”⁹⁵

Leaving the village for work is seen by many respondents as a risk to exploitation and thus staying within the confines of the village is utilised as a prevention tool. Another woman said stateless people are exploited to take care of elders and babies in Bangkok and Hat Yai. What is seen to be putting stateless people at risk is the fact that they will not contact the police even if they are not being paid, because they fear arrest. They are said to have no right to protest as doing so will get them fired. Heavy emphasis was put on lack of education or knowledge of life outside the village as a cause of exploitation, exclusively in 001. Uninformed people and young people are understood to be at-risk groups, sometimes young people do not know the risks, and the participants believe there needs to be institutions informing people on trickery in work. Other causes and at-risk people mentioned were people unable to speak Thai, women, those who believe people easily and those reaping the backlash of Karma. People dealing with personal problems such as family issues or poverty are seen by female respondents from both villages as being forced into exploitation because they have no other choice. Thus reinforcing earlier findings that the prevalence of triggers can put those who are already vulnerable, for personal and financial reasons, at a heightened risk.

The focus groups with stateless women further highlighted stateless people’s plight as outlined in the individual interviews. Stateless people are hired for difficult work such as farming and fruit picking, they earn less than citizens and work opportunities outside the village boundaries are not open to them. Paying for a travel permit to work outside the district and continuously returning to renew that permit is seen as further hardship.

Interestingly, the low education levels amongst stateless people are not interpreted by the women as a result of being stateless. Instead they have said they could not study because they had to work or there was no time. The women understand they are forced to work in hard labour conditions as a result of their illiteracy and are happy their children have the chance to study so they won’t ‘be like us’.

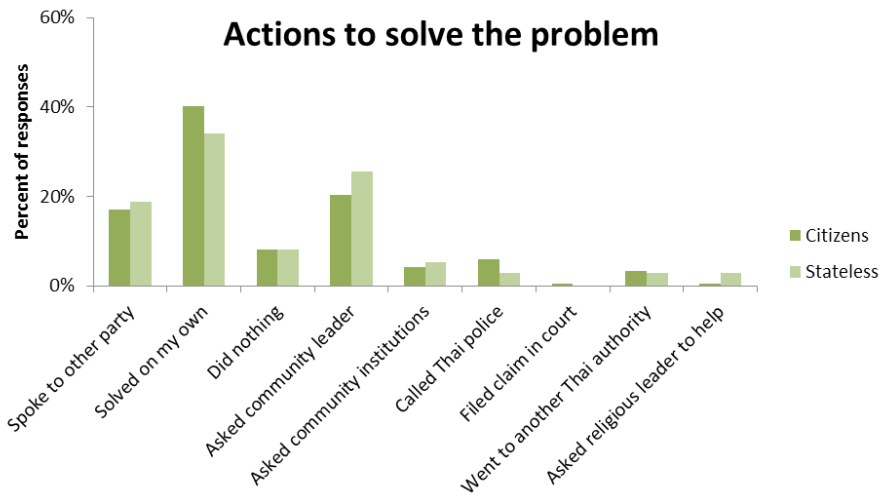
Likelihood of being trafficked and coping strategies

There are noticeable differences in the ways in which stateless and citizen hill tribe people respond to problems that might have legal solutions (see table 12).

⁹⁵ Stateless female no. 20, 001.

Stateless respondents refer more often for help from community institutions – leaders, village commissions and religious leaders. On the other hand, those who have Thai citizenship are more likely to solve the problem with their own action. They are also twice as likely to refer the problem to the Thai police.

Table 12: Actions undertaken to solve problems



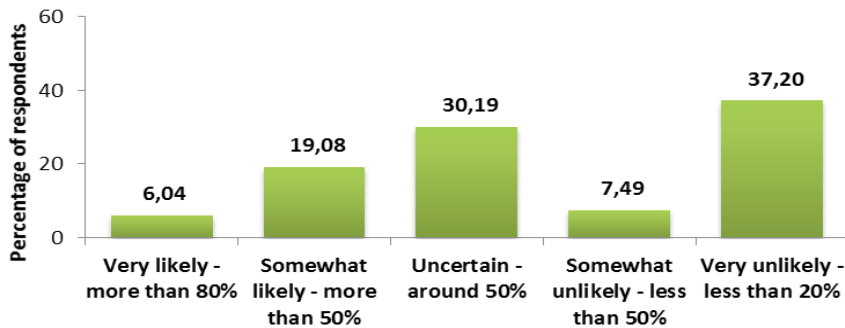
Although the survey respondents indicated no serious concern about the risks of trafficking or exploitation we tried to exclude differences in understanding and interpretation of the phenomenon of trafficking and exploitation by presenting some scenario's that might qualify as trafficking scenario's and/or situations of exploitation. Respondents were asked about the likelihood that such situations would occur to them as well as what their coping strategy would be. The latter question relates to the subjective legal empowerment which is highly relevant for people who find themselves in an exploitative situation. Subjective legal empowerment is then an indicator of the extent to which a person finds him- or herself enabled to change such a situation by using legal or other means. If one's subjective legal empowerment is low it is more likely that the person will feel unable to change the situation of exploitation and is less likely to undertake actions for such change. Our main hypothesis is that there is a link between statelessness, legal empowerment and the risks of becoming a victim of exploitation; if stateless people are less empowered they are more likely to become victims of labour or sexual exploitation and less likely to take action when in an exploitive situation. In this section the aspect of subjective legal empowerment in relation to exploitative situations will be discussed whereas the other aspects of subjective legal empowerment will be discussed more in-depth in the next section.

We have asked respondents about their possibilities to cope with the following hypothetical situation:

Several months ago you found a job in a factory in a large town. After several months the employer cut your salary twice citing that he has to pay for food, transport and living expenses. According to your understanding these expenses were at the expense of your employer. Now the employer owes you a significant sum but denies it and threatens to fire you if you persist.

For about one third of the respondents the occurrence of a serious employment problem is a likely option. Only 6% of the respondents are confident in their abilities to solve a situation involving dispute with a powerful employer. Further 19% see some possibility to deal successfully with the labor dispute. However, more than a third of the interviewed hill tribe people think that it will be very difficult to successfully solve a problem related to labor exploitation (see table 13).

Table 13: SLE in employment dispute/exploitative situation



Very few respondents are confident that they will be able to successfully handle a dispute with a powerful employer, away from their communities. The power asymmetry between the parties certainly plays a significant role in this scenario.

Most respondents (42.9%) report that in such type of dispute they would call the police. The hill tribe people who are Thai citizens are significantly more likely to rely on the police than the stateless people. Instead, stateless are more willing to look for support from community institutions and leaders. Stateless people more frequently report that in a serious employment dispute they would prefer to do nothing, will seek protection from a middleman or will try to solve the problem themselves.

Next we confronted the respondents with a situation of aggravated labour exploitation in the following hypothetical scenario;

A family member has paid a significant amount of money to work in a karaoke bar in Bangkok. She did not have the papers to leave the province. Therefore the middle person asked for a lot of money. When your relative arrived in Bangkok it turned out that instead of the promised job she is sent out to work as a domestic worker for almost nothing. Moreover, she is not allowed to leave the place where she works and is treated with disrespect.

For about one third there is a possibility that they might need to deal with such a challenge in their lives. Stateless people report a higher chance that a similar type of situation might occur in their lives. Statelessness is a statistically significant predictor in both scenarios related to exploitation. Stateless people report a high chance that such situations of exploitation might occur. At the same time, education is decreasing the perceived risks. Almost 60% of all respondents do not see even a remote chance to deal with such a situation if it occurred. Female respondents do not differ significantly in their ability to solve legal problems. Somewhat surprisingly respondents are more confident to deal with the aggravated scenario than the previous employment problem. One of the possible explanations might be that in this scenario the employer is clearly breaching the law. Calling the police is the first thing that most of the citizen hill tribe people would do in such a scenario (55%). Almost half as many of the stateless hill tribe people (31%) would dare to seek protection from the police. Instead, they are more willing to seek protection from community leaders, middlemen or attempt to solve the problem on their own. Here the respondents showed a different role of the middlemen, namely, a person who can help them in case of trouble. This hypothetical scenario confirms a general trend that the citizenship status has significant effect on the abilities of the hill tribe people to involve public institutions, notably the police, in the process of solving their legal problems and the reluctance of stateless hill tribe people to ask the police for help. Left on their own, they prefer to seek advice from community leaders or even from brokers. Such dependencies pose significant risks for further reinforcement of the existing exploitation practices. Based on these findings further questions on distrust in the police of stateless hill tribe people were explicitly addressed in the in-depth interviews (see next section).

In the in-depth interview a series of questions were asked on the meaning and causes of trafficking and exploitation, and who are at risk. A human trafficking scenario was proposed to further gauge the participants understanding and to preclude the effect of a different terminological understandings on the responses. To this end the second scenario (working in domestic service in Bangkok, aggravated labour exploitation) used in the survey was also used in the in-depth interviews to discuss the likelihood and coping strategies of the interviewees in such a situation.

Overall the participants felt this was a situation of exploitation and that cases like this are possible. How people would deal with such a situation differed between the two communities. Women from 001 do not believe they would go to the police if in a similar situation, first they would contact friends, family and especially the community leader for help. Some women from 001 will ask the community leader to bring them to the police but they will not go directly. This shows either an extremely close relationship between villagers and their chief or a soiled relationship between villagers and the police, or perhaps both. As the proposed scenario involved someone without correct papers the female respondents from 001 believe they would be afraid to go to the police as they are illegal, they would also be afraid of bribery and during a time of crisis like this they would like someone they can trust:

*"If they get into trouble elsewhere] they must call the family, right? If it still cannot be solved, then go to community leader for help. [The community leader is] very important, whomever you ask you will get this answer. He can guide us when we cannot come up with any solution. [If in the same situation] I need to be conscious, to be strong. I need to find a help, first of all, I will call my family and the community leader. If I have a chance I will contact my family first and tell them to inform his majesty. The community leader is trustworthy. We don't have to give him anything. The police might ask us for money. I need to trust someone who live in the same village before anyone else."*⁹⁶

Contrary to this statement a number of people from 003 believe they would go to the police if finding themselves in such a scenario. In fact it was a mix of stateless, citizen, female and male who responded positively about contacting the police. Another mechanism for coping was shared by three female participants, two stateless women from 003 and one citizen from 001. These women believe they would have to bear this situation if it happened to them because they could not do anything to make it better but they will try to escape if possible.

A strikingly greater number of respondents from 003 have heard of cases of exploitation compared to those in 001 which could be explained by the fact that people from this village are more often approached by a middlemen from outside their community compared to village 001. People in 003, as one person said, have seen this case often:

*"I was taken advantage once. I was tricked to go work in other province. They took all commission. (The interviewee was uncomfortable to tell). It was very difficult. Some of the [community members] have [been tricked], some haven't. Around 40% I think"*⁹⁷

⁹⁶ Female citizen no. 7, 001.

⁹⁷ Male citizen no. 3, 003.

*"When I didn't have ID card, I have to conform to employer, or else I don't have a job."*⁹⁸

*"[With the blue card] I feel that no one exploited me. However, before I got the card, I got paid so low. For example, the people who have nationality get paid 200 baht, the stateless people get paid 150 baht. After I have got the card, everything is better. I get the same paid. I don't have to ask for a travel permit... [Exploitation] happened to my brother. At first, they talked nicely. We need money in order to build a house, so I let him went there. He called me later and cried. He told me the story. They offered him a very good income, provided accommodation, free foods, so my brother went there to work. It was in the South of Thailand, and work in the field of Para rubber. Once my brother worked there, he did not get any meal as they said. The employer also forced him to work with the gun, so he escaped during the night time. He still had to pay the agent 5,000 baht... Once I worked for a rich person. At that time I was just married. We agreed to work for 100 baht a day and free foods. Firstly, everything went fine. Later it got bad. I asked for the pay but the employer threatened to kill us. He even used a gun to force us to work for him, so we left. Somebody had warned me, but I didn't believe. We haven't got the card so we can't inform the police, and he is also a police."*⁹⁹

001 is not without its share of exploitation stories, one stateless woman describes her strong motives for acquiring citizenship:

*"I really want to get the nationality so that I won't be deceived to work again like when I worked in Chiang Mai at the age of 16, the employer cheated on me. He didn't pay me a wage of one year. And I wasn't able to go back home because I had no money. I can't even pay for the travel back home. I was a baby sitter and I did a housework in general. I had worked for one year but without wage. Thinking about it still makes me feel angry. The employer even sold her old clothes to me. She didn't give me the clothes. Food was given sometimes. My friends [suggested the job] they knew about the offer and informed me but they didn't know that I would be deceived."*¹⁰⁰

At that time she did not ask for help from anyone, but expressed that it was about 10 years ago and she did not speak Thai very well. If it would happen now she would notify the police or her cousins, she said. She finally was able to escape with the help of her sister:

"Luckily, she remembered my address. At that time, I had no money and no phone. I can't ask for help. My employer prohibited me to go out of the house. I can finally go out because my sister lied to them that our mother was dead. That's why they allowed me to go."

⁹⁸ Male citizen no. 4, 003.

⁹⁹ Female citizen no. 10, 003.

¹⁰⁰ Stateless female no. 17 001.

On the topic of exploitation and trafficking the general sentiment in the focus groups was ‘for money we have to do everything’. Some of the women have experiences of exploitation and others know a person who has been exploited, specifically cases where stateless people were not paid for their work. This stateless woman from 001 describes the time she was in a situation of trafficking:

“I have. At first, the contact person offered some kinds of job but it turned out another job and the salary was very low. [They offered me a job] to work in Karaoke. I was assigned to work unlike job so I came back. My friend also told me that she also had same experience. She was assigned to work in Karaoke and the owner beat her. When I was young, my life was difficult. I did farming in village, then I contacted my friend and asked if there was any job for me. I don’t know if she knew. They made me wear sexy clothes and work as a waitress. I did not like it. At first I thought about money so I did it. Yes, I did [go back home]. However, I may do that job if I really cannot find another job. I don’t have the card so it’s difficult to find a job. I did not runaway. I told them that I don’t like doing that and they allow me going back home. Yes, [this risk is caused by being stateless]. I don’t have money so I want money. This is all those who do not have money can think. For money we can do anything. No, I did not [think about informing the police or the community leader]. No, the [police] cannot help. I don’t have the card. I don’t have nationality. I don’t know if they help.”

This woman declined to speak further on her experience of exploitation. Her lack of nationality puts her in a situation without choice. Limited job opportunities are continuously reiterated as a consequence of statelessness. Within that struggle, the risk to exploitation is palpable. On the other hand those who stay in the village, or are forced to by limited travel restrictions, are less at risk to such experiences. Another important issue to note in relation to exploitation was the resounding belief by these women that they will not or have not reported these problems to the police. One woman sums it up by saying:

“I didn’t notify the police because I got used to this situation”

The community leader at 001 thinks stateless people do not have enough knowledge, they believe people easily. Because stateless people’s rights are restricted they believe someone will help them and will be happy or willing to do anything. He states people have no choice concerning their wage. He has heard that workers at a karaoke bar have to pay 20% of their income to the agent, the girls who work at a massage parlor have to pay 30% of their income to the agent. At 003 the community leader said stateless people are always exploited, specifically referencing the low wage they receive compared to Thai people.

Stateless persons have succumbed to situations of exploitation. These stories articulated by interviewees speak for themselves in terms of the types of exploitative experiences stateless people endure as a direct result of their nationality status.

Other risk factors for exploitation not necessarily related to statelessness

Some key informants expressed the effects of Bun Khun on the lives of young people specifically.¹⁰¹ It is seen as a big factor in young people's decision to migrate for work, both boys and girls. One interviewee mentions his own personal situation as an expression of Bun Khun. His wife is the eldest of two daughters and the main income earner. She gives 20% of her wages to her parents and her younger unemployed sister does not contribute. As Rende Taylor researched the interviewee believes birth order and income level play as much of a factor in Bun Khun as gender might.

iv. Conflicts and subjective legal empowerment

Before SLE can be measured the problems hill tribe people endure and (legal) options open to deal with legal problems need to be illustrated. As already became apparent from the above, stateless people's vulnerability to exploitative practices is reinforced by their (perceived) inability to go to the police for help. As this seriously impedes one's legal empowerment and reinforces risks for stateless people, this aspect was explicitly discussed during the second field trip in the in-depth interviews, focus groups and additional interviews.

Problems and Coping Mechanism

It turned out that the concept of *legal* solutions was less suitable in the case of the hill tribe people because it would make little sense in communities where the only official institution to deal with problems is the village leader who has limited delegated powers. The usage of the term *legal* problems was for the same reason extended to frequently occurring problems and disputes of hill tribe (stateless) people. Based on interviews with experts (Thai academics, local and international NGO staff) the following seven problems were included in the questionnaire to be assessed on their occurrence in the research villages: land disputes, attaining personal documents, disputes with authorities, drug abuse, family disputes, domestic violence and money disputes. From the survey it follows that one out of five reported problems is related to drug abuse but only few people report they are themselves affected by or had to deal with problems related to drug abuse over the last year. Stateless people are less worried about the drug problem. In two villages around 60% reported drugs as a particular problem of concern. Money-related and family disputes are more often a concern of stateless people. Family issues, money and land related disputes are also perceived as frequently occurring in the hill tribe communities (respectively 16.5%, 13.6% and 11.7% of all problems). Higher educated people report problems less often.

¹⁰¹ D. Brennan, ผู้ชายช้างเท้าหน้า ผู้หญิงช้างเท้าหลัง, *Husband is elephant's front legs, wife is elephant's hind legs: An investigation into the ways in which culture can create vulnerabilities for stateless women*, in Northern Thailand, p. 10.

Because stateless people in our survey are less educated they fall in the group of people who report problems more often. Remarkably, every additional child also increases the risk of getting involved into legal problems.

On the question whether the respondent or a household member of the respondent experienced a problem in the past year, 86% of the interviewed stateless people reported they had experienced at least one serious problem with possible legal resolution in that period. The most frequently reported problems fall in the category *Other* without further indicating what these problems were. This suggests that it might have been difficult for the interviewers to articulate the question or for the respondent to answer the question. When *Other* problems are excluded from the dataset Money related disputes become the most frequently mentioned problem with 30.8% of all reported problems pertaining to that category. With almost the same frequency rate, in second place, is the category Family disputes – 30.5% of all problems. Third are Land disputes with 13.6%, followed by problems around ID documents 10.6%, Domestic violence 6.3% and Disputes with authorities 4.3%. Interestingly, only 4% (n=12) of all reported problems belong to the category Drug problems. Stateless respondents have to deal more often with money-related and family disputes. Contrary to the expectations, they experience disputes with authorities and ID problems almost at the same rate as the hill tribe people who have citizenship.

Pre-coded remedies that were indicated in the survey were that the person; spoke to other party, did nothing, asked community institutions to help, solved the problem on his own, filed a claim in court, asked a religious leader to help, asked the community leader to help, called the Thai police, went to another Thai authority, other, namely:..., don't know, do not want to answer. However, the question what remedies were taken to solve the problems were posed as an open question and multiple answers were possible.

From the 418 respondents who reported to have experienced one or more problems over the last year only 253 provided answers to the question of what they did to solve the problem. The missing respondents (N 165) reported that they did not know or did not want to answer the question. Most often (almost 39%) respondents indicated they solved problems themselves, while 20,5% (second most frequently scored solution) went to the community leader. Official authorities such as police, courts and other Thai authorities, are used very rarely. Problems that might have legal solutions are more often referred to community leaders and religious leaders by stateless people. Citizens are twice as likely to refer a problem to the Thai police.

Many respondents stated that at the moment of the interview their problem had been resolved (30,7%, although some 45% answered the question with category 'Other'). Less often solved are problems related to land, ID documents and disputes with authorities. These problems are difficult to solve, other problems seem to be rather easily solved. Even money disputes are reported to be solved

frequently, which contradicts with the information that respondents reported it difficult to collect money. Also in over 80% domestic violence has been partly or completely solved. Stateless hill tribe people are more reluctant and less able to pursue resolutions to their problems through the official institutions. This is an important outcome and gives ground to believe stateless people in a dependent situation to be less likely to ask support from officials.

Distrust in the police

Stateless hill tribe people are reluctant to seek help from official authorities, especially the police, when in trouble. In the in-depth interviews the experiences with police and coping strategies were thoroughly discussed. In line with the survey outcomes all interviewees reported that they will primarily contact the community leader when they have a problem. However, interesting differences exist between the two communities in which the qualitative research took place. Nearly every respondent from 003 who stated that they would report problems to the community leader also said they would consider contacting the police for help, very few said the same in 001. From what the respondents have said there seems to be an order in place to deal with issues, people from both communities said they *have to* inform the community leader first. In 001 the community leader is seen as treating everyone equally, aware of everyone's personal circumstances, speaking their language, being more convenient, more powerful, and safer than the police. People from 003 see the police as an option for conflict resolution or serious problem solving when the community leader cannot find a solution, this sentiment is shared by stateless people and citizens alike. The community leader from 003 will in fact bring people to the police for further assistance.

Differences in treatment and maltreatment by the police are reasons to avoid going to the police in case of problems. Citizens agree that stateless people can be treated differently by the police. They have said they were afraid of talking to the police when they were stateless as they feared being fined, furthermore they believe some officer's greed leads them to abuse stateless people. When discussing treatment by the police many of the respondents related inequality due to travelling restrictions, they encounter problems at check-points and fear being arrested if they have left the village. Ill-treatment does not happen exclusively vis-à-vis stateless hill tribe people. There are also reports that nationality status is irrelevant to how the police treat people. People from the villages can all be equally subjected to discrimination, bribery and the policemen siding with the rich. Others have reported blatant cases of discrimination because of their stateless status:

“No, they [police] don't [treat both groups of people equally]. The police look down on us for example once, he inspected me and asked me where I was going to,

*I said 'I'm going to study', he said 'you study?' It made me feel hurt.'*¹⁰²

*"Sometimes when I had an argument, I wasn't wrong. The other was. But I was too afraid to go [to the police] because of the card issue. I didn't have the citizen; I wasn't equal. Maybe it was just my thought. I thought the other side had the ID card, so they might win the case though they were wrong. Mostly we look at it this way. Yes [I have faced this situation]. When we have problems with other and they have the ID cards, I yield to it. There's no way to win."*¹⁰³

Stateless people feel that citizens have access to more rights and that this affects their treatment by police. From the second case study here, it is easy to interpret a lack of subjective legal empowerment, she feels she cannot win a case against a citizen therefore she doesn't try. Lack of subjective legal empowerment or confidence to solve disputes is apparent through respondents who feel inadequate against rich/powerful people and through stateless people neglected of rights. Furthermore, an absence of empowerment is evident in respondents' unwillingness to go to the police with a problem. Fortunately a strong coping mechanism exists in these communities, that is, the community leader, known to treat everyone equally and assist in times of difficulty:

*"As I don't have a permit, I can't get help anywhere. I can't call the police. I'll ask for help from the community leader and ask him to notify the police... The police can't do anything for us. The community leader can give us justice. It's even better to notify the community leader because he knows every policeman."*¹⁰⁴

The community leader is also the person from whom most of the respondents will seek legal advice. On a grander scale, perhaps in situations of exploitation outside village boundaries, stateless people are at a loss for support. For these circumstances it is vital that a positive relationship is encouraged between stateless people and also hill tribe people in general, and the police. Those likely to migrate for work need to be aware of their rights within police jurisdiction. Regardless of nationality status, everyone should be entitled to police support.

In the focus groups, confirmation was found for the discriminatory treatment of stateless hill tribe people especially by the women in the village of 003. They felt strongly that they will not receive justice as a stateless person. They feel they do not have the right to notify the police and that they are treated badly by the police. The centrality of the community leader in solving disputes was reiterated within these discussions.

¹⁰² Stateless female no. 19, 001

¹⁰³ Stateless female no. 26, 003.

¹⁰⁴ Stateless female no. 21, 001.

D. Status and Citizenship (including citizenship applications)

From both the survey and the in-depth interviews we got the impression that a considerable number of stateless hill tribe people would actually be eligible to acquire citizenship. We have also learned that statelessness has serious consequences for people's day to day life and severely impedes one's options to participate in Thai society in an equal fashion to Thai citizen. Therefore, an effort was made by imposing questions in the survey, in-depth interviews and additional interviews, to get a fuller picture on the impediments for stateless people to acquire citizen status, the results of which will be discussed below.

According to a 2008 amendment in the Thai nationality law, anyone born before 1992 on the territory of Thailand is eligible for Thai citizenship if they have remained resident there since and can prove this. Of the stateless people in the survey, 52,4% seem to be eligible for Thai citizenship based on the amended law but have not achieved this status. This percentage may even be higher because children of persons born in Thailand before 1992 are eligible as well. 76,3% percent of the respondents in the survey with citizenship indicated that they had successfully applied for citizenship, the rest acquired citizenship automatically at birth. Of all stateless persons in the survey slightly more than 50% never applied for citizenship because they thought to be not eligible (39,7%) or because they did not know what to do (34,7%). For the respondents in the survey who are younger than 35 years the time to travel to the Thai public authorities is a significant barrier whereas the older hill tribe people who do not possess a blue card are more likely to think they are not eligible for Thai citizenship. Of the nearly 50% of the stateless respondents in the survey that applied for Thai citizenship nearly 30% said their application was rejected, while in 64.4% of the cases, the application is still pending. The average duration of the applications for this category of applicants is 55 months, more than 4.5 years. The following table gives an overview of the reasons why stateless people in the survey did not apply for citizenship.

Table 14: Reasons for not applying for citizenship

Reasons for not applying for citizenship	
Not eligible	39,7%
Don't know what to do	34,7%
Do not have the necessary documents	11,1%
Too time consuming	9,5%
Do not believe that I will be successful	8,7%
Do not have money	5,6%
Other	22,2%

This point was addressed in more detail in the in-depth interviews. We were especially interested to learn why the procedure took so long, what people had undertaken to speed up the procedure, what the reasons are not to apply for citizenship and what kind of assistance and information would be needed to facilitate this process. In the interviews ‘Waiting’ or ‘waited’ are possibly the most frequented words used by both citizens and stateless people when the topic of citizenship applications was discussed. Those who succeeded in their citizenship application waited anywhere from one to seven years for their application to be processed and approved. A small number of the stateless women interviewed are currently waiting for their applications to be processed.

i. Why are there delays?

We have learned from the interviewees that there is an abundance of documents needed in each application. Documentation needed includes house registration, family card, birth certificate, current ID card and the signature of the community leader. Presenting such documents at the district office appears to be a bureaucratic process where applicants queue for several hours and can be asked to return again if their documents are incorrect. These are the initial delays in application processing and have even resulted in some interviewees ceasing to apply. Furthermore, several witnesses are expected to accompany the applicant to verify he or she was born in Thailand. Organising witnesses to simultaneously visit the district office can be very challenging. Through these obstacles, we can begin to understand how there is a slight delay at the beginning of the processing procedure. But waiting up to seven years for an application to be processed was incomprehensible for the interviewees, nor did they know how to speed up this procedure. The majority of the interviewees in both villages spoke explicitly about the key role the community leader plays in the application process. Those who applied and were successfully granted citizenship needed the assistance of the chief throughout the procedure. He has to inform the villagers when they can apply, accompany the applicant to the district office, act as a witness, and provide his signature and a copy of an ID. Although the interviewees stated there is no fee for applying for citizenship it is clear that money or a gift is necessary for the prompt participation of the community leader. Not having the financial means to thank the community leader for his service can also delay the application during the initial process or in the case of some people prevent the process from beginning at all.

Lengthy waits in receiving nationality was presented as a large problem for the individuals interviewed. The officers at the district office explain the reason as there being consideration needed at several levels; district, province and ministry.

“The committee must be appointed in each level to consider a request and that may take a long time because there is no deadline or timeframe for the committee appointment.”¹⁰⁵

The lengthy waiting time is further explained by the officers at the Mae Sai district office who state that there are two sections covering the application for nationality. If one's application falls under section 23 the district chief is in charge of the application and supposedly it just takes 90 days from the day of submission. The condition attached to section 23 is that the applicant was born before February 25th, 1992. However, if one's application falls under section 7 bis it is under the authority of the Provincial Administration and will take longer. As reported by the interviewees this can mean up to several years. The condition attached to section 7 bis is that the applicant immigrated before 1995. The officers stated that an application according to section 7 bis takes time due to the time consuming processes of finger print tests, personal record checks and also the approval from the Minister.

Furthermore, the assistant to the community leader in 003 said that anyone born in Thailand after 1992 has to go to Bangkok to apply for citizenship, he would like this changed so that they too can apply at the district office. We did not get any confirmation from this information from other sources. He said it costs 1000 baht to have the official document copied by the district office. For traveling to the district office, people do not need a permit but they have to pay for travel fare of 20THB. To leave the district requires an official permission and the fee for the travel permit depends on the length of the trip outside.

ii. Why not apply?

The interviewees also provided insights as to why they have never applied for citizenship. Stateless people are not making independent applications at the district office for citizenship. Several of those who have not applied yet haven't done so because they are waiting on 'news' from the community leader. The district office gives the community leader a list of names of those who are stateless and can begin their application for citizenship. The chief then informs those on the list that they can start their application for citizenship. It is not clear why those who have never made an application have not appeared on the list of names nor what the requirements are to be eligible for being listed. Further investigation is needed at the district office to understand how this list of names is compiled and why persons are omitted. Another significant reason stateless people have not started the application procedure is due to lack of documents (e.g. a birth certificate).

¹⁰⁵ Interview district officer Chiang Mai district office.

In the focus groups the lack of evidence for the acquisition of citizenship has been articulated as a major problem especially in the group from 001 of whom most had lost both parents leaving them without proof of their birth. Furthermore, they don't know how to start an application procedure and have the feeling that they do not have the necessary time, help or money to start such a procedure. Women in 003 confirm waiting to be listed by the district office who will notify the community leader of the persons who can commence the application procedure. Administrative burdens seriously complicate procedures, e.g. misspellings and contradictory information on documents such as wrong names and unregistered births, misinformation or not being informed which documents are needed. Also arbitrariness on which documents are needed for a successful application, e.g. a woman was told her father must first apply for a passport before she could apply for nationality. This was a condition not seen or heard of before. Comparing the documents needed outlined in Chiang Mai district office and Mae Sai district office show slight differences but show that some of the required documents might generate difficulties in specific situations such as 'parental evidence' for those who lost their parents or 'educational certificate' if no formal education has been pursued.

DNA testing is required for a number of people in various situations e.g., for stateless people whose parents hold the pink card but the person wasn't born in a hospital. It is also for people whose mother or father is Thai and they have to prove the relationship. If a stateless person's parents have passed away and they do not have the death certificates of their parent then the district officers will hold an interview with a 'reliable person'. If the applicant has a death certificate then it will be taken into account. Stateless people have to travel to the clinic for the blood test. There are at least 2000 applications made by stateless people every year. Generally the person seeking the test will pay for the procedure however depending on the government budget there may be funding for tests. Last year the government budget allocated 3 million Thai baht which allowed for 300 tests to be covered. The price of testing has increased in the last few years. Some years ago it was 2000 baht, but the costs have gone up and they now charge 4,800 baht per test.¹⁰⁶

The district officers in Chiang Mai said that the defects in the nationality process generally lie with the stateless people themselves. He stated that the problems are not having any documents, incomplete dossiers or they do not submit their dossiers within the specified period. Furthermore, he said people are not aware that an announcement has already been made.

Similarly in Mae Sai the officers believe the personal record is the biggest problem as the year of birth and year of arrival can be contradicting. Names of parents are also sometimes wrong. The officers in Mae Sai believe 70% of applications for section 23 are successful. Officers in both of the district offices

¹⁰⁶ Interview with staff member DNA Clinic.

visited understand language is a problem as some hill tribe people cannot speak Thai. The district officers also believe there are personal reasons that people do not apply, they said it is not easy for stateless people to come to the office as they worry about expenses and only live from hand to mouth.

The 'name list' that stateless people are waiting for is explained by the district officer as follows:

*"The district office makes an announcement by wire broadcasting and by sign board. We also ask the community leader to make an announcement by wire broadcasting."*¹⁰⁷

Once this announcement is made people are invited to begin their application. However, one district officer says they cannot force people to make a request and the application must be made by their own will.

In Mae Sai, the officers will go to the villages only if there are many applicants, there are special reasons for this:

*"If we go to the village our service will be sceptical that we do it in exchange for money. To avoid this problem, we have them come to the district office. In case we go to the villages, we have the community leader survey the number of people first. If there are not many, we ask them to come to the district office. If all of us go to the villages, we won't have any staff to serve people who come to the office. We don't have enough staff."*¹⁰⁸

The community leader from 001 mentions difficulties with surveying people eligible for starting the procedure and to include everyone, also those living away or coming too late for inclusion. He does not state how people are selected for listing but describes the situation in which corruption was involved. He estimates that in his village some 85 to 90% of the villagers have acquired nationality. Although in general no fees have to be paid to start the application procedure costs related to getting the documents, copying documents and traveling to the district office costs money and time, and if they have money gifts and tokens will be bought for the district officers as well. He admits that especially for people whose parents have passed away it is complicated to acquire nationality. Additionally, he believes that providing correct information on the nationality law will help villagers to start the application procedure themselves. As follows from several interviews it seems that the process of applying for nationality is only open to a specific group at a specific time. The community leader of 003 explains this as follows:

¹⁰⁷ Interview district officer district office Chiang Mai.

¹⁰⁸ Interview district officer district office Mae Sai.

“Normally, the district office will ask the leader of each Tambon¹⁰⁹ to draw lots. There are a great number of requests, for example, there’re three thousand cases in Tambon X. The district office can’t receive too many requests at the same time so they ask the Tambon leaders to draw lots. The leader who picks up the number one, the requests from their Tambon will be treated first. And the number two, three, four will be treated respectively.”

He stated that it is possible for a stateless person to make a request for nationality alone and outside of the allocated slot. However it is risky for them as documents could get lost as there are too many people making applications from other places. He said if all applicants of the same village submit their dossiers at the same time it’ll be easier for the district office to manage and examine the information. Their dossiers won’t be mixed with the requests of the applicants from other villages. He believes that the total cost for applying for citizenship is 1,000THB, this includes making photocopies of documents and travelling to and from the district office. The community leaders from both villages believe that the whole system could be improved if district officers would come to the villages. In 003 this has been organized in the past in collaboration with PLAN International. It is faster and easier for villagers to make the applications.

A male citizen, reflected on the safety that having citizenship brought to his familial circumstance:

“Yes [my child has citizenship] since I was registered as a father when my child was born. Before that, I held a pink card and everything was difficult. However, prior to my child being born, I received a Thai citizen ID card.”

Two out of twelve citizens interviewed have at least one deceased parent. Nine out of eighteen stateless people have at least one deceased parent. The overwhelming majority of interviewees with deceased parent(s) were from village 001. Reasons for high death rates amongst parents were not specified. No correlation can be found between the deceased parents and their place of birth. The parents in question were born in both Thailand and Myanmar, and a large number of interviewees did not know where their deceased parents were born. Clearly there is a higher percentage of stateless people than citizens with deceased parents. However the citizens interviewed acquired nationality later in life and were stateless at one point in time, therefore it is difficult to conclude that the high death rates have effected statelessness, although the death of parents does appear to affect one’s ability to successfully apply for citizenship status.

¹⁰⁹ Tambon is an administrative unit that is larger than village.

iii. What is needed?

As mentioned above, most of the respondents did not know how to speed up the procedures. The role of the village leader seems to be crucial in the application process, as demonstrated by the success stories in applying for citizenship. Additionally, community leaders play a crucial role in the whole process of acquiring citizenship. They are the formal communication channels between the district office and the villagers and people in the villages are dependent on the community leader to provide them with correct information and to assist them in organising documents, testimonies, and guidance in the process. The start and sometimes the success of citizenship applications is determined by the willingness, knowledge and cooperation of the community leader. During various key informant interviews the concern was articulated that a number of community leaders are frustrating acquiring citizenship instead of facilitating it. Incidences of corruption of the community leader taking advantage of people being stateless have been reported.

In both villages in which the in-depth interviews were conducted, the option of a mobile district office was discussed and considered by community leaders and stateless persons as an intervention that would be very helpful to overcome the problems they have in acquiring citizenship. The community leaders of both villages were enthusiastic about the idea of welcoming a mobile district office if it was to be set up. The assistant community leader was positive about an earlier experiment in his village with a mobile office set up with the help of Plan International. This information was shared by the research team with an organisation that is interested in better understanding and further improvement of the citizenship application process.

5. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

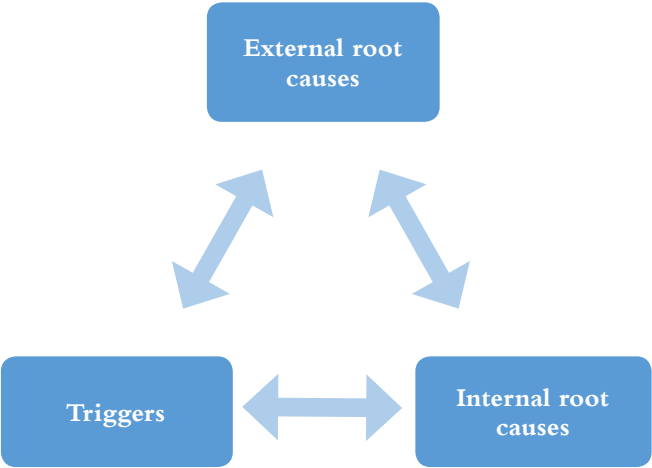
Hill tribe communities are not divided by citizenship status. Stateless and citizen people live and work together. Moreover, both stateless and citizen individuals consider themselves Thai, regardless of their actual status. Stateless people, however, face greater challenges in their lives. Travel restrictions, lack of jobs, limited access to health care and education services are the most serious consequences of not having Thai citizenship. The demographics convincingly show that the stateless respondents are poorer and less educated than citizen. What is more concerning is that the educational gap is transferred from one generation of stateless people to the next. More than half of the stateless people have never applied for citizenship although a large proportion of them would be eligible for citizenship under Thai national law. Those who did apply face lengthy and complicated bureaucratic procedures and don't know how to accelerate the procedure. The poor and undereducated stateless people have little if any access to legal information and advice in such situations. They don't know how to apply and where to start. Furthermore, they do not have the resources for the travel to the district office or to pay for producing the required documentation.

Travel restrictions, lack of education and access to education and lack of job opportunities are considered in the literature and by key-informants as consequences of being stateless and this has been confirmed in the survey and in-depth interviews. Although, in the in-depth interviews, poverty as such was not generally felt as a consequence of being stateless, one can easily see that lack of education and job opportunities combined with travel restrictions makes it more difficult for stateless hill tribe people to generate an income. This was indeed confirmed by the survey outcomes where the monthly household income of stateless people was significantly lower than the monthly household income of citizens. The difference between incomes is further reinforced by the fact that stateless people are denied access to formal jobs and if they get a job at a private business they are paid less than citizens for the same work. There are clear obstacles for stateless people to earn the same as citizens. The travel restrictions prevent stateless people from looking for better paid jobs outside their village and therefore many stay in the village and try to generate an income through agricultural work and work-for-hire. Although primary schooling up to grade 9 is available for everyone, it is more difficult for stateless people to access education beyond this level. They cannot get study loans to finance the studies. Furthermore, in many families all members of the family are needed to generate an income that is sufficient to survive. If children go to school, the family loses income because those who are studying cannot contribute to the household

income. Conversely, a number of respondents did not agree that stateless people have unequal access to education. However, it is believed by the participants that stateless people do not have the financial means, nor the access to such, to continue in higher education. This is how the various consequences of being stateless impact on the daily life of stateless hill tribe people in the Northern part of Thailand. It is a cyclic process in which consequences seem to enhance other consequences and which makes a closed circle especially because of the travel restrictions which are a serious impediment to breaking the cycle.¹¹⁰

One way to break the cycle is to migrate for work as this might be a possibility to increase income. Migration may be accompanied by risks of exploitation and trafficking, especially for stateless people. The main goal of the research was to find out whether, why and how stateless hill tribe people and in particular women are at increased risk of exploitation and trafficking. Therefore, the consequences of being stateless and the root causes of trafficking for hill tribe communities were mapped. On the latter we concluded that not only objectively verifiable factors, labeled as external root causes, such as poverty or lack of education, determine the likelihood to fall victim to trafficking. Hence, not all illiterate people living in poverty end up in a trafficking situation. Internal or subjective factors are equally important. Internal factors are factors related to a person's character, state of mind and behavior. A person who is more adventurous and risk seeking, or dupable, is more easily enthused by promising and positive stories about options for work outside the village. Materialism is another internal factor that can have an equivalent effect. The third category of causes that predicts the likelihood of falling victim to trafficking is the presence of triggers of root causes. A trigger may be a crisis or sudden dramatic event in one's life that creates, for instance, an urgent need for money, such as the need for expensive medical treatment for a family member, the loss of or imprisonment of the breadwinner, divorce, etc. When such a crisis occurs, the prevalence of root causes makes a person less able to deal with or absorb the situation and make dormant root causes become real risks, potentially 'triggering' trafficking. The three categories of root causes (external factors, internal factors and triggers) in and of themselves, and in isolation from the other categories, do not necessarily provide for an increased risk for exploitation or human trafficking. It is a combination of the prevalence of risk factors in all three categories that mutually re-influence one another and generate a toxic mix of circumstances in which vulnerability for exploitation and human trafficking increases. This can be illustrated with the following picture:

¹¹⁰ Surprisingly this has not influenced stateless' satisfaction with life as the survey showed that stateless are only slightly less satisfied with their lives than those who have Thai citizenship and overall they are very satisfied (54%) or somewhat satisfied (22%). A minority (9%) is very unsatisfied with their lives.

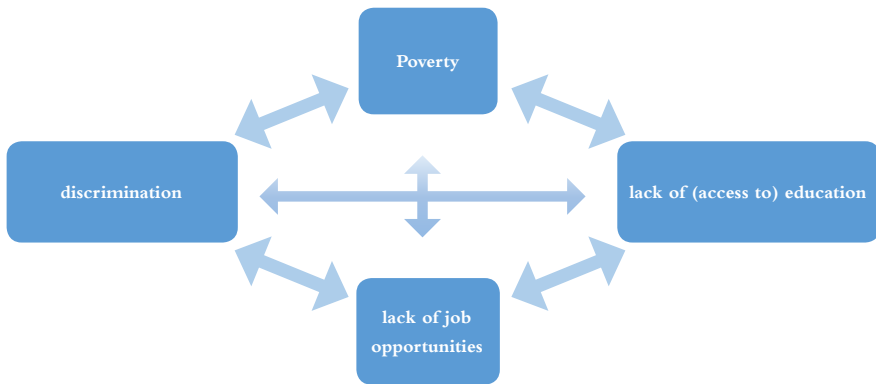


In relation to the nexus between statelessness and human trafficking three important conclusions can be made:

- First, many of the consequences of being stateless are found to be known external root causes for human trafficking as we have seen above. This was visualized in the following table:

Consequences of being stateless	Root causes of TIP
Fear being arrested	Lack of awareness
Travel restrictions	Seeking adventure
Lack of land rights	Becoming independent/ risk tolerance
Drug abuse	Enhance life chances/ Materialism
Not going to the police	Family responsibility
Being trafficked	Crisis / situation of conflict
Poverty	
Lack of employment opportunities	
Lack of (access to) education	
(gender) Discrimination	
Corruption	
Lack of access to health care/ acute need of medical treatment	

Factors that appear in the overlapping area are; Poverty, lack of job opportunities, lack of education, discrimination, corruption and lack of access to health care.¹¹¹ When we looked into these areas, it turned out that for stateless hill tribe people these factors reinforce one another. For instance, a stateless person who did not finish school because he needed to help his family with the farm work, will not have many options to find a job other than farm work and furthermore because of being stateless he will not be able to work outside the village. Farm work generates a low income and the stateless person cannot go elsewhere (legally) to find a well-paid job. The interrelatedness between the factors in the overlapping area for stateless hill tribe people can be visualised as follows:



Second, stateless hill tribe people seem to be more affected by triggers, not necessarily because detrimental events or crises more often happen to them, but because they have less options and therefore are less able to deal with such an event. Stateless people have indicated that they are less able to find money when in dire need and their options to generate extra income are limited. Many expressed that they would try to find work outside the village when in such a situation and were willing to take more risks if needed. They, for instance, indicated that they would search for and accept the help of a broker even if he or she was an unreliable one. Because of the travel restrictions, lower education and lack of papers, the external factors not only reinforce one another but impact on how able people are to deal with triggers as well.

Third, the presence of internal root causes is not necessarily influenced by being stateless although there are indications that they are more at risk because of a higher willingness to migrate. On attitudes to migration the study finds that

¹¹¹ Corruption and lack of access to health care or acute need of medical treatment are not addressed here since the latter is more considered a trigger for trafficking and corruption is linked to discrimination when considered in relation to statelessness and human trafficking.

individual predisposition to risk plays a significant role. Hill tribe people who are more risk-tolerant are more likely to consider labour migration. The analysis shows that when we control for risk-tolerance, being stateless is associated with increased willingness to migrate. This is an indication that stateless people are more exposed to the risks of migration and therefore to risks of trafficking and exploitation. They are also more often targeted by brokers with job offers – almost one out of three stateless respondents report that such an offer has been made in the last year. Stateless people are also more likely to pay such a person for finding a job, taking the risk to engage with a broker who may have bad intentions. In general the hill tribe communities are not hugely concerned about the risks of labour and sexual exploitation. This might be, however, a sign of low awareness of the potential threats of trafficking, except in 003 where it seems they have quite strong awareness, based on stories of exploitation from within the community.

These findings give an answer to the question whether, why and how stateless people are more vulnerable to become victimized by human trafficking. We have applied the theory of subjective legal empowerment to bring these factors to the fore. By doing so, further information on coping strategies of hill tribe people revealed interesting results to further understand the plight of stateless hill tribe people. These findings can be helpful when considering intervention strategies since they identify groups of persons at risk and give a broader understanding of which aspects and factors should be particularly addressed. It turned out that stateless and citizen hill tribe people encounter similar legal problems in their lives and that the resolution of problems takes place mostly through bilateral negotiations, own actions and involvement of community-level authorities, especially the community leader. However, stateless people are considerably less likely to refer a problem to the police or another Thai authority than citizens. Even in cases of aggravated labour exploitation stateless people responded that they would not go to the police very easily but would rather ask for the help of the community leader. This is particularly troublesome when the problems take place outside of the local communities. In such situations, stateless people might find themselves unprotected. In situations in which migration turns into exploitative practices taking place outside the community, stateless people find themselves in a difficult situation with little option to change the situation. The in-depth interviews have confirmed these findings and a number of women responded that in situations of aggravated labour exploitation outside the community, as given in the hypothetical scenario, they would have no other option than to bear the situation. This is an indication that statelessness leads to a decrease of legal empowerment which in turn amplifies the risks of trafficking and exploitation. Another piece of evidence supporting this conclusion is the finding that statelessness increases significantly the perceived risk that an exploitative situation might occur at some point in the life of a person.

The reasons given by stateless hill tribe people as to why they are reluctant to go

to the police are the fear of being arrested when outside the community, and the fear of discrimination or ill treatment. Some respondents recounted experiences in which they were not treated seriously and looked down upon by the police. They generally think they have less rights and legal means than citizens. Further research would be required to determine to what extent they actually enjoy less rights or whether this is purely their subjective understanding of the situation. If people are inclined to migrate for work then it is vital that they gain confidence in police assistance. Knowing they can seek help from the police will provide personal protection against risky migration or exploitative working conditions, especially when outside the circle of influence of the community leaders who could otherwise provide assistance.

The lack of confidence in the police seems to be compensated by reliance on the community leader. A common thread throughout the empirical research, but especially apparent among stateless people, was the pivotal position of the community leader in the lives of the respondents. His assistance is sought across many areas of life, including citizenship applications, financial struggles, acquiring travel permits and personal problems or conflicts. While his assistance is significant and excellent for bringing equality between stateless and citizens within the village confines, it does not have the capacity to advance all areas of stateless people's lives, namely access to education and employment. In addition, several key informants expressed their concern about the integrity of a number of community leaders who are prone to corruption and take advantage of the situation stateless hill tribe people find themselves in. With the involvement of the community leader in many areas of the people's life and his mediating role in case of problems, stateless hill tribe people are highly dependent on this person, which includes risks of abuse as well.

In a number of areas, stateless women are more affected by the consequences of statelessness and find themselves in a more vulnerable position than men. First of all, women are often responsible for generating an income for the family and are willing to take more risks if money is needed. Respondents indicated that young women are at heightened risk for both labour exploitation and sexual exploitation. Although this does not specifically apply to stateless young women, the problems stateless endure in generating income as discussed above, creates such an effect. In addition, the traditional practice of Bun Khun may put a further responsibility on women's – although also sometimes men's – shoulders to earn money for the family and relatives. How such money is collected is of less importance. Women have reported to go out for work more often than men and therefore are at increased risk of abusive practices as well, although their attitude towards migration gives a more diverse picture. On the one hand they are aware of the risks of going outside the village to work while on the other hand they are willing to take more risks if needed. However, in general, the overall willingness to migrate for work is rather low and there is a broad consensus that especially stateless women are at heightened risk for exploitative

practices if they go outside the village for work. It was discovered that stateless women in 001 are the group most desiring to migrate. It was also learned that access to travel permits is more difficult there and this poses the question of whether people in 001 are more willing to take a risk or whether their desire is just that, a desire that may never come to fruition because of the obstructions to travel rights.

Another conclusion drawn from this study was the irrelevance of the registration of marriages for people in hill tribe communities, stateless or not. It is not commonplace for a community with few personal assets and if divorce does occur there are amicable ways of parting.

It was interesting to learn that although NGOs that we contacted could not help us with the identification of victims of trafficking meeting our criteria for participation in the originally envisaged interviews with victims, there were many stories of exploitation heard from people during the in-depth interviews and especially in 003. When conducting a similar study in another area or another country this can be taken into account and might lead to an alternative, less formal, means of identification of victims. The stories of exploitation have created awareness amongst villagers that dissuades them from migration. Interestingly, people from 003 and especially stateless, are more often approached by middlemen and they are also more inclined to use the services of middleman. This raises the question whether this is indeed proof for the findings in the literature review that using a middleman in the migratory process increases the risk of exploitation.

On a more general note, a number of interviewees think that human trafficking is changing in Thailand and one key informant even denied trafficking does exist in Thailand. Sex work is less visible these days and has either moved underground or appears to be less violent or coercive. When, in the past, women and especially minors could be found chained in brothels these practices are unheard of nowadays. The TIP 2014 report confirms that especially child sex trafficking 'once known to occur in highly visible establishments, has become increasingly clandestine, occurring in massage parlours, bars, karaoke lounges, hotels and private residences.'¹¹² There are, however, strong indications that forced prostitution is a continuing practice, albeit a less visible one. In addition, the responses in relation to labour exploitation show that these practices are widespread and many indicated it is on the increase and that especially migrants become victim of exploitative practices. Several local NGOs that reflected upon their work in the past, said they now support many more migrant victims of trafficking than Thai or victims of internal trafficking. However, the likelihood that such practices occur to respondents is perceived as high and many respondents in in-depth interviews know cases of exploitation. It is believed

¹¹² TIP report 2014.

that the hypothetical scenarios that were presented to respondents can easily turn into real life situations as respondents have sketched similar situations of exploitation.

B. Recommendations

The current research provides a solid basis for identifying factors that could be considered as facilitating exploitative practices of stateless hill tribe people. Many of what we have called the external root causes of trafficking require a long term intervention at governmental level. The interaction between the various root causes and vulnerabilities of stateless hill tribe people enable a more direct and targeted intervention strategy. The theory of SLE uncovers the limited ability of stateless hill tribe people to deal with situations of crisis in general as a consequence of being stateless. Intervention strategies should be focused on improving the ability to cope with situations of crisis both in the community and outside the community – including so as to prevent a crisis becoming a trigger for trafficking. Ideally such interventions should take place at different levels within the community. Below are drawn some avenues for possible interventions based on the research outcomes drawn.

First, an acute financial crisis seems to be an important trigger for activating dormant root causes for TIP. Stateless hill tribe people have less opportunities to collect a large sum of money in case of acute need and are willing to take more risks in such situations. Interventions targeted to improve stateless people's coping strategies in case of acute crisis will decrease stateless hill tribe people's vulnerability to exploitative practices. NGOs, in close cooperation with community leaders, could for instance establish a crisis fund within the community which is equally accessible to citizen and stateless inhabitants in times of need. NGOs could also initiate or enhance projects for stateless young women in the hill tribe communities to utilise micro credit opportunities to secure a position in which they are able to generate a higher and more reliable income.

Second, stateless hill tribe people are at increased risk of being exploited when outside their own district. They rely heavily on the community leader who does not necessarily have any competence or influence when they are outside the community. Interventions can be targeted at creating a safe and familiar environment when outside the village e.g. awareness raising on the risks, the role of brokers, the importance that family members and community members know where a person is going. Within the communities, NGOs can initiate regular preparatory meetings for young hill tribe (stateless) people who want to migrate. Such intervention includes: awareness raising on risks, how to prepare before migration, informing families and relatives on migration plans, establishing contact with community members who have undertaken migration and the different options available to invoke support if problems of exploitation are encountered following migration.

Third, gaining confidence in the police is of pivotal importance when people have got into trouble e.g. an exploitative situation. As exploitation primarily occurs outside the communities, stateless hill tribe people are especially at increased risk because they are without family structures and without the availability of the community leader to assist them when problems occur, which was indicated primarily by stateless hill tribe people as a channel they would use in case of problems. In this regard it is important to first find out about the level of legal empowerment: what are the formal options open to stateless people to go to the police. Only then intervention strategies can be proposed at the adequate level. Further research by independent academic researchers is required on the reasons why stateless hill tribe people distrust the police. A study of the extent of discriminatory practices and corruption within the Thai police should be part of such research.

Forth, it is important to create avenues for safe migration. The abolition of travel restrictions should be part of a safe migration procedure. The socio-economic needs of people in rural areas are immediate, such that they will continue to move irregularly or regularly and it is important to make sure people who migrate do so in a safe and informed way. Although there is some awareness of the risks of migration, raising awareness about risky migration especially in remote areas is a continuous process that needs to be maintained. Information and awareness campaigns could be made available through district offices. Especially stateless people below the age of 35 are at increased risk when leaving the community for work. They seem to be easy targets for exploitative practices as they are often in need of generating an income with limited options to do so in the villages and will not go to the police in case of exploitative practices. Employers are at low risk of being caught when exploiting stateless people whereas the immediate profits are high if they do not pay stateless employees or pay them less. Another factor that impacts on stateless people's vulnerability in various ways is lack of education. Educated people seem to be more resilient against untrustworthy brokers and are generally more able to generate money also in cases of emergency. Concrete activities to implement this recommendation are addressed to local and central governments. Steps should be taken to abolish travel restrictions as well as to further promote access to education for stateless people at all levels of the school system. Action can include enabling stateless people to make use of education loans and creating reliable and accessible service points people can go to for information when they consider migration to another place for work.

Fifth, ending statelessness by acquiring citizenship is, in fact, the best option for alleviating the increased vulnerability to exploitative practices experienced by those who are stateless. In light of the reported difficulties in going outside the villages to start the application procedure it would be a good idea to explore possibilities to start the procedures in the villages itself for instance through the deployment of mobile teams from the district offices to the villages. The community leaders from 001 and 003 villages strongly supported this idea.

UNHCR, in cooperation with NGOs and law clinics working on citizenship, can help to facilitate the establishment and implementation of such mobile outreach activities. In addition and because many of the stateless people who participated in the research seem to be eligible for citizenship they should initiate activities for information, counselling and where necessary also legal assistance on acquiring citizenship.

EXECUTIVE SUMMARY

A methodology for exploring the interaction between statelessness and human trafficking

Statelessness and human trafficking are grave and widespread human rights problems which the international community is committed to tackling. The two issues have even been linked, through the common claim that statelessness puts a person at greater risk of becoming a victim of trafficking. However, the causal link has never been decisively demonstrated or illuminated using empirical data. This research project focused on developing a methodology that would enable the interaction between statelessness and trafficking to be mapped. The methodology uses Subjective Legal Empowerment (SLE) theory as a way to measure the impact of statelessness and to identify vulnerability. This report discusses the steps taken in the design and development of the research methodology and some reflections on the experience of piloting the methodology in Thailand – the full findings of which can be found in the separate and complementary report *The nexus between Statelessness and human trafficking in Thailand*.

The study follows the definitions of a stateless person and of human trafficking that are provided by international law. This ensures that the methodology of the project is valid beyond the national context in which the research was piloted and that the findings of the pilot study can be positioned within relevant international legal and policy discussions on these issues. A stateless person is defined in the 1954 UN Convention relating to the Status of Stateless Persons (article 1) as: “a person who is not considered as a national by any state under the operation of its law”. Trafficking in persons (TIP) is defined in the ‘Palermo Protocol’ (article 3) 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”. To implement these international law definitions in a research context is distinctly challenging, both in conceptual and practical terms, including because both stateless persons and human trafficking victims can be considered ‘hidden’ and hard-to-reach populations. This must be taken into account in designing a methodology that allows the nexus and indeed the causality between the two to be explored.

Various approaches can be conceived for studying whether and why stateless persons are more vulnerable to human trafficking. This project looked at the supply or ‘source’ side of the human trafficking nexus – a choice which was informed by the broader objective of showing what impact statelessness has on the lives of those affected and helping to inform source-based interventions for the prevention of trafficking. Data collection therefore focused on the population concerned, i.e. the persons for whom the risk of falling victim to trafficking is to

be measured (rather than other actors in the trafficking cycle such as exploiters or consumers). Given that the aim is to ascertain whether and why stateless persons are intrinsically at *higher* risk of trafficking than persons with nationality, the target population must include both stateless and citizens. Moreover, to the degree possible, the research design should allow the impact of statelessness to be isolated from other factors that may also influence a person's vulnerability to trafficking. This was addressed through the careful selection of comparable target groups as well as by integrating questions into the data collection tools which allow other variables to be excluded during the analysis stage. By capturing data on, for instance, the age or level of income of respondents, it is possible to control against the influence of these variables. The project also aimed to look at the specific position of stateless *women*, so ultimately a total of four sub-groups emerged within the overall target population: stateless women, stateless men, citizen women and citizen men.

Stateless persons may intrinsically be more likely to fall prey to trafficking because they seek a better life away from home at a higher rate than citizens. Alternatively, or in addition, stateless persons may become exploited at a higher rate than citizens in the process of seeking a better life away from home. On the basis of the foregoing and to help direct the development of the methodological framework, two hypotheses were formulated to be tested in the research:

Hypothesis 1: *Root causes of human trafficking are more prevalent among stateless persons than citizens, prompting them to enter the trafficking chain at a higher rate.*

Hypothesis 2: *Stateless persons are less able to solve problems and (legal) disputes than citizens, exposing them to exploitation at a higher rate.*

To test hypothesis 1, the root causes of trafficking must be identified. Thus the desk review and key informant interviews looked at the recognised root causes of trafficking in general and the root causes of trafficking in the Thai national context in particular, which were then translated into questions to be integrated into the framework for the empirical research. To test hypothesis 2, the study had to ascertain whether, if a stateless person takes the step of leaving their home in search of work, the circumstance of statelessness means that this process will more often become a situation of trafficking. A means to achieve this, in addition to questions on the perceived likelihood of encountering the problem of exploitation, was by integrating the theory of Subjective Legal Empowerment (SLE) within the project. SLE suggests that a person's self-belief in his or her ability to resolve a dispute or conflict offers a good measure for how likely that person is indeed able to resolve the situation, allowing for the (relative) quantification of an individual or population's legal empowerment such that it can be compared between groups and across different scenarios or spheres of life. Thus, for example, the relative SLE with regards to the ability to deal with – the signs of – exploitative labour conditions can be established for the stateless

members of a community and those who hold nationality. This provides some way to predict the likelihood of a person who encounters such a situation to respond in such a way as to avoid or escape a situation of trafficking.

To test the aforementioned research hypotheses, a mixed quantitative and qualitative approach was adopted. Quantitative analysis allowed the measurement of the relative prevalence rates of the root causes of trafficking among stateless persons and citizens. Qualitative assessment facilitated the understanding of the way in which the root causes of trafficking, or the perceived ability to deal with problems or disputes, are actually influencing behaviours and outcomes. On this basis, the research methodology developed and piloted under this project employed five types of data collection: a) a desk review; b) key informant interviews; c) a survey; d) in-depth interviews; and e) focus groups.

The desk review had two elements. On the one hand, it explored statelessness, including the profile of the stateless population under study (i.e. who is stateless and where), how statelessness or citizenship can be established during on-the-ground fieldwork, what is already known or documented about the impact of statelessness and any other data relevant to the further design, planning and implementation of the research. On the other hand, it explored human trafficking, including by investigating what root causes of trafficking are recognised in existing literature, who is considered to be vulnerable to victimisation and why, and what is known about the modalities of the trafficking chain in Thailand. The desk review also sought to uncover which individuals or organisations hold expertise with regard to the issue of statelessness and/or of human trafficking in Thailand, to help identify key informants and potential research partners for the further data collection. Finally, since the research methodology utilises SLE theory, the desk review helped identify the type of problem or (legal) dispute that members of hill tribe communities may readily come across and which coping mechanisms are available to deal with these problems to ensure that the questions set out in the empirical data collection were attuned to the social, economic and cultural setting.

Qualitative, key informant interviews were then held with twenty experts in Thailand. The key informant group can be divided into two broad categories: support respondents, who work on direct trafficking victim and/or citizenship support in the relevant communities; and policy respondents, who are involved in monitoring and coordinating activities on trafficking and/or statelessness at a policy level. The key informant data helped to optimise the data collection tools. Those with specific statelessness expertise confirmed that self-identification could be problematic in Thailand and helped with the consideration of a suitable proxy indicator for statelessness/citizenship to be integrated into the empirical data instruments. Further information from key informants on the root causes of trafficking led to questions being added on a number of more subjective or “internal” root causes as well as to explore the role of “triggers” for human

trafficking. Through the key informant interviews with experts who were members of or could speak to the situation of the hill tribe communities, it was also possible to test the formulation and appropriateness of certain questions that were foreseen in the draft survey questionnaire and in-depth interview protocol.

In order to explore the relative situation, perceptions and attitudes of people with citizenship and those who are stateless, face-to-face interviews were carried out with a sample from both groups, using a pre-defined survey questionnaire. The questions were directed towards: determining whether and to what degree the respondent is affected by the various root causes of trafficking (hypothesis 1) and establishing the respondent's level of SLE with respect to problems relevant to the trafficking context (hypothesis 2). For the survey, the generic population frame consisted of adult hill tribe people in the Chiang Mai and Chiang Rai regions of Thailand – a mixed population of stateless persons and citizens. A screening interview allowed the interviewers to differentiate between stateless and citizens so as to implement a prescribed quota of 50% stateless respondents and 50% citizen respondents. The main body of the survey instrument contained five broad categories of questions: demographic characteristics and socio-economic data; root causes of trafficking, beyond basic demographic and socio-economic indicators; Subjective Legal Empowerment with respect to problems relevant to the trafficking context; incidence of disputes in general (not informed by the trafficking context) and the respondent's ability to resolve these; and citizenship status and the availability of citizenship in the country of residence. The survey was carried out through a local partner with the capacity to conduct the interviews on the ground, the Chiang Mai University Law Clinic (hereinafter the Law Clinic), which already engages in outreach and the provision of legal advice for people living in the target region, including the hill tribe populations. Before the survey enumeration commenced, the interviewers participated in a full-day training that took in both the theoretical concepts, aims and hypotheses behind the research project, as well as interview techniques. A total of 485 effective interviews were then conducted, with an average interview time of 20 minutes, and the data was entered into a pre-prepared database spreadsheet for analysis.

The qualitative component of the research envisaged in-depth interviews directed at identifying cause-and-effect relationships between statelessness and trafficking, as well as to identify the role of Subjective Legal Empowerment in this nexus. Originally, the target population was to be members of the hill tribe community who have been victims of human trafficking (both citizens and stateless persons). However, due to problems relating to identifying and accessing relevant respondents, a new plan was drawn up for the qualitative research component of the project. It was decided that the target group should be the same hill tribe communities which participated in the survey, this time selecting a small number for a qualitative discussion on their situation and experiences. The two broad objectives were to further explore the relationship between the factors which are generally understood to be root causes of human trafficking

and actual perceptions and likely behaviour; and to explore *why* certain factors which are generally understood to be root causes of human trafficking are more prevalent among stateless hill tribe people than those with citizenship. A new in-depth interview protocol was developed, informed by the survey findings and the adjusted qualitative research objectives, with questions on: citizenship status and experiences; the consequences of statelessness; job opportunities (in and outside the village); exploitation; disputes/crises and responses; and broader Subjective Legal Empowerment. The collaboration with Chiang Mai University Law Clinic was extended into this phase of the project and again interviewers were recruited and provided detailed training. A total of 30 in-depth interviews were conducted, lasting between 30 and 60 minutes each. The interviews were recorded and then transcribed in full in Thai, before translated into English for analysis.

In parallel to the in-depth interviews outlined above, focus group discussions were organised to supplement the qualitative data collection. These focus groups targeted the research sub-set of *stateless women* specifically, to draw out their experiences in greater detail. By prompting discussions within the group on certain themes and observing the interchanges between participants, it was possible to gain a greater depth of information on the circumstances, perceptions and life choices of stateless hill tribe women. Four themes were selected for discussion in the focus groups: developments and issues in the communities, work opportunities in the communities, education, citizenship/statelessness and exploitation. One focus group discussion was organised in each of the two communities where the in-depth interviews were also conducted and a total of 9 stateless women participated.

At each stage of the research project, careful analysis was undertaken of the data collected, which fed into a series of interim project reports. The first was a detailed background note on the core theoretical concepts, methodology and research context in Thailand, based on the desk review. Next, the key informant interviews were mined for information relating to a number of central topics (citizenship and statelessness, consequences of statelessness, root causes and modus operandi of human trafficking), before information on the consequences of statelessness and the causes of human trafficking were processed in a more structured way by coding the data following a pre-established coding framework. This data was then compared to see where often-cited consequences of statelessness aligned with often-cited causes of trafficking, giving some sense of the potential nexus and helping to inform the development of the data collection instruments to explore this nexus further. The analysis of the survey data, written up as a separate quantitative report, was organised by theme. Throughout the analysis, the main variable explored was citizenship status and a secondary variable was sex. Thus, the analysis was geared towards the identification of statistically significant differences in data from stateless/citizen respondents, and then also between male/female respondents. From this analysis,

questions were identified that would be relevant for further exploration through the in-depth interviews and focus groups. The analysis of the in-depth interview data was arranged along similar thematic lines to the survey analysis, in particular: education, income, marital status, travel, migration attitudes, exploitation and Subjective Legal Empowerment. For each of these areas, the aim was to see if there are differences in the responses from the four target groups: citizen men, citizen women, stateless men and stateless women. Since the in-depth interviews followed a semi-structured approach and did not anticipate particular or closed responses, the data was coded *after* the data collection. Guiding questions were also elaborated to help look for trends and draw out information which would supplement, contextualize or explain the survey findings. Wherever possible, the analysis looked for not just whether but *why* a particular effect is seen. The data from the two focus group discussions with stateless women was also analysed and grouped by theme and written up separately. Finally, the data compiled through all stages of the research project was consolidated into a single report (*The nexus between Statelessness and human trafficking in Thailand*).

The research pilot in Thailand confirmed that studying statelessness can be distinctly challenging in methodological terms – in particular efficiently and effectively identifying stateless persons in the execution of an empirical study and isolating the impact of statelessness from other factors that may also influence a person's situation and level of vulnerability. It also confirmed that exploring the phenomenon of human trafficking brings a variety of research challenges – not least identification of and access to victims. Further challenges came to light at the data analysis stage, including the problem of determining the causal relationship between statelessness and certain observed phenomena. For instance, while it was clear from the data that stateless persons averaged a lower level of household income and a lower level of educational achievement, what is the relationship between these factors? Complementing the quantitative study with qualitative research to explain and contextualise such results was thus a strength of the methodological approach taken.

In terms of methodological choices, a central feature of this project was the use of Subjective Legal Empowerment theory as a means to explore attitudes and behaviour. This was a key tool in mapping whether stateless persons are less able to solve problems and (legal) disputes than citizens and to specifically ask this question in respect of the context of exploitation. SLE theory was also crucial in exploring the issue of triggers that lead a person to enter a trafficking chain. An individual's ability to absorb, cope with or solve such a crisis mitigates the risk that it will otherwise become a trigger for trafficking and a way to assess that ability to measure their SLE. This research does not provide a measure of the actual scope of the trafficking problem among stateless persons vs citizens, only of the relative degree of risk, but such information can be used to help craft more targeted and effective anti-trafficking intervention strategies. Nonetheless, ascertaining the relative risk of trafficking among stateless and citizen respondents

proved to be more complicated than anticipated. Ultimately, it is necessary to recognise that while the causal link between statelessness and risk of trafficking can be identified and even attributed to particular influencing factors, there are some – particularly internal – factors that will influence an individual's attitudes and behaviour which do not fit into an oversimplified stateless vs citizen model. Thus, a stateless person may be at greater risk of trafficking than a citizen because of the prevalence of factors A, B and C, but statelessness does not influence factors X, Y and Z. That there is more than just the stateless–citizen nexus to contend with in this type of study was also brought to the fore in the Thai research context. The diversity of the hill tribe communities is significant, in terms of ethnicity, language and religion, but also of village geography and community cohesion. The term 'hill tribe' therefore incites a degree of generalisation and the manner in which statelessness affects the risk of trafficking among particular sub-groups of this population may vary. Notwithstanding the complexity of the hill tribe community, the Thai research environment was conducive to the research, including because stateless persons were easy to find and access and they live side-by-side with otherwise similarly situated citizens, providing for a clear and appropriate comparator against which to measure the impact of statelessness. Were a similar project to be undertaken elsewhere, such elements may be less readily met.

Finally, this report points out the integral role of the local partner in the empirical data collection: such a partner can facilitate access to and gain the trust of the target population and provide critical input on how to adapt the research instruments to the local context. Another fundamental ingredient identified was the composition of an inter-disciplinary group for the research design and data analysis. By forming the team of specialists from the field of statelessness, human trafficking, Subjective Legal Empowerment and gender studies, the project was able to directly tap all of the expertise necessary to deal with the different disciplines at play and the various demands of the research. Lastly, the research methodology elaborated at the outset of the project continued to develop as the project progressed. By continuously building on the knowledge accrued during the different stages of the study and the input from, for instance, the key informants, the methodology was fine-tuned and made more effective.

The Nexus between Statelessness and Human Trafficking in Thailand

Laura van Waas, Conny Rijken, Martin Gramatikov and Deirdre Brennan

I really want to get the nationality so that I won't be deceived to work again like when I worked in Chiang Mai at the age of 16. The employer cheated on me. He didn't pay me a wage of one year. And I wasn't able to go back home because I had no money. I can't even pay for the travel back home. [...] Because when we don't have an identity card, we're scared to be arrested, if something happens to us when we're outside the village, we have to tolerate it.

Testimony of a stateless hill tribe woman in Northern Thailand

Statelessness and human trafficking are grave and widespread human rights problems which the international community is committed to tackling. The two issues have even been linked, through the common claim that statelessness puts a person at greater risk of becoming a victim of trafficking. This report presents the findings of a study exploring the nexus between statelessness and human trafficking among hill tribe people in the Northern Part of Thailand. There, stateless persons and citizens live side-by-side, but the stateless face distinct challenges in their day to day lives, some of which are conspiring to put them at heightened risk of exploitation and trafficking. This was a collaborative project, in which scholars with expertise on statelessness, human trafficking, Subjective Legal Empowerment and gender studies worked together to design and execute research that cuts across disciplines. The report draws conclusions with regards to the influence of statelessness on vulnerability to human trafficking within the hill tribe community in Northern Thailand and sheds some light on what opportunities there are, based on the research results, to take further action. A separate report, “A methodology for exploring the interaction between statelessness and human trafficking” (or Methodology Report), is also available and discusses the steps taken in the design and development of the research methodology and some reflections on the experience of piloting that methodology.

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