Raising the Standard of Ethics and Human Rights Among Anti-human Trafficking Responders in the Mekong Region

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HE GREATER MEKONG SUB-REGION—Cambodia, China, Lao PDR, Myanmar, Thailand, and Viet Nam—sees diverse patterns of internal and cross-border human trafficking, for the purposes of sexual exploitation, labor exploitation, and forced marriage. Human trafficking in this region can be both internal and cross-border; highly organized and also small-scale; through both formal and informal recruitment mechanisms; and involving the victimization of men, women, boys, girls, and families. Thus, within the Mekong Region, there is not so much a single pattern of human trafficking as a range of different patterns, with diverse victim and criminal profiles.

Numbers of victims are estimated to be in the millions—for example, in 2005 the International Labour Organization (ILO) estimated that there were 9.49 million cases of forced labor in the Asia-Pacific region¹, with a significant proportion thought to be in the Mekong region. This is not surprising given the position that Southeast Asia holds at the bottom of many of the world's supply chains, from frozen seafood to garments to electronics. Internal and cross-border trafficking into the sex trade is also prevalent. The anti-human trafficking response in the Mekong region has been recognized as being relatively mature in its effectiveness and coordination, given its substantive engagement with the issue since the early-mid 1990s. Multi-sectoral engagement in combating human trafficking is common in most countries, engaging police, lawyers, social workers, educators, academia, the media, and civil society. Still, the great majority of trafficking victims remain unidentified and unassisted.

The diversity of actors engaging in the fight against human trafficking has led to numerous situations of mostly well-intentioned people, some without formal training in upholding a duty of care and protection, going

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into the sweatshops, brothels, and origin communities of trafficked persons to visit trafficking victims or their families—to interview, to film, to offer assistance. The positive consequences of increased awareness and action toward eradicating human trafficking are clear; however, what are the negative consequences?

Many of the negative consequences have related to violations (or, sadly, re-violations) of trafficking-affected persons' human rights: escaped trafficking victims who had quietly returned home have been "outed" by conspicuous visits from anti-trafficking organizations to their homes; sobbing victims have been filmed and broadcast to millions without their consent during rescue operations; recovering trafficking victims have been re-traumatized by the probing interviews of researchers aiming to educate the world on how horrific and abusive the human trafficking industry can be.

This paper documents an initiative of the United Nations Inter-Agency Project on Human Trafficking (UNIAP) aiming to tackle the urgent need to raise the ethical standards of anti-trafficking responders in the Mekong region, and globally. UNIAP'S *Ethics and Human Rights in Counter-Trafficking* initiative launched in 2008 and aimed, in the span of three years, to measurably improve the ethical and rights-based conduct of anti-trafficking practitioners. It is an appropriate time to reflect on results, challenges, and lessons learned, which are outlined in this paper.

Human Trafficking and Human Rights

According to the Universal Declaration of Human Rights, all people—including trafficking victims—have fundamental rights including rights to freedom, dignity, security, and privacy. In examining this partial list of fundamental human rights, it can be seen how human traffickers and exploiters steal many of these fundamental rights away from trafficking victims. When human trafficking victims come into contact with service providers or other anti-trafficking responders, the victims may have just been under the control of a criminal who denied their rights to freedom, dignity, and decent work, leaving possible physical and/or psychological scars.

Thus, when it comes to trafficking victim protection, anti-trafficking responders should be well-prepared and properly trained to create an environment and support approach that immediately reinstates the victim's power and position to think, act, and plan freely; to accept, decline, and

consider their life options; to rebuild his/her self-reliance; and to healthily rebuild a life with decent work, education, security, and dignity. From this perspective, it can be seen how an ethical, empowering approach to anti-trafficking work is crucial, particularly when considering the slippery slope that exists from good intentions to paternalism that, in its worst, takes forms such as *de facto* detention within trafficking shelters.

The Human Trafficking Situation in the Mekong region

The Mekong region compared to many other parts of the world contains diverse patterns of sex, labor, and marriage trafficking, involving the victimization of men, women, boys, girls, and sometimes entire families. Examples include:

- Trafficking of men, women, children, and families into Thailand from neighboring Cambodia, Lao PDR, and Myanmar—against a background of widespread irregular migration—for forced prostitution, domestic servitude, or forced labor into sweatshops or onto fishing boats, construction sites, plantations, or farms;
- Trafficking of children from rural to urban areas who are forced to beg, steal, or sell flowers on the streets, in Cambodia, China, Myanmar, Thailand, and Viet Nam;
- Trafficking of young Cambodian and Vietnamese girls for virginity selling; and
- Trafficking of women from rural China, Lao PDR, Myanmar, or Vietnam into the interior of China for forced marriage, sometimes leading to domestic servitude, forced labor, and/or sexual exploitation.

Trafficking also occurs from the Mekong countries to destinations further abroad, through both formal and informal channels. Men from Thailand, Laos, and Vietnam are trafficked to the US and Middle East into exploitative labor on farms and construction sites, through formal labor recruitment channels but with fraudulent contracts and deductions. Women and girls from all six of the Mekong countries are increasingly being found in forced prostitution or domestic servitude farther afield in Asia in Malaysia, Hong Kong, Chinese Taipei/Taiwan, and Japan; Chinese, Thai, and Vietnamese women and girls have been trafficked to Africa, the Middle East, the US, and western European countries for labor and sexual exploitation.

UNIAP and the Ethics and Human Rights in Counter-Trafficking Initiative

The United Nations Inter-Agency Project on Human Trafficking (UNIAP) was established in 2000 to facilitate a stronger and more coordinated response to human trafficking in the Greater Mekong Sub-region (GMS). UNIAP is managed by a regional management office in Bangkok, with country project offices in the capitals of the six Mekong countries; international and national staff include lawyers, psychosocial counselors, social scientists, and journalists. As an inter-agency project, UNIAP works closely with over two hundred fifty government, United Nations (UN), civil society (national and international non-governmental organizations [NGOs]), and private sector partners at the regional, cross-border, national, and community levels. UNIAP is the only UN/international entity in the Mekong region focusing solely on human trafficking, and comprehensively covering all four 'Ps': policy, prevention, protection, and prosecution. UNIAP's modus operandi includes training, research, policy advocacy, and operational support to police, victim service providers, and NGOs; a focus on institutional capacitybuilding and coordinated systems-building spans all activities.

Over the past five years, the Mekong countries have made considerable and commendable progress in combating issues around human trafficking. A large number of activities have been implemented at local and national levels, as well as on a bilateral basis and across the four Ps. The six governments of the Mekong region also signed a memorandum of understanding in 2004, jointly committing themselves to coordinated and increasingly effective efforts to combat human trafficking. This mou, the commit mou, is the foundation of the Coordinated Mekong Ministerial Initiative Against Human Trafficking (COMMIT Process), for which UNIAP serves as COMMIT Secretariat. Related to ethical treatment of trafficking-affected persons, in a Joint Declaration signed by the COMMIT governments in December 2007, the governments at a ministerial level pledged:

 Commitment to preventing trafficking in persons and associated harms through actions aimed at identifying and protecting trafficked persons at every point in the trafficking cycle; and to ensure that all official actions with respect to trafficked persons protect their safety, dignity and rights (Article 14); and • Firm belief in the practical and symbolic value of an approach which places the individual and his or her rights at the centre of any trafficking law, policy or intervention (Article 18).

Thus, by the end of 2007, the political will was firmly in place to address needs for improvement in how government and non-government actors were applying rights-based approaches to trafficking-affected persons. Uniap launched the *Ethics and Human Rights in Counter-Trafficking* initiative shortly thereafter in 2008, following a three-year plan for dissemination, capacity-building, localization, and integration as detailed below.

Humble Beginnings in 2007-2008

Within the UN and UNDP (through which UNIAP is administered), there is no standard internal process to review whether research, activities, or consultants meet an ethical standard in research and programming, not even for work engaging vulnerable populations. UNIAP made the decision to institute its own internal review process modeled after the Institutional Review Boards (IRBs) of academia, putting all of its research and activities working directly with vulnerable populations through a critical review process based on seven guiding principles on ethics and human rights created for counter-trafficking work. In peer reviewing the forms and process with colleagues working on human rights and anti-trafficking globally, there was a clear call to make such guidelines and tools available for the anti-trafficking public, since by this point in 2007, no comprehensive resource existed providing practical, step-by-step guidance on how to make anti-trafficking interventions more rights-respecting. The two most relevant guidelines that did exist were World Health Organization's 2003 guidelines for interviewing trafficked women² and UNICEF's 2006 guidelines on protecting child trafficking victims³, but neither addressed anti-trafficking comprehensively.

Thus, in September 2008, the UNIAP Guide to Ethics and Human Rights in Counter-trafficking: Ethical Standards for Counter-Trafficking Research and Programming Guide⁴ was launched in English, then soon after in the six Mekong languages. To date, nearly fifteen thousand Guides have been printed and disseminated in the seven languages, with electronic versions of the Guide available in English and the Mekong languages on the internet⁵.

The seven guiding principles that serve as the foundation for the Guide to Ethics and Human Rights in Counter-Trafficking and all trainings are:

- 1. Do no harm: be compassionate but neutral.
- 2. Prioritize personal safety and security: identify and minimize risks.
- 3. Get informed consent, with no coercion.
- 4. Ensure anonymity and confidentiality to the greatest extent possible.
- 5. Adequately select and prepare interpreters and field teams.
- 6. Prepare referral information, and be prepared for emergency intervention.
- 7. Do not hesitate to help others: put your information to good use.

The Guide itself is fifty to sixty pages long (varies by language) and includes checklists, case studies, do's and don'ts, and templates for key forms such as ethics reviews and informed consent statements.

Dissemination and Training on the Ethics Guide

While UNIAP worked to translate the Guide into the six Mekong languages in early 2009, standardized training curriculums were created and customized to suit a few different types of training groups: senior policy officials; operational government officials from police, justice, social work and other ministries; NGO workers and journalists; and mixed, multi-disciplinary settings. Once the Guide was translated, training materials were also translated and the first round of national-level trainings were launched in all countries, with regional legal/technical experts with a solid understanding of ethics and human rights delivering the trainings in local language (with interpretation), with all materials in local language.

Uniap also integrated ethics and human rights training modules into existing regional anti-trafficking training curriculums, including the commit Regional Anti-Trafficking Training Programme, which trains hundreds of government officials and NGO officers from the six Mekong governments plus Malaysia annually. In addition, Uniap and partners acted opportunistically to integrate ethics training modules into other relevant national and sub-national trainings, for example trafficking victim screening trainings for

police and border guards, and shelter management and counseling trainings for shelter staff.

By 2011, many national UNIAP staff and inter-agency partners (UN and NGO) had gained significant experience being exposed to ethics trainings by UNIAP's regional experts, and by working as co-trainers to facilitate interpretation and strengthen their own capacity. This, over time, increased the localization and spread of ethics training at the national and sub-national levels, since local anti-trafficking staff and partners were more well-versed in integrating such training and coaching on a formal or informal basis. After a first order of a few thousand Guides in 2008-2009, many thousands more had to be printed through 2011 to meet the demand for more Guides across the region from this localization spread. Nearly four thousand eight hundred Guides in the seven languages have been disseminated through training and ethic workshops as of 2011.

UNIAP ethics training programs began with a pre-test on ethics knowledge, followed by a general overview of human trafficking in the region and the country presented by UNIAP national staff, often using multimedia tools such as video documentaries showing lives and perspectives of trafficking victims to engage the group from the start⁶, and get them thinking "in the shoes" of victims and their family members.

The ethics trainer then began the ethics and human rights presentation. The trainer invited each participant to introduce themselves and to comment on their understanding of ethics and human rights. Following this, the trainer introduced the participants to ethics and human rights in counter-trafficking, providing the participants with the *Guide to Ethics and Human Rights in Counter-trafficking: Ethical Standards for Counter-Trafficking Research and Programming* ('the Guide') in their language, walking participants through UNIAP's seven guiding principles of ethics and human rights in counter-trafficking in detail, with discussion.

The training then focused on each of the seven guiding principles of ethics and human rights individually, providing more detailed information and guidance on each concept. Where relevant, national laws and/or policies relating to each guiding principle were presented and discussed. Use of national laws that interacted with the ethics and human rights principles in the Guide assisted the trainer to demonstrate how the concepts were applicable to the participant's anti-trafficking activities in the local context.

Participants were provided with a copy of their national human trafficking laws or legal provisions. Participants were also provided with a copy of the UNIAP publication *Human Trafficking Laws: Legal Provisions for Victims*. Examples of laws presented to participants that interacted with the principles of ethics and human rights in counter-trafficking included laws relating to protection of privacy and identity, counseling and legal rights, provision of medical treatment, age, gender and special needs of victims, and protection of physical safety, for example:

Protection of privacy and identity as included in:

- Cambodia Law on Suppression of Human Trafficking and Sexual Exploitation (2008), Article 49
- Lao PDR Law on Development and Protection of Women (2004), Articles 25(7) and 27
- Myanmar Anti-Trafficking in Persons Law (2005), Sections 11(a),
 (b) and (c); Section 16(f), and Section 19(e)
- Thailand Anti-Trafficking in Persons Act (2008), Sections 31, 36 and 56

Counseling and legal rights as included in:

- Lao PDR Law on Development and Protection of Women (2004), Articles 25(4) and 28
- Myanmar Anti-Trafficking in Persons Law (2005), Sections 19(c) and 19(d)
- Thailand Anti-Trafficking in Persons Act (2008), Sections 33, 34 and 35

Provision of medical treatment as included in:

- Lao PDR Law on Development and Protection of Women (2004),
 Articles 25(8) and 28
- Myanmar Anti-Trafficking in Persons Law (2005), Sections 16(e) and 19(f)
- Thailand Anti-Trafficking in Persons Act (2008), Section 33

Age, gender and special needs of victims as included in:

Thailand - Anti-Trafficking in Persons Act (2008), Section 33

Protection of physical safety as included in:

- Lao PDR Law on Development and Protection of Women (2004),
 Articles 25(5) and 27
- Myanmar Anti-Trafficking in Persons Law (2005), Sections 14, 16(a) and 17
- Thailand Anti-Trafficking in Persons Act (2008), Section 36.

For each guiding principle, real case examples were presented and discussed, including situations encountered by previous training participants. The real case examples enabled participants to understand how each ethics principle might affect their work in practice. The participants were placed in groups and asked to work together to identify the ethics and human rights issue(s) highlighted in the case example, and best responses to the cases.

For a number of the guiding principles, additional training materials were used. For example, for the guiding principle 'Do no harm: be compassionate but neutral,' a video of a mock police interview with a child was used to demonstrate 'bad' and 'good' interview techniques. The participants were asked what they would do to improve on both the 'bad' and 'good' interview. Used at the start of the training, this video also introduced a variety of the different ethics and human rights principles that would follow. For the guiding principle 'Anonymity and confidentiality,' the trainer used pictures to demonstrate how confidentiality and anonymity might be protected. Participants were asked what more might be done to protect anonymity and confidentiality for the individuals in the pictures. In some trainings, examples of human trafficking reports or newspaper clippings were used to identify 'good' and 'bad' examples of protection of confidentiality in print.

Toward the end of the training, participants were engaged in role plays illustrating ethical dilemmas that occur in anti-trafficking. Participants were requested to use knowledge gained during the training to act out, with their group, what they would do in each scenario to facilitate the protection of ethics and human rights. A post-test on ethics knowledge and course evaluation marked the end of the training.

Observations and Lessons Learned

One observation and lesson learned was that receiving support from a well-known national government official with a specialized knowledge of human

trafficking was often important to the success of the trainings. Collaboration with champions within the government to raise awareness of human trafficking, human rights and ethics, and to promote the ethics training to the participants, engendered increased interest and participation from the participants.

A second observation over time was the benefit of being able to engage local experienced individuals who had previously participated in the trainings to assist with the training. These individuals provided great perspective while co-facilitating the training, being able to provide richer additional information from a local context, and assist with group work proficiently, not requiring the use of a translator.

A third lesson learned was the importance of tailoring the trainings to the particular background and profession of participants, whether they were police, researchers, journalists, or other type of anti-trafficking practitioner. This ensured that the training was relevant and of practical benefit for the participants. This was particularly important for participants who worked in human trafficking but who had little or no experience with ethics and human rights. For participants with more extensive experience with ethics and human rights, multi-disciplinary trainings were of greater benefit, allowing the analysis of challenging ethical issues from different perspectives (for example, police, lawyers, and social workers) and promoting the multi-disciplinary networking and trust-building that is so important in anti-human trafficking work.

Fourth, the more active participation and opportunities for discussion the participants were provided, the more benefit the participants appeared to obtain from the training. Training participants responded particularly well to discussion of cases and actual experiences of participants, as well as video presentations. Presenting a video at the start of the training which provided an introduction to the themes of the training enabled the participants to gain an understanding of the concepts to be discussed. Use of video presentations highlighting 'bad' ethics and human rights practices particularly engaged the participants and encouraged discussion without fears of offending anyone in the room.

Evaluation Results, 2011-2012

The shift in capacity-building efforts from the regional to the national level in 2010-2011 freed up regional resources to begin impact evaluation: have

all of these trainings and thousands of disseminated Guides really made a measurable difference in the lives of trafficking-affected persons and the way anti-trafficking responders interface with them? UNIAP began the process of follow-up with former ethics training participants in late 2010, to see if UNIAP's ethics training had any impact on the real day-to-day operations of anti-trafficking responders who had received the training months (for some, years) ago. Participants were specifically asked how the training has contributed to improving ethical and rights-based practices in their workplans; whether they have implemented the ethical principles from UNIAP's Guide and training in their work and/or work policy; and, whether they were able to identify ethical issues in their work that they were not previously aware of as ethical issues.

Self-reported feedback (with factual cross-checking by UNIAP local staff) was welcomed in a variety of forms, to allow for a richer, qualitative understanding of how rights-based approaches were understood, absorbed, and applied by the participants. Five examples of some of the feedback obtained are as follows, providing indications of positive results of increased capacity among anti-trafficking responders and within victim protection systems, integration of more rights-based knowledge and practice into the operational work of anti-trafficking responders, and real behavior change.

- Police interview procedures reformed to uphold the principles of 'Do No Harm' and to enable referral, in Cambodia: "Practically, I learnt a lot from the training, particularly a human rights base for interviewing. As a result, we reformed the team and the way to handle cases....we created a proper place to interview victims after raid and rescue [which had] not existed before I was trained. Our behavior changed in treating the interviewees based on their rights, for example, we provide them food and water if they are in need, translator if they are foreigners and they have right to answer or decline. Moreover, we would refer them to our partners for further intervention [when this was requested]."— Senior Gendarmerie official, Cambodia (trained April 2010)
- Journalist reporting techniques were changed to reflect ethical principles of confidentiality and anonymity, in Cambodia: "The ethics training for counter-trafficking was very useful for me....It has

been a good improvement for my profession in interviewing, particularly the sensitive cases of trafficking and abuses. In my reports, instead of giving the real name, I make up a different one so that the identity of the victim has been protected. I see how it is important to have this type of training....I suggest that the training should continue on a wider scale."—Journalist for Cambodia Weekly, Cambodia (trained April 2009)

trained, and victims interviewed by appropriate staff, in Cambodia and Thailand: "Before the training our team [work] was based on belief and habit. Consequently, interviews could happen at any time and any place. We sometimes had male staff carry on interviewing shivering girls who had been abused. However, after being introduced to the guidelines and rights-based interviews, we changed our practice. For instance, we arranged proper interview environments, asked for consent, and maintained anonymity and confidentiality. We also share our knowledge and experience with our team and counterparts on the issue."—NGO social worker, Cambodia (trained April 2009)

"After attending UNIAP's ethics training, I applied what I learned to provide assistance to victims of trafficking while interviewing them...[especially] being friendly, getting to know the victim, and providing snacks, fruit, water, drinks. I allow the victim to speak without any interruptions, and during the interview I try to reduce tensions in the environment. I encourage and support [the victim] by maintaining eye contact, allowing the victim to finish his/her story, and remaining neutral."—NGO worker, Thailand (trained August 2010), who also shared photos of NGO staff conducting interviews in rural communities to document their improvements.

 Improving shelter systems to uphold 'Do No Harm,' anonymity, and confidentiality: Shelter managers in Viet Nam submitted before and after photos of changes made to their shelters after receiving ethics training, including new locked cabinets for confidential case files (previously, cabinets had no locks and glass doors), as well as locked personal cabinets for shelter clients to be able to store their private belongings (previously, clients had no private space to call their own and no control over the storage of their keepsakes).

• Policy makers passing on the guidelines to operational units under their stead: "I have not directly applied what I have learned from the training to my own work, as our unit does not work directly with victims. However, the training was very informative and where possible this information is always disseminated to related officers."—Government social development officer, Thailand (trained August 2010).

Next Steps: Impact and Identification of Gaps and Priorities

Teasing out the longer-term impacts that could be fairly attributed to this single initiative is challenging, particularly since no specific regional situational baseline was measured. However, an attempt will be made to do an assessment in 2012 that examines three bigger-picture areas where trafficking victim rights are sometimes violated, and comparing the behavior of responders exposed to the ethics guide and training, versus those with no exposure. The overall objective will be to help anti-trafficking responders in the region, including through the COMMIT Process, collectively identify and address high-priority outstanding challenges to a rights-based anti-trafficking response. These three areas are by no means comprehensive; by prioritizing and selecting three areas, however, it provides focus and a deeper understanding on how to address these weak points, rather than trying to fix everything at once and being spread too thin. The three bigger-picture areas, or impact themes, being considered include:

1. Trafficking victim protection systems and policies, including shelter systems and victim/witness treatment. This impact theme will explore whether and how fundamental human rights are upheld in victim protection systems, including shelter systems—including freedom of movement, dignity, and right to family. *Defacto* detention of victims in trafficking shelters⁷ and examining whether victims are forced or compelled to serve as witnesses in protracted

- criminal proceedings are two urgent issues to be critically examined here.
- 2. Informed consent and privacy for trafficking-affected persons in the media and public awareness raising activities. This impact theme will survey human trafficking stories in the print and broadcast media as well as awareness-raising activities involving trafficked persons, to ensure that victims are participating with full informed consent, with no harm done and identities concealed (unless, in the case of adults, they wish to reveal their identities). Victim participation should be productive and empowering, not tokenistic or exploitative.
- 3. Impacts in source communities. This impact theme will focus on positive and negative effects that government and non-government responders have in trafficking origin areas and source communities. Respect for privacy and confidentiality of trafficking-affected persons within their communities will be explored here, as well unintended consequences leading to stigmatization or other socially damaging outcomes for trafficking-affected persons.

Conclusion

While a review of a three-year uniap initiative aiming to improve ethical conduct and rights-based approaches among anti-trafficking responders in the Mekong region did generate some positive indicators of success, much more work needs to be done by the anti-trafficking community. The guiding principles of 'Do no harm,' 'Get informed consent, with no coercion,' and 'Ensure anonymity and confidentiality to the greatest extent possible' in particular are seen to still be violated in mass media and other public awareness-raising; in police stations and courtrooms; and in victim protection services alike.

Traffickers and exploiters of sex, labor, and marriage trafficking victims rob trafficking victims of their fundamental rights to dignity, freedom, and security. The anti-trafficking community should be focusing its energies on immediately reinstating dignity, freedom, and security for trafficking-affected persons—with freedom not being unnecessarily sacrificed in the name of security, as it sometimes is. Government and non-government commitment to improving the ethical conduct of anti-trafficking responders would

be a strong step in the right direction, with a focus on truly appreciating the meaning and value of a rights-based approach.

Endnotes

- 1 ILO, A Global Alliance Against Forced Labour: Global Report to the Followup to the ILO Declaration on Fundamental Principles and Rights at Work (Geneva: ILO, 2005).
- 2 WHO, Ethical and Safety Recommendations for Interviewing Trafficked Women (Geneva: WHO, 2003).
- 3 UNICEF, Guidelines on the Protection of Child Victims of Trafficking (Geneva: UNICEF, 2006).
- 4 UNIAP, Guide to Ethics and Human Rights in Counter-Trafficking: Ethical Standards for Counter-Trafficking Research and Programming (Bangkok: UNIAP, 2008).
 - 5 Please see www.no-trafficking.org/init_ethics.html.
- 6 The MTV EXIT documentaries proved very effective and well-received by many ethics training participants.
- 7 Gallagher, A. and Pearson, E., *Detention of trafficked persons in shelters: a legal and policy analysis* (Bangkok: Asia Regional Trafficking in Persons Project [ARTIP], 2008).