



**‘Bride’ Trafficking at the Sino-Burmese Border**  
*A feminist critique of the traditional security approach to  
human trafficking*

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*22 August 2019*

*14,950 words*

*“Use your liberty to promote ours”*  
Aung San Suu Kyi

## DECLARATION

This dissertation is the sole work of the author, and has not been accepted in any previous application for a degree; all quotations and sources of information have been acknowledged.

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Signed

A handwritten signature in black ink, appearing to read 'L. H. H. H.', written over a horizontal line.

Date 21/08/2019

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## **Abstract**

“To what extent does ‘bride’ trafficking at the Sino-Burmese border highlight the flaws in today’s international human trafficking framework?” It is argued that Chinese and Burmese counter-trafficking efforts are inscribed in the dominant law and order logic, and, as such, cannot effectively eradicate the phenomenon of ‘bride’ trafficking. This case evidences the limits of the traditional security approach to human trafficking when put into practice. Criminal justice and border security responses are counterproductive when victim’s human rights are neglected and are insufficient to deal with the complex factors driving trafficking. After having set up the context, this paper challenges from a feminist rights-based approach the international human trafficking framework and the Chinese and Burmese anti-trafficking measures. In order to overcome the narrow traditional security approach and to work towards its prevention, root-causes of ‘bride’ trafficking are analysed. Ultimately, comprehensive and victim-focused policies are suggested to China and Myanmar.

## **Introduction**

In the 1990s, the spreading of human trafficking in the context of globalisation led the international community to introduce the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Trafficking Protocol or Protocol)* in 2000 within the *UN Convention Against Transnational Organized Crime*. Ratified by 173 parties to date, it is the primary tool to combat trafficking in persons worldwide. Yet, 16 years after more than 25 millions of detected victims have been reported to the United Nations Office of Drugs and Crime (UNODC) (2018). This number stood at 15 million in 2010. Although this dramatic increase partly results from a better national capacity to detect victims, it also reflects the growth in human trafficking over the years. As such, this alarming trend casts doubts upon the efficacy of the international framework to end trafficking. While human trafficking is “a cause and a consequence of human rights violations” (Office of the High Commissioner for Human Rights, 2002, guideline 1), it has eventually been framed as a migration and a crime issue impacting state security rather than being

considered a human rights issue impacting human security. The triumph of the traditional security perspective gave rise to the *Trafficking Protocol*. The adoption of this discourse has inevitable consequences on the type of national legislation and policy implemented to combat the phenomenon.

The Greater Mekong Subregion is a ‘hot spot’ for human trafficking and, in this regard, provides a number of case studies to analyse the anti-trafficking responses (Kneebone and Debeljak, 2012). The recent report of Human Rights Watch (HRW) published in March 2019 raises the alarm on the issue of ‘bride’<sup>1</sup> trafficking at the border between Kachin State in Myanmar and the People’s Republic of China (China) - a phenomenon which “has been increasing every year” (p.20). While several works have already challenged the international human trafficking framework, few take a closer look at the consequences of the traditional security approach on the ground. What is more, as a result of the conflation of human trafficking with prostitution (Segrave, 2009b), other forms of human trafficking have not been well researched yet. Hackney (2015) is the only scholar to devote an article on the issue of women sold as ‘brides’ to Chinese men. However, neither does she comprehensively link the limits of the national anti-trafficking efforts with the ones of the international framework nor does she adopt an alternative approach to analyse the issue and to suggest new policies for further action. This dissertation fills these gaps.

Considering that, this dissertation endeavours to answer the following question: “*To what extent does ‘bride’ trafficking at the Sino-Burmese border highlight the flaws in today’s international human trafficking framework?*” It is argued that China and Myanmar anti-trafficking

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<sup>1</sup> Justification of the inverted comas p.10

efforts evidence the limits of the international framework to the extent that they cannot effectively eradicate 'bride' trafficking by relying on the dominant traditional security approach to human trafficking. Criminal justice and border security responses are counterproductive when victim's human rights are neglected and are insufficient to deal with the complex factors driving trafficking. A feminist rights-based approach is adopted to shed light on the ethical and pragmatic limits of both the international and national anti-trafficking measures. The aim is to overcome the narrow traditional security approach to trafficking and eventually to suggest a more comprehensive and victim-centered response in a bid to end the phenomenon of 'bride' trafficking.

This study is structured as follows. Chapter 1 sets up the foundations of the dissertation. It includes an overview of the context as well as the literature review and the methodology. Chapter 2 presents and compares different approaches to human trafficking. Importantly, it introduces the critiques made by the feminist rights-based approach regarding the traditional security one. Chapter 3 traces back the triumph of the latter through an analysis of the earlier responses to human trafficking and of the context in which the *Trafficking Protocol* emerged. Subsequently, chapter 4 critically assesses the international human trafficking framework from a feminist rights-based perspective. Chapter 5 illustrates the consequences on the ground of the law and order logic through the case of 'bride' trafficking at the Sino-Burmese border. As it is necessary to move from the short-term criminal justice and border security measures to a more comprehensive response, chapter 6 analyses the root-causes of 'bride' trafficking in order to work towards its prevention. With the aim of ending the phenomenon, Chapter 7 finally makes recommendations to China and Myanmar. They are urged to introduce a feminist rights-based approach in their anti-trafficking efforts.

## Chapter 1 – Context

### 1. General context: human trafficking as a threat to international peace and security (IPS)

The UN Security Council addressed human trafficking for the first time as part of its mandate for the maintenance of international peace and security in Resolution 2331 (2016). This claim was reiterated in Resolution 2388 (2017). Recognising the link between trafficking, sexual violence, terrorism and organised crime, these two resolutions in effect framed human trafficking as a security issue. This is the result of the evolution of the meaning of threat to IPS in the 1990s. In January 1992, the president of the Security Council noted:

The absence of war and military conflicts amongst States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security (UN Department of Public Information, 1992, p.34).

Following this statement, the UN Secretary General Boutros-Ghali reaffirmed few months later the broadening of the concept of international security in his report *An Agenda for Peace*. He wrote that “security must encompass matters beyond military threats” (1992, p.203). In this context of change about perceived threat, human trafficking came to be seen as a security threat, no matter if security is conceived broadly or narrowly (see chapter 2).

In the 1990s, human trafficking rose to the top of the international agenda in the context of globalisation and was eventually framed as a migration and a crime issue, threatening nations’ borders and order (see chapter 3). As such, the *Trafficking Protocol* reflects more a traditional and narrow conception of security rather than a human security approach to human trafficking.



Gallagher argues that “while human rights concerns may have provided some impetus for collective action, it is the sovereignty/security issues surrounding trafficking and migrant smuggling which are the true driving force behind such efforts” (2002, p.977). No matter the consequences of having adopted a traditional security approach to human trafficking (discussed in chapters 4 and 5), the *Trafficking Protocol* has the merit of having reached an international consensus on the definition of trafficking in persons as follows:

‘Trafficking in Persons’ shall mean the recruitment, transportation, transfer, harboring, or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction or fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over other persons, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs (UN General Assembly, 2000, article 3).

The definition consists of three pillars: (1) the acts of trafficking (recruitment, transportation, transfer, harboring, receipt); (2) the means of trafficking (threat, use of force, other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, receiving or paying of benefits); (3) the purposes of trafficking (exploitation of the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude and removal of organs). It is noteworthy that the definition does not require force, i.e. trafficking occurs “whenever traffickers take advantage of the vulnerability of their victims” (Clark, 2003, p.248).

## **2. Specific context: ‘bride’ trafficking at the Sino-Burmese border**

Both Myanmar and China have ratified the *Trafficking Protocol*, in 2004 and in 2010, respectively (Kneebone and Debeljak, 2012). Nonetheless, the recent report released by HRW

(2019) sounds the alarm regarding the phenomenon of ‘bride’ trafficking at the Sino-Burmese border. The contexts of origin and destination countries are fuelling the trafficking of women and girls. On the supply-side, traffickers exploit the vulnerability of women living in internally displaced persons (IDP) camps in the wake of the Kachin conflict. On the demand-side, the one-child policy enforced from 1979 to 2015 coupled with male preference has led to a ‘women shortage’ in China and consequently to difficulties for Chinese men to find a wife (see chapter 6).

It is important to underline that the term ‘bride’ is placed in inverted commas throughout this paper as it does not refer to the legal nature of the relationship. Although practically none of the trafficked women interviewed by HRW (2019) legally married the men who bought them, they were described as ‘wives’ by traffickers, by families who purchased them and by themselves. For instance, one survivor claimed: “[There was] no wedding ceremony. But he had sex with me. That’s how it was decided that we were married” (p.42).

The current phenomenon of ‘bride’ trafficking amounts to the crime of trafficking in persons as defined in the *Trafficking Protocol*:

*(1) The acts of trafficking*

All trafficking survivors interviewed by HRW (2019) were recruited in Myanmar by a trafficker and transported to China. They were generally passed from hand to hand until being received by the male purchaser.

### *(2) The means of trafficking*

The vast majority of interviewees were deceived by people, often a relative i.e. a person they trusted, who promised them a lucrative work and a better life in China (Human Rights Watch, 2019). Traffickers took advantage of their economic vulnerability as trafficked women were originally living in IDP camps or in conflict-affected areas in Kachin State.

### *(3) The purposes of trafficking*

The final purpose of men who bought a woman is undoubtedly more having a son than a 'bride' (Human Rights Watch, 2019). To that end, most trafficking survivors were locked in a room and regularly raped until they got pregnant. In most cases, women were allowed to leave the house once they gave birth to a boy providing that they left the baby behind. In addition to sexual slavery and forced pregnancy, some women also experienced forced labor, such as housework and work in the fields.

## **3. Literature review**

As pointed out by the recent HRW report (2019), 'bride' trafficking at the Sino-Burmese border is increasing, yet, research is lacking on this specific issue. While several authors adopted a feminist rights-based perspective to challenge the international human trafficking framework, few apply this critique to the national level, and none took an interest in critically assessing Burmese and Chinese anti-trafficking efforts. Additionally, research over the specific type of 'bride' trafficking has been neglected by scholars. Understanding the dynamics of this phenomenon is necessary to undertake appropriate action.

Before conducting a review of the literature over the specific topic of this dissertation, it is worthy to note the origin of current gaps in feminist scholarship over the human trafficking field of research. “Trafficking in persons has been equated with prostitution” (Ditmore, 2003, p.108). This statement reflects the first half of the 20th century’s international conventions on human trafficking which focused on the abolition of prostitution. But it could also summarise the vast majority of the feminist scholarship on human trafficking. Indeed, the feminist literature focuses on the debate between the abolitionists and the liberals over the issue of prostitution (see for instance Agustin, 2001; Bindman and Doezema, 2007; Kempadoo, 2001). While this debate has already monopolised the discussion when drafting the *Trafficking Protocol*, feminists have replicated in the literature this endless confrontation of ideological positions. Segrave (2009b) argues that the narrow focus on the trafficking of women into the sex industry is primarily at the origin of gaps and limitations in the existing feminist research in this field. First, other issues are neglected, namely a more general critique of the international and national responses to human trafficking. Second, this conflation has led to dismiss the research on other forms of human trafficking, notably ‘bride’ trafficking.

#### **a. Critiques of the dominant traditional security approach to human trafficking**

Despite the predominance of literature primarily oriented around the debate over prostitution, several works on the promotion of alternative approaches to the law enforcement perspective have progressively emerged.

While the *Trafficking Protocol* has been the result of a change in perceived security threats on the international arena, its framework is based on a traditional security approach to human

trafficking. After the adoption of the *Protocol*, the idea of human trafficking as a human security issue has only been addressed in a comprehensive way by Clark (2003). Her article is not directly a critique of the *Trafficking Protocol*, yet, the argumentation highlights the necessity to identify the areas of insecurity of the populations that are at the highest risk of trafficking in order to develop a victim-centered policy which addresses these insecurities. Following this research, authors have rather used a human rights framework or more specifically a feminist rights-based approach to challenge the dominant traditional security response to trafficking. It is noteworthy that the feminist rights-based approach is largely congruent with the human security framework (see Lobasz, 2009; Iñiguez de Heredia, 2007). Regarding the critiques made by authors promoting this approach to human trafficking, some of them such as Bruch (2004) and Coontz and Griebel (2004) first of all trace back the limits of the contemporary human trafficking framework to the flaws of earlier international conventions which mainly focused on criminalisation. Secondly, Jordan (2002) and Iñiguez de Heredia (2007) published influential papers highlighting the *Trafficking Protocol's* gaps regarding victims' protection and assistance. Importantly, Lobasz (2009) explicitly introduces two kinds of critiques made by the feminist approach: pragmatic and ethical. Linked with the efficacy critique, Contz and Griebel (2004) and Pourmokhtari (2015) particularly emphasise the lack of consideration of the demand-side of trafficking by the law enforcement approach. Nevertheless, authors who use the feminist rights-based approach to challenge the traditional security approach to human trafficking rarely apply their critique to the national level nor do they illustrate their arguments with empirical examples. In this regard, this dissertation critically assesses Chinese and Burmese anti-trafficking measures through a feminist lens and subsequently evidences the limits of the traditional security approach to trafficking. The

feminist approach is also used when analysing the root-causes of the phenomenon and, accordingly, when suggesting more appropriate policies for future action.

#### **b. ‘Bride’ trafficking at the Sino-Burmese border**

‘Bride’ trafficking as a type of trafficking in persons is disregarded by the international community. For instance, the 2018 US Trafficking in Persons (TIP) report’s part on Myanmar alludes to this issue but attention is also paid to other forms of trafficking. In other words, the extensive and diversified nature of trafficking in Myanmar has led to a negligence of the specific form of ‘bride’ trafficking, and thus to a lack of pressure put on Burmese and Chinese authorities. A foreign diplomat recently said that, as reported by HRW (2019), Myanmar has rather concentrated efforts on forced labor and child soldiers.

Similarly, the issue of ‘bride’ trafficking, especially at the Sino-Burmese border, is largely overlooked in the literature. The article of Hackney (2015) is the only one addressing the case of Burmese women being sold to Chinese men as brides. It also makes a critique of Burmese and Chinese anti-trafficking efforts but not from a feminist rights-based perspective. The conclusion highlights the necessity to understand the phenomenon in a comprehensive way as well as to listen women’s desire in order to make policy reforms. This proposition for future research is taken into consideration in this dissertation. Other articles focus on the pull and push factors driving trafficking to China, but they never thoroughly link the analysis of root-causes with ‘bride’ trafficking from Myanmar to China. Zhao (2003) wrote about trafficking of women for marriage in China without focusing on a specific country of origin. As he underlines the long history of sale of women in China and the role of the one-child policy (see also Stock and al., 2017), he advocates

for the adoption of a multidimensional approach when combatting this phenomenon. Jiang and Sanchez-Barricarte (2012) particularly emphasise the rise of bride prices resulting from a surplus of males. They conclude by raising the alarm regarding the consequences of this current trend: many males will turn to other forms of marriage. Nevertheless, they only merely mention human trafficking through the terms “mercenary marriages” (p.12). From the supply-side perspective, the qualitative study of Kamler (2015), though not specifically on the issue of ‘bride’ trafficking, offers valuable insights on the Kachin conflict-related factors increasing the vulnerability of Burmese women at risk to trafficking.

In short, between the article of Hackney (2015) and the 2019 HRW report on ‘bride’ trafficking at the Sino-Burmese border, the number of trafficked women has dramatically increased. Yet, no research has been dedicated to the assessment of current measures taken by China and Myanmar to stop the phenomenon. That is why this dissertation applies the feminist critique to the Burmese and Chinese anti-trafficking efforts in a bid to suggest recommendations for future actions. Conversely, this case study illustrates the international human trafficking framework’s flaws.

#### **4. Methodology**

A feminist rights-based approach has been adopted to challenge the international as well as the domestic human trafficking frameworks. As the research problem is practical, i.e. ending the phenomenon of ‘bride’ trafficking, the feminist rights-based perspective appears to be the most adapted for several reasons. Firstly, several scholars have already used this approach to critique the international human trafficking framework. Likewise, the dissertation applies the

critiques to the national level. Secondly, as it challenges the traditional security approach to trafficking, this approach offers an alternative framework to analyse the dynamics of the 'bride' trafficking phenomenon in a bid to change the policy focus. Thirdly, 'bride' trafficking is a gender-based issue as it affects women and girls. A feminist rights-based approach uses gender as a category of analysis; that is why this framework is preferred rather than a 'simple' human rights approach, for instance.

Regarding the materials, primary and secondary sources have been conjointly used in order to assess the international and national human trafficking frameworks. Since research is particularly lacking on the critique of Chinese and Burmese anti-trafficking legislations, primary sources have been principally used, although always completed with the broader feminist scholarship. Furthermore, feminists rely on women narratives to highlight abuses, to concretise their plight, and eventually to frame appropriate policies focusing on their needs and interests. Because of a lack of time, I could not go to Myanmar to conduct interviews with survivors of 'bride' trafficking. Instead, the very recent HRW report (2019) *Give Us a Baby and We'll Let You Go* has been used as a qualitative data material. The report collected interviews with 73 people, including 37 ethnic Kachin women and girls trafficked as 'brides' to Chinese men who succeeding in escaping and in going back to Myanmar. The earliest trafficking experience dates back to 1986 and the most recent one to 2017. Some of the survivors fled China only weeks before the interview.



## **Chapter 2 – Different approaches to human trafficking**

International human trafficking has progressively been seen as a security threat. It is now necessary to determine what type of threat it embodies, namely to whom or what. Importantly, the answer will determine which kind of measures is taken to combat human trafficking. This section presents and compares three different approaches to trafficking, i.e. the traditional security approach, the human security approach and the feminist rights-based approach to trafficking.

### **1. Traditional security approach to human trafficking**

The traditional approach to security has as its referent object the state and is concerned with its survival (Lobasz, 2009). To this end, each state seeks to deter or defeat any external aggression (Lippmann, 1943). Human trafficking does not embody a traditional military threat, yet, it came to be seen as a state security concern alongside to the evolution of the meaning of threat to IPS in the 1990s. After the Cold War, policy makers and security scholars enhanced the concept of security beyond the military field to encompass other types of threats such as economics, health and the environment (Peoples and Vaughan-Williams, 2010) (see also chapter 1). That is why several government officials sustain that human trafficking seriously threatens national security, and more specifically the state's ability to control its borders (Lobasz, 2009). For instance, the US Government Accountability Office stresses that:

The top goal of [Immigration and Customs Enforcement's] trafficking in persons efforts—to disrupt and dismantle criminal organizations involved in trafficking, including intelligence gathering on these organizations—is aligned with [Department of Homeland Security] strategic goals of assessing vulnerabilities and mitigating threats to the homeland (2007, p.18).

Fighting human trafficking is closely linked with the Department of Homeland Security's interest in impeding illegal border flows. This example shows that a traditional security approach frames human trafficking as a migration and a criminal issue affecting state security (Friman and Reich, 2007; Iñiguez de Heredia, 2007) (see chapter 3). Accordingly, traditional security responses to human trafficking focus on law enforcement, border control and deportation of trafficked persons viewed as illegal immigrants (Lobasz, 2009; Segrave, 2009b) (see chapters 4 and 5). Taking the state as the referent object of security thus often leads to see trafficked persons more as criminals than victims. The limits of this law and order logic have been highlighted with the redefinition of the meaning of security at the end of the Cold War.

## **2. Human security approach to human trafficking**

In addition to the broadening of the concept of security, security scholars sought to add different levels of analysis by deepening approaches to security (Lobasz, 2009). One of the most prominent critique of the state-centric approach to security came with the emergence of the concept of human security (Kerr, 2019). It is noteworthy that, since the beginning, proponents of human security have not been concerned with pure theoretical debates regarding security. Their goal was rather policy change-oriented as they urged to take individuals' security into account (Peoples and Vaughan-Williams, 2010). Indeed, the concept of human security is not rooted in the academic sphere but in the policy domain. The concept was first articulated in the 1994 *Human Development Report* released by the United Nations Development Program (UNDP), generally considered as a turning point in its emergence. Voicing the general critiques addressed to the traditional concept of security, the report claimed:

The concept of security has for too long been interpreted narrowly: as security of territory from external aggression, or as protection of national interests in foreign policy or as global security from the threat of nuclear holocaust. It has been related to nation-states more than people... Forgotten were the legitimate concerns of ordinary people who sought security in their daily lives. For many of them, security symbolized protection from the threat of disease, hunger, unemployment, crime, social conflict, political repression and environmental hazards (p.22).

Thus, in contrast to the traditional emphasis on state security, the UNDP redefined the referent object of security by advocating for a shift “from an exclusive stress on territorial security to a much greater stress on people's security” (p.22). The state is not an end in itself, but the means to achieve human security (Kerr, 2019).

As the concept of security has been broadened and deepened after the Cold War, it supposes that other ways exist to understand the threat of international human trafficking (Lobasz, 2009). In this respect, human trafficking has increasingly been identified as a human security issue not only by academics but also by various policy makers. For instance, the 2005 *Human Security Report* published by the Human Security Centre declared that human trafficking is “so widespread and so damaging to its victims that it has become a cause of human insecurity” (p.86). Moreover, human trafficking is also a consequence of human insecurity. Indeed, some populations are particularly exposed to trafficking due to their specific vulnerabilities (Clark, 2003). By highlighting them, the human security framework helps to identify threats to the security of individuals at risk of trafficking and, consequently, to determine policies to tackle these insecurities. While the traditional perspective, by focusing on border security and criminal justice response, is unable to deal with the complexity of the phenomenon, this holistic approach addresses the root-causes of trafficking.

### **3. Feminist rights-based approach to human trafficking**

The feminist rights-based approach to human trafficking coincides with the human security framework. Indeed, feminists' concern is directed over the security of people rather than states. They consider trafficked persons as victims rather than as illegal migrants threatening state security (Lobasz, 2009). According to Tickner, "Feminists' commitment to the emancipatory goal of ending women's subordination is consistent with a broad definition of security that takes the individual, situated in broader social structures, as its starting point" (2006, p.48). The feminist approach is nonetheless different from the human security framework since gender as a category of analysis is taken into account (Lobasz, 2009). Women are thus the referent object and gender-related human rights abuses are emphasised. That is why this approach is used in the following chapters to assess the today's dominant counter-trafficking measures since 'bride' trafficking is a gender-based harm.

Feminists criticise the traditional security approach to trafficking on both the ethical and efficacy grounds (Lobasz, 2009). First, the ethical critique relies on three assertions: human trafficking embodies an infringement of victim's human rights; preventing human rights abuses is a state obligation under international law; and states' counter-trafficking measures deny victims' human rights and may further worsen the violation of these rights by the way trafficked persons are treated. Second, the pragmatic critique highlights the inefficacy of the traditional security approach, unable to eradicate trafficking. The feminist rights-based approach does not however imply a dilution of the criminal justice response (Mcsherry and Cullen, 2017). It rather promotes

the necessity to consider women's human rights in prevention, protection and prosecution measures in order to make them successful (Lansink, 2006).

The human security framework combined with a feminist rights-based perspective is paramount to understand and combat the phenomenon. According to Iñiguez de Heredia, governments should see human trafficking “as a human rights issue affecting human security rather than a crime issue affecting state security” (2007, p.313). Yet, the dominant human trafficking responses are embedded in a state-centric approach. Before evidencing this statement, the following chapter traces out the international responses to human trafficking in order to shed light on the emergence of the criminal paradigm and on the context that led to the triumph of the traditional security approach.

## **Chapter 3 – Historical background of the international responses to human trafficking**

This chapter focuses on how the responses to trafficking were framed by the international community from 1904 until the *Trafficking Protocol*. It is argued that the contemporary human trafficking framework is the result of the first period's legacy of prostitution's criminalisation followed by the domination of the traditional security narrative since the 1990s.

### **1. First wave (1904-1949): emergence of the criminal paradigm**

From 1904 to 1949, five international agreements were made regarding human trafficking. This section highlights the progressive emergence of the criminal paradigm as part of the gendered and moral agenda aimed at abolishing prostitution (Segrave, 2009a).

The *International Agreement for the Suppression of the White Slave Traffic (1904 Agreement)* adopted in 1904 was the first international instrument addressing trafficking (Kneebone and Debeljak, 2012). Although it did not contain a criminalisation provision, the *1904 Agreement* intended to control the international movement of women and to provide for the repatriation of women and girls who consented to go back to their country. The 1910 *International Convention for the Suppression of the White Slave Traffic (1910 Convention)* was the first to include a provision requiring states to criminalise trafficking under domestic legislation (articles 1-3). Regarding the League of Nations created in 1919, its mission was to “put trafficking into a criminal law paradigm” (Kneebone and Debeljak, 2012, p.33). As part of this mandate, the *1904 Agreement* and the *1910 Convention* were supplemented by the 1921 *International Convention for*

*the Suppression of the Traffic in Women and Children*. The latter enlarged the scope of criminalisation of trafficking. Indeed, states parties were required to punish the activity as in the *1910 Convention*, as well as to prohibit any act in preparation of the trafficking act (articles 2-5). Moreover, article 6 introduced targeted immigration controls. These three Conventions were further completed by the adoption of the 1933 *International Convention for the Suppression of the Traffic in Women of Full Age*. The former provisions criminalising trafficking were drawn together. State parties were called to punish procurement or enticement of women into prostitution in another country, regardless of whether or not it was consented by the women, as well as to repress any preparatory acts or attempt to do so (article 1). The 1949 *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others* consolidated the four international instruments on trafficking. In contrast with the previous ones, it made clear since the preamble that the purpose was the abolition of prostitution. For doing so, states were prevented from acknowledging the right of persons to work as prostitutes as well as regulating prostitution. With the abolition of prostitution the criminal paradigm was reinforced, thus setting the standard for the future international responses to trafficking (Coontz and Griebel, 2004; Doezema, 2002).

In sum, the conflation of trafficking with prostitution as part of a moral agenda led to develop criminal justice responses. The shared characteristics of the instruments of the first wave are the provisions attempting to control women and girls prostitutes abroad and requiring the criminalisation of trafficking under domestic legislation. The development of this law and order logic progressively excluded the rights, interests and needs of the trafficked persons from the narratives (Bruch, 2004). These flaws of earlier responses have been replicated in the

contemporary approach to human trafficking and further strengthened by the victory of the traditional security framework in the 1990s.

## **2. Second wave (1980s-2000): triumph of the traditional security approach to trafficking**

In the 1980s, human trafficking reappeared on the international agenda in the context of globalisation (Lansink, 2006). This section shows that the conflation of trafficking with illegal migration combined with its figuration as a criminal issue led to the adoption of a traditional security approach to trafficking.

### **a. Human trafficking as a migration issue**

One consequence of globalisation was the rise in international migration, due to new technology of information and transport (Kneebone and Debeljak, 2012). More specifically, the movement of people intensified after the 1973 Oil Crisis and with “the beginning of the process of restructuring, deindustrialization, privatization and deregulation resulting from globalization” (Castles, 2003, p.20). Beyond the fact that the number of international migrants grew from 82 million in 1970 to 150 million in 2000, they started more and more to move from developing to developed countries (Castles, 2007). Yet, the international community struggled to agree on how to cope with migration due to conflicting agendas. Neither was there an international body dedicated to address the migration problem nor a global agreement on the way to frame the issue (Kneebone and Debeljak, 2012). International organisations advocated for a human security approach while states still embraced the traditional perspective on security. In this respect, Castles characterises international migration as “an area marked by interest conflicts and differing national



policy approaches which hinder international cooperation” (1999, p.6). It is noteworthy that wide cooperation is easier in the field of regulation and exclusion and more difficult when trying to maximise the benefits of international migration. This reality accounts for the discrepancies between efforts made to protect the migrants’ rights and the support received by the security narrative (Taran, 2001). Although this issue was characterised as both human and traditional security matters, the latter eventually prevailed. The following quote resumes the construction’s process of migrants as ‘unwanted aliens’ requiring border security measures:

The border controls now shaping the immigration discourse in the developed world...reflect an institutional response, legitimised by specific concepts of national interest, during times of economic and political uncertainty. They illustrate the capacity of the state to define legitimacy—increasingly with reference to legality—in a single sweep, as migrants are transformed from welcome sources of economic and cultural advance into unwanted aliens (Grewcock, 2003, p.115).

Significantly, the traditional security approach associated trafficking with international migration. First, it is noticeable that flows of people were accompanied by an increase in human trafficking (Kneebone and Debeljak, 2012). Indeed, “Globalization...has facilitated the rise of human trafficking by marginalizing many rural communities, impoverishing women and children in many regions, and accelerating rural to urban migration” (Shelley, 2010, p.40). Second, trafficking was shaped as a security threat in so far as trafficked persons are generally undocumented migrants (Agathangelou, 2004). Fashioning human trafficking as a migration issue reflects the difficulty of differentiating it from immigrant smuggling (Lobasz, 2009). Although the adoption of the *Protocol against the Smuggling of Migrants by Land, Sea and Air* illustrates the global effort to distinct the two activities, some sustain that both embody a threat to national security and are “better thought of as two ends of a continuum” (Lobasz, 2009, p.328). The human trafficking and international

migration issues were therefore both met with a security response in the 1990s, with an emphasis on border control and repatriation measures (see chapter 4).

#### **b. Human trafficking as a criminal issue**

One of the other dark sides of globalisation and alongside the increase in international migration was the rise in transnational organised crime (Lobasz, 2009). The developed world started to see it as a threat to democracy, to the economy and to the rule of law; and more generally to state stability and security (Berman, 2003). Apart from human trafficking's relationship to international migration, trafficking has been shaped as a criminal issue insofar as it was seen as complementing the activities of more traditional criminal networks (Lobasz, 2009). This connection with transnational organised crime led states to opt for criminal justice measures to combat trafficking by targeting illicit cross-border activity (Berman, 2003). For instance, the European Commission stressed in front of the European Parliament that, "human trafficking is a serious crime against persons, which must be addressed as a form of organized crime linked to other serious offenses and as a clear law enforcement priority" (cited in Lobasz, 2009, p.327). As such, the *Trafficking Protocol* has the UNODC as custodian, whose goal is to achieve security and justice, and was adopted as part of the *Convention on Transnational Organized Crime* (Kneebone and Debeljak, 2012). Moreover, the *Protocol* was framed at the UN Commission on Crime Prevention and Criminal Justice, which is a law enforcement body. Its location in Vienna geographically separates the drafters from the human rights bodies based in Geneva and New York (Jordan, 2002). The *Protocol* has therefore been conceived as a law enforcement instrument as part of the broader fight against organised crime (Bruch, 2004).

In sum, the legacy of the criminal paradigm of the first wave coming out of the international war on prostitution, reinforced by the triumph of the traditional security narrative in the 1990s, accounts for the contemporary framework. Human trafficking has been shaped as a migration and criminal issues and not as a human rights issue. In this regard, the next chapter carries out a critical assessment of the international human trafficking framework.

## **Chapter 4 – Critical assessment of the international human trafficking framework**

“Trafficking has emerged as a global theme contextualizing migration in a framework of combating organized crime and criminality, subordinating human rights to control and anti-crime measures” (Taran, 2001, p.8). The previous chapter demonstrated the first part of this statement. This chapter now evidences the second assertion by analysing the international human trafficking framework, i.e. the *Trafficking Protocol* and the US legislation which has been institutionalised as the international standard through the sanction’s regime. More specifically, a critical assessment is conducted in order to highlight the gaps regarding the victims’ human rights protection. A feminist rights-based approach is adopted to challenge the traditional security framework on both the ethical and pragmatic grounds.

### **1. The *Trafficking Protocol***

The *Trafficking Protocol* came as a turning point in the history of international responses to human trafficking. It is the first instrument ever to contain a comprehensive definition of trafficking in persons as well as to address preventative and post-trafficking measures (Iñiguez de Heredia, 2007). Even though the *Trafficking Protocol* was not designed to be a human rights instrument, the Human Rights Caucus, representing various NGOs, participated into the negotiations and the drafting of the *Trafficking Protocol*. However, they partly failed to achieve their primary goal, i.e. ensuring that the *Protocol* “recognizes the rights and meets the needs of trafficked persons” (Jordan, 2002, p.3). While the *Trafficking Protocol* was a unique opportunity

to incorporate a human rights dimension, the final version evidences the prevalence of the traditional security approach to trafficking over the human security one. The framework is explicitly state-centred and considers the rights and needs of the victims as secondary (Coontz and Griebel, 2004). The purpose of this section is to show that the *Trafficking Protocol* is flawed from a feminist rights-based perspective.

Article 2, setting out the purposes of the *Protocol*, requires states to “protect and assist victims of trafficking, with respect for their human rights”. Yet, the language of the provisions aiming at protecting trafficked persons’ human rights is weak compared to the ones concerning state security and criminalisation. Indeed, the provision on criminalisation (article 5) is mandatory (“shall adopt”) when the wording of the victims’ protection and assistance provisions addressed in section II is extremely weak (Trafficking Protocol, 2000).

While the lack of legal proceeding confidentiality puts the witness at risk of retaliation and of re-trafficking (Jordan, 2002), article 6(1) states that only “*in appropriate cases and to the extent possible under its domestic law*”, each State Party shall protect the privacy and identity of victims of trafficking in persons...” (Trafficking Protocol, 2000). Likewise, the legal assistance during the proceeding process shall be provided to victims only “in appropriate cases” (article 6(2)). This formulation implies that only some trafficked persons have a right to be assisted and to understand the legal proceedings. The *Trafficking Protocol* is thus equivocal on the right to due process of law and trafficked persons take a backseat to the criminal justice process (Coontz and Griebel, 2004). Regarding remedy, while “physical, psychological and social” (article 6(3)) measures are

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<sup>2</sup> Emphasis added, so as the ones which follow

paramount for victims, the language is not committing (“shall consider”; “in appropriate cases”) (Trafficking Protocol, 2000). Additionally, victims are not provided with the right to seek compensation and restitution for the damage endured. States only have to “offer (them) the possibility” (article 6(6)). The danger is that victims or organisations providing them assistance do not benefit entirely from the assets (Jordan, 2002). Moreover, the provision does not specify the restitution process of proceeds from the trafficker to victims (Coontz and Griebel, 2004).

Importantly, article 7 addresses the immigration status of trafficked persons. However, governments are not forced to grant them temporary or permanent residence (“shall consider”; “in appropriate cases”) (Trafficking Protocol, 2000). This noncommittal wording is not only an infringement of victims’ rights but also counterproductive to combat trafficking. Indeed, trafficked persons facing deportation will not cooperate with law enforcement and are more subjected to re-trafficking (Jordan, 2002; Lobasz, 2009).

Regarding repatriation, article 8(2) states that the return “shall preferably be voluntary” (Trafficking Protocol, 2000). Consequently, such return can also be imposed against the will of the trafficked person (Jordan, 2002). The agency of victims is denied; they are considered as objects of border control (Kneebone and Debeljak, 2012).

With respect to preventive measures, Part III attempts to address the root-causes driving trafficking “such as poverty, underdevelopment and lack of equal opportunity” (Trafficking Protocol, 2000, article 9(4)). This list, though not exhaustive, only focuses on economic factors and does not name other kind of gender-based issues like violence against women or gender inequality. In this respect, Iñiguez de Heredia (2007) underlines that ‘gender’ is solely mentioned

twice in the *Trafficking Protocol* (articles 6(4) and 10(2)) without any reference to gender inequality. Additionally, article 9(5) stresses the need to tackle the demand-side of the trafficking issue but without concisely defining what ‘demand’ means (Pearson, 2005). The lack of emphasis on the demand-side fails to hold destination countries accountable in sustaining trafficking and conjointly only pressure countries of origin. The *Protocol* thus sets up a standard that focuses mainly on the supply-side, limiting its effectiveness of ending trafficking.

To conclude, only the provisions concerning criminalisation are mandatory. The evasive wording of the protection and assistance ones does not compromise states’ responsibilities. This difference of language as well as the failure of addressing the areas of insecurities driving trafficking in a comprehensive way thus evidence the prevalence of the traditional security framework over the human security one. Beyond the fact that victims’ human rights are denied, this state-centric approach emphasising criminalisation and border security is likely to worsen trafficking in many ways rather than solving it.

## **2. The US as the ‘global sheriff on trafficking’**

Alongside to the *Trafficking Protocol*, the US created the international enforcement mechanism that was lacking in the UN system (Segrave, 2009a). The US declared itself as the “global sheriff on trafficking” through the establishment of a legislative and administration regime that aims at monitoring and assessing national and international efforts to combat trafficking (Chuang, 2006, p.437). First, the *Trafficking Victims Protection Act of 2000* (TVPA) introduced the “minimum standards for the elimination of trafficking” (p.449) which are applied at the domestic and international levels. Second, the Office to Monitor and Combat Trafficking in

Persons was created within the US Department of State in order to carry out an annual assessment of governments' measures undertaken to combat trafficking published in the TIP Report (Segrave, 2009a). This assessment gives rise to unilateral sanctions over countries judged as being on Tier 3, i.e. countries which do not comply with the US anti-trafficking legislation. Subsequently, the US sanctions regime has effectually created norms and has largely influenced the anti-trafficking legislations of other countries (Carrington and Heam, 2003; Coomaraswamy, 2003). Yet, while the US pretends to have "a victim-centered approach to address trafficking, combining anti-crime and human rights objectives" (US Department of State, 2006, p.22), the assessment is preoccupied with the development of cross-border criminal justice measures and takes law enforcement outcomes as signs of achievement (Segrave, 2009b). Indeed, the US criteria summarised in the 2000 TVPA paragraph 108(a) are focusing on 'punishment':

- (1) The government should *prohibit*<sup>3</sup> and *punish* acts of severe forms of trafficking in persons.
- (2) For sex trafficking involving force, fraud, coercion, or in which the victim is a child, or of trafficking which involves rape, kidnapping or death, the government should prescribe *punishment* commensurate with that for grave crimes.
- (3) For the knowing commission of any act of a severe form of trafficking, the government should prescribe *punishment* that is stringent enough to deter and that reflects the heinous nature of the offense.
- (4) The government should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

Hence, The US model institutes the criminal law response as the standard to be opted worldwide just as the *Trafficking Protocol*.

The analysis of the T-visa sheds light on the US anti-trafficking policy's limits from a human rights perspective. This measure, meant to provide trafficked persons with the right of

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<sup>3</sup> Emphasis added, so as the ones which follow



permanent residency in the US and to a work permit, was introduced as part of the TVPA (Tiefenbrun, 2006). Nonetheless, its issue is conditional upon the cooperation of the victim with law enforcement, i.e. with the investigation and prosecution of traffickers (Desyllas, 2007). The overlapping of protection and prosecution measures have unwanted consequences on women who bear the burden of proof. Women are generally reluctant to cooperate with proceedings as it exposes them to post-traumatic stress disorder and reprisals from the traffickers (Pulvirenti and Abrusci, 2019). Chapkis (2003) sustains in this regard that the T-visa is not actually intended to meet the needs of victims but rather to support prosecutors. Though 5,000 T-visas were available in 2003, only 150 were delivered (Tiefenbrun, 2006). The outstanding discrepancy undoubtedly illustrates the several obstacles faced by trafficked persons to acquire a visa as well as the mistrust of the victims towards the effectiveness of protection programs notably during the process of law.

In short, the US human trafficking framework has been instituted as a worldwide template through the sanctions system. Although pressuring other countries to combat trafficking is positive, the framework advocated is primarily relying on criminal justice and is not victim-centred since the victims' needs are submitted to the interests of the state. The traditional security approach to trafficking is prevailing just as for the *Trafficking Protocol*.

### **3. Conclusion**

This chapter has showed that the two most influential international human trafficking frameworks have been shaped within the traditional approach to security. In both the *Protocol* and the minimum standards set up by the US, criminal justice and border security measures prevail over trafficked persons' human rights. The *Trafficking Protocol* and the US sanctions regime have

been challenged by the feminist rights-based approach on both the ethical and pragmatic grounds, as the frameworks neither respect victims' human rights nor seems effective in stopping human trafficking. The consequences on the ground are highlighted in the next chapter with the case of 'bride' trafficking at the Sino-Burmese border.

## **Chapter 5 – Critical assessment of the Burmese and Chinese anti-trafficking legislations and measures taken to combat ‘bride’ trafficking**

As a consequence of the international legitimisation of the traditional security approach to human trafficking, this chapter demonstrates that both China and Myanmar rely on criminalisation and border security measures to please the international community. Based on the feminist rights-based approach, it is argued that the lack of women’s human rights consideration is counterproductive to end the issue of ‘bride’ trafficking. Interviews recently collected by HRW (2019) shed light on the adverse consequences of the international framework on the ground.

### **1. Chinese anti-trafficking legislation and measures**

China considers human trafficking as a criminal law matter (Kneebone and Debeljak, 2012). Indeed, there is no specific law dedicated to the issue and provisions related to trafficking were introduced instead in the *Criminal Law of the People’s Republic of China* in 1997. Article 240 criminalises the abducting and trafficking in women or children and article 241 provides a sentence for any purchaser of an abducted women or child. Enacting anti-trafficking laws in the penal code restrains the response to criminal justice and is therefore deficient regarding the prevention and victims’ protection (Mattar, 2003). Since the trafficking provisions have been included in the criminal code before the adoption of the *Trafficking Protocol*, the Chinese framework could not have been modeled on the international one. Nonetheless, this section

demonstrates that current Chinese anti-trafficking measures relies on a law and order logic just as the international human trafficking framework.

In 2010, the Ministry of Public Security and Ministry of Justice issued a notice designed to help lower courts in enforcing criminal trafficking provisions, known as *Opinions on Severely Punishing Trafficking in Women and Children according to Law* (Kneebone and Debeljak, 2012). The shaping of trafficking as a public security and criminal law issue is reasserted. While the purpose “maintaining the people’s immediate rights and interests and ensuring social harmony and stability” (chapter 1, paragraph 1) reveals a tension between the traditional security and human rights framework, the rest of the text undoubtedly testifies the predominance of the former one. Indeed, no provision addresses the victims’ rights and protection during the process of law. It reveals that the *Trafficking Protocol* has not committed states enough in implementing the protection and assistance provisions. Here one can realise the negative consequences of the weak language of these sections.

Accordingly, Chinese efforts to combat ‘bride’ trafficking in practice are restricted to criminalisation and border security, mirroring the international law and order logic. First of all, Segrave argues that this framework denies the role of destination countries in maintaining conditions that led to trafficking since repatriation is the “natural and logical restoration of achievement of ‘order’” (2009b, p.258). Indeed, prevention measures are nonexistent in China, except through mere routine border control activities (Human Rights Watch, 2019). The government refuses to see ‘bride’ trafficking as a problem. An interviewee claimed “We did a study of women trafficked from Myanmar... The problem is Myanmar women don’t know Chinese

culture. Once they learn Chinese language and culture, their marriages are fine...They meet and fall in love and marry” (p.77). In addition, the traditional security approach to human trafficking fails to commit the receiving state in assisting victims (Segrave, 2009b). Instead of being seen as victims who need assistance, trafficked persons are treated as criminals infringing immigration laws. A trafficked woman told HRW: “The Chinese policeman asked me why I was there with no passport or ID card” (2019, p.80). The policeman said: “This means you are taking advantage of living in our land...People like you should be killed”. Arrest of trafficked women seems to be what happens the most often as the report stresses:

Six of the women and girls interviewed escaped on their own initiative and fled to the Chinese police. Three of these were detained for weeks, as was a woman arrested at the home of the family that bought her. Several were held for 45 days or more. One was held for 62 days, in three different police stations (p.79).

On the contrary, the report found that traffickers as well as families who bought a ‘bride’ are not prosecuted, despite articles 240-241 of the criminal code. Considering trafficked women as victims would provide them with human rights such as the right to seek compensation and residence, the right to social and health assistance (Mattar, 2002). Though these measures would avoid re-trafficking, victims are eventually deported by Chinese authorities (Human Rights Watch, 2019). It is also noteworthy that none of the trafficked women interviewed by HRW met female police officers, therefore making it more difficult for them to look for police assistance and to speak about sexual violence they suffered.

In summary, the Chinese efforts to combat trafficking reflect the law and order logic. Rather than preventing trafficking and assisting victims, trafficked women are conflated with undocumented migrants and treated as criminals. The restoration of order is thus eventually met

through repatriation (Segrave, 2009b). Far from being victim-focused, these measures make women more vulnerable of being re-trafficked; they fail to punish the traffickers and buyers; and do not tackle root-causes of trafficking. China “continues to strive to fit the international mould” (Hackney, 2015, p.104) rather than properly dealing with the issue of ‘bride’ trafficking.

## **2. Burmese government’s anti-trafficking legislation and measures**

Myanmar adopted the *Anti-Trafficking in Persons Law* in 2005 “to prevent and suppress the trafficking in persons” (article 4(a)). The aims encompass prevention, prosecution, cooperation, repatriation and reintegration of trafficked persons. Importantly, considerable efforts were made to include provisions emphasising victim’s protection and human rights as the fifth chapter is dedicated to “Safeguarding the Rights of Trafficked Victims”. The law also introduces the formation of a Central Body for the Suppression of Trafficking in Persons made up of three working groups (prevention, prosecution, repatriation and rehabilitation) (article 7). This section shows that, while the Burmese human trafficking framework appears to have been drafted more according to a human rights approach than the international one, the discourse remains state-oriented and measures on the ground reflect the dominant law and order logic.

Although a complete picture of trafficking seems to be addressed by the 2005 law, several limits are noticeable, replicating the flaws of the international framework. First of all, the primary reason why the government seeks to suppress trafficking is to fulfill its “national duty as it damages the pride and pedigree of Myanmar nationality that should be valued and safeguarded by Myanmar race” (article 4(a)). This narrative mirrors the traditional security discourse as the state’s prestige predominates over the victims’ needs (Kneebone and Debeljak, 2012). Secondly, while the fifth

chapter is meant to protect trafficked victims' rights, witnesses are not endowed with a protection mechanism outside the courtroom, making them reluctant to cooperate with officials by fear of retaliation (Pulvirenti and Abrusci, 2019). Thirdly, the functions and duties assigned to the Working Group on Prevention of Trafficking in Persons and Protection of Trafficked Victims (chapter IV) remains very evasive. Prevention is resumed to the education about the "danger of trafficking and evil consequences" (article 8(b)). While a complete chapter is devoted to victims' protection (chapter VI) as well as to repatriation, reintegration and rehabilitation (chapter VII), none exists for prevention. Thus, at no time there is a provision mentioning the necessity to address the factors driving trafficking, depriving the law from a holistic approach. In this respect, the Burmese framework repeats the same *Trafficking Protocol's* flaw. As a consequence, HRW (2019) points out that there is no ongoing effort to prevent 'bride' trafficking to China and to raise awareness in the most vulnerable communities. Only mere initiatives have been undertaken to detect trafficking activities at the border: anti-trafficking measures are limited to the border and do not look at the whole process.

The law already lacks comprehensiveness especially regarding prevention. Its implementation reveals even more the domination of the traditional security approach, dashing the potential of the promising human rights provisions contained in the 2005 law. Firstly, anti-trafficking responses focus on border security, notably with the creation of a Border Liaison Office with China. These measures have induced undesirable consequences on women (Hackney, 2015). Indeed, the new immigration barriers established to prevent women from being trafficked run against women's freedom of movement. Jailing women that are trying to leave the country will not end trafficking. Structural factors need to be tackled instead; yet, the government's anti-

trafficking efforts do not consider this a priority (see above). Regarding assistance, the role of the Burmese Department of Social Welfare is critical in the reintegration of victims (Klein, 2012). A rehabilitation programme and help for the prosecution of perpetrators is provided. However, the programme only lasts two weeks and no assistance is offered during the repatriation process. The HRW report (2019) also points out that the allocation of resources is insufficient, thus showing that the assistance measures are not a priority for the government. In the case of 'bride' trafficking, none of the survivors interviewed had obtained assistance from the Ministry of Social Welfare. Additionally, even the law enforcement is flawed. The creation of anti-trafficking units by the Central Body in Kachin state has received large international support, but most of the anti-trafficking officers are men, making access to help more laborious for women (Human Rights Watch, 2019). The HRW report also underlines the lack of concern from the officers. They often do not take into consideration requests from the victims and families. For instance, the mother of a trafficked woman said: "We went about five times to the police...They said to wait and see" (p.73). Another reason why victims and families are reluctant to seek justice is the risk of being treated as criminals. Indeed, in the case of 'bride' trafficking, the trafficker often gives money to the family, as a strategy to make them think that their daughter is employed as well as to drive them complicit. An interviewed claimed that "According to the 2005 [Myanmar anti-trafficking] law, if a person or family received dowry they are a perpetrator too and are implicated" (p.75).

In short, just as China, the Burmese government seeks more to satisfy the international community than to deal with the issue (Hackney, 2015). In practice, assistance and protection provisions are not well implemented. Emphasis is put on border security control, undermining women's rights. All of this is evidence for the lack of consideration of victims' needs and rights



and thus the impact of the international traditional security approach to human trafficking when put into practice.

### **3. Kachin Independence Organization's (KIO) anti-trafficking efforts**

As the KIO is an informal government, it is not submitted to the *Trafficking Protocol*. Nevertheless, the influence of Chinese and Burmese laws as well as of local customary laws when coping with human trafficking, negatively impacts women's human rights.

Before 2013, Kachin State did not have any formal judiciary system (Kamler, 2015). Cultural legal responses based on discriminatory norms and values towards women were used to settle disputes. That is why nowadays local customary laws still influence judges who deal with human trafficking cases (Human Rights Watch, 2019). As Kamler puts it, "customary legal responses to trafficking...reinforce gendered norms and hierarchies" (2015, p.224). While the KIO is now endowed with a system of police and courts, it does not have a penal code yet. Until the latter is developed, the courts use a combination of Burmese and Chinese laws (Human Rights Watch, 2019). Thus, the influence of the *Trafficking Protocol* is likely to reach Kachin state as they rely on anti-trafficking laws drafted in compliance with international standards. On top of that, the structure of the KIO administration and of courts is gendered: women are traditionally restrained from holding key positions, such as being judges or community representatives (Kamler, 2015). For these reasons, a denial of the 'bride' trafficking problem and a lack of gender sensitivity within the KIO is noticeable. First of all, it is noteworthy that the Kachin Women Association (KWA) is most of the time in charge with human trafficking issues (Human Rights Watch, 2019). Yet, members are almost all volunteers, and budget is dramatically lacking. Transferring

responsibility to the KWA reveals that the KIO is not ready to effectively address the phenomenon. Moreover, when the KIO courts tackle a human trafficking case, women's human rights are not taken into account. By way of illustration, a trafficked 'bride' interviewed by HRW (2019) said that she faced the judge refusal when she sought for compensation. He told her: "You are now safe. This is your fate. Forgive her and move on" (p.84).

In sum, the KIO's legal practices to combat trafficking rely on norms discriminating women as well as on Chinese and Burmese laws, themselves based on an international framework flawed from a feminist rights-based approach. Hierarchies and interests of men are therefore further strengthened, preventing any social and cultural change that could allow for ending trafficking of women and girls at the Chinese border.

#### **4. Conclusion**

This chapter has demonstrated that the Chinese, Burmese and indirectly the KIO anti-trafficking efforts resonate with the international framework, indeed, the law and order logic has been captured in their legislations. Their implementation on the ground sheds light on the undesirable consequences on women's human rights. In this respect, Demleitner writes: "Not surprisingly enforcement of anti-trafficking laws is often absent or low. When the laws are enacted, their impact often falls on women rather than the traffickers" (2001, p.362). From the Chinese side, trafficked women face the same treatment as illegal immigrants, i.e. jailed and eventually deported. The border security regime diminishes China's responsibility in providing protection to trafficked persons as well as in maintaining conditions that are fuelling 'bride' trafficking. From the Burmese side, an outstanding lack of consideration of the issue is accompanied with a failure

of providing systematic protection and assistance to survivors. Yet, as showed above, not respecting women's human rights is counterproductive. What is more, immigration policies and criminal justice responses are unable to deal with the complex and multi-faceted factors driving 'bride' trafficking. They only tackle the act of trafficking rather than the whole process, i.e. the embedded root-causes. To effectively put an end to the phenomenon, it is necessary to move from a narrow traditional framework to a more holistic approach to trafficking. As such, the next chapter takes a closer look at the structural factors within Chinese and Burmese societies that sustain 'bride' trafficking.

## **Chapter 6 – Analysis of ‘bride’ trafficking’s root-causes at the Sino-Burmese border**

As showed in the last chapter, beyond having adverse consequences on women’s human rights, the current Chinese and Burmese anti-trafficking efforts are inefficient to put an end to ‘bride’ trafficking. Indeed, a member of the KWA claimed: “the number has been increasing...It has been increasing every year” (Human Rights Watch, 2019, p.20). The inherent complexity of the phenomenon requires more than a short-term answer, i.e. more than criminal justice and deportation measures. It necessitates an in-depth analysis of the economic, political and cultural contexts, in order to identify and effectively address the push and pull factors driving trafficking (Jordan, 2002). In contrast to the traditional approach to trafficking, the feminist rights-based approach emphasises the need to study the areas of women’s vulnerabilities. The aim of this chapter is first to show that trafficking is not only the cause of women’s human rights violations, but also the consequence; and second to identify areas of women’s insecurities in order to formulate adequate and comprehensive policy responses.

### **1. Push factors – Myanmar**

#### **a. Economic desperation in IDP camps**

First of all, it is noteworthy that women are generally the most affected by economic desperation and in this regard, Clark speaks about the “feminization of poverty and survival” (2003, p.254). In times of war, women’s economic vulnerability is even more strengthened as men are enrolled in the conflict, leaving them alone generally in insecure IDP camps and in charge of

reproduction as well as production tasks at the same time. In Myanmar, the conflict in Kachin state erupted again in 2011 in the wake of an offensive from the Tatmadaw (official name of Myanmar's armed forces), breaking a 17-year ceasefire with the Kachin Independence Army (Human Rights Watch, 2019). The escalation of the conflict since 2016 has induced an increase of displaced people, left-out without appropriate humanitarian assistance. According to the UN Office for the Coordination of Humanitarian Affairs, there were 98,000 IDP in Kachin state in September 2018 and 75% of them were women and children. Because of difficult conditions (e.g. deprivation of basic infrastructures and resources), many women feel the need to migrate in order to find a productive job (Kamler, 2015). In Kachin state, employment is lacking even outside the camps as a result of decades of conflicts and of the deterioration of economies under the military junta. That is why many women trafficked as 'brides' decided to migrate to China after a person, often a relative, promised them lucrative jobs (Human Rights Watch, 2019). For instance, one said: "I imagined I could get a good job working in some kind of shop" (p.29). Thus, economic desperation combined with the burden of being the only breadwinners of the family in times of war make women insecure in IDP camps and, in turn, increase the risk of trafficking.

#### **b. Harmful traditional practices**

Social and cultural contexts often make women more vulnerable to trafficking as it "affects the way women are treated and view themselves" (Clark, 2003, p.254). In Myanmar, discriminatory gender norms based on traditions and religion thrive, facilitating trafficking of women and girls. First of all, Theravada Buddhism - the religion of the vast majority of the population - institutionalises an environment of female oppression (Klein, 2012). Indeed, the

established hierarchy of rebirth considers women less than men. According to this religion, “manifestations of poverty, disease, *female gender*<sup>4</sup>, or slavery are evidence of past negative deeds” (Kara, 2009, p.174). Moreover, Myanmar’s law fails to protect women and girls from damaging cultural practices. The report *Gender Equality and Women’s Rights in Myanmar* points out numerous harmful traditional practices rooted in customs or religious rituals which are negatively impacting women’s rights (Asian Development Bank et al., 2016). For instance, most cultures consider rape as disgraceful, yet, the humiliation and dishonour is supported by the survivor and her family and not by the perpetrator of rape and his community. Several states including Kachin State institutionalised the marriage between the rapist and the victim along with a compensation to the family of the latter in order to offset the shame. In the same manner, marital rape is not criminalised; child marriage and forced marriage are authorised by the law. The non-criminalisation of violence against women lead to the normalisation of ill-treatment against trafficked women and girls, notably by law enforcement officials. Importantly, payment of a dowry to the bride’s family is legal in Myanmar and notably practiced in Kachin state (Gender Equality Network, 2015; Human Rights Watch, 2019). Traffickers exploit this custom as they make the alleged ‘dowry’ given to the family legal and binding. In this respect, an activist interviewed by HRW stresses that “the parents don’t know that traffickers are using our customs and traditions” (2019, p.31). The authorisation of child marriage and dowry worsens the vulnerability of women and girls to be trafficked, as families believe that an obligation to marry follows the payment of a dowry.

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<sup>4</sup> Emphasis added

### **c. Stigmatisation upon return**

Stigmatisation of women and girls upon return precludes their reintegration into the society and contributes to their vulnerability of being re-trafficked in the future (Kamler, 2015). The shame and dishonour felt by families of rape survivors discussed above is also experienced by families of trafficking victims. Indeed, survivors of 'bride' trafficking bear a stigma due to the fact that they have been in the throes of repeated rape and sexual slavery. An interviewed victim told HRW (2019): "In our Kachin society, we look down on people who live together with another person and don't get married or have sex with another person without being married" (p.56). What is more, trafficked women and girls are sometimes held responsible for what happened to them. A survivor said in this regard that "people might think that people trafficked to China have behaved in ways that are not good and that's why they were trafficked" (p.57). That is why some victims try to conceal their experience. As a consequence, victims do not seek for assistance services and public awareness of the trafficking danger is cut down.

## **2. Pull factors - China**

### **a. One-child policy**

China introduced the one-child policy in 1979 with the aim of slowing down the population growth (Lee and Feng, 1999). This policy was not the object of a specific law but was incorporated in numerous Communist Party directives (Tiefenbrun, 2008). At this time, Deng Xiaoping claimed: "In order to reduce the population, use whatever means you must, but do it! With the support of the Party Central Committee, you will have nothing to fear" (p.258). It means that all

methods are allowed, from the persuasive to the most coercive ones. In order to make the policy effective on the ground, an ideological education was first received by Chinese people. Awareness was raised regarding the link between the reduction of the population growth and the economic development. Moreover, having one child was set up as a national duty and as the expression of the utmost love for the country. Those who did not respect the family planning were defamed as “irresponsible free-riders” (Lee and Feng, 1999, p.134). Beyond this social pressure, coercive means were used to force families to comply with the one-child policy. In this respect, a Chinese official who did not trust persuasive measures declared: “Only coercive measures can be effective in alleviating the problems caused by [the] population explosion...From the perspective of future generations...temporary coercion is actually a philanthropic and wise policy” (Barrett and Aird, 1991, p.83). As such, forced abortions and forced sterilisation were generally used to implement the one-child policy.

#### **b. Preference for boys**

First of all, it is worth noting that women’s subordination is strongly entrenched in Chinese culture (Tiefenbrun, 2008). For instance, the Confucian books *Five Classics* describe the woman as follows: “The female was inferior by nature, she was dark as the moon and changeable as water, jealous, narrow-minded and insinuating. She was indiscreet, unintelligent, and dominated by emotion. Her beauty was a snare for the unwary male, the ruination of states” (Guisso, 1981, p.59). Furthermore, in Chinese culture, married girls leave their home and look after their parents-in-law instead of their own parents (Tiefenbrun, 2008). Importantly, the patrilineal system implies that



only boys can carry on the family line. Here are some reasons explaining why boys are preferred in today's Chinese society and why there is a social pressure to produce an heir.

As only one child was allowed until the abolition of the policy in 2015, several gender discriminatory practices have been adopted to have a boy instead of a girl. First, sex-selective abortions are carried out through the use of ultrasound machines even though a 1998 law forbids doctors to unveil the sex of the fetus (Milwertz, 1997). Secondly, although it is also illegal under Chinese law, female infanticides are common in China and increased with the one-child policy (Barrett and Aird, 1991). The doctors use any kind of methods to kill the girl babies, even the most inhuman such as strangulation. Thirdly, abandonment of infant girls is widespread (Johnson et al., 1998). All in all, it is noticeable that family planning measures prevail over individual rights. Laws forbidding sex selection or infanticide are not implemented as officials are unable or unwilling to enforce them, notably due to the one-child policy.

### **c. Scarcity of women and the rise in 'bride prices'**

As a consequence of the one-child policy enforced from 1979 to 2015 combined with the preference for boys, the ratio of males to females is disproportionate in China (Klein, 2012). The ratio at birth is normally about 105 men to 100 women (South-East Asia Regional Office, 2019). However, between 1996 and 2000, more than 120 boys were born for every 100 girls according to the China's 2010 census - a group of people which is now between 19 and 23 years-old (Cai, 2013). In other words, 'missing women', i.e. women who should be living today but are not because of gender discriminatory practices related to preference for males, are estimated between 30 to 40 million today in China (Nie, 2011). Conjointly, millions of Chinese men struggle to find

a wife and turn to other forms of marriage systems, notably to ‘bride’ markets. In this regard, it is worth reminding that “the sale of women for marriage has a long history in China” (Stöckl et al., 2017, p.1). As a society dominated by a patrilineal system (see above), paying a ‘bride price’ to the woman’s parents is a cultural value and represents the formal establishment of engagement (Jiang and Sánchez-Barricarte, 2012). As such, although China’s 1980 *Marriage Law* outlaws forced marriages and dowry (see articles 236, 234, 238 of the *Criminal Law of the People’s Republic of China*), this longstanding social norm has led to consider women as commodities and undoubtedly facilitates the market of ‘bride’ trafficking to flourish. Indeed, some may not see the difference between paying a dowry and purchasing a wife (Stöckl et al., 2017). HRW (2019) points out that traffickers often deceive purchasers by feigning to be the mother of the trafficked woman or girl in a bid to receive a dowry from the Chinese family. The current scarcity of women strengthens the cultural practice of paying a dowry and, consequently, increases the ‘bride price’ (Jiang and Sánchez-Barricarte, 2012). As many men cannot afford it, they look for other opportunities to find a wife and to fulfill their social duty to produce an heir, namely through trafficking markets.

### **3. Conclusion**

All in all, the root-causes of ‘bride’ trafficking are multi-faceted, i.e. socio-economic, cultural and political. This phenomenon undoubtedly reflects deep gender discriminatory norms entrenched in Burmese and Chinese patriarchal structures that treat women as inherently inferior. States’ failure to protect women and girls’ rights maintains ‘bride’ trafficking. Importantly, in both countries ‘bride’ trafficking seems to appear as the contemporary form of traditional practices of

paying a dowry. These longstanding cultural and social norms combined with specific contexts namely the Kachin conflict and China's legacy of the one-child policy exacerbate women's vulnerability and account for the rise in 'bride' trafficking. It is noticeable that this case study highlights the role of the destination country in sustaining trafficking while the *Trafficking Protocol* pressures primarily the origin country. Now that a comprehensive analysis of the phenomenon of 'bride' trafficking has been carried out, the next chapter suggests recommendations in order to address women's areas of insecurities.

## **Chapter 7 – Recommendations: towards a comprehensive anti-trafficking response**

Based on the two previous chapters which have critically assessed the Chinese and Burmese anti-trafficking efforts and analysed the root-causes of the phenomenon of ‘bride’ trafficking, this chapter addresses recommendations for further action. The feminist rights-based approach implies a shift in the referent object and accordingly a change in the policy focus. Moreover, it specifically emphasises the necessity of placing women’s human rights and needs at the centre of any anti-trafficking measure. The *Recommended Principles and Guidelines on Human Rights and Human Trafficking (Principles and Guidelines)* developed by the Office of the High Commissioner for Human Rights in 2002 are used as a reference point when shaping the policy suggestions. Several observations regarding this chapter are worth noting. Firstly, the recommendations do not deny the criminal justice response but underline the necessity of integrating women’s human rights into prosecution, prevention and protection measures (Lansink, 2006). Secondly, the chapter focuses on recommendations directed at China and Myanmar since the main concern of this dissertation is the issue of ‘bride’ trafficking as the Sino-Burmese border. As the international community lost the opportunity of framing trafficking as a human rights issue, the responsibility now shifts to the national level (Jordan, 2002). Thirdly, the recommendations are not exhaustive and are not concerned by other problems such as the lack of cooperation between the two countries and the corruption of officials. Rather, they aim at urging Myanmar and China to incorporate a feminist rights-based approach in their anti-trafficking efforts and to eradicate factors driving ‘bride’ trafficking.

## **1. Anti-trafficking law enforcement and reform**

### **a. Recommendations to Myanmar**

First of all, trafficking cases have to be investigated and traffickers punished. In order to move away from the current lack of officials' concern over the 'bride' trafficking issue, anti-trafficking units must be composed with female police officers endowed with investigation tasks (Human Rights Watch, 2019). What is more, the 2005 anti-trafficking law must be revised. More particularly, a chapter regarding prevention has to be added to ensure that anti-trafficking efforts adequately tackle root-causes.

### **b. Recommendations to China**

Traffickers and purchasers of 'brides' have to be systematically punished by Chinese officials (Human Rights Watch, 2019). As long as a blind eye is turned on the phenomenon in the name of social stability, families and communities will continue to help single men to find a wife through trafficking markets, thus strengthening the normalisation of this practice. Moreover, China needs to develop a comprehensive anti-trafficking law outside the criminal code that would not only indict traffickers but also provide protection and assistance to victims. Importantly, prevention provisions are urgently needed to be included in order to effectively tackle the demand-side of the 'bride' trafficking phenomenon.

## **2. Prevention**

The *Principles and Guidelines* states “States and intergovernmental organizations shall ensure that their interventions address the factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination” (paragraph 5). To that end, the enactment of new laws protecting women’s human rights has to be accompanied with bottom-up strategies aiming at abolishing the embedded patriarchal structure in both Chinese and Burmese societies, i.e. shifting discriminatory gender norms to gender equality and women’s empowerment (Zhao, 2003; Stöckl et al., 2017). Regarding the means, education and media could play a significant role in raising public consciousness about ‘bride’ trafficking and in eliminating widespread patriarchal views towards women.

### **a. Recommendations to Myanmar**

In regard to the need to address the “institutionalized atmosphere of female oppression” (Klein, 2012, p.6), new legislations have to be introduced in order to abolish traditional customs that harm women and to change behaviours based on the idea of women inferiority (Jordan, 2002; Human Rights Watch, 2019). For instance, marital rape, forced marriage and dowry have to be outlawed. In addition to this top-down strategy, public campaigns promoting women’s human rights need to be undertaken. Communities and religious leaders could be in charge of programmes combatting social stigma borne by ‘bride’ survivors and their families as it prevents them from seeking assistance and increases the risk of re-trafficking (Human Rights Watch, 2019).

A shorter-term measure would be raising public awareness about the risk of trafficking and protection measures available in conflict-affected areas, notably in IDP camps (Human Rights Watch, 2019). Moreover, in order to decrease women's economic vulnerability in IDP camps, delivery of humanitarian aid needs to be facilitated in Kachin State. In the long run, creating economic opportunities in Myanmar is essential to put an end to the phenomenon of 'bride' trafficking as women would not be deceived anymore by traffickers when looking for productive opportunities in China. This is a request made by all survivors interviewed by HRW (2019). Indeed, one of them declared: "My suggestion is that the authority or government can create job opportunities for youths in Kachin State and in the IDP camps" (p.62). For instance, the government could financially assist women in opening small businesses.

#### **b. Recommendations to China**

While the *Trafficking Protocol's* law enforcement approach does not sufficiently emphasise the role of destination countries in sustaining human trafficking (Coontz and Griebel, 2004; Segrave, 2009b), the *Principles and Guidelines* stress that, "Strategies aimed at preventing trafficking shall address demand as a root cause of trafficking" (paragraph 4). First of all, China shall put an end to the two-child policy (Human Rights Watch, 2019). Even though it is less constraining than the previous one-child policy, the restriction on reproductive rights is likely to further sustain discriminatory practices, e.g. female infanticides and sex-selective abortions, which increase 'missing women'. Doctors or individuals who use these practices must be charged by the law (Tiefenbrun, 2008). Furthermore, China has to launch campaigns to raise public awareness about the illegality and immorality of the issue of 'bride' trafficking and more generally to promote

women's human rights (Human Rights Watch, 2019). This bottom-up strategy would tackle the patriarchal structure which allows the moral tolerance about the practice of purchasing a woman to persist despite its illegality (Zhao, 2003).

### **3. Protection and assistance**

The *Principles and Guidelines* claims: "States shall ensure that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological care" (paragraph 8). In respect to this obligation, Myanmar and China must increase, if not implement, protection and assistance services.

#### **a. Recommendations to Myanmar**

Importantly, the *Principles and Guidelines* underlines that "Such protection and care shall not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings" (paragraph 8). Indeed, making assistance conditional upon their cooperation with law enforcement is at odds with a human rights approach (Global Alliance Against Traffic in Women, 2007). From a pragmatic perspective, Burmese law enforcement would be more efficient at convicting traffickers since victims are more likely to cooperate with prosecutors when assisted and secured (Clark, 2003). More generally, services must be dramatically increased following repatriation (Clark, 2003; Human Rights Watch, 2019). Survivors of 'bride' trafficking need to have access notably to emergency shelters, medical care, education and legal counseling in order to convict traffickers and receive compensation.



## **b. Recommendations to China**

China must stop using immigration laws against trafficked women (Jordan, 2002). In this regard, the *Principles and Guidelines* declares: “Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination (...)” (paragraph 7). Moving from treating trafficked women as criminals to treating them as victims means that China has the duty to ensure protection and assistance. First, temporary residency has to be proposed in every case, during which women could for instance obtain medical assistance, contact a lawyer and family members (Jordan, 2002). If repatriation is consented, survivors must be helped in the return to Myanmar instead of being rudely deported. More specifically, China has to carry out a security assessment before repatriation in order to protect them from further danger, e.g. risk of retaliation or impossible reintegration in the community due to social stigma (Global Alliance Against Traffic in Women, 2007). “In cases where it is reasonable to conclude that such repatriation would pose a serious risk to their safety and/or to the safety of their families” (Principles and Guidelines, 2002, paragraph 11), alternatives have to be offered, including permanent residence (Jordan, 2002).

## **4. Conclusion**

In short, the complex issue of ‘bride’ trafficking requires a multi-faceted response in a bid to abolish the practice. Though a criminal justice response is necessary, other measures including widespread campaigns of prevention, victims’ protection and assistance are paramount. Importantly, incorporating a human rights approach will make criminal prosecutions more successful (Mcsherry and Cullen, 2007). Only comprehensive and victim-centered anti-trafficking

efforts in both countries of origin and destination will effectively eradicate the phenomenon of 'bride' trafficking at the Sino-Burmese border.

## Conclusion

It has been argued that China and Myanmar cannot effectively put an end to the phenomenon of ‘bride’ trafficking with counter-trafficking legislations and policies inscribed in the dominant law and order logic. In this regard, this case evidences the limits of the *Trafficking Protocol* when its traditional security approach to human trafficking is put into practice. First, the non-committing language of the *Protocol* regarding human rights provisions has failed to compromise China and Myanmar’s responsibility to ensure victims’ protection and assistance. Beyond being ethically wrong, the feminist rights-based approach has demonstrated that a lack of women’s human rights consideration – as ‘bride’ trafficking victims are women and girls – is counterproductive in the fight against human trafficking. Survivors are not incited to cooperate with prosecutors if they are not protected during the process of law and the absence of substantive psychological and medical care is likely to lead to re-trafficking. By focusing on border security measures, the traditional security approach treats victims as illegal immigrants and in turn as criminals. As Berman writes, “the concern over the exploitation of women is haunted by a more immediate and instinctive concern about border violations” (2003, p.43). Trafficked women and girls who escaped their purchaser’s house are often detained by Chinese border officials and eventually deported, without any assistance and safety assessment. Deportation only “restart the trafficking cycle” (Amahazion, 2015, p.169) as it forces women and girls to return to the harsh conditions they wanted to leave. Since repatriation is seen as the ultimate restoration of order, the law and order logic neither compels China in assisting victims nor puts into question its role in maintaining ‘bride’ trafficking. The demand-side is largely dismissed by the law enforcement approach, yet, this case shows that the women shortage in China is the core factor fuelling

trafficking. Moreover, while gender inequality is not mentioned in the factors needed to be addressed in the *Trafficking Protocol*, a feminist analysis of ‘bride’ trafficking’s root-causes has demonstrated that widespread women’s human rights violations and negligence in both countries create an atmosphere conducive to trafficking.

All in all, to ultimately eradicate human trafficking, it is necessary to move from a state-centric to a victim-focused approach. Although it has traditionally been considered by the international community as a crime and a migration issue, human trafficking is the cause and the consequence of human rights violations and, in this respect, governments should see it as a human rights issue. It would prevent further human rights violations from the state, and, importantly, make criminal justice more successful. Moreover, the traditional security approach reduces human trafficking to a “simplistic, one-dimensional issue” (Konrad, 2008, p. 179). Short-term criminal justice and border security measures “create the illusion of control” (van der Watt and van der Westhuizen, 2017, p.226); they are inappropriate to deal with the complex factors that give rise to human trafficking. That is why the feminist rights-based approach recommends holistic measures addressing women and girls’ areas of vulnerability. Additionally, this framework advocates for the empowerment of trafficked persons, i.e. for moving them from being the object to being the subject of policies. Every counter-trafficking measure should reflect the experiences and needs of survivors in a bid to grasp the realities of the issue. As such, this study has endeavoured to take into account voices of women and girls interviewed by HRW (2019), as the lack of time and means prevented me from conducting my own field survey.

Importantly, this paper has not argued that the flaws of the international human trafficking framework are the cause of the rise in ‘bride’ trafficking, but rather that there is a correlation between the dominant traditional security approach and the difficulty to put an end to the phenomenon. Legitimising the law and order narrative at the international level has inevitably influenced Chinese and Myanmar’s counter-trafficking efforts, especially through the US sanctions’ regime. They are not pressured to place human rights and victims’ needs at the centre of their measures. Nonetheless, other factors play an important role in sustaining ‘bride’ trafficking, which are totally independent from the international human trafficking framework’s limits. For instance, the lack of cooperation between China, the Burmese government and the KIO; porous borders; and the widespread culture of impunity preclude ‘bride’ trafficking from being effectively tackled. In other words, moving from a state-centric to a victim-focused approach unfolding human rights is a necessary step in the fight against human trafficking. Yet, it does not mean that this alternative framework will automatically stop human trafficking: other factors inherent to each situation have to be taken into consideration.

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