

# Re-evaluating Palermo: The case of Burmese women as Chinese brides<sup>1</sup>

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## Abstract

The definition of human trafficking as set in the Trafficking Protocol (also known as the Palermo Protocol) functionally centres most of the response to the phenomenon in the criminal justice system. This occludes many of the sociopolitical determinants of vulnerability that leads to trafficking. It also discourages any real debate about the various forms of oppression and even structural violence that act as catalysts to the human trafficking market. The Trafficking Protocol, and a vast number of international organisations, non-governmental organisations and governments, focuses on statistics of prosecution rates, arrests, victim typology and organised crime. I use the example of bride trafficking along the Sino-Burmese border to illustrate the complications and, in certain instances, harm that befall an anti-trafficking regime that does not use a wider lens of migration, agency, development and gender equality to address the factors leading to exploitation.

**Keywords:** Burma, China, bride trafficking, trafficking for marriage, borders, Palermo, migrant rights, Trafficking Protocol

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## Introduction

Within the past two decades, the densely populated region of Yunnan province, China and mainland Southeast Asia (commonly referred to as the Mekong River Region) has been characterised as a major 'hot spot' for human trafficking.<sup>2</sup> In 2000, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) created an international standard for governments to pass national legislation on human trafficking and set the parametres of how acts now considered the crime of human trafficking constitute a global crime. In 2008, the People's Republic of China responded to the growing international concerns of human trafficking within and across

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<sup>2</sup> G Bonanno, 'Development Dynamics in the Greater Mekong Sub-Region: Trans-Boundary Routes of Human Insecurity', *GMSARN International Journal*, vol. 6, 2012, pp. 97–104; K Chalk, 'Taking the Journey Together: A United Response to Trafficking in the Mekong Region', World Vision International, 2006; W van Schendel, L Lyons & Michele Ford, *Labour Migration and Human Trafficking in Southeast Asia: Critical perspectives*, Routledge, London, 2012.

its borders by establishing a National Action Plan. Burma, Thailand and Lao People's Democratic Republic (Laos) also developed national legislation along with bilateral Memorandums of Understanding aimed at combating different forms of cross-border human trafficking. Responding to the Trafficking Protocol (also known as the Palermo Protocol) with national legislation or action plans has become the norm in countries around the world.

Since the Chinese government launched its 2008 National Plan of Action on Combating Trafficking in Women and Children, the Chinese marriage market has been scrutinised for its connections to human trafficking activities. Instances of transnational marriage, mail-order brides and commercial networks of marriage migration are becoming more prevalent throughout this region and the world.<sup>3</sup> China's sex-ratio imbalance at birth and resulting gender imbalance has created a demand for brides that outstrips China's domestic populations. Additionally, across the border in Burma, extreme poverty, land grabs and military conflicts have made livelihoods unsustainable for many women in Burma. These factors have expanded the market for marriage transactions across the border even though Burma has ratified the Trafficking Protocol and institutionalised an Anti-Trafficking Police Task Force.

Though the Trafficking Protocol does not explicitly mention forced marriage or bride trafficking in its definition of human trafficking, the term 'slavery-like practices' incorporates the many forms of domestic or gendered exploitation that the drafters intended to constitute as human trafficking.<sup>4</sup> Scholars and activists are eager to identify, classify and target forced marriage as bride trafficking in Asia. Governments such as those in China and Burma are being pressured to increase the prosecution rates of bride trafficking offenses and maintain positive reputations abroad, especially under the influence of the United States Department of State *Trafficking in Persons Report*. This creates a focus on policing borders, raids, arrests and criminal enterprises linked to forced marriages. This emphasis on criminality, catalysed by the Trafficking Protocol, is complicated by marriage practices within China and the complex and historical connections between cross-border ethnic groups. The 'means, force, and exploitation' factors found in the Trafficking Protocol do not always align with the situations of brides and migratory marriage, and marriage transactions today exist on a continuum that cannot be easily divided between human trafficking and consensual marriage.

Rather than define a clear distinction between consensual marriage and bride trafficking, I instead observe the structural factors within Chinese society that have altered its age-old marriage market and border relations. The border of Yunnan province and Burma has a history of being a transit point for trade (both licit and illicit), and thus, the main site for addressing the issue. Along the Yunnan-Burma border, Chinese men usurp Yunnan's historical trade and kinship networks in search of wives. Many of these men are utilising the ties ethnic minority groups have across borders, and creating demand in the market for arranging marriage transactions. Deciding to procure a wife, by any means possible, is the result of marriage market shifts in China and the blurring of the lines between cross-border marriages and traditional matchmaking industries.

**How can the Protocol's influence on national legislation and grassroots effort be adapted to account for China's historical marriage practices, the new causes for increased demands for**

<sup>3</sup> W Yang & M Lu, *Asian Cross-Border Marriage Migration: Demographic Patterns and Social Issues*, Amsterdam University Press, Amsterdam, 2010.

<sup>4</sup> This was at the behest of the Special Rapporteur on violence against women, its causes and consequences, found in the supra notes of the Protocol. D MacLean, 'Commercial Marriage Trafficking: Uncovering a Growing New Form of Transnational Human Trafficking and Shaping International Law to Respond', *UC Davis Journal of International Law and Policy*, 2012, p. 15.

brides, and the evolving marriage market in China and along China's border with Burma? It is clearly the case that some women from Burma are deceived and forced to marry Chinese men against their will. However, my research shows that many of these same women, when given options, chose to remain in their Chinese marriages. This is just one example. Other women choose to be sold to Chinese men, and others return home to Burma after the birth of their first child. Criminal prosecutions do not address the vulnerabilities of the poor or the difficulties facing migrants who travel from Burma in China. Marriage values and practices that cross national borders are responses to larger social, demographic and economic changes occurring in both countries. Broader issues of immigration policy, economic development and women's agency, I argue, need to be incorporated into the current anti-human trafficking regime.

The process of criminalising marriage transactions as bride trafficking is a starting point to launch a deeper study into the complexities and root causes of the cross-border exchange of people between China and Burma. This process reflects many of the values of the international institutions and treatises, but these global, one-size-fits-all responses do not always serve the people they are meant to help.

### Outside the Scope of the Trafficking Protocol

According to United Nations (UN) statistics, the natural sex ratio at birth is 104 males to every 100 females.<sup>5</sup> Over the past three decades, Azerbaijan, Armenia, China, India and South Korea have experienced exponential disparities in this birth ratio. In 1982, the Chinese national average was 108.5 males per 100 females. This has increased to an average of 118 males per 100 females in 2012.<sup>6</sup> A wide range of reports, including those from official Chinese government bureaus, estimate that around 22 to 30 million Chinese men will be unable to find wives by 2025-2030.<sup>7</sup> In China today, marriage is a nearly universal practice. According to China sociologists James Lee and Wang Feng: 'the proportion of Chinese women who have not married by age 30 has remained consistent at 1% for the last three hundred years.'<sup>8</sup> Over 10% of the population will not be able to secure traditional marriages or long-term partnership in their lifetime. These men are called *guangun*, 'bare branches' in Chinese, because of their inability to produce a child and continue the family lineage. Chinese demographers Wei Xing Zhu and Li Lu estimate that 'China will see very high and steadily worsening sex ratios in the reproductive age group for the next two decades'.<sup>9</sup>

More and more Chinese women are migrating to larger urban centres for economic opportunities and better marriage prospects. Migrant networks in cities and online domestic websites are creating spaces for migrant women to meet urban men. For example, many cities now have legal services for domestic matchmaking of migrants that are organised by the Committee of Matchmaking Service Industries in Beijing.<sup>10</sup> A marriage to a man with an

<sup>5</sup> Ibid.

<sup>6</sup> S Greenhalgh, 'Patriarchal Demographics? China's Sex Ratio Reconsidered', *Population and Development Review* 38, 2012, p. 133.

<sup>7</sup> N He, 'Brides and Prejudice in China', *China Daily*, 23 August 2010, retrieved 5 February 2015, [https://www.chinadaily.com.cn/china/2010-08/23/content\\_11186841.htm](https://www.chinadaily.com.cn/china/2010-08/23/content_11186841.htm); T Hesketh & J Min Min, 'The Effects of Artificial Gender Imbalance', *European Molecular Biology Organization Report*, vol. 13, issue 6, 2012, p. 488.

<sup>8</sup> Comparatively, 15% of Western women have not married by this age. J Z Lee & W Feng, *One Quarter of Humanity: Malthusian Mythology and Chinese Realities, 1700–2000*, Harvard University Press, Cambridge, 1999, p. 67.

<sup>9</sup> Z W Xing, L Lu & T Hesketh, 'China's Excess Males, Sex Selective Abortion, and One Child Policy: Analysis of Data from 2005 National Intercensus Survey', *BMJ*, 2009, p. 6.

<sup>10</sup> L Wu, 'China Releases Chinese Marriage Situation Survey Report 2011', All China Women's Federation, 2012, retrieved 5 February 2015, <http://www.womenofchina.cn/html/womenofchina/report/136873-1.htm>

urban *hukou*<sup>11</sup> means that a woman is able to re-register her new status and receive the better medical, housing and education services for her children.<sup>12</sup> This trend intensifies the problems caused by the sex ratio imbalance. In most provinces, even if women were to stay in rural areas, there would still be an imbalance between the genders. The resulting ‘marriage squeeze’ has produced challenges and pressures on the marriage market, and this is especially salient in rural and impoverished areas.

Many of these impoverished rural communities are in provinces that do not offer the robust social services and protection programmes that many wealthier provinces on China’s east coast are able to offer.<sup>13</sup> Without a safety net, these men often are forced to remain dependents in their family homes. Entire villages in China are being labelled ‘bare branch villages’ when up to 20% of the population consists of unmarried men.<sup>14</sup>

The bride price has again fluctuated to reflect this dearth of women. Current estimates put the bride price for Han Chinese women between ‘12,300-41,000 RMB (c. USD 1,500-5,000)’.<sup>15</sup> Though this number can vary based on location or income level, it has, on average, increased dramatically since the pre-1978 era. In addition to this bride price, Chinese men are often not even considered by women for marriage if they do not have a whole suite of material assets.<sup>16</sup> This is a major economic burden for many men, and it is almost inconceivable for China’s most poor.

The marriage strategy that is gaining far greater traction across China is the deployment of international markets for finding brides. International marriage commodification in East and Southeast Asia is not new, but it is a growing trend in many countries. More developed countries such as Japan and South Korea have created sophisticated marriage business models that bring women from Cambodia, the Philippines, Taiwan and Vietnam, to marry domestic men. Since 1990, over 20,000 women from overseas have arrived in Japan to become spouses.<sup>17</sup> Some international marriages still rely on personal connections between kinship groups or migrant groups. Other international marriages rely on agencies (both illegal and legal), tools such as the internet and media<sup>18</sup>, and well-connected networks of brokers. In these marriages, both parties can be aware of the specifics of the arrangements, or the man’s financial situation, living conditions or physical attributes are hidden until the arrival of the woman.<sup>19</sup> Families with sons who have physical disabilities are often reliant on these markets.

<sup>11</sup> *Hukou* is the Chinese name for the record used in China’s household registration system. This record documents where a person is born and lives, who their family is, and where they are able to access state resources.

<sup>12</sup> C Fan & Y Huang, ‘Waves of Rural Brides: Female Marriage Migration in China’, 1998; Y Sun, *Corruption and Market in Contemporary China*, Cornell University Press, Ithaca, New York, 2004; T Lin, S Short & L Hui, ‘Shuangchongwailazhe de sheng huo, nvxinghun yin yi min de sheng huojing li fen xi’ (‘The life of double outsiders, an analysis of the experience of women marriage migrants’), *She huixue Yan jiu (Sociology Research)*, vol. 104, no. 2, 2003, pp. 75–83.

<sup>13</sup> R Kaur, ‘Mapping the Adverse Consequences of Sex Selection and Gender Imbalance in India and China’, *Economic and Political Weekly*, XLVIII, 2013, p. 39; E Sharygin, A Ebenstein, & M das Gupta, ‘Implications of China’s Future Bride Shortage for the Geographical Distribution and Social Protection Needs of Never-Married Men’, *Population Studies*, vol. 67, issue 1, 2012, pp. 39–59.

<sup>14</sup> Q Jiang & J J Sanchez-Barricarte, ‘Socio-Demographic Risks and Challenges of Bare-Branch Villages in China’, *Asian Social Work and Policy Review*, vol. 7, issue 2, 2013, p. 104.

<sup>15</sup> H Peters, ‘Heaven is High and the Emperor is Far Away: Beijing Certainties Encounter Yunnan Ambiguities’, Conference paper: The Human Rights Challenge of Globalization in Asia-Pacific-US, The Trafficking in Persons, Especially Women and Children in Honolulu, Hawaii, 2002.

<sup>16</sup> Personal interview with Zhang Youlan in Kunming, China, 15 November 2013.

<sup>17</sup> H Wang & S Chang, ‘The Commodification of International Marriages: Cross-border Marriage Business in Taiwan and Viet Nam’ *International Migration*, vol. 40, issue 6, 2002, p. 94.

<sup>18</sup> D Belanger, K Thu Hong & T Giang Linh, ‘Transnational Marriages between Vietnamese Women and Asian Men in Vietnamese Online Media’, *Journal of Vietnamese Studies*, vol. 8, no. 2, 2013, pp. 81–114.

<sup>19</sup> G Jones, ‘International Marriage in Asia: What do we know, and what do we need to know?’, Asia Research Institute (ARI) Working Paper No. 174, ARI, 2012, p. 14.

In almost all reported cases of international marriage transactions, the woman is the one to migrate to a country or region with higher levels of economic development. These potential economic benefits make international marriage the choice for many women, despite the risks.

### Marriage Markets at the Yunnan-Burma Border

For Chinese men, harnessing the historical trade relations between Yunnan and Burma and the vulnerability of Burmese<sup>20</sup> populations across the border is a practical means to expand the marriage market. A decade ago, most of the international marriages spanning the Yunnan-Burma border were local and taking place within particular ethnic groups. These marriages had similar traditions of bride prices and ‘go-betweens’ to arrange the meeting of new couples, but rarely did the transaction take place over long distances. Now, men and their families from all of China’s provinces have the option to travel to Yunnan or to arrange cross-border transactions to find a wife.<sup>21</sup> Chinese gender researcher Zhang Jiayu recounted a conversation with a party official stating: ‘Under the open and reform policy, if men cannot get brides in China, they can find them in other countries’.<sup>22</sup> These practices, as Zhang illustrates, are making their way to Chinese policymakers. Yunnan’s economic development and trade relations have given Chinese men the option to seek brides from Burma. Men gain access to markets in towns such as Ruili and Jinghong, and negotiate with those who have connections across the border.

Bride price, in this context, is a fee that the man must pay to arrange the procurement of a woman, her transportation and, depending on the situation, her documentation. This documentation is the only addition to what is considered included in the traditional bride price. Currently in Yunnan, international marriages are legal once the bride produces documentation from her home country to prove her ‘single’ status. A new husband is able to register his new wife at the local Bureau of Civil Affairs and pay a fee for any child produced in the marriage.<sup>23</sup> According to China’s UN Inter-Agency Project on Human Trafficking (UNIAP) office, many Burmese women do not have documentation or even national identification cards.<sup>24</sup> Some marriages are not documented and those women remain illegal immigrants within Yunnan or other provinces, but others rely on forged documentation or connections that their brokers can provide.

Chinese men, through the use of brokers, pay less than one-fourth of the bride price of Chinese women (both Han and ethnic minority women) for a woman from Burma.<sup>25</sup> In one common case, a Chinese man bought a bride and her documentation from northern Shan state for only CNY 1,200 (USD 185).<sup>26</sup> Burmese women are among the cheapest international brides in China because of their economic status and relatively lower physical desirability. The average annual income in 2011 for Burmese families, according to the UN Children’s Fund

<sup>20</sup> Note here that ‘Burmese’ does not mean ethnically ‘Burman’ but includes any person or ethnic group living inside Burma.

<sup>21</sup> Personal interview with researcher at the Yunnan Academy of Social Sciences in Beijing, China, 21 March 2013.

<sup>22</sup> J Zhang, ‘Imbalanced Sex Ratio at Birth and Women’s Human Rights in China: A Rights Analysis and Comparative Implications’, Master of Arts Thesis, Chinese University of Hong Kong, 2010, p. 38.

<sup>23</sup> Personal interview with staff member UNIAP-China, in Beijing, China, 14 October 2013.

<sup>24</sup> Interviews for this study were conducted with key informants such as local and domestic NGOs working on human trafficking in both China and Burma. The author also conducted fieldwork in the city of Ruili, China, and surrounding villages in Yunnan province by using informal interview and participant and non-participant observation. Future fieldwork and qualitative data gathering is currently being planned by the author.

<sup>25</sup> H Peters.

<sup>26</sup> Palaung Women’s Association, ‘Stolen Lives: Human Trafficking from Palaung areas of Burma to China’, Palaung Women’s Association, Chiang Mai, Thailand, 2011, p.22.

(UNICEF), was less than USD 735.<sup>27</sup> Comparatively, China's average income per capita in 2011 was USD 4,930 and, in the United States of America, this number was at USD 48,450.<sup>28</sup> Though regional differences within Burma can create variation in these specific numbers, approximately 75% of the population lives below the poverty line.<sup>29</sup> Once considered world-class through the mid-1900's, Burma's schools, hospitals and other vital infrastructure are considered unfit by most international standards today. In 2013, government expenditures on health and education combined consisted of 2.3% of the national budget, but the spending on military and defence was 20.86% of the national budget.<sup>30</sup>

Villages with large populations of Burmese brides in China are sometimes referred to as 'black villages' because of Burmese women's darker skin.<sup>31</sup> The international marriage market, across China and most of East Asia, currently operates through a hierarchy based on the perceived advantageous attributes of women's home country. For women from Burma, this generally places them at the bottom of the market after Vietnam, Cambodia and Thailand. The bride price, along with the trade networks along the border, make this region one of the most sought-after for international brides for 'bare branches', who otherwise have no prospects for marriage.

### Applying the Protocol to Burmese Women

Anti-trafficking responses from the Chinese and Burmese governments mirror the ideals propagated by the Trafficking Protocol. Burmese brides in Yunnan are labelled as 'trafficking victims' and become the targets of the Chinese police force's rescue and repatriation campaigns. In reality, despite how they entered China, Burmese women who have passed through the Chinese marriage market often vacillate between 'victim' and 'agent' in their new Chinese context. International and domestic efforts to end human trafficking in the region do not take into account the vast range of circumstances facing Burmese women in China. Instead, she is identified by both countries as a victim of human trafficking. If this victim is fortunate, according to the anti-trafficking regime, she is rescued and saved by the Chinese police and then safely returned to her home in Burma. Accounts from police raids and rescues are harrowing and describe torturous conditions suffered by women at the hands of their husbands, his family and the people responsible for bringing them across the border. After consulting local anthropologists in the region, non-governmental organisation (NGO) workers, local government and police, reports from Burmese organisations based in the region, and interviews from Burmese women who had returned from China, I found that these exploitative situations do occur, but that this type of victimology overshadows many of the other experiences of Burmese women. More importantly, both the Chinese and Burmese governments rely on criminal interdiction to satisfy commitments to the international

<sup>27</sup> UNICEF, 'Statistics: Republic of Myanmar', UNICEF, 2011, retrieved 27 February 2015, [http://www.unicef.org/infobycountry/myanmar\\_statistics.html](http://www.unicef.org/infobycountry/myanmar_statistics.html)

<sup>28</sup> UNICEF, 'Statistics: China' UNICEF, 2011, retrieved 27 February 2015, [http://www.unicef.org/infobycountry/china\\_statistics.html](http://www.unicef.org/infobycountry/china_statistics.html); UNICEF, 'Statistics: United States' UNICEF, 2011, retrieved 27 February 2015, [http://www.unicef.org/infobycountry/usa\\_statistics.html](http://www.unicef.org/infobycountry/usa_statistics.html)

<sup>29</sup> Burmese Women's Union, 'Caught Between Two Hells: The Report Highlights the Situation of Women Migrant Workers in Thailand and China', Burmese Women's Union, 2007, p.7.

<sup>30</sup> Kachin Women's Association of Thailand, 'Driven Away: Trafficking of Kachin Women on the China-Burma Border', Kachin Women's Association of Thailand, 2005, p. 15; K H Mon, 'UNICEF Tells Govt to Increase Education, Health Spending' *Irrawaddy News*, 7 November 2013, retrieved 27 February 2015, <http://www.irrawaddy.org/un/unicef-tells-govt-increase-education-health-spending.html>; N Aye, 'Military Spending Challenged in Parliament', *Democratic Voice of Burma News*, 19 February 2013, retrieved 27 February 2015, <http://www.dvb.no/news/military-spending-challenged-in-parliament/26476>

<sup>31</sup> 'Henan nongcunnannubilie shitiao, miandan funujiarudangdi' ('Demographic imbalance between male and female in rural areas of Henan Province, Burmese Women married illegally into the local villages'), WangyiXinwen, 16 June 2006, retrieved 27 February 2015, <http://news.163.com/06/0616/10/2J004A760001124J.htm>

community under the Trafficking Protocol mandate, instead of reforming institutions and systems that make these women vulnerable in both Burma and China.

Under the China National Action Plan on Combating Trafficking in Women and Children (2008-2012), the Chinese government identified child abduction, forced marriage and trafficking into the sex industry as the crimes that would be pursued by the criminal justice system at the national and provincial levels. During the early 2000s, the Chinese government added eight articles to the Chinese Criminal Penal Code, all of which address issues termed ‘trafficking in persons’.<sup>32</sup> The powerful Ministry of Public Security coordinated these reforms and established a consortium of thirty-four other ministries and bureaus to work on human trafficking. On 8 February 2010, China signed and ratified the Trafficking Protocol. By 2013, the government put forward China’s Action Plan Against Human Trafficking (2013-2020) that added labour trafficking, forced begging, child performance, and organised theft to the list of human trafficking crimes.<sup>33</sup> Despite these inclusions, the Chinese government continues to mainly focus on child abductions and bride trafficking, due to international concerns. In 2010, the Chinese government also made it illegal for matchmaking services and agencies to include foreign clients.<sup>34</sup> Domestic Chinese marriage agencies continue to flourish but cross-border agencies have been legally conflated with bride trafficking.

In implementing the Action Plans, the Ministry of Public Security uses ‘strike-hard’ (hard-hitting) campaign<sup>35</sup> policies to target traffickers. These campaigns, similar to anti-drug campaigns, are short-lived and expensive, both in terms of financial expenditures and human capital. The Chinese government is able to defer reforms to economic or immigration policy by pursuing these campaigns despite their dismal success rates. According to Chinese sociologist Gracie Ming Zhao: ‘One consequence of such a style is during a specific strike-hard campaign period, the criminals of a targeted activity are likely to face a more severe punishment than in a normal period...but most offenders learn to take advantage of it.’<sup>36</sup> The offenders coordinate their own actions based on the timings between raids. However, the hard-hitting campaigns against bride trafficking are highly publicised in the national media. High-profile celebrities have made documentaries that follow local police forces conducting raids on trafficking rings and returning brides to their home countries.<sup>37</sup> Pictures of Burmese women in the company of Chinese police officials flood websites, news outlets and China’s microblogs (such as the popular Twitter-like website, Weibo) without concern for the privacy of the victims. On the other hand, other types of exploitation in labour industries are censored by the government and not included in these raids. Despite quarrels over human rights issues between China and Western powers, China continues to strive to fit the international mould when it comes to anti-trafficking efforts. China wants its system of criminal interdiction against human trafficking to be considered up to international and Trafficking Protocol-driven standards.

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<sup>32</sup> These include 234 A, 240, 241, 242, 244, 262, 276 A, and 358. Text and description available at: retrieved 5 February 2015, <http://www.asianlii.org/cn/legis/cen/laws/clotproc361/>

<sup>33</sup> 中国反对拐卖人口行动计划, General Office of the State Council, no. 9, 2 March 2013, retrieved 27 February 2015, [http://www.gov.cn/zvgk/2013-03/08/content\\_2349019.htm](http://www.gov.cn/zvgk/2013-03/08/content_2349019.htm)

<sup>34</sup> K L Huang, ‘Illegal Chinese Cross-Border Matchmakers Flourish as Demand Grows’, *South China Morning Post*, 12 November 2013, retrieved 5 February 2015, <http://www.scmp.com/print/news/china-insider/article/1354390/illegal-chinese-cross-border-matchmakers-flourish-demand-grows>

<sup>35</sup> The term ‘strike-hard campaign’ is the Chinese expression.

<sup>36</sup> G Z Ming, ‘Trafficking of women for marriage in China: Policy and practice’, *Criminology and Criminal Justice*, vol. 3, no. 1, 2003, p. 95.

<sup>37</sup> W Yates, ‘Human Traffic: China’, MTV Exit Production, Beijing, China, retrieved 5 February 2015, <http://mtvexit.org/humantrafficen/#learn>

Burma passed its National Anti-Trafficking Legislation in 2005, and at the same time joined China in signing a bilateral Memorandum of Understanding to organise responses to cross-border trafficking of people.<sup>38</sup> China and Burma are part of the consortium of countries in East and Southeast Asia that recognise the universal criminality of human trafficking and the need for international cooperation. Six of these countries, Burma, Cambodia, China, Laos, Thailand and Vietnam, have formed a ministerial policy coordination group called the Coordinated Mekong Ministerial Initiative Against Trafficking, or COMMIT.<sup>39</sup> In Burma, under two similar National Plans of Action for Combating Trafficking (2007-2011 and 2012-2016), the Ministry of Home Affairs established the Central Body for Suppression of Trafficking in Persons. This Central Body's main function is the creation of a new branch of the Burmese police force that will act as a wide-reaching Anti-Trafficking Task Force network system that has also established internal Task Force units and Border Liaison Offices with Thailand and China.

The Burmese Anti-Trafficking Police regularly releases reports on the types of cases investigated by their border liaison offices and taskforces. In 2012, they prosecuted 120 cases, of which 79% were identified as forced marriage from Burma into China.<sup>40</sup> Government-run shelters for trafficking victims have been established in Mandalay and Myawaddy, and they also provide counselling and job training for those repatriated from China or Thailand.<sup>41</sup> The Burmese police work with NGOs Save the Children and World Vision to run educational campaigns and shelter programmes, and with other international groups like Australian Aid to supply specialised police training. Civil society groups in Burma are currently trying to pass a new Association Registration Law that would decrease regulations for the formation of domestic NGOs. The current Law Relating to Forming Organizations (No. 6/88) only registers organisations with direct ties to the government, and as a consequence, most Burmese anti-trafficking organisations have had to operate out of other countries such as Thailand.<sup>42</sup>

Despite these efforts, the anti-trafficking regime in Burma is still focused on criminal prosecutions and high-profile interactions with other countries and international organisations. According to Julia Matrip, head of the Kachin Woman's Association in Thailand: 'the regime is mainly involved in pleasing the international community rather than actually dealing with the problem.'<sup>43</sup> Representatives of the Shan Women's Association argue that the previously mentioned 120 human trafficking prosecutions in 2012 correlated with the 120 arrests made on these charges.<sup>44</sup> The 100% prosecution rate in Burma raises suspicion over the Burmese government's claims of having a fair and transparent criminal justice system. Questions also remain regarding the Burmese police force's investigation and arrest procedures. In addition to targeting traffickers, new immigration barriers are being implemented to protect women from threats of being trafficked. Women are being detained and questioned at border checkpoints. The Burmese Women's Union argues that imprisoning

<sup>38</sup> The Union of Myanmar, The State and Peace Development Council, Anti-Trafficking in Persons Law, 15 September 2005, retrieved 5 February 2015, <http://www.hspf.harvard.edu/population/trafficking/myanmar.traf.05.pdf>; The Memorandum of Understanding between the Government of the Union of Myanmar and the Government of the People's Republic of China on Strengthening the Cooperation on Combating Human Trafficking, signed 11 November 2009, retrieved 5 February 2015. <http://www.notip.org.cn/UserImages/00001039.pdf>

<sup>39</sup> COMMIT, retrieved 5 February 2015, <http://www.no-trafficking.org/commit.html>

<sup>40</sup> Ministry of Home Affairs, 'Myanmar Five-Year National Plan of Action to Combating Human Trafficking 2012 Annual Progress Report', Government of the Republic of Myanmar, 2013, p. 32.

<sup>41</sup> Ibid.

<sup>42</sup> P Vierze, 'Civil Society and MPs Draft "Progressive" Association Registration Law', *Irrawaddy News*, 21 October 2013, retrieved 5 February 2015, <http://www.irrawaddy.org/burma/csos-mps-draft-progressive-association-registration-law.html>

<sup>43</sup> A Ellgee, 'Human trafficking increases on Sino-Burma border', *Irrawaddy News*, 26 March 2010, retrieved 5 February 2015, [http://www2.irrawaddy.org/article.php?art\\_id=18124&page=2](http://www2.irrawaddy.org/article.php?art_id=18124&page=2)

<sup>44</sup> Personal interview with the Shan Women's Association in Chiang Mai, Thailand, 23 August 2013.

female migrants for trying to leave the country will not help end exploitation.<sup>45</sup> Their main point is that these arrests can be factored into the Burmese government's efforts at fighting human trafficking, but do not serve or improve the lives of the women seeking employment. Structural problems of poverty, corruption and civil conflict, especially in the northern Shan and Kachin states, are not being calculated into human trafficking responses by the current government. The Burmese anti-trafficking regime is winning accolades on the international stage, but on the ground the situation for most of these women is not improving.

Burmese women migrate to China for many reasons, including the pursuit of economic opportunities in China, flight from civil conflict in Burma or a combination of both. Women migrate to save their families from starvation, pay off debts or afford basic necessities. For the past fifty years, the civil wars between the government's army, the Tatmadaw, and various allied ethnic group militias have created another type of migrant: the refugee from civil conflict. In the Kachin and Shan areas in northern Burma, fighting has been a constant feature of daily life for fifty years. The Kachin Women's Association of Thailand and the Palaung Women's Association (a group located in northwest Shan state) report that in hundreds of cases Burmese women accept job offers in China, but then find themselves sold to Chinese men.<sup>46</sup> Recruitment for a job that turns into marriage involves kinship ties or connections between social circles. In the past four years, there has been an increase in the use of websites (including Facebook), mobile phone messaging and public job advertisements to recruit Burmese women for sale across the border. Some recruiters openly advertise for brides in Burma. One website simply stated: 'Contact me if you or your friends want to get married in China.'<sup>47</sup> Women are seizing these opportunities and passing across the border with relative ease, aided by recruiters and their web of contacts throughout China.

The situations Burmese brides find themselves in whilst in China are as varied as the number of Burmese brides in China themselves. The cases of women suffering abuse (physical and mental) or trafficking into other industries (such as sex or labour) at the hands of their Chinese husbands are often the only ones reported by international NGOs or the Burmese government. Other scenarios also exist. Upon arriving in China, many Burmese brides stay married for precisely the factors that drove them to migrate in the first place. In this case, she is able to fashion better economic conditions for herself and achieve her own personal hypergamy within her new social group or community. Burmese brides have also been documented working outside the home and sending remittances to their families across the border.<sup>48</sup>

Burmese women are not protected under the same laws protecting the rights Chinese citizens, and they can be forced to leave the country against their will. A Burmese bride is currently unable to be eligible for a *hukou*, and thus, cannot travel freely, work legally or access important health services. She also cannot vote in village elections or seek legal help in the event that her husband is abusive. Most of these constraints, it should be noted, affect Burmese women back home as well. The system of issuing Burmese national identification cards is plagued with corruption and discrimination along ethnic lines.<sup>49</sup> Even if women in

<sup>45</sup> Personal interview with the Burmese Women's Union in Chiang Mai, Thailand, 23 August 2013.

<sup>46</sup> Kachin Women's Association of Thailand, 'Pushed to the Brink: Conflict and human trafficking on the Kachin-China border', Kachin Women's Association of Thailand, 2013.

<sup>47</sup> Z Mann, 'Police Close Chinese Marriage-Fixing Agency on Burma-China Border,' *Irrawaddy News*, 22 November 2013, retrieved 5 February 2015, <http://www.irrawaddy.org/china/police-close-chinese-marriage-fixing-agency-burma-china-border.html>

<sup>48</sup> K Kha, 'Ruili Working Condition Tough on Burmese Women', *Mizzima News*, 25 August 2013, retrieved 5 February 2015, [www.mizzima.com/news/regional/6652-ruili-working-conditions-tough-on-burmese-women?tmpl=component&print=1&page=1](http://www.mizzima.com/news/regional/6652-ruili-working-conditions-tough-on-burmese-women?tmpl=component&print=1&page=1)

<sup>49</sup> Personal interview with World Vision-Myanmar, in Rangoon, Burma, 20 September 2013.

Burma can access hospitals, for example, the quality of the hospital is abysmal, especially when compared to those in China.

Furthermore, a child can drastically alter the factors influencing a Burmese woman's decision to remain in China. Any child produced in the marriage between a Chinese national and a Burmese woman has the full rights of a Chinese citizen.<sup>50</sup> Her child will be able to have a free education, a *hukou* registration card and access to social services from the government. Aside from these benefits, many women choose not to leave with their children and return home to Burma. Even some of the women who do go back to Burma after having a child in China will ultimately return the latter because the Chinese family wants to be with her child. Over time, I was not surprised to learn that many of these Burmese women do not view themselves as having been 'sold' to Chinese men, nor do they readily identify with or uphold the label of 'trafficking victim'. Marrying a Chinese man is a survival strategy and a mechanism through which one can provide for family members.

### Case Study—Coordinated Local Interventions for Trafficked Women: The 'blue card' system

Though the Chinese Ministry of Public Security officials claim that Burmese women are not repatriated unless they choose to be, these women are in fact considered to be illegal immigrants in the country and have no legal rights.<sup>51</sup> On the Chinese side of the border, there are no shelters specifically for women who were forced into marriage in China, and most are sent straight to police stations.

In 2010, Dehong Prefecture, a Dai and Jingpo ethnic minority autonomous region in the western part of Yunnan, created the first and only system of documenting and provided services to foreign women who entered the country to become wives of Chinese men. The local government created the Documented Registration Certificate for Border Residents in the Cross-Border Marriages, commonly referred to as '*lanka*' or 'blue card' due to its colour, in response to the increase of Burmese women entering Yunnan in the past decade. Dehong Prefecture is home to the major border city of Ruili, and, in 2011, approximately 7,000 blue cards were issued to Burmese women.<sup>52</sup> This card ensures that its bearer is no longer considered a illegal immigrant even if documentation from her home country cannot be produced. It also provides immunity from being categorised as a 'person of three illegalities', referring to a person who has entered the country illegally, resides in the country under illegal conditions and is banned from working in the country.<sup>53</sup> Additionally, women who obtain this card are able to apply with the rural cooperative medical care and health services stations found in Dehong Prefecture to receive free and/or subsidised healthcare. Other illegal wives in Yunnan have to rely on social networks, brokers, or bribery to receive

<sup>50</sup> According to Article 4 of the Nationality Law of the People's Republic of China, 'Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.'

<sup>51</sup> Personal interview with China's Ministry of Public Security's Anti-Trafficking Unit officials, in Beijing, China, 19 August 2013.

<sup>52</sup> Personal interview with anthropology professor at Yunnan Ethnic Minorities University, in Kunming, China, 1 September 2012.

<sup>53</sup> Ibid.

provincial rates of Chinese citizens for healthcare.<sup>54</sup>

In my interviews, I found that the blue card does have several limitations. It must be renewed every year at the prefecture (not county) level administrative office.<sup>55</sup> This process incurs heavy travel and time costs for many women, and is often dependent on the acquiescence of the women's husband. Women with a blue card are also unable to leave Dehong Prefecture, as this system is not recognised in China as a whole. Beijing Ministry officials deny the blue card system's very existence because of the ramifications that this policy could have on immigration on a nation wide scale and because of the accountability this system would bring to bear on trafficking in persons reporting. The system remains hidden and contained at the local level, and quietly maintains semi-official records on the size of the bride population entering China from Burma.<sup>56</sup>

The official anti-trafficking regimes adopted in Burma and China from international models target the marriage transaction and the movement of peoples across the border. For Burmese brides within China, a more appropriate human rights response to their situation is needed to address the dearth of protective laws and positive rights that should protect them in their new marriage and home. Migrating for marriage or a job is frequently an act of economic necessity and ought be seen as a bold act of courage taken by women who have no economically viable alternative. The lack of recognition of their rights as migrants, wives, mothers and workers only harms the anti-trafficking cause.

## Conclusion

The purpose of this study is to expose several of the pitfalls and misconceptions inherent in the anti-trafficking movement's universal criminalisation of human trafficking under the Trafficking Protocol. Traditional marriage in China is expanding to accommodate the increased demand for brides by Chinese men. This expansion has caused the market to evolve, but many of its core principles have remained intact. Criminalisation of bride trafficking puts challenges on people heavily influenced by the importance of the institution of marriage in Chinese society. It also disproportionately discriminates against the poorest of Chinese male citizens. For Burmese women, prosecutions, repatriations and anti-trafficking raids are contrary in nature to the wishes of Burmese with ties to China. These methods also do not address factors contributing to their original motivations for migration, and do not provide protections to those who wish to stay in China.

Criminal prosecutions cannot be a substitute for access to structures of power within the government and society or for the ability to demand rights and represent one's own interests. The Chinese and Burmese governments have recognised the trade in Burmese women across the China border, but now they must address its subtleties and linkages to the broader society. Through comprehensive understanding of the region and the desires of its inhabitants, there must be practical application of this knowledge through policy reform and appropriate NGO intervention. As anti-trafficking efforts continue to attract attention around

<sup>54</sup> Personal interview with 'Molly', anthropologist at Yunnan University, in Kunming, China, 16 November 2013. \*Note these names have been changed (and others omitted) to preserve the anonymity of key informants.

<sup>55</sup> Ibid.

<sup>56</sup> Personal interview with Li Xiaotang, Chinese anthropologist, in Dimaluo, Yunnan Province, 9 November 2013.

the globe, international institutions, governments and communities of activists must be aware of the situations facing the populations they are trying to serve, and combat the biases that human trafficking language and legislation can create in the field. A new outlook and awareness will create a stronger, more successful anti-trafficking movement, and, more importantly, address the needs, desires and rights of people working to improve their lives.

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