# Trafficking in Human Beings: Modern Slavery – A Sociological Approach

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Conceptual clarity has to precede discussion of 'human trafficking'. Without it, legislation is ambiguous and non-comparable, statistics convey a seeming precision that can be meaningless, and protocols, conventions or policies are open to different interpretations of to whom their directives apply. The same is the case for well-meaning 'oppositional groups' when those they seek to help and defend remain ill-defined. Such a lack of conceptual precision characterizes much of the documentation available. Some of this is unavoidable because the overall phenomenon, within which particular concepts seek to capture distinct elements (such as 'forced labour'), is itself dynamic. It changes frequently in terms of the three 'M's: the *motives* of the 'victims' – itself a term varying in appropriateness; the *means* employed to recruit, transport and re-locate these human subjects, one that grows in organizational sophistication year upon year; and the *measures* taken by statutory bodies – global, interregional, national and local – that have undergone considerable revision and reformulation during the last two decades. One aim of this paper must thus be to avoid adding to conceptual confusion.

In this context, there are two words in the title of our current meeting that need to be scrutinized conceptually before a sociological discussion can begin: one is 'trafficking' and the other is 'slavery'. Both repay attention because examining them alerts us to the complexities involved and also because only in that way can we identify which part of a large corpus of publications and statistics can contribute towards a sociological understanding of what is at stake.

## I. Can 'Trafficking' and 'Smuggling' be clearly distinguished?

What could be called the foundational document opposing 'trafficking', the 2003 United Nations' 'Protocol to Prevent, Suppress and Punish Trafficking in Persons', offers the following definition. Trafficking involves:

> the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other means of coercion, of abduction, of fraud, of deception of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over

another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.[1]

In the above, 'trafficking' and 'forced labour' are explicitly elided, as implicitly is illegal migration if 'fraud' and 'deception' are incorporated into the meaning of 'coercion'. Conversely, the earlier Migrant Smuggling Protocol (2000), (part of a UN package of legal instruments proposed to combat organized transnational crime), maintains that in contrast with trafficked persons, smuggled migrants are those moved illegally for profit. This latter construes the smuggled as willing partners in a commercial transaction because it assumes that they have acted voluntarily.

However, the presumption that 'voluntary action' suffices to differentiate 'smuggling' from trafficking is also unworkable if one backtracks to the International Labour Organization's (ILO) Forced Labour Convention (1930, no. 29). Its whose definition of 'forced labour' covers 'all work or service that is exacted from any person under the menace of any penalty for which the said person has not offered himself voluntarily'. Here, 'forced labour' subsumes 'trafficking' and *also* illegal migration, if and when 'fraud and deception' effectively defy voluntary action.

On the presumption of 'voluntary action', not only are the three categories blurred but, in consequence, the primary emphasis shifts away from human rights. Importantly, where human rights are concerned, neither of the two treaties (protocols) adopted by the UN General Assembly in 2000 contains guidelines on how people deemed to be 'trafficked' or to be 'smuggled' are to be assigned to one category or the other. In both cases, their identification documents are likely to have been confiscated and those in transit can believe they are doing one thing and find another is being done to them as their journey or voyage unfolds.

Such confusion casts doubts on the careful pie-charts and statistics offered in reports such as the UNODC (2012), which collects together national data that necessarily embodies national interpretations. Such figures are likely to inflate 'smuggling' and decrease recorded 'trafficking', because the the Protocol on 'trafficking' recommends a number of 'victim protection measures' that nation states would have a financial interest in minimizing, unless human rights were high on their agendas.

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[1] United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons,* New York, 2012, p. 16.

Since these categories are not clear-cut (and probably cannot be since individuals can change category *whilst in transit*), little reliance will be placed in this paper upon the detailed quantitative analyses usually provided, as their repetition serves to accord them a spurious validity. The distinction between 'sex trafficking' and 'forced labour' seems particularly difficult to uphold because both can involve 'bonded' workers, individuals can move or be moved between the two categories, and distinguishing between them somehow implies that sex working is other than forced labour.[2]

However, there is one significant point of agreement between the UN and ILO protocols and conventions *together with* the aims and objectives of 'opposition groups'. This is their consensus that it is correct to use the term 'slavery' to cover both 'forced labour' and 'trafficking'. Take, for example, 'Anti-Slavery International' (founded in 1839), the only U.K. charity to work exclusively against slavery and that takes its definitions from UN and ILO sources. It asks 'What Types of Slavery Exist Today' and responds with the following list of malpractices: Bonded labour, Child Slavery, Early and forced marriage, Forced labour, Descent-based slavery, and Trafficking.[3] In the context of some excellent sociological and historical work, we can be on firmer ground in determining whether or not it is appropriate to use the term 'slavery' today. Allowing that 'historic' slavery covered a great variety of practices, what were its crucial common denominators? If these can be disengaged, then it is possible to ask about what the contemporary practices listed above share with past forms of slavery and whether or not there are any important differences.

## II. Is Trafficking in Human Beings 'modern slavery'?

In this section, I am going to consider 'trafficking' and 'forced labour' together, as distinct from 'smuggling', at least conceptually. This is because although the latter may involve fraud, deception and brutality, illegal migration does not meet most of the criteria detailed below. The first two phenomena do, by and large, conform to them. Nevertheless, I will argue that there is one major difference between 'contemporary' and 'historic' slavery, one that is held by many historians to be a precondition of holding someone to be enslaved in a system of slavery. This is the absence of any

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[2] I will thus restrict myself to statements about 'more' and 'less', ones that themselves should be treated with caution.

[3] http://www.antislavery.org/english/slavery_today/what _is_modern_slavery.aspx (downloaded 19.09.2013).

approximation to, let alone equivalent of, *manumission*. Its lack is both a source of objective and subjective personal hopelessness for those trafficked but it also means that contemporary slavery sets a completely new policy agenda in late modernity for combatting practices of domination that are literally without any determinate end.

In his acclaimed socio–historical study, *Slavery and Social Death,*[4] Orlando Patterson lists three distinctive features of the 'master–slave relationship' (Hegel) that are constitutive of slavery and together define it. Although the book ends before the last decades of the twentieth century, his framework can be used to ask whether or not the organized forms of human trafficking (that appear to have increased over the last twenty-five years) do in fact share the defining features of slavery over the millennia.

Patterson holds the defining features of slavery to be structural, cultural and socio–psychological, despite the variegated social contexts in which they occurred.

### a. Domination

'*Slavery is one of the most extreme forms of the relation of domination, approaching the limits of total power from the viewpoint of the master, and of total powerlessness from the viewpoint of the slave'.*[5]

The 'trafficker/trafficked' relationship is ultimately reliant upon coercion in its most violent forms. It may begin with trickery (the promise of work abroad) and can involve 'wooing' (the recruiter may promise to marry the subject on arrival[6]), but such complicity gives way to naked violence on the stages of what can be an extremely complex journey.[7] In its course, 'masters' can change frequently (and the 'mastermind' may never be encountered), thus excluding the possibility that any 'relationship of duty' can emerge between the trafficked and the traffickers and meaning that violence will surface quickly and regularly when exigencies arise. As fear alone motivates obedi-

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[4] Orlando Patterson, *Slavery and Social Death,* Harvard University Press, Cambridge Ma., 1982.

[5] Ibid., p.1.

[6] UNODC

[7] Although UNODC, ibid. reports that more than 75% of trafficking flows are of short or medium range (i.e. within a given region), it also states that 74% of detected victims are exploited in a different country from their own. p. 12. This minimises costs and risks for the trafficker, but the report also details a pattern of trafficking that is becoming increasingly cross-border and transcontinental p. 41f.

ence, relations of domination cannot be transmuted into ones of authority, on whatever conceivable basis it might be claimed. 'Contemporary slavery' not only meets the first criterion but appears to exemplify 'total power', with no attempt to conceal its nature after the *début*. With 'forced labour', those who are picked up living homeless on the streets and are often alcohol/drug users,[8] domination may be unconcealed from the start.

## b. Social Death

'*The definition of a slave, however recruited [is] as a socially dead person. Alienated from all "rights" or claims of birth, he ceased to belong in his own right to any legitimate social order. All slaves experienced, at the very least, a secular excommunication … the slave was socially alienated and ceased to belong to any formally recognized community*'.[9]

The importance of this aspect had first been accentuated by Moses Finley in relation to Greco-Roman slavery, when he emphasised the 'outsider' status of the slave as a crucial feature of his position.[10] Alienation from natal kin is a continuing feature of trafficked people, despite data from a small 'sample' who listed their desire to 'send money home' as their prime motive for initial acquiescence.[11] For many, there appears to be nothing to send and no means of sustaining contact. (This was one of the improbable parts of the film *Sex Traffic,* where an isolated phone box in rural Moldova proved a reliable means of communication.) Such informal personal relations as the trafficked do develop were, like those in 'historic' slavery, never recognized as legitimate or binding.

As Patterson notes: 'It was this alienation of the slave from all formal, legally enforceable ties of "blood" and from any attachment to groups or localities other than those chosen for him by the master, that gave the relation of slavery its peculiar value to the master'.[12] The slave was moveable, removable and disposable. One of the significant features today amongst

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[8] BBC News, 1 February, 2012. http://bbc.co.uk-11012084 (downloaded 19.0.9. 2013)

[9] Patterson, Ibid., p. 5-6.

[10] Moses Finley, 1968, 'Slavery', *Encyclopedia of the Social Sciences'*, Vol. 14, New York, Macmillan and Free Press, pp. 307-313.

[11] European Commission, 2003, *Research based on case studies of victims of trafficking in human beings in 3 EU Member States,* Hippocrates program, project no JAI/2001/HIP/023, p. 195.

[12] Patterson, Ibid. p. 7.

transnationally organized traffickers is that their victims can later be circulated between cities and countries to reduce chance of detection. Whether on construction sites or in brothels, subjects have little chance to learn the local language or local geography, to form meaningful social relationships, let alone to know, acquire or exercise any civil rights that might in fact be theirs. They are socially dead because severed from any form of social integration, past, present or future. As persons, the Universal Declaration of Human Rights (1948) with its explicit ban upon slavery and servitude, may as well not exist; they are non-persons denied their humanity.

### c. Dishonoured and Degraded

Honour or reputation is both externally expressed and internally felt, which is what makes it a socio-psychological phenomenon. In the words of the anthropologist Julian Pitt-Rivers, 'it is a sentiment, a manifestation of this sentiment in conduct, and the evaluation of this conduct by others, that is to say, reputation. It is both internal to the individual and external to him – a matter of his feelings and the respect he receives'. What generically makes the difference between positive and negative 'sentiment' and 'evaluation'? To Pitt-Rivers, 'the essence of honour is personal autonomy'.[13] Absence of freedom is the other face of total domination, which is what makes disrepute characteristic of slavery. Human subjects who are treated as objects are beyond the pale of repute.

However, there is nothing inherently disreputable in being a construction worker, someone who can become known as a good and reliable workmate. Equally, a person who has exercised some degree of freedom in choosing to run a house of disrepute can acquire a certain repute, at least in her own circles, as illustrated from Shakespeare to the traditional Western cowboy movie. What distinguishes these two stereotypes from slavery is that both are part of the social order rather than outside it. Indeed, this may be a contributory factor (besides having little other experience or qualifications to draw upon) accounting for some older women coming to collaborate with their trafficking network in running/staffing their enterprises.

Thus, Patterson's third criterion loops back to his first (total domination) and his second (social death) as well as to philosophers from Hobbes to Nietsche who saw repute as inherently linked to power. '[T]hose who do not compete for honour, or are not expected to do so are in a real sense outside the social order. To belong to a community is to have a sense of one's po-

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[13] Julian Pitt-Rivers, 'Honor', in *Enclopedia of the Social Sciences'*, Ibid., Vol. 6, pp. 503–511.

sition among one's fellow members, to feel the need to assert and to defend that position, and to feel a sense of satisfaction if that claimed position is accepted by others and a sense of shame if it is rejected. It is also to feel that one has a right to take pride in past and current successes of the group, and to feel shame and dishonour in its past and present failures'.[14]

From the three criteria taken together comes his definition: *'slavery is the permanent, violent domination of natally alienated and generally dishonoured persons'*.[15] As we will see in a moment, the word 'permanent' refers to the duration of enslavement, rather than to slavery necessarily being in perpetuity for those once enslaved. On the contrary, to Patterson, the prospect and enactment of *manumission* is integral and indispensable to the system of slavery.

### The importance of 'historic' manumission and its contemporary absence

*'[i]t is not possible to understand what slavery is all about until we understand it as a process including the act of manumission and its consequence. Enslavement, slavery and manumission are not merely related events; they are one and the same process in different phases'.*[16]

If it is the case that manumission is integral to systems of slavery – and Patterson maintains that it is 'an essential condition[17] - we need to clarify why it is held to be so, because in contemporary trafficking this condition is usually lacking in formal terms. Thus, although today the trafficker/trafficked relationship conforms to the three defining characteristics of slavery just discussed, the absence of manumission may well cast doubt upon regarding contemporary practices (that exemplify (a), (b) and (c) above, and often do so more brutally than quite a number of historic practices) as falling within the concept of slavery. After all, there are other terms that capture trafficking, such as 'abduction' or 'kidnapping', which might be considered more appropriate. However, it is the the supreme conformity of trafficking to the criteria of 'total domination', 'social death' and 'dishonouring and degradation' that makes me reluctant to regard it as other than slavery without further consideration.

Let us begin by unpacking Patterson's reasons for holding manumission to be 'an essential condition', above and beyond the fact that he has empir-

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[14] Patterson, Ibid., p.79.
[15] Ibid., *p. 13.*
[16] Ibid., p. 296.
[17] Ibid., p. 101.

ically documented that 'most slave populations had high manumission rates', despite their differences in type.[18] He poses the seeming paradox that the *effect* of the three criteria was indeed to make the slave's yearning for human dignity more intense, yet that this itself could be exploited to benefit the individual master and to buttress the slavery system as a whole. How can this apparent contradiction be resolved?

At the micro-level, the master 'does so by manipulating it as the principal means of motivating the slave, who desires nothing more passionately than dignity, belonging, and release. By holding out the promise of redemption, the master provides himself with a motivating force more powerful than any whip. Slavery in this way was a self-correcting institution: what it denied the slave it utilized as the major way of motivating him.' At the macro-level, the dialectics of the system come into play. 'The slave's struggle made it necessary that the master, in order to make slavery workable, provide an opportunity for the negation of of slavery. The conflict between master and slave became transformed from a personal into an institutional dialectic, in which slavery as an enduring social process, stood opposite to and required manumission as an essential precondition'.[19]

What I am going to suggest is that in contemporary trafficking there is a natural and informal mechanism that operates in the same way and with the same consequences as the seven versions of formal manumission detailed by Patterson. This informal procedure works in much the same way for 'sex trafficking' and 'forced labour'. Quite simply, *those trafficked also age* – faster in the sex trade than in the most common types of enforced labouring. Objectively, this means that trafficked people are of diminishing financial value to their exploiters. In cost-benefit terms, as they grow older, it is not worth further investment in order to retain them. Subjectively, the knowledge of their ineluctable superannuation (perhaps at 25 in sex work) performs the same function of placing a time limit on, if not their 'release', at least upon when they can drift away without strenuous attempts to detain them. (This similarity is another reason for considering the two groups of the trafficked together.)

Moreover, in terms of their life-histories, the 'historic' and the 'contemporary' populations involved would not have been very different (adjusting for differential longevity). This is because most frequently, manumission involved purchasing it and was thus mainly a matter of which slaves were in a position to do so. Thus, Johnson found that in Buenos Aires, 'the 'crucial

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[18] Ibid., p 133.
[19] Ibid., p. 101.

variable in determining whether a slave could accumulate sufficient capital to purchase manumission was independence from direct supervision of the slave owner, not gross earning capacity'.[20] In fact, females working in hawking, had more control over their earnings than males slaves hired out at negotiated wage rates paid directly to their owners, as was reflected in the higher manumission rate for women. This provides a reminder that the sex trade is not exclusive feminized nor is forced labour the preserve of males – then as now. Taking a broader canvas, Patterson concurs that 'in general access to skill and opportunity to control part of earnings were found to be the major determinants of incidence' (of manumission).[21]

What is perhaps surprising is that virtually the same difficulties attended gaining and benefitting from 'historic' manumission as attach to obtaining and profiting from freedom amongst today's trafficked people. First, is the problem of capital accumulation mentioned above, whose counterpart today is that even if a 'contracted' passage can been payed-off, and the size of these 'debts' can be huge (up to €50,000 from Nigeria to Italy),[22] the initial debt rises considerably because of new 'costs' imposed by middlemen, charges for a room, food, bills, clothes, the 'place' where they work and fines various. Secondly, all would be landless and homeless as well as penniless. Thirdly, if they had skills these would be undocumented and they would be without persons willing to vouch for them or provide 'references'. Fourthly, whilst all of these factors would confine them to the lowest-paid jobs, they would also be confined to the localities they knew – and which also knew them! Finally, while the traditional slave may often have been detained by attachment to family members still in servitude, their contemporary counterparts are frequently restrained by un-dated threats to their families back home. Thus, in both cases the dependency established was hard to shed, just as freedom was a hard path to take.

I hope that the present section has served to justify the reference in our title to trafficking as 'Modern Slavery'. It was something of a surprise after writing this to find Pope Francis declaring during the same week 'Nowadays, "slave labour" is common coin!'[23] Interestingly, his reference to slave

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[20] Lyman L. Johnson, 1979. 'Manumission in Colonial Buenos Aires, 1776-1810', *Hispanic American Historical Review,* 59, pp. 275-276.

[21] Patterson, Ibid., p.295.

[22] European Commission, 2003, *Research based on case studies of victims of trafficking,* Ibid, pp. 154–5.

[23] 'Message for World Day of Migrants and Refugees' September 4th, 2013 (Zenit.org).

labour did not make a distinction either between 'forced labour' and 'sex trafficking'. Both are coerced and both entail work that is degrading to human dignity.

### III. What's new about Human Trafficking in Late Modernity?

So far, I have dealt largely with those similarities between slavery old and new that justify regarding the *results* of contemporary trafficking as continuous with the past. In other words it is legitimate to regard the outcomes of such traffic as slavery today (with the one outstanding difference being the absence of any formal process(es) of manumission, to which I will return later). However, that is to say nothing about what *explains* this continuation and continuity of a practice that was morally condemned and 'abolished' in the West during the nineteenth century. Nor does it *account for how* slave trading continues to be conducted in the completely different social context of a globalized world.

Moreover, this explanatory weakness becomes acute when we confront one issue that is incontrovertible. *The criminalization of human trafficking is a phenomenon of the new millennium.* All of the protocols and conventions already mentioned date from 2000. Why was this so late? Why was it spearheaded by the United Nations and other INGOs? Why did 154 nation states 'hurry' to sign up within a decade? If the response is that trafficking had intensified – and doubtless it had never gone away – it is difficult to adduce robust evidence because that would imply the possibility of differentiating between 'legal' and 'illegal' migrants and showing that the 'illegals' represented a growing percentage. In fact, to this day, no nation state can provide other than an estimate of illegal migration.

It is even more difficult to disentangle xenophobic public reactions to the presence of migrants in general from opposition (let alone moral outrage) over the practice of trafficking. Indeed, the flourishing of ultra-right parties in Europe (such as the Le Pen Front National party in France and UKIP in Britain, both of which have the restriction of migration prominent on their agendas) soon after Social Democratic Parties suffered demise,[24] makes it impossible to explain 'new abolitionism' as some kind of millennial 'change of heart'. *Sociologically, we must dig deeper to account for both 'more' transnational trafficking and the sudden flurry of globalized opposition to it.*

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[24] David Bailey, 2009, *The Political Economy of European Social Democracy,* Abingdon, Routledge.

To do so, it is essential to think in sociological terms other than the type of explanation most favoured in official reports. These simply present accounts based upon social hydraulics. That is, there are 'push' factors and 'pull' factors and when the two coincide, a higher rate of trafficking is said to result (for example, the movement from poor to rich countries or regions). Yet, poverty *per se* cannot *causally account* for either the practice or its rate, any more than it directly accounts for crime or low school attendance. People can respond to 'poverty' in many different ways; from resignation to 'their lot', by doing what they can in their social setting (from scavenging the refuse tips to collecting the benefits for which they are eligible), from lone petty crime (stealing food) to organized criminal activities and so forth. In short, if someone, some group or collectivity is poor, this does not tell us what they will do. Nor does it even tell us that as an aggregate they will do something different from the rich, or in greater numbers or with higher frequency. Amongst the rich are plenty of criminals, many who cheat on their expenses, and some who engage in tax evasion and shoplifting.

These are 'billiard ball' accounts that treat human subjects as 'passive agents' and their contexts as 'social forces'. These two assumptions are found linked together in the UNODC report: 'The socioeconomic conditions of victims and their hope of improving their lives abroad are among the factors of vulnerability that traffickers leverage to exploit them'.[25] To brand any category of people as 'vulnerable' is today's apology for an explanation. Semantically, the word has changed from its old adjectival or adverbial use ('an argument vulnerable to refutation' or 'he vulnerably gave in to every threat') to become a noun. As the latter, 'the vulnerable' is a category to which people are held to belong involuntarily through circumstances beyond their control (they are not responsible), from which they cannot escape (they *are* 'vulnerable' whatever their strength of character) and this category is objectified or reified (to join real characteristics such as 'colour blind' or 'over 70 years old'). It perfectly describes the 'passive agent' who is simply prey to 'non-passive actors'. It strips the 'vulnerable' part of humanity of its powers of resistance, of ingenuity and of human dignity; even in the zoological world, the preyed upon are granted 'animal cunning'. It carries the non-judgemental connotation that in the same position, you would behave in the same way. The trouble is that those in similar positions do not behave in similar ways and rendering them passive is to render the investigator incapable of explaining the variety of the different things they do.

[25] UNODC, *Global Report on Trafficking*, Ibid, p. 40.

The same is the case for treating the social context as an aggregation of 'socioeconomic factors', as in the UNODC quotation above. It leads directly to empiricism, to the attempt to find statistical correlations between factors or variables. Yet, causality cannot be derived from correlations or regressions (that David Hume called 'constant conjunctions'). When such measures of association are strong, they set a problem for the social scientist to explain because they themselves are not explanations. This is not the place to go into the detailed critique of 'empiricism' that has intensified over the last four decades in social science. Nor is it the place to enter lengthy debates about alternative explanatory frameworks. Suffice it to say that these are in unresolved contention about what precise process accounts for a social phenomenon, practice or problem.

There is no theory-neutral explanation of anything, but there does seem to be a growing agreement on the *constituents* of adequate explanatory accounts, though a lack of consensus about their definition, combination and importance. Social reality – any section of it or problem within it – is intrinsically, inherently and ineluctably 'peopled'. Its ontological constitution is utterly activity-dependent, despite the fact that people's thoughts and actions give rise to factors that are 'not people' – the most important of these being structure and culture. For any process to merit consideration as a generator of social change it must necessarily incorporate structured human relations (contextual-dependence), human actions (activity- dependence) and human ideas (concept-dependence). A more familiar way of putting the above is that every theory about the social order or explanation of a problem within it necessarily has to incorporate SAC: structure, agency and culture.[26]

In these terms, I venture a rudimentary explanation that simultaneously would account for:

– the growth of 'contemporary slavery' as integral to the globalized capitalism of late modernity
– the tension (a 'constraining contradiction'[27]) between multi-national production and responses by nation states

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[26] The problem in hand will govern which of the three is accorded most attention and the acronym SAC is thus *not* a rank ordering of priority between the three elements. This is a logical point; if something is deemed indispensable to something else, it makes no sense to ask if one element is more indispensable than the other.

[27] This concept is discussed in Margaret S Archer, 1988, *Culture and Agency: The Place of Culture in Social Theory*, Cambridge, Cambridge University Press. For a contemporary treatment see Archer, 2013, 'Introduction' to Archer (ed.), *Social Morphogenesis,* Dordrecht, New York, Springer.

– accounting for the 'delayed' cultural opposition of global institutions such as the UN to contemporary slavery, although they were the first officially to advocate its criminalization

## IV. The Social Shaping of Contemporary Trafficking

Slavery, like any other social phenomenon or practice, always takes a *particular form*. Explanation consists in identifying those processes or mechanisms that generate and shape a given form and increase its scope. Simultaneously, such an account must incorporate countervailing processes that diminish or reduce the impact of the first generative mechanism.[28] In Figure 1, solid arrows indicate the processes shaping and intensifying contemporary slavery and dotted lines those operating to diminish or dilute the former. The dashed lines (in the middle) represent the ensuing conflicts between the two processes. Stages are numbered in (broad) historical sequence, from the 1970s until today. Each number is followed by an annotation that includes data where available.

(i) Just as the rise of cotton production in the southern States of the US and of coffee production in Brazil created a need for labour that was met by the slave trade,[29] so too the spread of multinational enterprises was associated with the exploitation of workers, both as cheap child labour and as 'forced labour'. Increased market competition was the major driver. As part of being competitive, it should be stressed that whilst most factors of production were mobile – money, goods, services and, above all, the digital technology essential to the logistics, accounting and transport of geographically dispersed production – this was *not the case for labour*. The competition intrinsic to capitalism accounts for the 'demand' for 'forced labour' and for the areas of the world where it was most prevalent, and considerably outweighed 'sex trafficking' (in Asia, the Pacific, Middle East and Africa). It is also consonant with the sharp and recent rise from UNODC's estimated 18% of those trafficked in 2006 being for 'forced labour' to 36% of victims detected in 2010.[30] The direct connection with the multinational supply

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[28] Margaret S. Archer, 1995, *Realist Social Theory: The Morphogenetic Approach,* Cambridge, Cambridge University Press.

[29] Patterson considers that the majority of slaves brought to the New World were kidnapped persons. Ibid., p. 120

[30] UNODC, Ibid, pp. 35-40. Although this entailed exploitation in another country for the majority this was largely intra-regional trafficking and working for the multinationals was the likeliest source of demand despite place of work was not included on the national submissions making up the report.

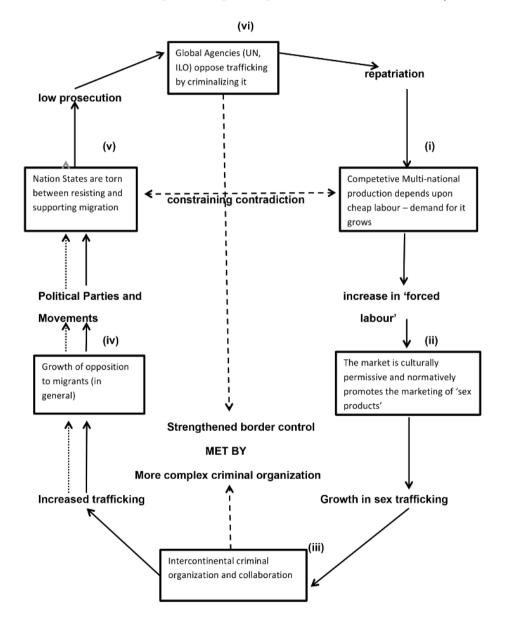## Human Trafficking and its global generation in late modernity

**(vi)**

Global Agencies (UN, ILO) oppose trafficking by criminalizing it

**repatriation**

**low prosecution**

**(v)**

Nation States are torn between resisting and supporting migration

**constraining contradiction**

**(i)**

Competetive Multi-national production depends upon cheap labour – demand for it grows

**Political Parties and**

**Movements**

**(iv)**

Growth of opposition to migrants (in general)

**increase in 'forced**

**labour'**

**(ii)**

The market is culturally permissive and normatively promotes the marketing of 'sex products'

**Strengthened border control**

**MET BY**

**More complex criminal organization**

**Increased trafficking**

**Growth in sex trafficking**

**(iii)**

Intercontinental criminal organization and collaboration

**Figure 1.**

chain has been documented by both the ILO and the UN GIFT pro-grammes,[31] as well as by much research.

(ii) Exactly the same technological breakthroughs based upon micro-electronic processing have, as is well known, promoted the marketing of sexual material: from DVD movies, photographs downloadable from the internet, the self-presentation fostered by the likes of Facebook, to sex tourism. Apart from imagery featuring children, it is un-regulated. Doubt-less, we have all confronted and been affronted by the offer of 'Adult movies' in otherwise respectable hotels. That is a minor illustration of how normal-ization proceeds. However, this non-regulation is actively defended by the suppliers of computers who recently rejected the suggestion of a 'non-dirty' default setting, even if it could be turned off by the purchaser. In this way 'demand' is stoked and part of the response is the estimated 58% of trafficked persons destined to be for sex work in Europe or the Americas.[32]

(iii) More than three-quarters of trafficking flows in 2012 were estimated to be confined to the same region. The UNODC report argues that this 'maybe explained largely in terms of convenience and risk minimization for the trafficker ... Long- distance trafficking flows need to be supported by a well-structured organization that can take care of air travel and false documents and that sometimes also exercises long-distance control over the families of the victims in the origin country. This form of trafficking cannot be sustained over time unless a structured trafficking network is in place'.[33] Criminal or-ganizations engaged in trafficking appear to follow growth pattern from do-mestic, to interregional and finally to transcontinental operations, facilitated by the same technology as employed in multinational production. Manuel Castells was among the first to accentuate the parallel effect of information technology on criminal organization as a prominent feature established by the turn of the millennium: 'Mafia-like organizations around the world have also become global and informational, providing the means for stimulation of men-tal hyperactivity and forbidden desire, along with all forms of illicit trade de-manded by our societies, from sophisticated weaponry to human flesh'.[34]

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[31] ILO home > About the ILO > How the ILO works > Departments and offices > Employment Policy Department > Eradicating Forced Labour from Global Supply Chains - Webinar presentation , 2011.

[32] UNODC, Ibid., p. 39-40.

[33] Ibid., p. 41.

[34] Manuel Castells, 2010, *The Rise of the Network Society,* Vol I, Wiley-Blackwell, Ox-ford, p. 2.

Several concurrent features, clustered towards the end of the twentieth century, accelerated this development. Firstly, the collapse of Eastern European governments not only enabled organized crime to profit from reduced constraints, but falling living standards enlarged the pool of those seeking migration. Two of the earliest players were Albania and Moldova – 'failing countries', rejected by East and West alike. For example, it has been estimated that out of the 1,346 Moldavian travel agencies operating around the turn of the century, only 340 were legal, thus providing a domestic infrastructure for recruiting the trafficked.[35] Secondly, other forms of smuggling experts – in cigarettes, drugs and arms dealing – diversified into the profitable venture of human trafficking, using their acquired knowledge of 'safe' means and routes. Thirdly, organizations in countries of recruitment, transit and destination were ready to collaborate in what became a complex criminal organization with a global reach. The part of the EU research report dealing with Italy, details deals between trafficking organizations from Albania, Nigeria, the former Soviet Union and China with Mafia organizations in various Italian regions, who profited when granting permission to operate on 'their' territory. The elaboration of this structured system also involved 'corrupt administrative bureaucrats, police officers and border control agents who directly (as representatives of the criminal groups) or indirectly (accepting bribes for not stopping the suspected traffickers and victims) take part in the profitable transnational business'.[36]

(iv) Political opposition took the form of a general condemnation of migration – at least at on its current scale – whether legal or illegal, as was typical in most recipient countries, including fast developers such as India. These movements and parties are well known in Europe and America but, *until recently, they have rarely singled out trafficking as such* in their resistance to migration. Their grievances, often a form of scapegoating, can be grouped under three headings. First, the economic damage inflicted on the domestic economy, focussing on 'taking our jobs' and using 'our social services'. Denmark's stringent immigration reform is frequently cited favourably in this context as saving 6.7 billion euros a year.[37] In calculating such 'savings', the

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[35] European Commission, 2003, *Research based on case studies of victims of trafficking,* Ibid, p. 158.

[36] Ibid., p. 168. See also P.C. van Duyne et al (eds.), 2000, *Cross-border Crime in a Changing Europe,* Tliburg University, Institute of Criminology and Social Prevention, Prague.

[37] http://www.telegraph.co.uk/news/worldnews/europe/denmark/8492822/Denmarks-immigration-laws-save-country-6-billion.html

contribution made by migrants to the national economy is not, to my knowledge, ever subtracted (despite their indispensability to the functioning of national health services, for example.) Since the onset of the current economic crisis budgetary austerity and the growth of youth unemployment has undoubtedly increased the impact of such arguments. Secondly, migrants are associated with a rise in crime rates,[38] although this is statistically contested. Third, and importantly, since many states have experimented with multicultural programmes but without great success, the charge of diluting 'national identity' has been fuelled. In all of this, the trafficked are not differentiated (as deserving of humanitarian concern) but are assimilated to the abusive term 'illegal' and more easily subject to deportation.

However, all such anti-migration groups have difficulties in transforming themselves from single-issue movements into credible political parties. Nevertheless, Marine Le Pen obtained almost 18% of the vote for her Front National Party and *Le Monde* reported that 33% of the French electorate hoped she would occupy 'an important political role'.[39] Nigel Farage and UKIP began to be taken seriously when recently well-placed in parliamentary by-elections, assisted by a blatant anti-European stance but undermined by equally blatant sexist comments at their 2013 Party Conference. This indicates that revival is possible for the ultra-right and constitutes a new pressure on existing parties and potential governing coalitions. Thus, these parties play an ambivalent role in terms of negative feedback since their general opposition to migration, includes, but does not single out the practice of human trafficking.

(v) In the Western world, governments and political parties have an even more ambiguous stance. On the one hand, electoral considerations encourage giving serious attention to manifest popular resistance to migration in the general terms described above. On the other hand, most are economically compromised by the use of cheap, exploited and often trafficked labour in *their* multinational enterprises in the developing world. At home, they are not immune either, given disclosures of 'sweatshops' producing clothing, for example, for well-known national brands.[40] Although these are usually

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[38] McDonald, William Frank. *Immigration, Crime and Justice*. Emerald Group Publishing. This is contested in  French, Howard W. (September 30, 1999). "Disdainful of Foreigners, the Japanese Blame Them for Crime". *The New York Times*. Retrieved April 30, 2010.

[39] Le Monde, 03.10.2013

[40] See Annie Phizacklea, 1990, *Unpacking the Fashion Industry,* Routledge, London.

dismissed as bad tales from the last century, new disclosures continue to be made from Europe and the US. In other words, the black economy is still needed for the white economy to be competitive and, in Western countries, trafficked labour plays its part.

In the West, most political parties have compromised and now set targets restricting migration. In Asia, it is estimated that 700,000 people are trafficked annually (out of the ILO's estimate of 20.9 million people being in forced labour globally). Here, Australia – perhaps because so much of the white population descends from transported ancestors – has played something of a lead in programmes to combat trafficking in South East Asia.[41] What is significant is that it has had to work regionally through ASEAN because of the (unstated) political complicity in trafficking within certain of its 10 member countries.

In sum, this means that nation states have been at best inactive towards human trafficking and only rarely pro-active towards combatting it. The phenomenon of trafficking has increased, but the 'constraining contradiction' in which their 'economic interests' embroil them entails a negative feedback loop, rather than making even the most democratic governments pro-active in eradicating trafficking. That seems to account for the delayed opposition to it and equally for the main initiatives having come from supra-national agencies, particularly the UN and ILO.

By 2012, 154 countries had ratified the UNODC *Protocol to Prevent, Supress and Punish Trafficking in Persons, Especially Women and Children*. By the same date, 134 countries and territories had enacted legislation criminalizing trafficking, meaning that the percentage of those without an offence designating this activity as criminal had halved between 2008 and 2012.[42] Nonetheless, the Council of Europe's GRETA (Group of Experts on Action Against Trafficking in Human Beings), which produced the first assessment of the UK since its anti-trafficking convention came into force in 2009, stated that there were indications that increasing numbers were being brought in to work for purposes of sexual exploitation and forced labour. However, of the hundreds identified as having been trafficked only 29 people were convicted of the offence of being traffickers in 2010.[43] Thus, the

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[41] Australian Aid. 'Prime Minister announces new programme to combat human trafficking' http://www.ausaid.gov.au/HotTopics/Pages/Display.aspx?QID=882 (downloaded 19.09.2013.

[42] Executive Director's 'Preface', UNODC, Ibid., p. 1.

[43] BBC News, 12 September 2012, http://www.bbc.co.uk/news/uk-19566617 (downloaded 19.09.2013).

last link (iv) in the array of positive and negative feedback factors influencing or diminishing trafficking still remains to be discussed: what effect does 'criminalization have?

## V. Criminal Justice: necessary but insufficient?

The criminalization of human trafficking is a short story belonging to the 21st century. The parent instrument was the UN Convention Against Transnational Organized Crime, adopted by the General Assembly in 2000. From it sprang the Protocols and Conventions that have already been mentioned, all of which required not only ratification but embodiment in national legislation.

Significantly whilst the 2002 Protocol required state signatories to 'criminalize trafficking' and to 'strengthen border controls' the 'victim protection measures' proposed remained optional, among which featured 'adopting legislative or other measures permitting victims to remain in their territories temporarily or permanently'. The implication is that 'criminalization' and 'border control' take precedence over the human rights that 'victim protection' was intended to address. No protection was provided in the Protocol against the involuntary and immediate repatriation of those detected as having been trafficked. Moreover, lack of adequate 'witness protection' reduces the rate of criminal prosecution. The figures supplied in the 2012 UNODC report reflect little change in these respects. Finally, tighter border controls are most effective against small operators, thus reinforcing the monopoly of the globalized criminal networks (as illustrated in Figure 1).

'Deport or detain' (or vice versa if the aim is to secure witnesses), were the predominant national responses, although some relaxation has taken place in the major counties of destination.[44] However, what remains glaring through its absence are any forms of victim compensation (once mooted and to be funded through gains confiscated from traffickers). Even more

[44] See A. Gallagher and E. Pearson, 2010. 'The High cost of Freedom: A Legal and Policy Analysis of Shelter Detention for Victims of Trafficking', *Human Rights Quarterly,* 32. 'Australia, the United States, and most countries of Western Europe, now provide special visa arrangements for victim-witnesses. Such arrangements often include a provision for victims to take some time—"a reflection period"—to think about whether or not they wish to be involved in criminal proceedings. At the end of this reflection period, the most generous schemes envisage granting residence permits to victims of trafficking who choose to cooperate. This approach, pioneered by the European Union through Council Directive 2004/81/EC, 2004 O.J. (L 261), has now been adopted as the European legal standard through the European Trafficking Convention, *supra* note 2, art. 13'.

importantly, what official policies have been developed to equip the trafficked with basic skills for a normal life in the countries of destination in which they have been abused? In general, these remain the patchwork preserve of voluntary associations, with occasional exceptions where public and third sector providers collaborate.

### The drawbacks of the Rapid Repatriation Response

Though doubtless favoured by 'anti-migrant' lobbies ([iv] in Figure 1), this 'solution' has the major drawbacks listed below and synthesised from the reports already cited. They summarize the limitations of Criminal Justice alone to tackle the problem of trafficking. In what follows, I maintain that the effects for the trafficker and the trafficked have to be considered alongside one another otherwise any balance sheet is skewed.

1. All reports agree that statistics for the identification, arrest and, above all, conviction of traffickers are exceeding small in relation to what is known about the size of the problem.
2. Rapid deportation does not allow the trafficked to become fully aware of their rights, overcome their fear of reprisals from their exploiters through secure witness protection schemes, or to recognize that they will not be 'set free' on paying the original debt-bond they had contracted. In fact, it can be argued that rapid repatriation deprives criminal justice of its key informants.
3. In qualitative studies, approximately half of the trafficked had known their recruiters in their country of origin and defined them as acquaintances, partners, family members and friends. Deportation puts them at risk from such persons who fear the trafficked disclosing their experiences.
4. Despite local, national and regional variations, those who have been pressed into forced labour often originated from minority or marginalized groups whose experiences of institutional discrimination may have facilitated their recruitment. Returning them to such contexts can mean that criminal justice places them in double jeopardy.

The criminalization of trafficking is necessary in all parts of the world, but involuntary deportation appears both counter-productive to the prosecution of perpetrators and is often doubly punitive of their 'victims'.

### How Voluntary Associations can help?

The following considerations are not confined to enforcement of human rights alone but deal more broadly with measures aimed at a social well-being consonant with the human dignity of trafficked persons – what could

be called meeting the needs of manumission in late modernity. These reflections stem from considering a brief window of opportunity in Italian law (between the Legislative Decree 286/98 and the passing of the 'Bossi-Fini' law in 2002). During these four years a plethora of voluntary associations[45] jump-started over 200 projects whose aim was the social integration within Italy of those who had been trafficked into sex work. Prior to the 1998 Decree, detention in 7 shelters run by the Ministry of the Interior had been followed by immediate enforced deportation.

The special permit 'to stay' was granted under Section 18 of the Decree on the assumption that 'victims' would press charges or at least supply the police with information. Indeed, the police and *carabinieri* were the main referring agents. Thus, one interpretation of the Decree was as an adjunct to criminal justice and the establishment of a national Freephone line (*Numero Verde)* could be seen in the same light. However, in the hands of the Voluntary Groups the practices and provisions greatly exceeded the aim of increasing the network of informants in the following ways.

1. Since 90% of street prostitutes were estimated to come from (then) non-EU countries, 'their illegal status and poor knowledge of the territorial services offered' meant that Public Social Services were rarely used by them.[46] Instead, volunteers took the initiative of approaching them on the streets.
2. The services offered included legal and social counselling, health protection, shelter, learning Italian, vocational guidance and training, and job placement. Those attending such Programmes of Social Assistance would receive a Permit for Social Protection, which could later become a regular 'work permit'.
3. The accommodation offered was usually arranged 'stepwise', leading progressively towards living autonomously.
4. The media were used to highlight the plight of the target population

However, although funded by the Italian Department for Equal Opportunities, there was no central co-ordination of the Programmes available in different areas. On the other hand, freedom from bureaucratic regulation allowed the voluntary associations to function as Research and Development agencies that innovated, monitored and evaluated their initiatives as they went along. Thus, it was concluded in the Research Report that 'in the case of strategies

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[45] See European Commission, 2003, *Research based on case studies of victims of trafficking,* Ibid, p. 138-9.

[46] Ibid, p. 138.

to combat trafficking of human beings, NGOs have played, and still play an exemplary pioneering role. They, in fact, have always preceded – and often taken the place of – governmental bodies in planning activities and providing services in favour of weaker members of society at risk of social exclusion ... Public bodies generally follow suit after a certain delay'.[47]

## VI. Conclusion: Is there social life after 'Social Death'?

*Nina, ci vogliono scarpe buone,*
*e gambe belle, Lucia,*
*Nina, ci vogliono scarpe buone,*
*pane e fortuna e così sia,*
*ma soprattuto ci vuole coraggio a trascinare le nostre suole*
*da una terra che ci odia ad un'altra che non ci vuole.* (Ivano Fossati, 2003)

Nina, good shoes are needed,
and beautiful legs, Lucia,
Nina, good shoes are needed,
bread and good fortune, so be it,
but, above all, it takes courage to drag our soles
from a land that hates us to another that does not want us.

Earlier in this paper it was argued that 'ageing' itself was the naturalistic form taken by manumission in late modernity. But, for those who live to see such 'freedom', what kind of social life, what degree of social re-integration is open to them? Do they remain strangers in strange lands, forever editing their pasts but never able to forget them? What kinds of friendships can a 'success case', who now works in a shoe factory, develop or is she drawn back to 'Club-land' where, at least, she knows 'how to go on'? Can she find joy or is she socially condemned to rejoicing in the absence of abuse? We simply do not know. In the thousands of pages of reports – official and unofficial – no-one seems to have undertaken research on middle-aged and old-aged human subjects and their lives after 'social death'. These lost lives are globalization's own *desaparecidos*.

[47] Ibid., p. 136.