

# **TRAFFICKING IN HUMAN BEINGS: MODERN SLAVERY**

**Destitute People and the Message of Jesus Christ**

*Edited by* W. ARBER, J.J. LLACH, M. SÁNCHEZ SORONDO



THE PROCEEDINGS OF THE WORKING GROUP  
CASINA PIO IV, 2-3 NOVEMBER 2013

# Trafficking in Human Beings: Modern Slavery

*Destitute People and the Message of Jesus Christ*



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*The Proceedings  
of the Working Group on*

# Trafficking in Human Beings: Modern Slavery

*Destitute People and the Message of Jesus Christ*

*2-3 November 2013*

*Edited by*

Werner Arber

Juan J. Llach

Marcelo Sánchez Sorondo



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The opinions expressed with absolute freedom during the presentation of the papers of this meeting, although published by the Academy, represent only the points of view of the participants and not those of the Academy.

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Marcelo:

Creo que sería bueno tratar sobre trato de personas  
y esclavitud moderna.

La trato de órganos puede tratarse en conexión con  
el trato de personas.

Muchas gracias

Francisco

Translation:

Marcelo,

I think it would be good to examine human trafficking and modern slavery.

Organ trafficking could be examined in connection with human trafficking.

Many thanks, Francis









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## Preface

Following a wish expressed by Pope Francis, the Pontifical Academy of Sciences and the Pontifical Academy of Social Sciences, together with the FIAMC (the World Federation of Catholic Medical Associations), are organising a preparatory workshop on 2–3 November 2013 in the Casina Pio IV. This will examine human trafficking and modern slavery in order to establish the real state of this phenomenon and an agenda to combat this heinous crime. For example, the natural sciences today can provide new tools that can be used against this new form of slavery, such as a digital registry to compare the DNA of unidentified missing children (including cases of illegal adoption) with that of their family members who have reported their disappearance.<sup>1</sup>

No one can deny that “the trade in human persons constitutes a shocking offence against human dignity and a grave violation of fundamental human rights” and is an accelerator of criminal profits in this new century. The Second Vatican Council itself observed that “slavery, prostitution, the selling of women and children, and disgraceful working conditions where people are treated as instruments of gain rather than free and responsible persons” are ‘infamies’ which ‘poison human society, debase their perpetrators’ and constitute “a supreme dishonour to the Creator”.<sup>2</sup> In one of the few documents of the Magisterium of the Popes on this issue, quoted above, the Blessed John Paul II added that “such situations are an affront to fundamental values which are shared by all cultures and peoples, values rooted in the very nature of the human person”. The horrible increase in this crime, the Pope continued, is a new challenge for the social sciences and natural sciences in the context of contemporary globalisation: “the alarming increase in the trade in human beings is one of the pressing political, social and economic problems associated with the process of globalisation; it presents a serious threat to the security of individual nations and a question of international justice which cannot be deferred”.<sup>3</sup>

<sup>1</sup> Prof. José A. Lorente (University of Granada), DNA-PROKIDS program, [www.dna-prokids.org](http://www.dna-prokids.org)

<sup>2</sup> *Gaudium et Spes*, 27, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html)

<sup>3</sup> *Letter of John Paul II to Archbishop Jean-Louis Tauran on the Occasion of the International Conference “Twenty-First Century Slavery – The Human Rights Dimension to Trafficking In Human Beings”*, [www.vatican.va/holy\\_father/john\\_paul\\_ii/letters/2002/documents/hf\\_jp-ii\\_let\\_20020515\\_tauran\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/letters/2002/documents/hf_jp-ii_let_20020515_tauran_en.html)

According to the recent *UNODC 2012 Report on Trafficking*,<sup>4</sup> the UN started being aware of this increasing crime only in the year 2000, together with the emerging effects of globalisation, and subsequently drafted a *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *United Nations Convention against Transnational Organized Crime*, which has been signed by 117 parties.<sup>5</sup> According to the *2012 Report*, the International Labour Organisation estimated that between 2002 and 2010 “20.9 million people were victims of forced labour globally. This estimate also includes victims of human trafficking for labour and sexual exploitation” (p. 1). Each year, it is estimated that about 2 million people are victims of sexual trafficking, 60% of whom are girls. Human organ trafficking reaches almost 1% of that figure, thus affecting around 20,000 people who are forced or deceived into giving up an organ (liver, kidney, pancreas, cornea, lung, even the heart), not without the complicity of doctors, nurses and other medical staff, who have pledged to follow Hippocrates’ oath *Primum non nocere* instead. But these chilling figures “represent only the tip of the iceberg, as criminals generally go to great lengths to prevent the detection of their activities” (p. 16). Some observers speculate that, within ten years, human trafficking will surpass drugs and weapons trafficking to become the most profitable criminal activity in the world. Recent trends, however, indicate that human trafficking is already in the first place, so that far from being a declining social crime, it is becoming ever more threatening.<sup>6</sup> International sex trafficking is not limited to poor and undeveloped areas of the world – it is a problem in virtually every region of the globe. Countries with large (often legal) sex industries create the demand for trafficked women and girls, while countries where traffickers can easily recruit provide the supply. Generally, economically depressed countries provide the easiest recruitment for traffickers. The regions that produce the most sex trafficking victims are the former Soviet republics, Asia, and Latin America.

Because of the enormous sums of money involved and the human scandal and moral degradation of this traffic, which lead to pessimism and res-

<sup>4</sup> [www.unodc.org/documents/data-and-analysis/glotip/Trafficking\\_in\\_Persons\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf)

<sup>5</sup> [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en)

<sup>6</sup> María de los Ángeles Palacio de Arato, *Trata de personas y prostitución en la provincia de Córdoba*, Córdoba (Rep. Argentina) 2013, p. 17.

ignation,<sup>7</sup> many international institutions often turn their backs on this tragedy. This is why it is so important for the PAS and the PASS, together with the Federation of Catholic Medical Associations, to follow the Pope's wish directly and *sine glossa*. Today, against these new forms of slavery we need to adopt the venerable attitude of the Catalan Jesuit St. Peter Claver who saw African slaves in Latin America as fellow Christians and, when he made his solemn profession in 1622, signed in Latin: *Petrus Claver, aethiopum semper servus* (Peter Claver, always servant of the Africans). In short, this great saint embodied the Christian revolution, unknown to the Greeks and the Romans and to all previous civilisations, which began explicitly with the famous letter to Philemon of St. Paul who urged him to consider Onesimus 'no longer as a slave, but as more than a slave, as a dear brother'. In other words, we must declare in our time with the Second Vatican Council: "everyone must consider his neighbour without exception as another self, taking into account first of all his life and the means necessary to living it with dignity, so as not to imitate the rich man who had no concern for the poor man Lazarus". In definitive terms, we must make our own the very words of the Lord: "whatever you did for one of these least brothers of mine, you did for me" (Mt. 25:40).

We must thus be grateful to Pope Francis for identifying one of the most important social tragedies of our times and having enough confidence in our Catholic institutions to instruct us to organise this workshop. As he said during the canonisation of the Mexican saint, Guadalupe García Zavala, "this is called 'touching the flesh of Christ'". The poor, the abandoned, the sick and the marginalised are the flesh of Christ. And Mother Lupita touched the flesh of Christ and taught us this behaviour: not to feel ashamed, not to fear, not to find "touching Christ's flesh" repugnant. Mother Lupita had realized what "touching Christ's flesh" actually means".<sup>8</sup> Pope Francis' words are a clear reaction, following of Jesus Christ's message, to this new form of contemporary slavery which constitutes an abhorrent violation of the dignity and rights of human beings.

#### ■ MARCELO SÁNCHEZ SORONDO

<sup>7</sup> *The Whistleblower*, [http://en.wikipedia.org/wiki/The\\_Whistleblower](http://en.wikipedia.org/wiki/The_Whistleblower) is an important documentary film about this issue.

<sup>8</sup> Homily of Pope Francis, Saint Peter's Square, Seventh Sunday of Easter, 12 May 2013, [www.vatican.va/holy\\_father/francesco/homilies/2013/documents/papa-francesco\\_20130512\\_omelia-canonizzazioni\\_en.html](http://www.vatican.va/holy_father/francesco/homilies/2013/documents/papa-francesco_20130512_omelia-canonizzazioni_en.html)

# Introduction

Après l'accueil si familial que nous venons de recevoir des autorités académiques et médicales, mon introduction à ce Colloque ne peut être qu'un petit apéritif «sec», incapable de noyer un problème aussi complexe que celui des formes contemporaines d'un esclavage au qualificatif anodin de «moderne» comme pour y trouver une nouvelle légitimité.

Certes, l'esclavage est une des plus vieilles initiatives de l'humanité et il faut reconnaître que sous sa forme traditionnelle, je dirais classique, il perdure toujours même s'il est aujourd'hui légalement aboli partout... jusqu'en Mauritanie dernier pays à y mettre fin le 5 juillet 1980.

Aujourd'hui plus qu'hier il paraît évident de dénoncer absolument l'esclavage comme une négation de l'humain. Ce qui n'a pas été le cas pour tous au cours des siècles, aussi bien dans l'Eglise que dans la société qui trouvaient toutes deux, en s'appuyant parfois l'une sur l'autre, des raisons de tolérance, voire de justification. Que d'hésitations, que d'ambiguïtés, que d'incohérences de part et d'autre! Le même le pape Paul III, protecteur de Las Casas, édicta en 1537 une bulle interdisant l'esclavage des Indiens d'Amérique, mais onze ans plus tard, il autorisa par un bref, l'exploitation d'esclaves dans ses propres Etats pontificaux.

Je ne peux pas non plus effacer de ma mémoire la figure de Jean-Paul II, debout, seul au fond de la «Maison des Esclaves» à l'île de Gorée qu'il appela «sanctuaire africain de la douleur noire» se recueillant face à l'Océan Atlantique et exhortant le monde entier: «Je suis venu écouter le cri des générations, un cri qui exige que nous nous libérions pour toujours de ce drame car ses racines sont en nous, dans notre nature humaine» (22 février 1992).

La responsabilité morale de l'humanité vis-à-vis de l'esclavage d'hier ne peut s'arrêter aux décrets d'abolition ou à des actes de repentance sans cesse à reprendre. N'oublions pas les blessures multiséculaires et profondes de générations d'anciens esclaves dont la prise en charge exige encore de nous courage, persévérance et espérance pour que tout descendant soit considéré comme un homme tout entier.

Sans plus tarder, entrons maintenant dans la lutte peut être la plus dure et la plus longue de toute l'histoire de l'esclavage, car elle touche des consciences victimes d'un naufrage collectif.

Merci au pape François qui a voulu expressément ce Colloque et nous recevra.

Nous confions nos travaux au jésuite catalan saint Pierre Claver évoqué par le Chancelier Mgr Sánchez Sorondo. Et j'ajouterai saint Martin de

Porres, ce frère dominicain, dont j'ai visité le tombeau à Lima (mort le 3 novembre 1639) «fils naturel d'un chevalier espagnol et d'une esclave noire», canonisé en 1962 par Jean XXIII. Tous les chemins sont bons contre l'esclavage, s'ils conduisent à la sainteté!

■ **CARDINAL ROGER ETCHEGARAY**



## Word of Welcome

Good morning, everyone, I am the President of the Pontifical Academy of Sciences and I am very pleased that you came to give us your ideas, your counsel on what to do about the problem of human trafficking which, according to my understanding, is very interdisciplinary. We intend, in the Pontifical Academy of Sciences, to cooperate more and more with the Pontifical Academy of Social Sciences and I am pleased to inform you that we have other meetings already in advanced planning for next year.

This meeting which we start today for two days is a response to our present Pope Francis. We of the Pontifical Academy of Sciences are eager to collect ideas on which aspects of scientific knowledge and its applications can be helpful to solve the serious problems on which we are going to talk in the next few days.

My presence and the presence of a few other members of the Pontifical Academy of Sciences is actually to try to see as we can imagine that some, for example, advanced methodologies of sequencing genetic information can be of help, but there will certainly be others and we are eager to make a collection and give our input as we see that we could be of some help. Likewise, I am pleased to see that the Pontifical Academy of Social Sciences also deals with this same problem of trafficking.

Thank you very much for your presence and your input.

■ **PRESIDENT WERNER ARBER**

# Programme

SATURDAY 2 NOVEMBER 2013

9:00 *Word of Welcome*

**H.E. Msgr. Marcelo Sánchez Sorondo**

**Werner Arber**

**José María Simón**

9:10 *Introduction*

**Card. Roger Etchegaray**

Chair W. Arber

9:30 *What Will it Take to End the Impunity of Human Trafficking?*

**Joy Ngozi Ezeilo**

10:00 Discussion

10:15 *Human Trafficking in the World. Challenges and Responses of the International Community*

**William Lacy Swing**

10:45 Discussion

11:00 Departure by bus to the Domus Sanctae Marthae

11:15 Group Photo with Pope Francis

11:45 Coffee break

12:00 *The EU Legal and Policy Response on Trafficking in Human Beings*

**Myria Vassiliadou**

12:30 Discussion

12:45 *A Sociological Approach to Human Trafficking*

**Margaret S. Archer**

13:15 Discussion

13:30 Lunch

Chair J.M. Simón

14:30 *Towards a Socioeconomic Etiology of Human Trafficking*

**Juan J. Llach**

15:00 Discussion

15:15 *La criminalité internationale comme composante de la mondialisation: quelle réponse politique?*

**Pierre Morel**

15:45 Discussion

16:00 *Ending Impunity, Securing Justice and Preventing Exploitation: Human Rights and Human Dignity in the Fight Against Trafficking*

**Anne T. Gallagher**

16:30 Discussion

16:45 Coffee break

17:15 *Argentine Experience and Approach*

**Gustavo Vera**

17:45 Discussion

18:00 *A Catholic Response to Human Trafficking in Asia*

**John Lee**

18:30 Discussion

19:00 Dinner

### SUNDAY 3 NOVEMBER 2013

Chair: O. Fumagalli Carulli

8:00 Concelebrated Mass at the Tomb of St Peter, St Peter's Basilica

9:00 *Dalla liberazione sessuale alla schiavitù sessuale. Il lato oscuro della rivoluzione sessuale*

**Ermanno Pavesi**

9:30 Discussion

9:45 *Prostitution, Drugs and AIDS – How to Live With Dignity? Rehabilitation and Reintegration into Social Life*

**María Inez Linhares de Carvalho**

10:00 Discussion

10:15 Coffee break

10:45 *The New Slavery. The Sub-Saharan African Situation: Neo Colonisation by the International Agencies*

**Henrietta Williams**

11:15 Discussion

11:30 *Avances policiales sobre la trata de seres humanos*

**Francisco Barreiro Sanmartín**

12:00 Discussion

12:15 Lunch

Chair M.S. Archer

14:30 *The Empire of Suffering: Trafficking of Children in the Global Millennium*

**Marcelo and Carola Suárez-Orozco**

- 
- 15:00 Discussion
- 15:15 *DNA-Prokids: Genetic Identification of Missing Children to Fight Child Trafficking & Illegal Adoptions*  
José Antonio Lorente
- 15:45 Discussion
- 16:00 *Avances metodológicos para combatir la trata de personas*  
**Jorge Nery Cabrera Cabrera**
- 16:30 Discussion
- 16:45 Coffee break
- 17:15 *The Modern Day Slave Trade: How the United States Should Alter the Victims of Trafficking and Violence Protection Act in Order to More Effectively Combat International Sex Trafficking*  
**Melissa R. Holman**
- 17:45 Discussion
- 18:00 General discussion and Final Statement
- 19:00 Dinner

# List of Participants

**Prof. Werner Arber**

President of the Pontifical Academy of Sciences; Biozentrum, Department of Microbiology, University of Basel  
Basel (Switzerland)

**Prof. Margaret S. Archer**

Director, Centre d'Ontologie Sociale  
EPFL Ecole Polytechnique Fédérale de Lausanne; EPFL – Collège des Humanités  
Lausanne (Switzerland)

**Coronel Francisco Barreiro Sanmartín**

General of the Spanish Civil Guard  
(Spain)

**Prof. Antonio M. Battro**

Academia Nacional de Educación  
Buenos Aires (Argentina)

**Dr. Jorge Nery Cabrera Cabrera**

Director General del Instituto  
Nacional de Ciencias Forenses (INACIF)  
(Guatemala)

**Card. Roger Etchegaray**

Vice Dean of the College of Cardinals  
Honorary President of the meeting  
(Vatican City)

**Dr. Joy Ngozi Ezeilo**

United Nations Special Rapporteur on  
Trafficking in Persons, especially women and  
children  
(Nigeria)

**Prof. Anne T. Gallagher**

Independent scholar and legal adviser  
(Australia)

**Dr. Melissa R. Holman, J.D.,**

Assistant State Attorney General  
(USA)

**Dr. John Lee**

Vice President, World Federation of Catholic  
Medical Associations – Fédération  
Internationale des Associations Médicales  
Catholiques (FIAMC)  
Singapore (Singapore)

**Dr. María Inez Linhares de Carvalho**

President, Federación de Asociaciones  
Médicas Católicas Latino-Americanas  
(FAMCLAM)  
Rio de Janeiro (Brazil)

**Prof. Juan José Llach**

Director, GESE (Centro de Estudios de  
Gobierno,  
Empresa, Sociedad y Economía)  
IAE-universidad Austral  
Buenos Aires (Argentina)

**Prof. José Antonio Lorente, M.D., Ph.D.**

Scientific Director, Centro Pfizer – Junta de  
Andalucía Centre for Genomics  
and Oncological Research (GENYO)  
Universidad de Granada (Spain)

**H.E. Amb. Pierre Morel**

Director of the Pharos Observatory of  
Cultural and Religious Pluralism  
Paris (France)

**Dr. Ermanno Pavesi**

Secretary General, World Federation of  
Catholic Medical Associations – Fédération  
Internationale des Associations Médicales  
Catholiques (FIAMC)  
(Switzerland)

**H.E. Msgr. Marcelo Sánchez Sorondo**  
Chancellor, Pontifical Academy of Sciences  
and Pontifical Academy of Social Sciences  
(Vatican City)

**Dr. José María Simón Castellví**  
President, World Federation of Catholic  
Medical Associations – Fédération  
Internationale des Associations Médicales  
Catholiques (FIAMC)

**Prof. Carola Suárez-Orozco**  
Co-Director, Institute for Immigrant  
Children & Youth  
University of California  
Los Angeles, California (USA)

**Prof. Marcelo Suárez-Orozco**  
Dean, GSE&IS,  
Distinguished Professor of Education  
University of California  
Los Angeles, California (USA)

**H.E. Amb. William Lacy Swing**  
Director General  
International Organization for Migration  
(IOM)  
Geneva (Switzerland)

**Ms. Myria Vassiliadou**  
European Anti-Trafficking Coordinator  
European Commission, DG Home-Affairs  
Brussels (Belgium)

**Mr. Gustavo Vera, M.P.**  
Diputado de la legislatura de la Ciudad de  
Buenos Aires (Argentina)  
Presidente, Fundación La Alameda, Buenos  
Aires

**Dr. Henrietta Maria Williams**  
President,  
Association of Catholic Medical  
Practitioners of Nigeria  
FIAMC (Nigeria)



# Scientific Papers





# WHAT WILL IT TAKE TO END THE IMPUNITY OF HUMAN TRAFFICKING?

■ JOY NGOZI EZEILO

Your Excellencies,  
Milords, spiritual and temporal,  
Very distinguished participants,

I want to start by thanking the organizers, the Pontifical Academy of Sciences and the Pontifical Academy of Social Sciences for adding their unique voice to the call to end human trafficking or trafficking in persons or trafficking in human beings. This shame of our time also rightly termed “modern-day slavery”. In the words of Colin Powell, former US Secretary of State, “it is incomprehensible that trafficking in human beings should be taking place in the 21<sup>st</sup> century”, incomprehensible but it’s true, very true, deprived of the most fundamental human rights, subjected to threats and violence, victims of trafficking are made to toil under horrific conditions in sweatshops, on construction sites, in fields and in brothels. We are all aware – or at least have read – the form and modus operandi of transatlantic slavery, where several millions of mostly men and boys, predominantly of African origin were trafficked. Today, we are witnessing something similar and even more sinister in the so-called free world, notwithstanding that slavery has been denounced and abolished for over two centuries. An analysis of human trafficking today reveals a similar trend in the illegal trade in human beings, but perhaps more creative, much larger in scale and sophistication, and disproportionately affecting women and girls, often victims of sex trafficking, domestic servitude, servile marriage and other forms of exploitative labour.

Art. 3 of the UN Trafficking in Persons Protocol, otherwise known as the Palermo Protocol, made it clear that exploitation shall include at the minimum the exploitation of the prostitution of others and other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. While acknowledging the difficulty and lack of clarity in measuring the scale or quantum of human trafficking there is near unanimity that at least 2.5 million people at any given time are victims of human trafficking. However, when you juxtapose this with a recent ILO survey that shows that 20.9 million people are in a forced

labour situation one is bound to shudder and conclude without much hesitation that the problem is far more than we know or care to acknowledge. The 2012 world survey by ILO reveals that of the total number of 20.9 million forced labourers, 18.7, that is 90%, are exploited in the private economy by individuals or enterprises. Out of this 4.5 million, that is 22%, are victims of forced sexual exploitation, and 14.2 million, that is 68%, are victims of forced labour exploitation in economic activities such as agriculture, construction, domestic work or manufacturing. The remaining 2.2 million, about 10%, are engaged in imposed forms of forced labour, for example in prisons or in work imposed by state military or rebel armed forces.

Women and girls represent the greater share of the total 11.4 million, that is, about 55%, as compared to 9.5, 45%, of men and boys. Adults are more affected than children, 74%, that is 11.4 of victims who fall into the age group of 18 years and above, whereas children aged 17 years and below represent 26% of the total victims.

You will see that although forced labour is closely linked to human trafficking I want to be very clear, because there is always an element of forced labour exacted on trafficked persons, however there is not total coincidence, that is, every case of forced labour is a case of trafficking. In other words, a person may be in a forced labour situation as a result of bonded labour or peonage without being trafficked and while remaining in their place of origin. Nevertheless, this figure is challenging to statistical information previously brandished. Although many are migrating freely in today's globalised world, a significant number of those migrants have fallen victim and become trafficked persons in that migratory process.

The motives of migration today have a shared similarity with why people get trafficked or fall prey at the manipulating hands of sweet tongued traffickers often offering mouth-watering contracts to lure and deceive their victims. In transatlantic slavery people were forced into slavery but today people walk into it, thereby making it complicated and complex to fight this phenomenon of modern-day slavery.

Trafficking in persons is caused by a wide array of factors, including growing poverty, joblessness, inequality, gender-based violence, social exclusion, displacement that may result from natural disasters or conflict. These root causes of human trafficking, including demand, continue to pose a challenge in combating all forms of human trafficking. The current world economic crisis has further exacerbated the desperation and the quest for human security, access to decent standards of living, survival and development. As I stressed in my 2009 Annual Report to the UN General Assembly, trafficking of human beings and migration pushed by the search for a better life are closely

linked. It is often economic circumstances that make people consider the option of migration and it is also poverty that makes them vulnerable to becoming easy targets for traffickers. The current global economic crisis and increasing poverty caused by massive unemployment are likely to lead to an increase in trafficking for the purposes of exploitation of labour.

In the current context employers tend to seek cheaper labour which allows them to lower their costs and maximize their profits. The demand side of trafficking in persons is a significant factor that contributes to fostering and leading to human trafficking. I've listened, as I do my work as United Nations Special Rapporteur on Trafficking in Persons globally, to victims of trafficking, trafficked persons around the globe and it is always their desire to survive, find a decent livelihood and improve their wellbeing and that of their families that is at the root of their desire to migrate and augments in trafficking.

In my recent country mission to Italy, which happened this September, I met X, a 21-year-old Nigerian girl who travelled by plane from Nigeria, transiting through Turkey, Serbia, Hungary and Slovenia before arriving in Italy by train. Not only was she trafficked but was held in debt bondage as her father, back in Edo State, had put up his land as a collateral for the down payment of the 60,000 euro fee demanded to bring her to Europe. The young girl was moved from Turin to Milan and Paris to sell her body in order to repay her debt. She was rescued following a random identification check in Italy and she currently benefits from assistance. However, X has to lie to her parents about her whereabouts, even where she was detained, because they were asking her for money to repay her debt to her traffickers. Traffickers have continued to threaten her family, back in Nigeria, since her disappearance from their radar.

I met with and listened to the sad tales of several victims of sex and labour trafficking across Italy. I vividly recall the traumatised face of a young Asian woman, trafficked for labour exploitation, who was forced to work in a sweatshop, sewing all day. She was a victim of deception and coercion by her so-called boyfriend, whose violence and exploitation caused her to lose her sight and suffer severe hand injuries, for which she underwent surgery and is now recuperating in a shelter run by Sisters of the Catholic Church. Her determination to survive despite her traumatising experience reminds us of our collective responsibility to bring succour to trafficked persons.

Even though trafficking is entwined with other criminal activities such as smuggling, drugs and arms trafficking, I believe strongly that States must refrain from treating trafficking only from a crime and border control perspective or simply as a migration issue. Multilevel and innovative approaches are needed that will focus on various perspectives in-

cluding human rights, crime control, criminal justice, migration, and labour. Human rights unarguably should be at the core of every effort or any effort to combat or eliminate trafficking in persons. Trafficking is a grave violation of human rights, in particular the right to liberty, human dignity and the right not to be held in slavery or involuntary servitude. As Special Rapporteur on Trafficking in Persons, especially concerned for women and children, I have based the fulcrum of my work for the past five years on advocating for the implementation of anti-trafficking responses based on five “P”s, Protection, Prosecution, Punishment, Prevention, Promoting international cooperation and partnerships, three “R”s, Redress, Recovery and Reintegration, and the three “C”s of Capacity, Cooperation and Coordination, guided by international human rights law and standards. A holistic, human-rights based approach and victim-centred perspective is what is needed to effectively and in a sustainable manner combat this heinous crime of human trafficking.

Trafficking in persons results in cumulative breaches of human rights and there is the need to recognise this in any international effort. The Office of the High Commissioner for Human Rights in 2002 developed the principles and guidelines in order to provide practical rights-based policy guidance on the prevention of trafficking and the protection of victims of trafficking.

I will turn to the last segment of my presentation which will attempt to address the topic which I’ve chosen for this keynote address, that is, what will it take to end the impunity of human trafficking.

Having given an overview of trafficking in human beings, its forms and manifestations, including its causes and consequences, let us now turn to consider this central question. I have posited earlier that the work of combating human trafficking needs to rest on the five Ps, three Rs and three Cs for it to be comprehensive and impactful. Consequently also our proposed solutions hinge on this mantra towards ending human trafficking and are using part of those frameworks that I have mentioned.

First, I want to start with the issue of protection, in legal and policy frameworks. I want to clearly state that States have the primary responsibility to protect their citizens, to prevent and combat trafficking in persons on the international level by enacting and enforcing legislation, criminalizing trafficking and forced labour and imposing proportionate punishment on perpetrators. Therefore all countries must criminalise as a starting point trafficking in human beings in their penal codes and provide protection for the rights of victims. United Nations member states should ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, which is supplementary to

the UN Convention on Organised Crime, that was adopted in Palermo in 2000 and came into force in 2003. They should also ratify related international treaties, including but not limited to the ILO Convention 29, the Labour Convention 182 and also the Convention 189 on domestic workers. The Convention on the Rights of the Child fortunately has near universal ratification except that the Protocols that relate to the sale of children, child prostitution and child pornography don't have equivalents as stated. Again, the Convention on the Elimination of All Forms of Discrimination Against Women and the Human Rights of Migrant Workers Convention require urgent ratification. The universal ratification of the UN Protocol is paramount in promoting zero tolerance to human trafficking. It will reinforce the global partnership and cooperation required to end human trafficking. Today 157 countries are state parties to the Palermo Protocol I mentioned. I urge remaining non ratifying states to urgently do so as a clear commitment to the global fight to end modern-day slavery. Member states examine the most utilized legal and policy frameworks at international, regional and subregional levels implementing measures to eliminate all forms of trafficking in persons in a concerted manner.

Another pillar that I want to talk about is prevention. Prevention work, including monitoring and evaluation of anti-trafficking initiatives is crucial in ending human trafficking. Strategies aimed at preventing trafficking in persons must address underlying factors that render people vulnerable to trafficking, such as poverty, lack of employment opportunities, sex discrimination, inequalities, restrictive immigration laws and policies, war and conflicts. Demand for exploitative labour and services, particularly demand by employers and all parties involved in trafficking should be addressed also as a root cause of trafficking. In preventing trafficking in persons the participation of trafficked persons, including children, in the design is essential. We need to listen to the voices of the victims, because they are the ones who have been trafficked and they can bring back their experience to help prevent human trafficking. In raising awareness the media must be involved. We must deploy new technologies. In fact, new technologies have also contributed to the trends of human trafficking, especially child trafficking for cybersex and for pornography.

Last year I undertook a mission to the United Arab Emirates as part of the way that I do my work. There in UAE I met two victims, one met her trafficker in Georgia through a website advertising jobs in a beauty salon, while a second victim, a university graduate from Colombia, responded to job offer online and was even interviewed by Skype by her trafficker. Once she landed in Dubai she became enslaved for three years until she was found

by police. Increasingly people are getting trafficked without any physical contact just through cyberspace, between them and their computer and no third party. And now it's e-visa, e-ticket and one can just travel and fall prey to human trafficking.

### **The Victim-Centred Approach**

The importance of a rights-based, victim-centred approach to trafficking in persons has been well established and the parameters of such fleshed out in detail in my report to both the Human Rights Council and the General Assembly, based on the three Rs, Redress, Recovery and Reintegration. Identification, protection and assistance to victims are crucial in finding traffickers and punishing them appropriately. Again, adequate and effective remedies are often out of reach of trafficked persons, despite the egregious human rights violations they've suffered. Trafficked persons are rarely known to have received compensation, as they do not have access to information, legal aid, regular residence status and other assistance necessary to seek compensation. At worst, many trafficked persons are wrongly identified as irregular migrants, detained and deported, without anyone having a chance to consider seeking remedies.

Let us visit the issue of broader security versus restrictive immigration policies. A security approach without the incorporation of development and a human rights perspective, including entering into a cooperation agreement with source countries will be ineffective, and I repeat, ineffective, in dealing with human trafficking. There is an urgent need to create safe migration options as well as open migration information centres in source countries to counsel and provide information for would-be migrants and potential victims of human trafficking and smuggling. The heartrending October incidents in the Mediterranean Sea, via the corridors of Italy, where hundreds lost their lives in the desperate search for a better life in Europe call for urgent and multifaceted actions to avoid a recurrence. As rightly observed by my colleague, the Special Rapporteur for the Rights of Migrants, currently migrants themselves, often with the help of smugglers, are crossing borders, regardless of State policies, so the restrictive immigration policy is not working. I reiterate the fact that people migrate irregularly due to a lack of regular channels of migration and largely in response to unrecognised labour needs in destination countries.

### **Cooperation**

I want to underline that cooperation and partnerships among all stakeholders are imperative to fighting trafficking in persons. Trafficking in persons

requires a multidisciplinary and multi-stakeholder response. Coordination should be at national, regional and international levels. The United Nations Global Plan of Action to combat trafficking in persons, as well as the UN Protocol on Trafficking in Persons, promote international cooperation in combating trafficking in persons, which is often committed transnationally and requires cooperation between source, transit and destination countries. Without international cooperation and collaboration, effective investigation and prosecution of the crime of human trafficking, including prevention, would be hindered. All member states and other stakeholders should strengthen their partnership and cooperation at bilateral, regional and international levels. The trafficking protocol clearly recognises the role of bilateral and multilateral cooperation in alleviating factors that make people vulnerable to human trafficking. Ancillary to cooperation is the need for continuing public-private partnerships to end human trafficking.

### **Business Supply Chains**

I have analysed the question of trafficking in persons in business supply chains, including corporate responsibilities to prevent and combat human trafficking in their supply chains. I noted that in today's globalised world the risks of human trafficking in business supply chains are significant in many business sectors and have not been adequately dealt with by States or by businesses themselves. Challenges remain in integrating a human rights based approach in addressing the demand-side of trafficking in persons, including obstacles such as ensuring labour rights, ensuring respect and implementing children's rights and other fundamental human rights while conducting business.

### **Funding of Anti-Trafficking Initiatives**

Resources are important if we have to end the impunity of human trafficking. Funding is crucial to enhance capacity, providing training for relevant law enforcement agencies including police, immigration and labour inspectors, social workers especially to identify trafficked persons quickly and accurately, and also to make reference to appropriate services, particularly when minors are involved. Adequate funding will ensure greater coherence in combating human trafficking and importantly will bring succour to trafficked persons. While the political will exists to fight human trafficking, the economic will to do is doubtful and continues to hamper progress. Everyone knows that the illegal trade in human beings is a multimillion-dollar business with traffickers reaping huge profits. Nevertheless, we have less than one billion dollars to combat it. The UN Voluntary Trust Fund for



victims of trafficking in persons, especially women and children, in its over three years of existence is yet to raise even one billion dollars. The UN Slavery Fund, that was earlier in time, lacks the crucial funding to continue to support grassroots, and I mean important grassroots work, around the world. States in most cases do not even pay or support civil society organisations, including faith based organisations providing services, including shelter, psycho-social, medical-legal and livelihood support services.

Today we have more money devoted to wildlife conservation initiatives, which I have nothing against, than in programmes to combat human trafficking. Why is it so? And what a shame to humanity! Are we not seeing the clear, present and continuing danger of human trafficking? I want to reiterate that we are mutually vulnerable if we don't act to end the impunity of human trafficking now. Until we free every enslaved person we are not free ourselves. We need to galvanise urgently necessary political and economic will, including leadership to end this modern-day slavery. We need a movement far stronger than the one that ended slavery in the olden days. Unlike transatlantic slavery, today's slavery in the form of human trafficking knows no border and affects every country, either as a source, transit, or destination – that is, receiving – country. This is an added impetus for all to get on board since no one country is immune from its devastating consequences.

### *Tackling the root causes of human trafficking*

Trafficking of migrant workers, we know the cause is poverty, unequal access to employment, social exclusion, discrimination, inequalities, people are seeking better lives, better futures for themselves and their families. These are always the overarching reasons for people to become vulnerable to trafficking. Consequently, human development, including access to education and decent work and income are central to addressing the root causes of human trafficking.

There is a link to a Millennium Development Goal (MDG) that I also explored in my paper. Some of the MDGs are of particular importance to combating trafficking. It is not simply a coincidence that the first three factors that are always mentioned when discussing vulnerability, namely poverty, gender discrimination and education, corresponded to the first three MDGs. By addressing different aspects of poverty, the MDGs are intrinsically linked to the factors increasing vulnerability to trafficking. As such, when States express their commitment to the MDGs and adopt policies towards implementation, States are taking social and economic initiatives and measures, including bilateral and multilateral, to end human trafficking and also in line with the UN Protocol Provisions in article 9 paragraphs 2 and 4.

### *Corruption and bad governance*

I also want to mention quickly that corruption and bad governance, especially in source countries, are undoubtedly roadblocks to tackling the root causes. Source sending countries most of the time act like hapless victims. When I go to countries I hear governments very eager to have me visit because they think they are victims: “Oh, we are source countries, our people are being trafficked!” and then I say, “Let us look at the root causes. You are not the victims here, you’re not hapless victims, it is bad governance and corruption that lead people to being trafficked”. I hope world leaders impose 2015 MDGs and show real commitment to a better world.

In addressing what it would take to end the impunity of trafficking, it is vital to demystify our collective notions about who is the trafficker or who these human traffickers are. Sometimes, when we think of traffickers we think of them as non-humans or strangers or foreigners, bad guys, criminals, traders... It is important to know that modern-day traffickers have many faces and are members of our different communities, not people from another planet. Traffickers are men and women who entrap others in situations of slavery, they live amongst us, and sometimes include decent, civilised individuals such as diplomats who import domestic workers and hold them in isolation and forced labour in their homes. They could be members of organised criminal networks that move people into forced prostitution. Some of them are men who import foreign-born women, ostensibly for marriage, but in reality for the purpose of holding them in servitude and subjecting them to sexual abuse. Others are families that import men, women and children to work in forced labour situations in their offices, factories and homes, and subject them to sexual and physical assaults. Traffickers then are our next-door neighbours. Their victims are all around us. They force their victims to cook our food in neighbourhood restaurants or in their homes, sew our clothes or pick today’s fresh vegetables. They could be the foreign-born wife of a co-worker, or the woman held in isolation in forced prostitution in a quiet neighbourhood.

Because trafficking is so lucrative, many people are drawn into this business. Undoubtedly we need to end impunity for the heinous crime of human trafficking, ensuring that traffickers get their just deserts for this crime against humanity. The just deserts idea will go down well with the Church but being a criminal law teacher has got the better of me and we must ensure that punishments are effective to destroy the criminals.

I look forward to continuing with relevant stakeholders, including the Vatican, the United Nations, member states, UN agencies, international, regional and subregional organisations, private sectors, including civil society,

furthering action to end human trafficking. It takes a collective to end trafficking in persons, and working together we shall win the fight against this modern-day slavery. Importantly we should remember it is zero tolerance for all forms of trafficking. No form or manifestation of human trafficking is more inhuman or more degrading, therefore we should fight against sex trafficking, trafficking for labour exploitation, for domestic servitude, trafficking for illegal adoption, servile marriage, begging and for removal of organs with equal emphasis and resources. Slavery is slavery and should be abolished and rejected in whatever form it manifests.

My final take to the key and burning question, what does it take to end the impunity of human trafficking, will be real action, with strategy in place, concerted efforts, cooperation, community education and awareness, global good governance, broader security and promotion of safe migration, not restrictive migration policies or criminalisation of irregular migrants by favoured countries. In the end it will take political and economic will, respect for human rights and human dignity, an equal, safer and better world, where everyone's right to survival and development is guaranteed *de jure* and *de facto*. We can all contribute in making this happen. I am extremely grateful for His Holiness Pope Francis' leadership on this and for his visit to Lampedusa that supports the plight of irregular migrants and victims of human trafficking. Furthermore, I appreciate the role of the Catholic Church especially in providing assistance and support services towards victim recovery and empowerment necessary to avoid being re-trafficked.

I want to thank you for listening and may God help us as we fight this very good cause to end the impunity of human trafficking.

# **HUMAN TRAFFICKING IN THE WORLD. CHALLENGES AND RESPONSES OF THE INTERNATIONAL COMMUNITY**

■ WILLIAM LACY SWING

Your Eminence, Cardinal Etchegaray,  
Your Excellency Monsignor Marcelo Sánchez Sorondo,  
Your Excellencies the Ambassadors,  
Distinguished Professors, Scholars, Participants, Ladies and Gentlemen,

It's a great honour and pleasure to be able to return to the Vatican since my early visit on 14 October to meet with Pope Francis prior to my trip to Lampedusa and I'm grateful to the Holy Father and to the Chancellor here of the Pontifical Academy for giving us all this opportunity for exchange on a very important subject.

I go to Malta tomorrow and in recent times I have been in Obock, in Djibouti, which is the point that sticks out into the Red Sea from which most migrants embark on their journey to Yemen, trying to get to Saudi Arabia. Talking to my Australian colleague this morning we have also seen the flows across the Indian Ocean and the seas around Indonesia and Australia so we have a global phenomenon here in terms of irregular maritime arrivals but we know from the news earlier this week that there are also irregular arrivals from across the desert. When I was in the Sahara for two years as Head of our peacekeeping mission there, I used to hear of stranded migrants in the desert. We would send helicopters down to pick them up. This is simply to illustrate the globality and the urgency of this particular issue. I am very grateful to the Holy Father and to the Academy for the opportunity given this year, which I believe is one of the very first points he wished to make after his inauguration on 13 March.

This is all preparatory, as I understand, to a larger global meeting that would take place in the spring. I won't take a lot of your time. First of all, I want to make three points. I want to talk about the need for greater practical protection to support the legal frameworks. I would like to address very briefly some of the root causes of human trafficking and thirdly to say that even if we do all this well, we will fail if we do not address the public image of migrants, in terms of getting a greater focus on the contributions that

they make and I will summarise that point in terms of the inevitability, the necessity and the desirability of large-scale migration.

I want, first of all, to set the scene. You and I, we all are living in an era of unprecedented human mobility and I think it's helpful to think about migration in terms of human mobility because migration is sort of an outdated term, it looks like we're moving from A to B where we'll stay forever, and we're not looking at how people move, that is the patterns today. You have today again – the statistics are very soft – the first figure, 232 million International, is from the UN Department of Economic and Social Affairs, it has just been updated from an earlier figure of 214 million. The figure 740 million Internal is a figure from the UN Development Program; these are constantly updated but they are ballpark estimates as to what we are talking about. They are very soft. I simply use them to make the point that there are more people on the move today than at any other time in recorded history, numerically. This reflects the fact that the 20<sup>th</sup> century was the first time in the history that the global population quadrupled. It's never happened before, unlikely to happen again, and I won't be around to be proved wrong.

That is the main drive of migration. Two interesting aspects: 2010, of course, was the first year in which there were more people living in cities than in the rural areas. We plan to hold a major conference in 2015 on migrants and cities. Monsignor Sánchez and I spoke about this a week or so ago, in terms of what's the effect of migrants on cities and cities on migrants, most of whom come from the rural areas. And then, of course, we now have the feminization of migration when at least 50% of all migrants are women. Qualitatively it is somewhat different today than fifteen years ago, because more and more these are women who are following career paths etc. but just as vulnerable as ever all along the migration route. Recently on the Syrian border with Jordan I was looking at some of the buses, we have taken about 400,000 migrants from the border of Syria to Jordan and Lebanon and you see these people coming across, they are largely women and children, they are literally on their last legs as they make it to the border. So we have to be very aware that increasingly women are going to need support all along this way there.

Domestic migrants are 740 million. On my annual visit to China I'm told every year, one year it was 200 million, now it's up to 230 million internal migrants alone in China, who also deserve a certain amount of attention, even though that's not our preoccupation today. If you looked at them as a population group, migrants would represent a population somewhat smaller than Indonesia, somewhat larger than Brazil. The remittances they are sending home is about the equivalent of Saudi Arabia or Austria,

that will go probably to 500 billion by the next couple of years, so it's a major contribution that migrants are making, even though it goes very unrecognised.

The point is that migrants are vulnerable all along the migratory route, from start to finish, and even after they get there they are very often vulnerable, having no access to facilities and often having not proper papers. We never use the term "illegal migrants": they are legal, they are people, they are irregular in the sense that they may have gotten there by some strange route, they may have no papers etc but they are irregular, not illegal and that helps us also in getting away from the problem of laws that criminalise migrants. Our number one priority has to be saving lives, whether it's at sea or in the desert, and the other has to be to decriminalise how we treat migrants. The traffickers in human beings are of course part of the overall crime network. We have heard all the figures on that, I shall not repeat them. But I will underscore that we all have some responsibility to bear in all of this. There is a strange and cruel irony, this is the counter, this is the contradictory trend of increasing mobility and trend of increasing anti-migrant sentiment. It's built on a lot of things. It's built on the fact of the global economic and financial crisis. It's built on the post-9/11 security syndrome, the security preoccupation, fear of everybody being a threat, and it's based on a fear that people perceive of a threat to their personal identity or even the national identity with all these people coming in. We did a study in 2011, Italy, United States and a lot of other countries: every country we polled, and we're working now very closely with Gallup world poll, showed that persons polled estimated the number of migrants in the country to be at least double the actual figure, so it shows again a fear factor there that we have to try to get away from.

So we need to acknowledge our obligation to act and to move ahead. That's the scene setter. I wanted just to now talk just a bit about the first point, which is the need to give greater attention to practical protection. We need to be doing this on a daily basis. There has been a certain degree of progress, particularly in Europe, in creating legal frameworks designed to protect migrants. Many countries' registered victims now have access to judicial systems, accommodation, medical care, etc. But IOM manages and supports around the world a number of support mechanisms, shelters – we are doing a lot of this in partnership with many of you, working very closely with the Church – but we need to close the protection gap between these nice categories we like to create, and we heard something about it this morning, who is a trafficked victim, who is forced labour, etc. We need to provide protection to all of those who are vulnerable.

I would just like to highlight a few of the practical protections that we and our organisation are modestly trying to carry out. With support of many member states we are present now in 470 sites in 170 countries with 9,000 people around the world, with a budget of about a billion dollars, mostly donor money, working in partnership trying to provide protection to migrants wherever we are. We have a global capacity to counter trafficking of human beings, often with the crucial support of partners such as the Pontifical Council for the Pastoral Care of Migrants and Itinerants, and over the past two years we have done a number of things to try to support: we have completed about one thousand countertrafficking projects in about a hundred countries, we trained tens of thousands of judicial police and other authorities in law enforcement, we have assisted and protected some 50,000 victims of trafficking through shelters, psycho-social counselling etc. We have mounted any number of public information campaigns to try to deter people from taking the trafficking route. We've assisted governments in drafting new laws and we try to reunite and assist, under our Assisted Voluntary Return and Reintegration Program, many victims of trafficking and others. We average about 70,000 voluntary assisted returns in the course of the year, not only for victims of trafficking, but many other vulnerable and stranded migrants. So practical protection must be used to accompany these legal frameworks.

Second point, some of the root causes of trafficking. We need to manage migrants in crisis comprehensively, long-term and effectively in all situations. Let me give you the example of Libya. We got a lot of good publicity and media coverage for the fact that we took back two hundred and fifty thousand migrants to 54 countries in the course of 2011 at a cost of about 125 million dollars but we need to be frank: we did the job halfway. What do I mean? 177 thousand of these were Sub-Saharan Africans. We dropped them off in Mali, Niger, Burkina Faso, Chad, etc. The problem? These countries had no capacity to receive them either for schools, clinics, jobs – that's why they left in the first place, there was no livelihood there – and in addition their remittances were finished. We can't do that again, we have to do it differently, we have to be linked up as a community, and I'm talking particularly about the UN system, although we're not part of the UN we are kind of like kissing cousins or whatever they call it, we work closely with the UN but we have to do it in that fashion next time that we are ready to go. So that when we take people back like that, there is a welcoming system, a way to help reintegrating and help governments to reintegrate their own citizens.

Haiti, again, we help, I was able to tell President Martelly earlier this year on the commemoration of the earthquake of 12 January 2010, "Mr Presi-

dent, good news and bad news. The good news: 1.3 million of the victims of the earthquake living in tents are now in transitional housing. The bad news: 200,000 are still in tents”, but what was happening? As we were all trying, there were hundreds and hundreds of NGOs and other helpers there, as we were doing what we thought was – I guess you’d say in this house “The Lord’s work” – strange things were happening beneath our very eyes. Planes were flying in taking children out, absolute trafficking of the worst kind and sort, thinking the parents were dead only to discover later that the parents were alive and they no longer had their children, so again we have to do it better, we have to be better organised, do it more comprehensively and we have to do this in a longer-term fashion.

So, in addressing these root causes we have to look at the longer-term development challenges. Now, as you know the Secretary-General at the UN General Assembly this year announced the holding of a World Humanitarian Summit in 2016 and we all very much applaud and support this idea. I would say that the greatest challenge of that Summit is to answer the question, how are we all, those of us assembled in this room and others who want to be helpful, how are we going to manage what is a trend towards increasing, multiple, complex humanitarian emergencies? When the lights go off and the big television networks leave, how do you keep a sustaining quality to what you do? How do you, at the same time as you’re dealing with Syria, not forget that we still have other problems in the Middle East and North Africa? That we still have Mali? That we still have Haiti, etc? So being able to deal with all of these responsibly and effectively over the longer term is a challenge that I don’t think we have yet met or even begun to discuss in terms of the kind of political will and resources that will be required if we are going to address this all adequately. We have to reduce exploitation effectively if we are going to do it and I was pleased to hear this mentioned earlier. We have to address both the fundamental structure of supply and demand. Now, supply has gotten all the attention but we have to look at demand also. This is why we mounted, two years ago, what we called a “buy responsibly” campaign to try to show how many of our goods are actually the product of forced labour, in some cases slave labour. Consumers need to be aware of their role in the trafficking area, and how many of us have really thought at all about the source and origin of the products we buy, and whether they might just have been made by forced labour. It’s a difficult thing to get our minds around but we must not forget there is this demand side.

On the supply side, I think from our side at least there’s a bit of potentially good news. We’ve been concerned for a long time about the problem



of the corrupt, illegal and criminal recruitment agencies around the world. I'm not saying that they're all criminal and corrupt and illegal, I'm just saying that those that are need to be taken into hand. We will be launching in 2014 something we are going to call IRIS for the beautiful flower, the International Recruitment Integrity System. It's a little bit like the old Sullivan Principles that helped get rid of apartheid in South Africa. It's a code of conduct, a set of standards, it's a way forward which a company, a recruitment office, can sign up to – I guess they will receive a Gold Star or something, to say that they are part of this network – and if you're not part of that network you have to assume that you are probably corrupt, racist, illegal, and all the other things that go with it. Now, the challenge that we face before we mount all this is we have to have a very reliable, strong monitoring and compliance mechanism or it will not work, people will sign up and then go about their usual ways, but I think this could help a lot in keeping people out of the hands of traffickers, many of whom are in these particular recruitment agencies.

And then of course a third point: we have to work on the problem of how do we change the public image of migrants. We know we are dealing with stereotypes: they're coming to take our jobs, they're probably bringing in a large criminal element, they're probably bringing in disease etc, but if you look at those demographic figures and you see the tens of millions of jobs that most highly industrialised countries are going to need, including Europe, including Japan, Korea, probably others, the tens of millions of jobs that they are going to have by 2040 you have to ask the question, where are they coming from? Well, you have an aging North and a youthful South: increasingly they're going to come from the global South. Now, the responsible political answer to that would be, we will mount a public information, public education campaign to talk about the historically overwhelmingly positive contribution that migrants have made. I happen to come from a country that was built on migration, continuously built, and in fact I sometimes think we have more Italians than there are in Italy, but anyway, we're proud of our migrants but we've got to recognise it. So if we don't do this, if we don't start preparing the public mind now, it won't finish well. But if we put in place measures that welcome people properly, offer them some options, including that of integration, it just might be that these people coming from the Global South might just share the same values that we all share. This is just some thinking that we're doing on that. I think again we plan to launch a global information campaign in the next year, with the limited means we have, we will try to get others on board to try to talk about the historical contributions that migrants make.

On 3 October we were all gathered in New York to talk about a high-level dialogue on migration and development. That same day a large ship capsized off the shores of Lampedusa, and we know the story of that. Somewhere between 300 and 400 people lost their lives. When I was in Lampedusa I talked to Syrians, I talked to Eritreans, I talked to Nigerians, I talked to others, a very mixed group. Some were clearly qualified probably for political asylum, some simply wanted to go north and join their families, some were obviously headed by traffickers into some kind of either forced labour, prostitution, etc, but the link between Lampedusa and New York was poignant that morning, as if any of us needed reminding. So we need to recognise that migration is central to these challenges and that countries are increasingly in the same boat: we're countries of origin, countries of transit and countries of destination at the same time, so in a globalised world we need to think about these linkages and we are going to have to learn to conjugate better than in the past the paradox between national sovereignty and individual freedom. How you bring those two elements together in your policies is largely going to determine our ability to tackle the question of trafficking.

I want to just finish with a couple of points here. We also have to reduce the cost of migration, we will get at that with the recruitment agencies but also with the costs of transferring remittances home. Those should be down a couple of percentage points only, rather than the 10 and 12% that some people are paying. The loss in human life, too many migrants are still perishing on their journey, as in Lampedusa or in Malta, too many are still suffering gross abuses of their rights, too many are still obliged to take up work that falls short of their own qualifications, and too large a share of migrants' earnings are now going to the cost of transfer.

Let me end on a sombre note, even a confessional note and perhaps that's appropriate in these hallowed halls here. Despite all our efforts, information campaigns, protection, prosecution where we have done very little, prevention, all of that, we have to ask the question, have we really made any impact at all on the global problem of trafficking? I'll leave that question with you but on my part I'd say there's a lot of room for honest doubt and I don't say that to make anybody feel badly but we've simply, somehow, got to organise ourselves better for this. We built a migrant resource centre in Djibouti, at Obock, that point in the Red Sea that I was talking about, paid for by the Japanese government, so we counsel people when they get that far, "Don't go across" and they say "I understand, I understand". The next question is, "Do you have a job for me?" and the answer is, "No, I don't have a job for you, I'm just giving you information", so then they continue their journey

and go across, so information campaigns are falling short because we haven't answered the livelihood question. Prosecutions are few and far between and the big fish never get caught, so I think we've got to do a lot better.

Let me conclude by leaving you with the thought that large-scale migration, which means more and more people are going to be victims of trafficking, large-scale migration is inevitable because of the demography I gave you, also the digital revolution, you had 300 million people connected to the Internet in the year 2000, today it's 2 billion. People like Mark Zuckerberg and others are saying it will be 7 billion soon. People know what's going on if they have access. We have distance shrinking and budget shrinking in transport, we've got a growing number of disasters, we've got the economic and social divide between North and South, so the drivers of migration are clearly there, more and more people are going to be on the road or on the sea and we have to realise, therefore, it's inevitable. It is also necessary if those 30–40 million jobs that we talked about are going to be filled by mid-century and it's also highly desirable if we put in place the kinds of policies that will reflect the global trends that I studied in talking to you. I tried to say something in a kind of wandering way, I'm sorry for that, about the whole question of greater practical protection for migrants to match up with the law enforcement frameworks, the need for greater, closer look at the root causes and, thirdly, to try to change the public perception that would allow migrants to get a better deal.

Thank you.

# THE EU LEGAL AND POLICY RESPONSE ON TRAFFICKING IN HUMAN BEINGS

■ MYRIA VASSILIADOU

It is a real honour to be here on behalf of the European Commission, and I would like to extend my gratitude to the Pontifical Academies of Sciences and Social Sciences. I think this event creates a very important momentum and I am grateful to the Holy Father for initiating this discussion on the political agenda, I think this will make a big difference.

What I will do today is I will present to you in my capacity as the EU Anti-Trafficking Coordinator, the EU legal and policy framework on trafficking in human beings and then what I will try to do is highlight some key areas of concern and, indeed, heated debate at times, and explain our priorities and how we will work in the future.

Let me start by saying that language matters a great deal so what we are doing in the EU is we stopped, we refrained from talking about fighting human trafficking, we refrained from using a very militant language. We now use a language that is more multidisciplinary and more ecological. To borrow from my colleagues on the right, we use more integrated and more comprehensive. So we addressed trafficking in human beings as a priority and this is a priority for the EU and its member states, its 28 member states, including a language that this our external policy.

Addressing trafficking is anchored in primary EU law, in the treaty of the functioning of the European Union and, of course, in our larger policy framework. Trafficking in human beings, and I will say something that not everybody necessarily agrees with, is specifically mentioned in Article 5 on the prohibition of slavery and forced labour of the EU Charter of Fundamental Rights. So, I think this is important because when we talk about slavery, slavery is a form of trafficking in human beings and not the other way around.

Within the EU, people are predominantly trafficked for sexual and labour exploitation but increasingly we also witness more cases of trafficking for the removal of organs, forced begging, criminal activities (especially for children), benefit fraud, illegal adoptions. Trafficking in the EU used to be seen as a criminal phenomenon, coming predominantly from third countries. I will say that this is not the case anymore. Most of the cases within the EU are cases of internal trafficking, that is, EU citizens being trafficked in the EU. I will come back to that.

So, what is the situation in the EU? As I said before, we are very wary of estimates, different types of estimates and different types of definitions. What we have done at the EU level for the first time this year, is we have collected statistical information that is very concrete. It is based on identified and presumed victims of human trafficking according to the authorities, according to the National Statistical Offices. So, we know that within the EU, 23,600 people were identified for the years 2008 to 2010, and we also know that this is the tip of the iceberg, of course. Moreover, we know that there are signs of organised crime gangs increasing their trafficking activities in the EU in parallel with the worsening economic crisis. And Europol reports an increasing demand. There are worrying trends in the EU based on this concrete data, and what we see, for example, are fewer traffickers being convicted. In fact, conviction rates failed by 13% in three years, from 2008 to 2010. We also know, according to this data, that the vast majority of victims, 80%, are women and girls, and 20% of the victims, men and boys, and the detrimental majority are victims of sexual exploitation.

In fact, we hear that the percentage of victims of trafficking for sexual exploitation is increasing each year, whereas the percentage reported for labour exploitation has dropped. I take this with a big question mark, because it could be that we are better at doing our job and identifying victims, or it could be well indeed that these are the numbers, and that we do not really know. So I take the comments by Professor Archer very seriously.

What is very interesting, as I said, is that 61% of the victims that we actually identified are EU citizens. And from outside the EU, the majority of victims come from Nigeria and China. So what are we doing about this? I can say, and in that sense I am confident, that the EU is uniquely positioned to address human trafficking, because what we have is a hard law, creating legal obligations on the member states, we have robust enforcement mechanisms, where we can and indeed do take the member states to Court and where fines are often imposed. We have a very comprehensive policy framework and, as sometimes we joke about, we have a lot of financial support. So we have law, we have policy, and we have funds. We have the tools, we have the necessary tools to address trafficking in human beings and I do not say that as an EU official. That is something that is acknowledged very widely at the moment by the international community, our member states, frontline officials, and very tellingly for me, from the civil society who really believe in the work that we do. So, what is needed now and, to a large extent this is how I see my part and my role and mandate, is to ensure the full implementation of these instruments to achieve concrete results.

When it comes to the legislation, I will not say much about it but it is the first, this EU directive if you like, is the first EU measure of criminal law nature that harmonizes the definition of the crime and penalties. It lays down robust definitions to help investigate and prosecute traffickers, deliver victims' protection, assistance, support, provisions to prevent the crime, to better monitor and evaluate our efforts. It is a piece of legislation that the EU can be proud of and it was adopted in record time: it places the victims at its heart, it ensures that people who are victims of trafficking are given an opportunity to recover and to reintegrate in society. I will not go into depths about the directive and all the provisions. But what I can say to you, that it is indeed very ambitious, it is very innovative, and I would dare say the most forward and comprehensive regional and international instrument that we have on the issue.

But, we have a big but. Our member states had to translate this legislation into their National Law by April 2013. As of last week, that I had the latest information, only 18 of the 27 member states informed the European Commission that they fully did their job. So the other ten have not told us that they have done their job. And of course, it is one thing that the member states notify that they have done their job, and it is another for me to ensure that they have correctly applied the EU law.

What we are now doing, which is exceptional at the EU level, is quickly moving on to what we call infringement procedures. What that means, is that we intend to take the member states who have not fully done their job to court. This is exceptional, because the EU normally would not do that in such a short span of time. But as I always say, and as the Commissioner of Home Affairs always says, we are not talking about any EU law, we are talking about victims of trafficking whose lives are at stake, while we are sitting in this comfortable room.

We have other pieces of legislation, in fact we have 17 pieces of legislation dealing with victims of trafficking, but one that is very, maybe, relevant to today's work is a directive on combatting the sexual abuse and sexual exploitation of children and child pornography, which asks the member states to approximate legislation on a comprehensive list of offences. So we have the legislation, but that again is not enough, even if it is well implemented; what we also need is a policy framework to match this legislation. So this policy framework at the EU level – we call it the EU Strategy Towards the Eradication of Trafficking in Human Beings – is for the period 2012 to 2016. We have about 40 actions, most of which the European Commission is responsible for. It has been highly welcomed by an impressive list of stakeholders and what this strategy does is it prioritises over identi-

fyng, protecting and assisting the victims, stepping up the prevention – and I will come back to that in a minute – increased prosecution of traffickers, because, as I said before, prosecution rates were going down – enhanced coordination and cooperation. Here I can say that I am responsible for monitoring and implementing the policy framework until 2016, and to increase knowledge and effective response to emerging concerns, because the reality is, we know something about trafficking but we do not know enough. If I may, as Ambassador Swing said, I do not think we have mastered this struggle and we need to know a lot more in order to do so.

I will not name any of the 40 actions here, but what I can tell you is that the big aim of this policy framework is to work together with a lot of different stakeholders in order to implement our work. So in a rare example of the Commission work, we work with 8 different department services of the European Commission, with European agencies, with our member states, in order to do our job. We also have an EU Anti-Trafficking Day, which is marked on 18<sup>th</sup> October and this year, on the 7<sup>th</sup> Anti-Trafficking Day, we marked this day in Lithuania under the Lithuanian Presidency. I read in one of the documents for today, that it would be a good proposal to have a global World Day against Trafficking. So that is something to consider.

What we did for this year's Anti-Trafficking Day is to look at Internet recruitment. And this is certainly one area that we all say is extremely important but we know very little about, and I discovered that when we were looking for speakers for this Anti-Trafficking Day. It is normally a very prestigious event and everybody, if I may, is struggling to get a speaking space. This year it was difficult to find experts on recruitment online, facilitation of victim recruitment and so on. So we are very aware of the urgent need to address the fact that the use of the Internet is expanding. In fact Europol, our intelligence-gathering agency, states that Internet will be an even more important marketplace for illicit commodities and criminal services in the future. What we learnt on this Anti-Trafficking Day is that when it comes to victims of sexual exploitation, both adults and children, the Internet is at the moment the primary recruiter of victims, where traffickers also advertise services. So this is something to think about further; in terms of discussing demand reduction. And here I want to elaborate: addressing demand is a key aspect of the legal and policy framework at the EU level. Many of the papers, in the next two days, in many different ways focus on demand reduction from different angles. There is no supply without demand. And we cannot continue focusing only on the criminals and the victims without addressing the huge grey area, the bridge between the two, who are the clients, the customers, the users, the procurers, which again is something

that Ambassador Swing already referred to. For each woman trafficked for sexual exploitation, there is a user, there is a client, there is a procurer, asking for that service. For each and every little girl exploited in prostitution and pornography, there is someone asking for that service.

The EU legislation is unique. Why is it unique? It obliges the EU member states to take effective and practical measures to curb demand for all forms of exploitation; for example, employers hiring trafficked persons, and clients buying sexual services from victims of trafficking, and raising awareness of potential victims about the risks of falling prey to the traffickers. This is a legal obligation in the EU at the moment, to take actions to reduce this demand. What our legal instrument also says is that it urges member states, I have to quote the language to get it completely right: “to consider measures for criminalising the use of services with the knowledge that the person is a victim of trafficking”. So what I have to do is draft a report based on this, to submit to the Commission, to the European Parliament and the Council, on the impact of such policies, accompanied by legislative proposals as appropriate.

We could indeed consider that making use of services with the knowledge that the person is a victim of trafficking is a crime. So the key question in my head, in the head of the Commissioner of Home Affairs, and of many ministers at the EU level at the moment, is one. Which other areas of crime include a user who knowingly gets involved in a crime and is not criminalised? So this is a question that we need to be thinking about. This concerns all forms of exploitation. However, we understand that the detrimental majority of sexual exploitation are women and girls. We acknowledge that there is a link between trafficking and women in prostitution that we cannot ignore. We formally recognise that trafficking in women and girls for sexual exploitation is structural and it constitutes violence against women.

We note with concern in recent years a worrying tendency to focus less on trafficking for sexual exploitation, in fact silencing trafficking for sexual exploitation. We do not think that it is more important than other forms of exploitation. We think that it is equally important. We have not done our job. We do not have examples where we have managed to stop, to eradicate, to eliminate this problem. And we need to be doing our job and to be doing more. So we need to have equal focus on sexual exploitation, labour exploitation, and all other forms. We have received criticism that the lack of competence in the field of regulating prostitution has been used as a pretext for not addressing this issue. The lack of legal competency on prostitution does not mean that the European Commission is turning a blind eye to the interplay between prostitution and trafficking, so we must insist on



understanding this issue more. We need to understand this link, and for this reason the Commission is funding a number of projects to make informed decisions in this area. In the meantime, we have a very ambitious legal instrument that we have adopted. The recent opening of the demand and consent chapters of the Palermo Protocol leave me very reluctant. We have a very ambitious policy framework in the EU, dealing with demand; re-opening the chapter on consent and demand, would not be something that the EU is very much looking forward to.

What the EU is looking forward to, and we are very keen to do so, is implement our legal and policy framework, in terms of the key role of civil society including service providers in activities aimed at addressing trafficking in human beings. Funding is very important in this direction; we think civil society should be equal partners and I strongly welcome the work of faith-based organisations across the globe, with whom we cooperate very closely because of the service that they provide to the victims. In this spirit, very recently in May the Commission launched an EU Civil Society platform, with over one hundred civil society organisations participating. The platform – some of the members are here today, so I am very happy to see some of you here today – brings together a wide range of organisations working in the field of trafficking, such as human rights organisations, faith-based organisations, women’s rights, migrant rights, faith-based assistance, research, and the reason for that is that trafficking in human beings is not something that can be dealt with from a monolithic perspective, from only a security perspective, we need a very multi-disciplinary approach and we need all types of NGOs to work with us and other stakeholders to work with us on this issue.

We also need to work with the private sector. In fact, without the private sector there is very little we can do. We very much welcome, for example, the Buy Responsibly Campaign of the IOM and the need to focus more on the supply chains. What do we buy, who do we buy things from, how do we know who is making the products that we use. When it comes to labour exploitation especially, working with the business sector is fundamental. And we need to go back to our supply chains all the way from the beginning. For this reason we are launching a European Business Coalition, in 2014, where we want to get European businesses or European-based businesses to take their role and responsibilities more to heart. And also to hopefully develop models and guidelines to reduce demand, for services provided by victims of trafficking. We need to work with temporary work agencies, we need to work with all these people advertising online, sometimes legal businesses operating online and then trapping their clients or their customers.

Let me turn to external cooperation. The recent daunting experience of Lampedusa only a few months ago, where a few hundred human lives were lost in the search for a better life, is just a horrifying reminder, it is not the exception, it is the rule; it is what happens every day. And it is a reminder of the need to be doing more. And here there is also the reminder on the need to focus on clear concepts and phenomena that, although very much inter-linked and inter-related, are distinct. Trafficking in human beings, human smuggling and irregular migration are often conflated and confused. I go back to Professor Archer, I read her paper but I have to say some things on that, from a European Commission perspective.

There are links between trafficking in human beings, human smuggling and irregular migration. There are very clear links but there are also distinctions. Trafficking in human beings, in our law, has as its main objective the exploitation of an individual for profit, often using coercion and control, and that, first of all, is a violation of human rights and freedoms and a crime against the person. Trafficking does not need to have a transnational element in order to be trafficking in human beings, as opposed to human smuggling, which by definition, in our legislation, is a cross-border phenomenon. Smuggling is the irregular movement of people across borders in exchange for payment, but not necessarily with an exploitative purpose, although the smuggled person may still end up being exploited. It is therefore a crime against the State, or it concerns the protection of the State against violation of its borders. And I remind you here that 61% of the victims of trafficking that were formally identified in the EU are EU citizens.

So why do we work with third countries and how do we work as the European Union? First, third countries are often places of origin and transit for trafficking to the EU; second, as a grave violation of human rights it is a clear objective of EU external action; and third, as a cross-border irregular illegal activity is an important area for cooperation between the EU and third countries. So the EU has adopted the list of priority countries for cooperation in line with what we call the action-oriented paper, which is our external policy on trafficking in human beings. It is based on respect for human rights and the rule of law, and I will give you the list of countries, which is based on the number of victims that we have had in the EU and a number of other criteria. The countries are Albania, Brazil, China, Dominican Republic, Morocco, Nigeria, Russian Federation, Turkey, Ukraine and Vietnam. And of course other regions, but I am specifying countries. I am currently coordinating a large-scale exercise with the European external action service where the EU will continue to follow the implementation of measures strengthening the EU external dimension.

Trafficking in human beings is included in all migration dialogues; the EU has entered mobility partnerships, our framework of the Eastern Partnership, human rights dialogues, a lot of different instruments that we use to work on trafficking and, increasingly so, we ensure that it is at the forefront of our external efforts.

Before I close, a few things on financial support to address human trafficking. As I said, we have EU hard law, which we enforce, and I talked about the directive, we have policy that we monitor, and of course we have funding, and this is what makes the EU able to be concrete in the ability to match its work with its priorities. The EU is the main contributor of humanitarian aid in the world, and the main donor of international and regional bodies, some of them in the room. Funding programmes range from migration to gender equality, employment, development cooperation and so on and so forth. We have funded specific programmes on trafficking in human beings on different topics, on labour exploitation, child trafficking, forced begging, sexual exploitation and so on. We have funded some of the NGOs in the room. We have different funding opportunities in enlargement, development, humanitarian aid, research, social affairs, and a lot more. Why am I saying that? Since 2003 the EU has funded hundreds of millions worth of projects across the globe to address the phenomenon of human trafficking, and it has done so from a very diverse perspective. What we are doing now is launching a review to see – and again I am going back to the Ambassador’s speech – has it had an impact? I am not sure, if I may, with all due respect to the UN Special Rapporteur. We need more funding and we need to continue with the funding, but what we need to do is ensure that this funding produces impact, produces results, is better coordinated, we use the recommendations of the projects, we evaluate better, we assess better and we target our policy priorities better. So, for me, the result of all our actions is fundamental, and this is what the Commission wants to see in the future, because this will strengthen future projects and provide a solid basis for coherent, cost effective and strategic EU policy and funding initiatives in the future.

Just to close, what I have tried to say is that the EU has several very specific, very unique and very powerful tools at its disposal, and it is now time to use these, as they are very recent instruments; what we need to do is use these instruments and make sure that their full potential is utilised. And the message I bring from the EU, from the European Commission, is one of building partnerships. Everyone in this room, different countries, different actors, different types of organisations, I think we all have the same objective, to help the victims, and to ensure that no more people become entrapped in this complex

web, which is the slavery of our times. We come from very different places of strength, in order to achieve that. And it is only with real systematic cooperation in joining this strength that this can be achieved. If we fail to do this, if we fail to use these possibilities, if we fail to be ambitious, we fail the victims, and we fail our work, and we fail ourselves. And unless we feel personally responsible, that we are not in any way involved, or indirectly support such practices, we will never be able to eradicate this phenomenon. It is our moral and legal duty to work together, to eradicate trafficking in human beings. Only a year and a half ago I was actually accused of being over ambitious, by talking about working towards the eradication of human trafficking. What do we say: "Oh we want to have a little bit less"? This would be an insult to the victims and to our humanity.

Two weeks ago the UN Special Rapporteur, and I welcome her statement, used exactly the EU language in a statement she issued. She issued a statement talking about the eradication of trafficking in human beings. We welcome that and we hope that this is something that will continue. We must use the possibilities, we could use the EU as an example of a legal and policy framework. We must be ambitious. I think that the clock is ticking to the detriment of people's lives and we cannot afford to stay silent. I hope that this workshop is an effort to break this silence.

Thank you very much.

# TRAFFICKING IN HUMAN BEINGS: MODERN SLAVERY – A SOCIOLOGICAL APPROACH

■ MARGARET S. ARCHER

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.<sup>1</sup>

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.

<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> 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

<sup>2</sup> I will thus restrict myself to statements about 'more' and 'less', ones that themselves should be treated with caution.

<sup>3</sup> [http://www.antislavery.org/english/slavery\\_today/what\\_is\\_modern\\_slavery.aspx](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*,<sup>4</sup> 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’.*<sup>5</sup>

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<sup>6</sup>), but such complicity gives way to naked violence on the stages of what can be an extremely complex journey.<sup>7</sup> 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-

<sup>4</sup> Orlando Patterson, *Slavery and Social Death*, Harvard University Press, Cambridge Ma., 1982.

<sup>5</sup> *Ibid.*, p.1.

<sup>6</sup> UNODC

<sup>7</sup> 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,<sup>8</sup> 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’.*<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup> 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’.<sup>12</sup> The slave was moveable, removable and disposable. One of the significant features today amongst

<sup>8</sup> BBC News, 1 February, 2012. <http://bbc.co.uk-11012084> (downloaded 19.0.9.2013)

<sup>9</sup> Patterson, *Ibid.*, p. 5–6.

<sup>10</sup> Moses Finley, 1968, ‘Slavery’, *Encyclopedia of the Social Sciences*, Vol. 14, New York, Macmillan and Free Press, pp. 307–313.

<sup>11</sup> 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.

<sup>12</sup> 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'.<sup>13</sup> 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 Nietzsche 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-

<sup>13</sup> Julian Pitt-Rivers, 'Honor', in *Encyclopedia 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'.<sup>14</sup>

From the three criteria taken together comes his definition: '*slavery is the permanent, violent domination of natively alienated and generally dishonoured persons*'.<sup>15</sup> 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'*.<sup>16</sup>

If it is the case that manumission is integral to systems of slavery – and Patterson maintains that it is 'an essential condition'<sup>17</sup> – 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-

<sup>14</sup> Patterson, *Ibid.*, p.79.

<sup>15</sup> *Ibid.*, p. 13.

<sup>16</sup> *Ibid.*, p. 296.

<sup>17</sup> *Ibid.*, p. 101.

ically documented that ‘most slave populations had high manumission rates’, despite their differences in type.<sup>18</sup> 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’.<sup>19</sup>

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

<sup>18</sup> Ibid., p 133.

<sup>19</sup> 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'.<sup>20</sup> 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).<sup>21</sup>

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 be payed-off, and the size of these 'debts' can be huge (up to €50,000 from Nigeria to Italy),<sup>22</sup> 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!'<sup>23</sup> Interestingly, his reference to slave

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

<sup>21</sup> Patterson, *Ibid.*, p.295.

<sup>22</sup> European Commission, 2003, *Research based on case studies of victims of trafficking*, *Ibid.*, pp. 154-5.

<sup>23</sup> 'Message for World Day of Migrants and Refugees' September 4<sup>th</sup>, 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 spear-headed 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,<sup>24</sup> 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.*

<sup>24</sup> 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’.<sup>25</sup> 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.

<sup>25</sup> 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.<sup>26</sup>

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’<sup>27</sup>) between multi-national production and responses by nation states

<sup>26</sup> 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.

<sup>27</sup> 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.<sup>28</sup> 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,<sup>29</sup> 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.<sup>30</sup> The direct connection with the multinational supply

<sup>28</sup> Margaret S. Archer, 1995, *Realist Social Theory: The Morphogenetic Approach*, Cambridge, Cambridge University Press.

<sup>29</sup> Patterson considers that the majority of slaves brought to the New World were kidnapped persons. *Ibid.*, p. 120

<sup>30</sup> 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

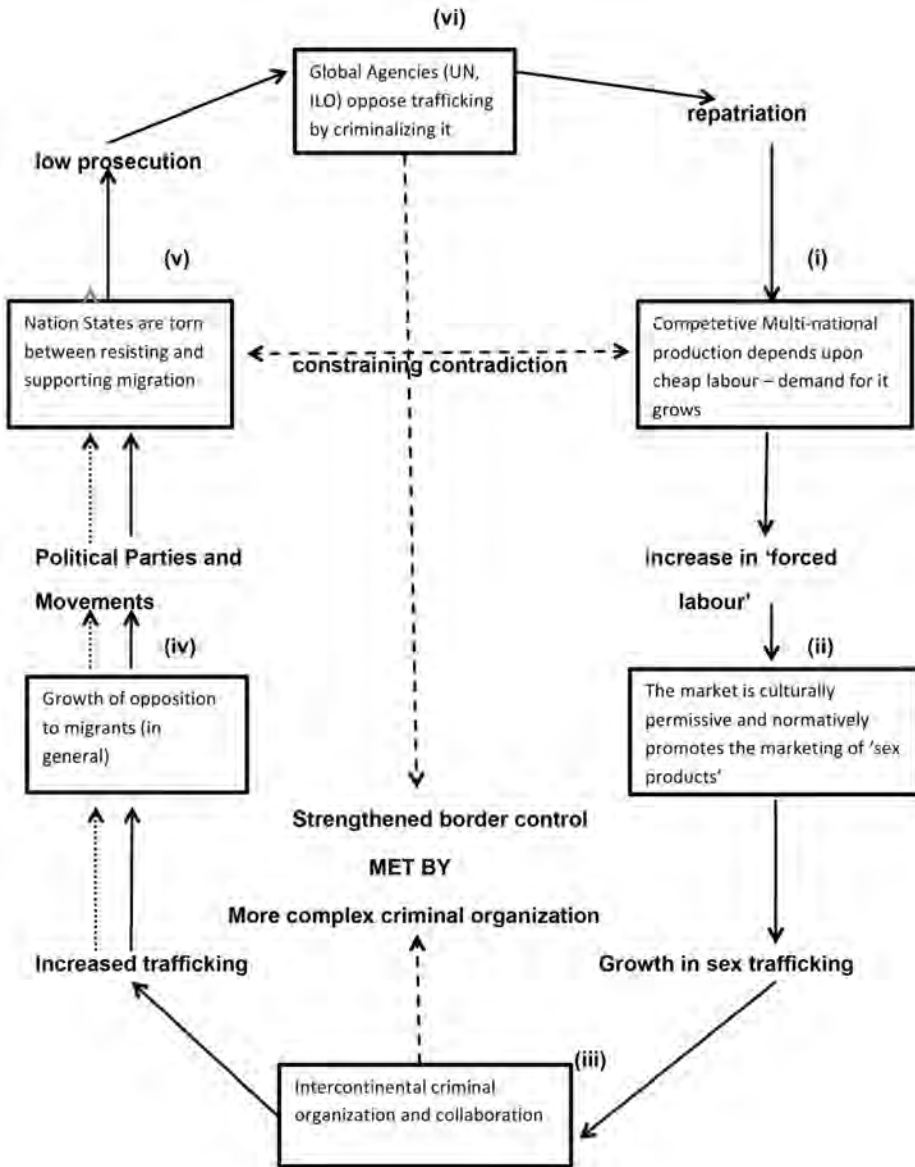


Figure 1.

chain has been documented by both the ILO and the UN GIFT programmes,<sup>31</sup> 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. Doubtless, we have all confronted and been affronted by the offer of 'Adult movies' in otherwise respectable hotels. That is a minor illustration of how normalization 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.<sup>32</sup>

(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'.<sup>33</sup> Criminal organizations engaged in trafficking appear to follow growth pattern from domestic, 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 mental hyperactivity and forbidden desire, along with all forms of illicit trade demanded by our societies, from sophisticated weaponry to human flesh'.<sup>34</sup>

<sup>31</sup> 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.

<sup>32</sup> UNODC, *Ibid.*, p. 39-40.

<sup>33</sup> *Ibid.*, p. 41.

<sup>34</sup> Manuel Castells, 2010, *The Rise of the Network Society*, Vol I, Wiley-Blackwell, Oxford, 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.<sup>35</sup> 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’.<sup>36</sup>

(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.<sup>37</sup> In calculating such ‘savings’, the

<sup>35</sup> European Commission, 2003, *Research based on case studies of victims of trafficking*, Ibid, p. 158.

<sup>36</sup> 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.

<sup>37</sup> <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,<sup>38</sup> 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’.<sup>39</sup> 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.<sup>40</sup> Although these are usually

<sup>38</sup> 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.

<sup>39</sup> *Le Monde*, 03.10.2013

<sup>40</sup> 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.<sup>41</sup> 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, Suppress 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.<sup>42</sup> 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.<sup>43</sup> Thus, the

<sup>41</sup> 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).

<sup>42</sup> Executive Director's 'Preface', UNODC, *Ibid.*, p. 1.

<sup>43</sup> 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 21<sup>st</sup> 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.<sup>44</sup> 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

<sup>44</sup> 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<sup>45</sup> 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.<sup>46</sup> 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

<sup>45</sup> See European Commission, 2003, *Research based on case studies of victims of trafficking*, Ibid, p. 138–9.

<sup>46</sup> 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'.<sup>47</sup>

## 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 soprattutto 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*.

<sup>47</sup> Ibid., p. 136.

# TOWARDS A SOCIOECONOMIC ETIOLOGY OF HUMAN TRAFFICKING

■ JUAN J. LLACH

I will refer first to the scope and the limitations of the issue of the paper – because there are many limitations – then to the characteristics of the victims and afterwards to those of the traffickers. Of course we know much less about the traffickers than about the victims. Then I will try to formulate some hypotheses about socio-economic factors that can be associated with, or be causes of, human trafficking. I will devote some time to the NEET phenomenon, people that are not in education, employment or training, which is a growing and very worrying phenomenon. And finally, I will try to reach some conclusions. By its nature, the problem we are dealing with is very difficult; most statistics refer to detected victims and are not completely reliable, of course, and with regards to criminals, this information is even scarcer, which is completely logical. On the other hand, academics in general have not considered it very appealing to study the socio-economical and political etiology of the victims or the criminals. The scarce amount of papers is surprising.

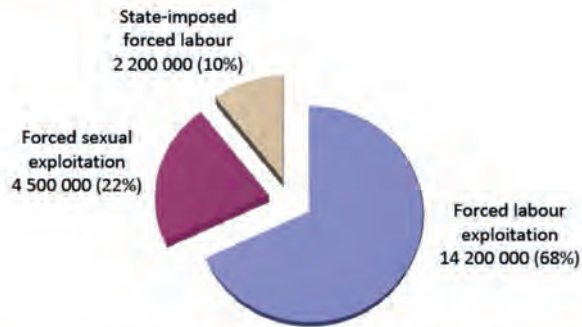
Going to the victims, the numbers, part of them, we saw this morning. According to the International Labour Organisation, they are between 20 and 27 million (and I will show new figures that come from a new organisation that is perhaps not very well known, in which victims are almost 30 million people): 68% are held in private forced labour, 22% in forced sexual exploitation, and 10% in state-imposed forced labour. The number of criminal convictions, compared to these statistics, is very small. Of the 4,746 global criminal convictions of traffickers, the majority were related to sex trafficking and not to the other kinds, so there is the question of why this happens.

There you have the distribution and the value. According to the same sources, the value of the national trade alone is 32 billion dollars. According to other figures, Gustavo Vera here told me that the figures are higher with regards to the value of international trade.

This is the report of this new organisation called Walk Free, which is very recent; they say there are 30 million people and I recommend reading this report because from my point of view it is better than the other reports we have, I mean the human trafficking reports and those of the U.S. Department

## 1.1. Number II

Figure 1. Global estimate by form of forced labour



- Estimated value of this “international trade”: \$32 billion  
⇒ 5% of illegal trade worldwide

Source: ILO (2012)

## 1.1. Number II



Source: Walk Free, Global Slavery Index (2013)  
<http://www.globalslaveryindex.org/report/>

of State. Studying the phenomenon case by case, they compiled a ranking from the worst country regarding human trafficking, and that is Mauritania, and the best ones, which are England, Ireland, Denmark etc.

Regarding age and sex, 27% of all victims are children, defined as less than 18 years old. Between 55–60% are women. Women and girls together are 75%. Of every three child victims, two are girls. We can find a certain association between a region’s income and the proportion of adults that are victims of human trafficking. In less developed regions, child trafficking is more frequent.

There you have the distribution, more or less what I mentioned previously. The situation of labour exploitation is very clear. You have more males than females in some categories but not in the case of state-imposed labour exploitation. Then you can analyse by regions; in some cases you can find perhaps some signals of solvent demand, so that the phenomenon per se is pushed by demand. For instance, sexual exploitation is more common in Europe, Central Asia and the Americas, so in countries with a higher GDP per capita. While in Africa, the Middle East, South and East Asia, forced labour is much more common, suggesting that perhaps you also have a phenomenon of excess supply of labour. Afterwards, if I have time, I will refer to this characteristic.

### 1.2. Age and sex III

Figure 2. Global estimate by sex of victims of forced labour



Source: ILO (2012)

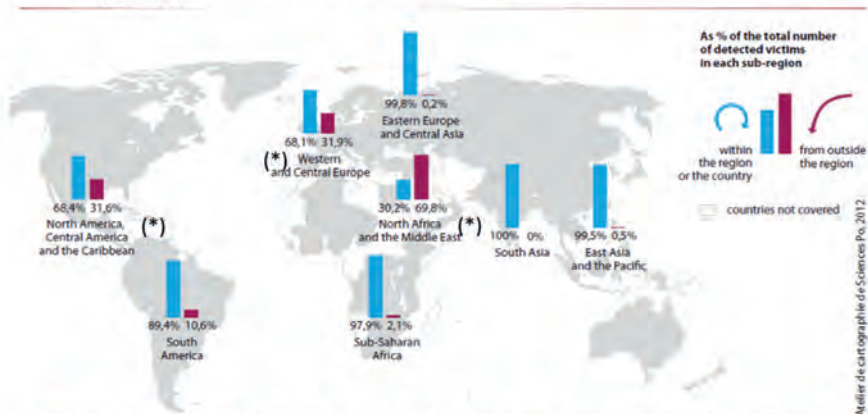
You also have some association between a region's income and immigrant victims. This is also something that could be useful to prevent these kinds of crimes. Regarding countries of origins of victims found in Western and Central Europe – mostly developed countries – you can find many Asians, Africans and Latin Americans, but also some Europeans and even Western Europeans, so apparently nobody is exempt from this situation and as concerning the share of children among the total number of victims, you have incredible dispersions. You can see Scandinavia there, the proportion is high – of course the absolute level of human trafficking in Scandinavia is lower than in other countries – but the proportion of children there is not low.

Then we can try to say something about education. First of all, of course, general education, lack of access to education is considered, I mentioned there some sources, as a risk factor. Education clearly increases the probability of getting a better job. Secondly, parents are eager to give a good education to their children, frequently the situations take advantage of this, offering different good prospects that at the end are very bad.

And in the third place, more education leads to better specific knowledge of the situations that are dangerous from the point of view of human trafficking. This is interesting because there is a certain correlation between

### 1.3. Nationalities and migration II

MAP 6: Shares of detected victims who were trafficked within or from outside the region, 2007-2010



Some association between regions' income and immigrant victims

Source: UNODC.

(\*) Probable signals of significant and solvent demand

human development and slavery. Sorry if I use the word “slavery”, but it is the name used by the source, the source is Walk Free, and the index they build is called “Global Slavery Index”. So the more human development, the less human trafficking and the less slavery, and the correlation coefficient is high, 74, it is very high.

Then, regarding the family situation, isolation is considered a relevant factor, it was very clearly mentioned this morning. The situation of immigrants in many cases is very risky, it is considered an important risk factor. Some authors emphasise that family disintegration is a risk factor, then we can find parents giving in, forced by poverty and ignorance, and enlisting their children, hoping to benefit from their wages to sustain the family. This is a very complicated phenomenon because in the middle you have the decision of the family, the parents. Children sold, of course, and sexually abuse by relatives, different situations in which the relation with the family is important. Then we can go to human traffickers and we can ask, why in this, sorry I will say “market”, do you have force instead of pacific or peaceful market. Well, you have some problems. Below you can see drug barons’ or dealers’ funerals, this is a case in Myanmar, a drug trafficking baron. And, we have also some cases in Argentina, in Vicente López. Very different case but the question is, where were the security

**Drug barons or dealers funerals**

**Lo Sing Han,  
Yangon,  
Myanmar, 2013**



**Where were the security forces?**

**Fernando “Pocho” Morales, Vicente López Argentina, 2013**



forces in those moments? The tolerance, in a way, to this kind of phenomenon in some parts of the world is growing, in Latin America in particular, in some countries of Latin America, the forced tolerance, we can say, because you do not perhaps have alternatives.

Of course, with regards to the prevalent types of human trafficking, you can have different conclusions if dealing with detected cases or with persons, estimated figures of persons in human trafficking situations, very different conclusions. Sexual exploitation, 58% of cases are detected, 22% of persons in situation of human trafficking. Forced labour, the contrary, 36% of cases are detected, 78% of persons are in situations of human trafficking. It surprised me a lot, a very relevant omission in most of these reports is the reference to drugs, and why and how youngsters are involved as of drug dealers in many countries and in a growing number, and this is almost completely absent in the most known reports. Not of course in the papers from NGOs etc., but in the reports it is almost absent. And well, you can see there the proportion by countries. If you consider the percentage of prevalence of forced labour, central and south Eastern Europe it is the highest, and 4% of the population, 4% in Africa. If you consider the amount of people in situations of human trafficking, Asia and the Pacific is the region with the highest value and with regards to traffickers, we can say that they are mainly adult males and nationals of the country in which they operate. As it was mentioned today, more women and foreign nationals are involved in human trafficking than in most other crimes, and you have women traffickers, basically in the case of sexual exploitation, as it was mentioned this morning. Then you have 134 countries and territories that have criminalised trafficking, but the number of convictions for trafficking per person is, in general, very low, so a big contrast in the situation, persons in the situation of human trafficking and convictions. Then we ask this question of why these are situations in which forced and, very frequently, mafia behaviours are present. In some cases it is very clear, these are illegal activities so they only can perform by way of force in a way, this is the case of prostitution in some countries, not in all of them and, of course, more clearly the case of drugs. But in other cases, like forced labour, it happens in activities that are otherwise legal. So the question is, and in those cases it is very clear that we can find complicity of national or local authorities that is a very important incentive to perform this kind of human trafficking.

Here you have the picture of the activity that Margaret Archer mentioned this morning, what happened some months ago in Bangladesh, a terrible problem in a factory in Bangladesh with deaths. From my point of view, workers there are in a grave situation, they are not clearly in a situation



## Why force instead of markets? II



Rescue workers and volunteers search by hand for victims amongst the debris of the collapsed Rana Plaza building in Dhaka, Bangladesh, on Friday, **April 26, 2013**.

### **Factory Deaths in Bangladesh Fail to Spur Inspections**

Six months ago, when **1,127 Bangladeshi workers were killed** in the collapse of a high-rise warren of garment factories, international outcry led to pledges by western retailers and the government to set up a large-scale inspection regime and a new wage system.

**Today, not a single Bangladeshi garment factory has been inspected under any of the three programs that sprang from those promises, according to officials at the programs. Nor has danger ceased in the \$19 billion industry:** Two weeks ago, a fire ripped through a factory in a Dhaka suburb that provided material for plants supplying clothing to companies including Wal-Mart. **Nine workers died.**

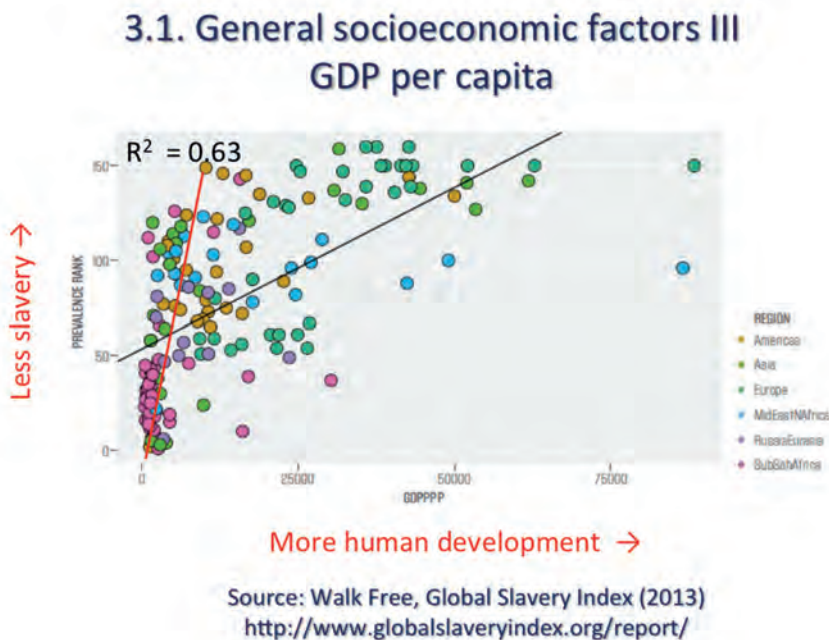
of human trafficking but they are very clearly in inhuman labour conditions. Immediately after this accident, two different conventions, one by European countries, the other one by North America, were signed by the firms, multi-national firms, in order to improve labour conditions. But some doubts exist about whether these conventions are put in practice. So it is important, from my point of view, to distinguish between clear cases of forced labour and these very inhuman labour conditions.

Speculating a bit, perhaps – of course, supply and demand are always together – but we can ask, looking at the prices that you can find in this market, which phenomena are basically demand driven and which phenomena are more supply driven. In the case of drugs it appears that demand plays a very important role. There is a rent, economically speaking, there is a rent in the business of drug trafficking. The same happens in babies and organ trafficking. Sex trafficking, from my point of view, appears as a very segmented market. You have a low price, medium price, high price, and in those different situations, you have a more active role of supply or demand, and in contrast with what Margaret Archer said this morning, I think that in the case of forced labour, from my point of view, the main original cause, is poverty. If you do not have persons in extreme poverty, it is very difficult

for multinationals or any other firm to have people in those labour conditions, so the last reason, from my point of view, is poverty.

It is also very interesting this analysis about the correlation between slavery and corruption, also made by Walk Free: when you have less corrupt countries or regions, you have less slavery. The correlation is very relevant.

And now I will refer to some of the hypotheses. With regards to generally socio-economic factors, they alone cannot explain the realities of human trafficking, but I think they are very important, as well as poverty, unemployment, underemployment, low level of education, being an immigrant (which is a risk factor) and local tolerance is also very relevant; in many cases you cannot explain the high incidence of human trafficking, if the tolerance of the authorities is not there. Otherwise it is impossible to explain the amount of people involved in those situations. The figure below is interesting: it is the correlation between GDP per capita and human trafficking. You can see that you have a positive correlation, the higher the GDP per capita, the lower the slavery of human trafficking. But look at this red line, what you can see looking at this red line, instead of the other one, is that when we have enormous increases in GDP per capita, slavery reduces very fast. I think that this is a very relevant factor,



because it obliges us to concentrate on the importance of poverty as one very crucial factor of human trafficking. Unemployment, you also have the case of Hungary, as an example, the incidence of unemployment. And some consider that the access to financial services is also relevant, why? Because many people in situation of human trafficking are there because of debt, debt bondage, particularly in some Asian countries. So when you have more institutions, more accessibility to credit, you are less in the hands of these people, who charge impossible-to-pay interest rates, and then people remain bonded.

And now I will refer very briefly to the hypothesis of the importance of the NEET phenomenon that is growing. We have 75 million unemployed youths nowadays. Unemployment fell during some years, immediately before the crisis of 2008, and then increased again. You can see there the projections for regions. You can check there youth unemployment by region, by gender: you can see many countries in which youth unemployment is much higher than 20%, going even to more than 50% in countries, according to the International Labour Organisation, like Spain or Greece. And then you have the statistics according to a study from Mackenzie. In the Netherlands, NEET youngsters are just 4% of people aged between 15 and 24. And on the other extreme, this considered basically OECD members, on the other extreme you have Mexico or Turkey which have between 25% and 30% of youth that are in this situation. So I think this is a relevant factor. In the case of Latin America the average is around 20%, and then you have a very complicated issue, but is worth mentioning. It is the growing importance of non-cognitive abilities. In education, in general, but also in the labour market, employers tend to give more importance to non-cognitive rather than cognitive abilities, and this, I think, is also relevant from the point of view of the risk factor to fall in a human trafficking situation, the non-cognitive abilities. The problem with these abilities, one of the problems, is that nobody really knows how non-cognitive abilities are acquired, that is the problem. So everybody is speaking about this but nobody knows, almost nobody knows, how to improve non-cognitive abilities.

Going now to some sort of conclusion, we can enumerate risk factors that, of course, are probabilistic, not deterministic. To be a woman or a girl is a risk factor, particularly for sexual exploitation; to be a man or a boy, particularly in the case of forced labour. To have a disintegrated family is another risk factor. To be poor but healthy, strong, or pretty is also a risk factor, and in this connection the situation of the NEETs is worrisome, I would say. To have a low education level or to be educated but poor and

live in a prosperous context, this can also be a risk factor. Going to more social ones, to be a NEET I mentioned, to live in slums near big and high middle-income cities in which the market is to be trafficked, to live in slums near richer countries, near the border, to be trafficked to that country, or to live in a country or region that is growing rapidly in which investment is also growing, and in which you have an excess supply of labour, particularly in rural areas, where people go to the cities and are offered 50 dollars per month. In Bangladesh factory I showed, the initial wage was 50 dollars per month; now they are negotiating 100 dollars a month for the salary.

And you also have political risks. To live in a weak rule of law country is a very clear risk factor, or to live in a country or region with high corruption levels is also a risk factor.

And finally, I will ask if it is convenient or not to link human trafficking to globalisation, poverty, slums, lack of education, unemployment etc. In the presentations we listened to this morning, and in the ones I read that we will see today and tomorrow, the positions are different. One of the positions is to think that it is better not to mix these questions, why? Because if you begin with the analysis of globalisation, poverty etc., you run the risk of distracting the attention away from the specific question of human trafficking. This is a position I think you need to give attention to, I do not agree with this position, but it exists and it has some reasons. On the other hand, to link those phenomena has some advantages, first from the point of view of prevention. What people and where are more prone to fall into human trafficking? I think the Academy, as I mentioned, is very clearly in debt with human trafficking, because the Academy until now has not given almost any interest to the issue, not only regarding the victims, but also, some studies can give information about which contexts are more prone to organised crime.

Networking with practitioners of other social programmes that eventually could be connected with the fight against human trafficking, to make evident the necessity of global concerted actions to fight against poverty, structural unemployment and the NEETs, I mean this is another advantage of the connection between human trafficking and those mega-causes. And finally, as I mentioned, alliances with the academy, as with this one, in order to improve the knowledge of the risk factors, actual and potential victims, and even to know more about traffickers. My perception is that we are just at the very beginning of knowing more about this phenomenon. I think the typical academic risk exists: to study the issue, to organise seminars and discuss eternally about the causes of the phenomenon and the amount of people etc. and doing nothing. This risk clearly exists and in our professions,

and I speak of mine, it is very common, but on the other hand this is no reason, from my point of view, to completely eliminate the study of these questions, because I think that these studies can help the prevention of these phenomena. Thank you very much.

# LA CRIMINALITÉ TRANSNATIONALE ORGANISÉE COMME COMPOSANTE DE LA MONDIALISATION: QUELLE RÉPONSE POLITIQUE?

■ PIERRE MOREL

Après avoir été structurée pendant quarante ans par la guerre froide, l'évolution du système international se poursuit désormais sans repères stables. Dans l'euphorie qui a suivi la chute du Mur de Berlin en 1989, certains ont cru pouvoir construire un «nouvel ordre international», mais l'expérience des deux dernières décennies a plutôt installé le sentiment d'un désordre que plus personne n'est en mesure de maîtriser. Le modèle de la «multipolarité» est certes invoqué ou préconisé, mais s'il a pu faire rêver un moment d'un «concert des nations» reconstitué, à l'image de celui du XIX<sup>ème</sup> siècle, force est de constater que le nombre et la diversité des acteurs annonce une autre configuration, encore difficile à définir.

Par rapport à la première moitié du XX<sup>e</sup> siècle, on peut certes mettre aujourd'hui en avant le nombre limité des conflits et des victimes, ainsi que la montée progressive de dizaines de pays vers une prospérité relative, qui fait émerger un peu partout de nouvelles classes moyennes. Mais il faut aussi constater que la guerre, cette entreprise immémoriale de destruction de l'homme par l'homme, s'est en quelque sorte diversifiée, diluée et propagée d'une façon incontrôlable au sein même des sociétés, sous des formes variées. L'une de ses formes les plus efficaces aujourd'hui est la criminalité internationale.

1. S'agissant des problèmes de définition, on peut dire que la formule généralement employée de «criminalité transnationale organisée» couvre assez bien ce vaste secteur d'activités illégales en croissance rapide, en particulier les trois grands trafics – drogues, armes et personnes. Il faut toutefois se demander si l'on n'est pas aujourd'hui placé devant une «criminalité *mondiale* organisée», qui non seulement contourne et affaiblit les Etats mais les dépasse et les supplante aussi bien, voire mieux encore que les entreprises multinationales, pour tirer en fin de compte le meilleur parti de la mondialisation.

Il faut certes se garder de deux réflexes simplistes, qui voudraient souligner la nouveauté du phénomène, ou y voir un complot.

Comme l'a notamment rappelé un ouvrage récent, l'émergence d'une criminalité internationale moderne remonte au milieu du XIXe siècle, avec le développement des transports, des communications et des migrations.<sup>1</sup> La prise de conscience collective est vite portée par la société civile, en particulier autour du thème de la «traite des blanches», qui reprend la dynamique des campagnes anti-esclavagistes au début du siècle, donne lieu à des manifestations et à des procès, mais alimente aussi des rumeurs, et l'antisémitisme. Ainsi, une série d'articles dans la *Pall Mall Gazette* («The Maiden Tribute to Babylon») provoque en juillet 1885 un mouvement d'indignation: 250.000 personnes se rassemblent à Hyde Park Corner, et le Cardinal archevêque de Westminster souligne le «choc moral» pour la Grande Bretagne. Des comités nationaux se constituent dans divers pays européens sur ce thème et sollicitent l'appui des souverains. Pour contrer le réflexe antisémite et participer au mouvement, une Association juive de protection des femmes et des jeunes filles est créée. Jusqu'à la Première Guerre Mondiale, les Congrès internationaux, officiels ou associatifs, se succèdent et préparent les premières conventions internationales. La SDN reprendra cet élan, de façon plus structurée.

Quant au thème du complot, formulé dès le début de ces campagnes de dénonciation, il se renouvelle jusqu'à aujourd'hui et réclame une vigilance particulière des pouvoirs publics et des associations vis à vis des rumeurs, qui peuvent prendre un tour redoutable en stigmatisant telle ou telle communauté. Le dévoilement des réseaux des groupes criminels et de leurs méthodes est un élément essentiel de la lutte, mais il implique aussi le discernement entre les divers acteurs de la criminalité organisée et une gestion attentive de l'information. La question des Roms en offre un exemple aujourd'hui.

L'idée d'un acteur ou d'un réseau unique, d'une sorte de «centre mondial» ou de «pôle régional» de la criminalité relève du fantasme, potentiellement dangereux mais également révélateur. Les grands acteurs du crime organisé sont divers et le resteront, des narco-trafiquants aux yakuzas en passant par les maîtres de la traite des personnes venant de l'Europe de l'Est et de l'Asie centrale. Mais les méthodes sont comparables, les connexions sont multiples, et tous ont en commun d'être parmi les principaux bénéficiaires de la mondialisation. Il n'y a pas un seul pôle singulier, mais bien *des* pôles, parfois connectés, qui se sont renforcés à quatre niveaux:

- les organisations criminelles ont pleinement participé à la libération des échanges, au développement du commerce international, à l'expansion des transports et à l'accélération des communications;

<sup>1</sup> Paul Knepper, «The Invention of International Crime, a global issue in the making, 1881-1914» Palgrave Macmillan, 2010.

- la baisse des normes et des contrôles ainsi que la recherche de refuges bancaires et fiscaux par les entreprises multi-nationales a élargi leurs capacités de dissimulation, de blanchiment et de reconversion de leurs bénéfices;
- la multiplication des Etats fragiles et des zones de non-droit, notamment depuis la fin de la guerre froide, ont encore accru leur capacité d’agir;
- le développement rapide de la cyber-criminalité ajoute encore de nouveaux moyens d’action.

2. La *nouvelle phase en cours de la mondialisation*, dite «multipolaire» mais en réalité incontrôlée, installe ainsi une sorte de hiérarchie inversée, dans laquelle les Etats voient leur capacité d’agir sensiblement réduite, et il en va de même pour les institutions internationales, toujours très nécessaires, mais qui donnent parfois le sentiment qu’elles ont perdu leurs grands repères. En revanche, les entreprises multinationales ont développé une capacité d’appréhender et de gérer leur domaine de compétence à l’échelle mondiale. Mais, pour continuer leur progression, ces entreprises ont besoin de légitimité et de confiance, et doivent donc se contrôler en permanence, alors que les groupes criminels échappent à cette contrainte et sont en fin de compte les mieux placés pour exploiter pleinement toutes les opportunités du nouveau jeu mondial. Les seules contraintes propres à la criminalité transnationale organisée sont la dissimulation et la rivalité parfois féroce entre les principaux acteurs: mais l’expansion quasiment constante des échanges mondiaux accroît du même coup les moyens d’évasion et les possibilités de «partage du gâteau».

Cette présentation nécessairement sommaire des nouveaux rapports de force qui se sont mis en place en quelques années à l’échelle mondiale ne doit pas conduire à sous-estimer le travail important qui a été accompli au cours des dernières années par les autorités publiques nationales et internationales, ainsi que par l’Eglise, les autres confessions et religions, les ONG et le mouvement associatif face à cette criminalité globale. Mais ils n’ont pas suffi pour renverser le rapport de forces. La criminalité transnationale organisée garde des leviers puissants et exerce un fort pouvoir d’intimidation, particulièrement dans les pays dont l’Etat est en quelque sorte «inachevé». Sur le terrain, on constate souvent un véritable dédoublement des responsables: il y a des gouverneurs «de jour» et d’autres «de nuit», et les autorités centrales abordent le sujet de façon fort ambiguë, que ce soit pour cause de tolérance, voire de complicité, ou parce qu’elles sont menacées en permanence.

Ce constat conduit parfois à un fatalisme redoublé: il ne serait plus possible de lutter efficacement contre la criminalité transnationale organisée,



tant le rapport des forces serait devenu inégal; les pas en avant accomplis permettraient seulement d'encadrer sa progression désormais irrésistible. Si l'on prend le cas du *trafic de drogue*, plusieurs exemples viennent à l'esprit: en une dizaine d'années, l'Afghanistan est devenu le producteur presque exclusif l'héroïne à l'échelle mondiale, et ce quasi-monopole menace la stabilité de toute l'Asie centrale et même au delà. La Russie est également touchée par un trafic que contrôlent les mafias russes, mais aussi par un taux de consommation d'héroïne préoccupant. Après avoir nié qu'il y ait pour elle une menace sérieuse dans ce domaine, la Chine reconnaît aujourd'hui son existence. L'Afrique de l'Ouest subit depuis dix ans les effets de la diversification des voies du trafic de cocaïne de l'Amérique latine vers l'Europe. Les nouveaux Etats de Balkans, dont les institutions sont encore fragiles, présentent des vulnérabilités qu'exploitent les trafiquants de tous ordres. Enfin l'Amérique centrale, véritable corridor de la drogue vers les Etats Unis, voit se développer une criminalité violente et une perversion de l'économie qui menacent la gouvernance et les institutions.

Si l'on en reste à l'Afrique occidentale, on constate qu'elle est également prise dans un schéma de *traite circulaire des personnes*. Les pays de la région, et en particulier six d'entre eux, le Ghana, la Côte d'Ivoire, le Togo, le Bénin, le Nigéria et le Cameroun, sont à la fois des pays d'origine, de transit et de destination: un axe de traite part du Nigéria et traverse les Etats côtiers vers l'Ouest; un autre part du Togo, du Bénin et du Nigéria en direction de l'Afrique centrale; le troisième part des pays de la côte vers les Etats du Sahel pour atteindre l'Afrique du Nord, l'Europe ou le Moyen-Orient.

Quelques chiffres donnent une idée de la gravité du problème. Les Nations Unies estiment à 870 milliards de dollars par an les revenus tirés du crime organisé. Le trafic de drogue générerait 320 milliards, la traite des personnes (hors trafic de migrants) 32 milliards. Ces flux d'argent sale ont des effets dévastateurs sur la stabilité des Etats, des régions, et peuvent même menacer la paix et la stabilité internationale, notamment lorsque ces fonds illicites financent le terrorisme.

En raison de l'ampleur qu'elle a prise, la criminalité internationale a acquis une dimension politique qui va bien au delà de la problématique de la protection des ordres publics nationaux et doit donc être abordée de façon plus globale.

### 3. Comment construire une *réponse politique* ?

La première évidence est qu'une riposte d'ordre essentiellement technique ne saurait suffire, même si le renforcement des moyens et des méthodes est une nécessité. L'ampleur du défi du crime transnational organisé

impose de se placer dans une perspective historique: cette lutte sévère, exigeante et de longue haleine répond à un enjeu de civilisation.

En simplifiant, il s'agit de s'engager sur trois plans: une *prise de conscience globale*; la mise en œuvre des instruments juridiques et le développement de la *coopération entre Etats*; enfin une *mobilisation d'un nouveau type*.

A. *Débattre à l'échelle mondiale* est une première façon de renforcer la vigilance à l'égard du rôle du crime transnational. Même s'il s'agit d'un sujet différend, le Groupe d'experts internationaux sur le climat (GIEC) offre un exemple intéressant dans la mesure où il a développé une pédagogie pertinente à l'échelle planétaire qui a atteint partout les populations, avec le relais efficace des médias.

Il faut également rappeler quelques *campagnes de grande envergure* qui, par des voies souvent inattendues, ont réussi à changer la perception d'un problème et ont même obtenu la mise en place d'un instrument efficace, alors qu'il s'agissait au départ d'un sujet sensible, pour lequel toute avancée paraissait hors d'atteinte: Convention d'interdiction des armes chimiques à la suite de la Conférence de Paris de janvier 1989, qui a tiré parti de l'indignation internationale après l'usage de ces armes contre sa population; Convention d'interdiction des mines anti-personnel, obtenue à partir d'une mobilisation des ONG et de la société civile, qui a conduit les Etats à suivre le mouvement; Convention de 2006 sur les disparitions forcées, obtenue grâce à l'insistance de quelques Etats, qui installe un instrument préventif de surveillance et d'alerte rapide.

Ces rappels instructifs conduisent cependant à constater que, pour sa part, la traite de personnes reste un *non-sujet* à l'échelle internationale, à commencer dans les médias: sa banalité sinistre ne relève pas du sensationnel qui «fait vendre», la crainte de rétorsion de la part de gouvernants ou de mafias puissantes produit son effet, et les meilleures intentions sont souvent rattrapées par un sentiment d'impuissance, de résignation et de fatalité. Il est pourtant indispensable d'engager aujourd'hui un débat à l'échelle mondiale, et cela pourrait venir par exemple d'une coordination des principaux acteurs associatifs engagés et compétents qui présenteraient un *rapport synthétique* susceptible d'être diffusé dans un large public, pour faire de la traite des personnes une question politique globale appelant une stratégie opérationnelle, et non plus un fléau social abordé de façon parcellaire avec résignation.

B. Le renforcement du *cadre juridique* et la mise en œuvre des engagements pris par les Etats est également une nécessité. Cela concerne en pre-

mier lieu la consolidation des normes, mais aussi la recherche d'une meilleure coopération entre les acteurs, encore insuffisante.

L'arsenal juridique élaboré par la communauté internationale est pourtant robuste: les trois Conventions des Nations Unies contre les stupéfiants (1961, 1971 et 1988) ont été complétées par la Convention de Palerme en 2000 et ses trois protocoles (traite des personnes, trafic des migrants, trafic des armes), puis par la Convention de Merida contre la corruption en 2005.

Ces cinq conventions universelles et très largement ratifiées ont permis d'harmoniser les législations et d'instaurer des mécanismes de coopération efficaces. La communauté internationale doit maintenant s'atteler à leur pleine mise en œuvre: transposition intégrale dans le droit interne des États, renforcement des capacités judiciaires et policières par l'assistance technique et l'activation des mécanismes de coopération judiciaires prévus. Cela suppose une véritable volonté politique et la vigilance des opinions.

Il est très regrettable cependant que la Convention de Palerme et ses trois protocoles, essentiels dans la lutte contre les trafics, soient encore dépourvus de mécanismes de suivi ou de vérification de leur mise en œuvre. Les conventions élaborées par le Conseil de l'Europe et notamment celle de 2005 contre la traite, qui dispose d'un robuste mécanisme de suivi ont pourtant montré combien une pression extérieure peut faire progresser les réponses et le cadre national.

C. Aussi nécessaires soient elles, les actions qui précèdent ne suffiront pas à construire une réponse politique globale susceptible de *renverser la fatalité silencieuse* qui enférme à travers le monde une trentaine de millions de personnes dans la déchéance et l'inhumanité.

La traite des êtres humains est une atteinte très grave, particulièrement inacceptable, et pourtant impunie le plus souvent, à la dignité humaine. Alors que d'autres atteintes soulèvent l'indignation publique, celle-ci reste difficile à combattre efficacement parce qu'elle reste méconnue, mal détectée et même incomplètement perçue par les victimes elles-mêmes.

Pour franchir ce seuil, la prise de conscience et le travail répressif ne vont pas assez loin. Il faut engager *une action d'un nouveau type*, et c'est bien ce que nous cherchons à identifier dans ce groupe de travail. Cela suppose d'être capable de dévoiler ce qui est invisible, ou ce que l'on ne veut pas voir, de nommer l'innommable et de restaurer dans la longue durée une dignité humaine très profondément blessée.

La tâche est considérable, des pionniers l'ont déjà engagée. Beaucoup sont présents aujourd'hui. Pour franchir maintenant une étape décisive, la démarche à la fois ambitieuse et réaliste pourrait être la mise en place d'une

*coordination internationale permanente des acteurs engagés sur le terrain*, animés du même esprit, quelles que soient leurs convictions, afin de construire une approche globale, d'identifier les composantes opérationnelles d'une action diversifiée, pour coordonner, fédérer, voire mutualiser les compétences et les moyens déjà engagés ou à engager sans délai.

Depuis des siècles, des ordres et des confréries sont allés à la rencontre des plus déshérités. Il y a cent soixante dix ans, l'horreur d'un champ de bataille moderne a fait émerger la Croix Rouge. Il y a cinquante ans, les premières guerres civiles post-coloniales ont suscité un élargissement et un renouvellement de l'action humanitaire. Il y a dix ans, la mobilisation par internet a rénové la vie quotidienne de communautés défavorisées, et aussi, tout récemment, a permis de surmonter le drame des enfants-soldats. Aujourd'hui, la globalisation criminelle de nouvelles formes de servage et d'esclavage, qui prend la forme d'une *guerre contre la dignité humaine*, suppose la mobilisation des meilleures capacités pour défendre non seulement les plus abandonnés, mais aussi nous-mêmes.

# ENDING IMPUNITY, SECURING JUSTICE AND PREVENTING EXPLOITATION: HUMAN RIGHTS AND HUMAN DIGNITY IN THE FIGHT AGAINST TRAFFICKING

■ ANNE T. GALLAGHER

*Open your mouth, judge righteously, defend the rights of the poor and needy.*  
(Proverbs 31:9)

*You may choose to look the other way but you can never say again that you did not know.*  
(William Wilberforce, 1791)

## Introduction

Human trafficking is the subject of complex legal definitions, but the essence of this crime is very simple: trafficking is about moving someone into – or keeping them in – a situation of exploitation from which they cannot escape. Its end purposes are as varied as the potential for profit. People are trafficked for exploitative labour in factories, on farms, and on fishing boats; for forced prostitution; for involuntary marriage; even for the removal of their organs. Sometimes trafficking involves locks, chains and fences. However traffickers understand that individuals can be very effectively controlled in much more subtle ways: through a debt that just keeps growing, for example, or by promises of future payment that never materialize. Sometimes threatening to turn an undocumented migrant over to the authorities, or to harm a victim's family, can be sufficient to establish and maintain complete control.

While trafficking has been around for a very long time, international and national responses are much more recent. It was as a UN human rights official in the late 1980s that I first heard reports about what soon became recognized as the classic stereotype of victims of trafficking: young girls being lured into sexual servitude in Southeast Asia. Around the same time, the demographic and social changes that accompanied the collapse of communism in Eastern Europe were creating a vast pool of potential victims. The trickle of reports of human exploitation quickly turned into a flood. States became increasingly concerned, not just because of the inevitable human rights violations but also because of the involvement of organized

crime and the threat to their borders. In 1998, the international community came together under the auspices of the UN to agree on a new legal framework around transnational organized crime. One of a package of treaties that emerged from this process dealt specifically with “trafficking in persons”.

The UN Trafficking Protocol is now the central international legal instrument in this area. It requires all States parties (currently 156) to criminalize trafficking in their national laws, take steps to prevent future trafficking, and provide basic assistance and protection to victims. States parties are also required to cooperate with each other in each of these areas. In the 13 years that have elapsed since its adoption, the Protocol has exercised decisive influence over national responses to this crime. The overwhelming majority of countries have amended their laws or introduced a special new law to criminalize trafficking and related offences; many have gone much further and have provided specific measures of protection and support for victims, ranging from special visas to witness protection.

Unfortunately, the challenges of dealing with trafficking and related exploitation have become increasingly evident over the past decade as new laws, stronger political commitments, increased funding, heightened scrutiny, and reformed institutions fail to produce significant change. In all parts of the world, women, men and children continue to be exploited with virtual impunity. Too few exploiters are being prosecuted and too few victims are being identified and protected. New or previously hidden forms of exploitation are regularly uncovered. An honest acknowledgement of these developments – along with a careful examination of their underlying causes – is an essential first step in promoting real and lasting change. In setting out some of the key challenges – and pointing to emerging opportunities, this paper seeks to provoke discussion around where political support and advocacy efforts, including by the Vatican, could best be directed.

### **1. The challenge of impunity**

Responses to trafficking initially focused on preventing movement among vulnerable groups and supporting victims. However, I am among a growing number of practitioners who have come to understand that an effective criminal justice response to trafficking is an essential component of any national anti-trafficking strategy. In other words, it’s just not good enough to treat trafficking-related exploitation as some kind of social welfare issue. Trafficking is, first and foremost, a crime that deserves to be treated with the seriousness that is accorded other offenses such as rape, false imprisonment, and servitude. Unfortunately, this happens all too rarely. In just

about every country, including my own, traffickers are very rarely investigated, prosecuted, and punished. The most recent *Trafficking in Persons Report* indicates that, worldwide, 7,705 trafficking prosecutions took place in 2012, with only 4,746 convictions.<sup>1</sup> While we now know that labour exploitation is the main end purpose of trafficking, the bulk of prosecutions continue to be for sexual exploitation. During 2012, there were only 1,153 prosecutions for trafficking-related labour exploitation worldwide, and only 518 convictions. It is safe to say that very few of these prosecutions have targeted the major players: those who are reaping the greatest financial rewards for trafficking-related exploitation.

What can be done to change this situation? Over the past decade, with help from criminal justice colleagues in many countries, I have begun to flesh out the key elements of an effective criminal justice response to trafficking.<sup>2</sup> This “model,” which is firmly based on international criminal justice and human rights standards, continues to be tested, revised, and refined. Its focus is very much on addressing the problems that have so far obstructed investigations and prosecutions. For example, the model recognizes that the foundation for an effective response must be a solid law that criminalizes both trafficking and the full range of associated offenses. Criminal justice agencies need options, and sometimes it is easier and quicker to prosecute someone for debt bondage or child labour than for trafficking. The legal framework must also enable the rest of the system. This means ensuring that investigators can do their job properly, that victims can access remedies, and that evidence can be exchanged across borders.

The model acknowledges that the law enforcement component of an effective response needs to include both specialist investigators and well-informed, front-line officials. Most countries now have a specialist trafficking unit within their national police forces that is charged with either conducting or advising on trafficking investigations undertaken within the country. Strong units have a clear mandate and adequate resources to do their job properly. They understand the psychology of victims and how to establish their credibility as witnesses. They appreciate the value of proactively securing evidence that corroborates the account of victim-witness. They work closely with front-line officials – police, immigration, and labour inspectors – who have

<sup>1</sup> United States, Department of State, *Trafficking in Persons Report* (2013).

<sup>2</sup> See A Gallagher and P Holmes, ‘Developing an Effective Criminal Justice Response to Human Trafficking: Lessons from the Front Line’ *International Criminal Justice Review* (2008), available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1292563](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1292563).

responsibility for identifying victims of trafficking in the first place and for delivering an effective first response. They collaborate with victim support agencies in ensuring that potential witnesses are protected and supported. They also work closely with prosecutors, who are another important link in the chain, throughout the investigative and trial phases.

While specialization within law enforcement has advanced considerably, the same has not yet happened at the prosecutorial level. Experience in the field is teaching us that, where the caseload warrants, well-trained and well-resourced specialist prosecutors who either lead or advise on all trafficking-related prosecutions, are an essential component of an effective criminal justice response. Judges must also be brought into the picture. A judge who is knowledgeable about the crime of trafficking and who is committed to upholding the law has a vital role to play in securing safe convictions that fully respect international fair trial guarantees.

While trafficking can take place entirely within the borders of a single country, it is more often a transnational crime. Without cooperation between national criminal justice agencies, it is probable that a prosecution will not touch all those involved in the exploitation, that victims still in exploitation will remain there, and that the “big fish” will continue to operate successfully. Unfortunately, the ability of most countries to engage in genuine operational and legal cooperation on trafficking remains very low. Bilateral cooperation agreements, the establishment of joint investigation teams, and updated mutual legal assistance and extradition arrangements are just some of the ways in which international cooperation capacity can be strengthened but this will be a long and hard road.

Of course, the pursuit of traffickers should never be at the expense of international rules governing the administration of justice. These rules, enshrined in international treaties voluntarily accepted by the vast majority of states, guarantee, to all persons, the right to receive a fair and public hearing by a competent, independent, and impartial tribunal established by law. Procedural guarantees for a fair trial are well known and accepted, at least in principle, by all countries and must be applied in all trafficking cases. States that fail to observe these standards risk compromising the integrity and reputation of their national criminal justice systems. Such failures can also lead to an erosion of community support for the investigation and prosecution of traffickers.

## **2. The challenge of securing justice for victims**

It is often argued that an over-emphasis on prosecutions is detrimental to victims and their rights. However it is this author’s experience that such a view is shortsighted: surely a criminal justice response that seeks to both



end impunity for traffickers and secure justice for victims must be considered an essential part of any credible response to trafficking.

What does it mean to secure justice for victims? The following points, which are all reflected in the model for an effective criminal justice response to trafficking referred to above,<sup>3</sup> are critical:

**Identification:** in many countries, victims of trafficking are never identified and, as a result, are simply invisible and unable to access the rights to which they are entitled. Universally low rates of victim identification can be explained, at least in part, by the covert nature of much trafficking activity, the high levels of trauma and intimidation with which it is generally associated, distrust of law enforcement, and a lack of awareness among many individuals who have been trafficked as to their legal rights and their status as victims.<sup>4</sup> International law requires States to ensure that the procedures and mechanisms necessary for quick and accurate identification are in place and effectively implemented.

**Immediate protection and support:** victims who break free from their exploiters often find themselves in a situation of great insecurity and vulnerability. They may be physically injured as well as physically and/or emotionally traumatized. They may be afraid – and in danger – of retaliation. They are likely to have few, if any, means of subsistence. International law imposes obligations on States with regard to protection of victims from further harm as well as the provision of immediate assistance and support, including medical, psychological and social assistance. All victims of trafficking have a right to information and legal advice on the options that are available to them, including their rights and options as witnesses. In their dealings with trafficked persons, States are required to ensure they are treated with humanity and with respect for their dignity and human rights. This means that victims should not be detained against their will (including in a shelter) or criminalized for offences related to their trafficking – such as illegal entry or illegal work.

<sup>3</sup> For further details see A.T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapters 5 and 6. See also the report of the Special Rapporteur on Trafficking in Persons, especially women and children, Joy Ngozi Ezeilo to the Human Rights Council, UN Doc A/HRC/17/35 (2011).

<sup>4</sup> This is recognised in the *UN Recommended Principles and Guidelines on Human Rights and Human Trafficking*, at Guideline 2. See also Guideline 10.4 and Principle 10.

**Special protection for victim witnesses:** an effective criminal justice response to trafficking relies heavily on the cooperation of victims. In fact, investigations and prosecutions are usually difficult and sometimes impossible without the cooperation and testimony of victims. However trafficked persons often have very little reason to cooperate with investigators and prosecutors: their experiences may have made them distrustful of officials and they may fear retaliation from their exploiters. Many just wish to be able to find a decent job or return home. National authorities should be working toward a situation whereby victims of trafficking are recognized as an essential resource and are provided with the protections and incentives they require to participate safely and effectively in the prosecution of their exploiters.

**Remedies:** victims of trafficking have often been exploited for little or no payment over long periods of time. They may have suffered injuries or contracted illnesses that require medical attention. They may have incurred debts as a result of their trafficking experiences. International law – and many national laws – clearly recognizes that trafficked persons have the rights of access to remedies for the harms committed against them. Unfortunately, this right is very rarely recognized in practice. However, the situation is changing, at least in some countries where there have been a number of recent successes in securing compensation and other forms of remedy for trafficking-related exploitation. Improvements in victim identification, the provision of immediate protection and support, and access to legal information and assistance will all be important in ensuring victim access to remedies.

### **3. The challenge of ensuring protection and support for child victims<sup>5</sup>**

The trafficking of children is a widespread criminal phenomenon affecting all regions and most countries. Children are trafficked for the purpose of sexual exploitation including prostitution and the production of pornography. They are trafficked for forced and exploitative labour on farms, in factories, on fishing boats, for forced begging and for domestic servitude in private homes. While children are naturally included in the new rules that have developed around “trafficking in persons”, those same

<sup>5</sup> For further details see A.T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapter 5.5. See also complete.

rules recognize a distinction between child and adult trafficking and a consequent need for a different response. The reasons for this are well expressed in the UN Trafficking Principles and Guidelines:

The particular physical, psychological and psychosocial harm suffered by trafficked children and their increased vulnerability to exploitation requires that they be dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The best interests of the child must be a primary consideration in all actions concerning trafficked children whether undertaken by public or private welfare institutions, courts of law, administrative authorities or legislative bodies. Child victims of trafficking should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs.<sup>6</sup>

Key issues in relation to protection and support for child victims of trafficking include the following:

**Identification:** the identification of victims of trafficking is a complex and inexact science and special or additional difficulties may arise to complicate the identification process. Most critically, not all child victims of trafficking will appear as such. They may appear to be eighteen years of age or older. Their passports may have been destroyed or taken away from them. They may be carrying false identity papers that misstate their age. Child victims of trafficking may lie about their age because this is what they have been told to do by their exploiters. They may lie because they are afraid of being taken into care or being sent back home. There is growing acceptance of a presumption of age in the case of children to the effect that a victim who may be a child is treated as a child unless or until another determination is made. The presumption of age is linked to the presumption of status: that a child (or an individual who is presumed to be a child) who may be a victim of trafficking is to be presumed to be a victim unless or until another determination is made.

**Appointment of a guardian:** the appointment of a guardian to protect the rights and interests of child victims of trafficking is an important prac-

<sup>6</sup> *UN Principles and Guidelines on Human Right and Human Trafficking*, at Guideline 8.

tical means of securing those rights and interests. Relevant international law and policy affirms that States appoint a guardian as soon as an unaccompanied or separated child is identified. The guardian should generally be responsible for ensuring the child's best interests remain the paramount consideration in all actions or decisions taken in respect of the child; ensuring the provision of all necessary assistance, support and protection; being present during any engagement with criminal justice authorities; facilitating referral to appropriate services; and assisting in the identification and implementation of a durable solution.

**Child witnesses:** all trafficked persons, children as well as adults, are entitled to use the legal system to ensure their own interests are preserved and their own rights protected. However, it is important to be mindful of the precarious position of victims in the criminal justice system and the risk that such involvement will further compromise their rights and/or wellbeing. These concerns are particularly acute in the case of children who are asked or required to participate in the investigation and prosecution of their exploiters. Child witnesses are especially vulnerable to intimidation and reprisals from traffickers. Their families can also be at serious risk. In addition to safety and protection concerns, the involvement in legal proceedings can cause trauma for the child victim, which may significantly compromise or delay their recovery. In all cases, it will be necessary for the relevant authorities to consider the best interests of each individual child victim in determining whether that child should be involved in criminal proceedings, and, if so, the nature and extent of that involvement.

#### **4. The challenge of vulnerability: discrimination and abuse of rights<sup>7</sup>**

While our understanding of how trafficking happens and why is incomplete, it is clear that certain factors help to shape the vulnerability to trafficking of an individual, a social group, a community or a society. These factors include human rights violations such as poverty, inequality, discrimination and gender-based violence – all of which help create economic deprivation and social conditions that limit individual choice and make it

<sup>7</sup> For further details see A. T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapter 8.1.

easier for traffickers and exploiters to operate. Factors that shape vulnerability to trafficking tend to impact differently and disproportionately on groups that already lack power and status in society, including women, children, migrants, refugees and internally displaced persons. Certain occupations such as prostitution and domestic service can produce, nurture or exacerbate vulnerabilities through factors such as low visibility, lack of legal protection or inappropriate regulation.

International law imposes an obligation on States to prevent trafficking through addressing the factors that create or increase vulnerability.<sup>8</sup> This is a complicated area and in the present context it is only possible to highlight just a few of the areas that must be considered by states in addressing this obligation.

**Vulnerability related to inequality and poverty:** a UN study on the link between poverty and human rights identifies restricted opportunities to pursue wellbeing as a defining feature of a “poor person”.<sup>9</sup> In this sense, wellbeing refers not just to income level but to basic capabilities that are common to everyone and inherent to human dignity – for example, being adequately nourished, being adequately clothed and sheltered, being able to avoid preventable morbidity, taking part in the life of a community, and being able to appear in public with dignity. This expanded view of poverty identifies its defining feature as an *inadequate command over economic resources*. If an individual lacks command over economic resources and this leads to a failure of the kind of basic capacities referred to above, then that person would be counted as poor. This analysis is very important in the present context because it acknowledges that poverty limits life choices. Specifically, it can lead to individuals taking risks and making decisions about their life and their future in a way that they would never have done if their basic capabilities were being met.

Inequality (which can relate to opportunity, as well as wealth and income) is another factor contributing to trafficking-related vulnerability. In

<sup>8</sup> See for example Trafficking Protocol at Article 9 and European Trafficking Convention at Article 5.

<sup>9</sup> Office of the UN High Commissioner for *Human Rights, Human Rights and Poverty Reduction: A Conceptual Framework*, UN Sales No. HR/PUB/04/1 (2004) (*Human Rights and Poverty Reduction*), at 10.

that connection it is relevant to note that trafficking inevitably involves the movement of individuals from regions and countries of relatively less wealth, income and opportunity to regions and countries of relatively greater wealth, income and opportunities. In other words, this is not simply a North-South issue: inequalities that impact upon trafficking exist *within* as well as *between* countries and *within* regions as well as *between* regions.

Both poverty and inequality have strong gender dimensions. In the context of trafficking, the gender determinant can be particularly detrimental. For example, poverty and unemployment increase opportunities for trafficking in women and force many women, including young girls, into prostitution. Women working in prostitution are especially vulnerable to violence and exploitation for a range of reasons, including because their status, inevitably low and often unlawful, tends to marginalize them.<sup>10</sup> Social and cultural attitudes towards women working in prostitution can also operate to increase their vulnerability. The responsibility on States to review and change laws and practices that fuel gender-based discrimination and inequalities leading to or exacerbating trafficking has been extensively acknowledged.<sup>11</sup>

Vulnerability related to discrimination and to violence against women: racial and gender-based discrimination are critical factors in rendering individuals and groups susceptible to trafficking. The impact of both racial and gender-based discrimination, particularly in relation to access to education, resources and employment opportunities, results in fewer and poorer life choices. It is the lack of genuine choice that, in turn, renders women and girls more vulnerable than men to certain forms of trafficking, and particular nationalities and races more vulnerable than others. Violence directed against or primarily affecting women can also be a factor increasing vulnerability to trafficking. For example, women may accept dangerous migration arrangements in order to escape the consequences of entrenched gender discrimination, including family violence and lack of security against such violence. In such cases, even unsafe migration may be perceived as providing the best available opportunity to break free from a dangerous and

<sup>10</sup> CEDAW General Recommendation No. 19, at para. 15.

<sup>11</sup> See, for example, CEDAW General Recommendation No. 19; *UN Principles and Guidelines on Human Right and Human Trafficking* at Guideline 7.6; Beijing Platform on Action, at para. 131(b); at paras. 42-48, 54-60.

oppressive environment. Women and girls may also be more vulnerable than men to violence, including coercion and force at the recruitment stage, increasing their susceptibility to being trafficked in the first place.

States are under a clear legal obligation to ensure that their laws, systems and practices do not promote, reward or tolerate discrimination. Practical measures to this end that have been identified by the international community include the revision of laws that discriminate on the basis of race, sex, religion or any other prohibited basis. Migrants, including migrant workers are rendered especially vulnerable to trafficking related exploitation because they are often denied key legal rights. For this reason, strengthening of legal and social protections for migrants should be considered a core means of preventing trafficking through reducing vulnerability. Longer-term measures that seek to address the social, cultural and structural causes of violence against women are also important. These may include: reforming legislation that either discriminates against women or fails to address violence against women; ensuring the prompt investigation and prosecution of complaints related to violence against women; providing access to effective remedies for gender-based violence; implementing education initiatives aimed at educating the public about violence against women and addressing negative attitudes towards women (including, in some countries, the association of rape allegations with the crime of adultery); and training police, immigration, judicial and medical personnel and social workers on the sensitivities involved in cases of violence against women.

**The special vulnerabilities of children:** international law recognizes that children, because of their reliance on others for security and wellbeing, are especially vulnerable to trafficking and related exploitation. This translates into a requirement that States provide special measures of protection and support to trafficked children as outlined at Section 3, above. It also imposes an obligation on States to prevent the trafficking of children by addressing their vulnerability. All measures taken to reduce the vulnerability of children to trafficking should aim to improve their situation – rather than to just prevent behaviors such as migration for work which, while not desirable, especially for young children, may not necessarily be exploitative or lead to trafficking. It is also important to accept that children are not a homogenous group: older children have different needs, expectations and vulnerabilities from younger children; girls and boys can be similarly disaggregated.

That States have a specific obligation to address the special vulnerabilities of children to trafficking is beyond question. There is less clarity with regard to the substantive content of that obligation. However, it is nevertheless possible to identify certain actions that would contribute to States meeting their international legal duty to reduce the vulnerability of children to trafficking. States should, for example, ensure that appropriate legal documentation (including for birth, citizenship and marriage) is in place and available. States should tighten passport, visa and identity document/birth certificate regulations in relation to children, particularly unaccompanied minors and minors accompanied but not by an immediate family members. States should improve children's access to educational opportunities and increase the level of school attendance, in particular by girls. They should protect children from violence, including family and sexual violence. States should act to combat discrimination against girls. They should raise public awareness of the unlawful nature and effects of child trafficking and exploitation. Strategies to address the vulnerability of children to trafficking should acknowledge special needs. Children who may be especially vulnerable to trafficking include girls; abandoned, orphaned, homeless and displaced children; unaccompanied child migrants; children in conflict zones; and children who belong to a racial or ethnic minority.

#### **4. The challenge of addressing 'demand'**<sup>12</sup>

Trafficking feeds into a global market that seeks cheap, unregulated and exploitable labour and the goods and services that such labour can produce. Sex tourism (including child sex tourism), the recruitment of domestic labour from developing countries, internet pornography; and the brokered sale of organs are examples of newer forms of actual or potential exploitation made possible through trafficking. It is this realization, coupled with a broader concern that end users of the goods and services produced by trafficked persons have not been sufficiently targeted, that has prompted calls for States and others to consider demand as part of the problem of trafficking and to acknowledge demand reduction as an important prevention strat-

<sup>12</sup> For further details see A.T. Gallagher, *The International Law of Human Trafficking* (Cambridge University Press 2010) at Chapter 8.2. See also B. Anderson and J. O'Connell Davidson, *Trafficking: A Demand-Led Problem?* (2002).



egy. Demand, in this context, generally refers to two quite different things: *employer* demand for cheap and exploitable labour; and *consumer* demand for the goods or services produced or provided by trafficked persons. Demand may also be generated by exploiters and others involved in the trafficking process such as recruiters, brokers and transporters who rely on trafficking and victims of trafficking to generate illicit income. It is possible to extend this list even further to include corrupt public officials who receive direct benefit from trafficking as well as “legitimate” businesses (for example in the entertainment, tourism and travel industries) that indirectly profit from the exploitation associated with trafficking.

States can also play an important part in the demand cycle. For example, through a combination of action and inaction States may be responsible for constructing the very conditions under which it is possible or profitable to consume or exploit the labour and services of trafficked persons.<sup>13</sup> States can also contribute to demand in more direct ways. For example, many countries of destination derive great benefit from cheap foreign labour that, deliberately unprotected by law, can be moved on if and when circumstances require. Some countries that maintain a strong policy position against prostitution are nevertheless comfortable with a marginalized and closeted sex industry comprised principally of exploited foreigners. Countries of origin may rely heavily on the remittances of their overseas workers and be reluctant to interfere with a system that brings economic benefits – even if it is clear that some of their citizens are being severely exploited.

Finally, demand cannot be considered separately from supply – not least because supply may well generate its own demand. For example, the availability of a cheap and exploitable domestic labour force can itself contribute to generating demand for exploitative domestic labour at a level that may not otherwise have existed. Similarly, it is not difficult to sustain an argument that the internationalization and growth of the global sex industry, itself made possible by changes in transport, communication and technology, have fueled the market for persons trafficked into prostitution. However, the broader question – of whether or not an abundant supply of vulnerable individuals has fueled a demand that would otherwise not exist – is more difficult to answer.

<sup>13</sup> Anderson O’Connell Davidson at 5.

International law requires States to take steps to address demand – without specifying in details what those steps could or should be. Fortunately, improvements in our understanding of the dynamics of trafficking and of the factors that increase vulnerability to trafficking have helped to flesh out the substantive content of the obligation on States to address demand for trafficking. For example, in terms of its scope, it is evident that the obligation to address demand rests primarily with the country with which the exploitation takes place, because it is within these countries that both consumer and employer demand is principally generated.

The link between demand and discrimination (most particularly racial and sex-based discrimination) is an important one. Demand in the context of trafficking is often shaped by discriminatory attitudes (including cultural attitudes) and beliefs. Women may be preferred for certain forms of exploitation because they are perceived as weak and less likely to assert themselves or claim the rights to which they are entitled. Certain ethnic or racial groups may be targeted for trafficking-related exploitation on the basis of racist or culturally discriminatory assumptions relating to, for example, their sexuality, servility or work capacities. Demand for prostitution (often supplied through trafficking) may reflect discriminatory attitudes and beliefs based on both race and gender. In seeking to discharge their obligation to address demand, States should focus on addressing discriminatory attitudes and beliefs, particularly those directed against women and migrants.

States should also recognize their role in shaping demand for the goods and services produced by trafficking through laws and policies on a range of matters, including immigration, employment, welfare and economic development. For example, failure to provide legislative protection to certain individuals such as domestic workers, “entertainers,” or migrant workers creates an environment in which exploitation of these persons becomes both possible and worthwhile. Laws and policies that institutionalize discrimination can also shape demand as can a failure on the part of the State to effectively challenge discriminatory social attitudes, practices and beliefs. A failure on the part of the State to effectively investigate, prosecute and punish trafficking and related exploitation can contribute to demand generated by traffickers and exploiters by maintaining trafficking as a low-risk, high-profit crime. A more general failure on the part of the State to protect the rights of certain persons including women, children, and migrants can further contribute to constructing demand by exacerbating vulnerability,

and thereby, exploitability.

Failure to develop and/or enforce labour standards is a major incentive for trafficking and labour protection must be a central element of any strategy to address demand for trafficking and related exploitation. Research confirms that demand for trafficked persons' labour or services is absent or markedly less where workers are organized and where labour standards regarding wages, working hours and conditions, and health and safety are monitored and enforced.<sup>14</sup> Rights-based strategies to address demand for cheap and controllable labour should therefore aim to secure adequate labour protection, including through properly monitored regulatory frameworks, that also extends to migrants and those working in the informal economy.

### **Conclusions and recommendations**

Trafficking is a heinous crime and violation of fundamental human rights. However it is also a predictable outcome of certain global political and economic realities. These include migration regimes that restrict the ability of individuals to secure legal access to preferred destinations; international and domestic trade policies that liberalize and regulate the movement of money, goods, and services but not labour; rampant consumerism that disregards the human costs of production; and the internationalization, diversification, and explosive growth of the global sex industry. These essentially economic determinants are reinforced by powerful social structures that create or exacerbate vulnerabilities among particular groups including women, children, and migrants and that nurture demand for the main products of trafficking.

Ultimately, addressing trafficking requires frank acknowledgement that exploitation has built our world and continues to power global economic growth. Ending trafficking will require a radical modification of current patterns of demand for the cheap goods, cheap sex and cheap labour made possible through the exploitation of our fellow human beings. This broader project of renewal and reform must move beyond governments to include civil society, the business sector, communities and individuals.

It is essential to never lose sight of this broader picture: and to openly confront the challenges we face in dealing with the political, economic and

<sup>14</sup> Anderson and O'Connell Davidson, *Trafficking: A Demand-Led Problem?*, at 54.

social factors that drive the exploitation of human being for private profit. However, there is much that can and should be done immediately. The following summary recommendations focus particularly on the key issues addressed in this paper.

**Prioritise human rights and human dignity:** all responses to trafficking must reflect and enhance the rights and dignity of all human beings. Such an approach requires careful consideration of the ways in which human rights violations arise throughout the trafficking cycle, as well as of States' obligations under international human rights law. It seeks to both identify and redress the discriminatory practices and unjust distributions of power that underlie trafficking, that maintain impunity for traffickers, and that deny justice to victims of trafficking.

**Demand an effective criminal justice response:** trafficking is a serious crime and should be treated as such. A criminal justice response that seeks to both end impunity for traffickers and secure justice for victims deserves to take its rightful place as a critical component of any lasting solution. The twin goals of ending impunity and securing justice are intrinsically linked and each one facilitates the attainment of the other. A national strategy that aims to achieve only one of these goals, particularly at the expense of the other is doomed to irrelevance and failure.

**Reduce vulnerability to trafficking:** trafficking is fueled by poverty, inequality within and between countries, and systemic human rights violations. States and the international community have an obligation to recognise such vulnerabilities and to address them effectively. This requires acknowledgement that certain groups, including migrants, children and women subject to violence, are especially vulnerable to trafficking-related exploitation and that laws, policies and practices can entrench and exacerbate such vulnerabilities.

**Address demand for goods and services produced through trafficking:** the integration of trafficking into the global economy is the direct result of a seemingly insatiable demand for cheap, unregulated and exploitable labour and the goods and services that such labour can produce. States must acknowledge their role in constructing the conditions under which it is possible or profitable to consume or exploit the labour and serv-

ices of trafficked persons, and take the appropriate corrective action. Corporations, communities and individuals bear at least a strong moral obligation to address demand and must make serious efforts to identify ways in which this responsibility can be effectively discharged.

**Accept the primary responsibility of countries of destination:** all countries have a legal obligation – and a moral responsibility – to act against trafficking in persons. However, I have come to believe that the weight of that responsibility rests particularly heavily on countries of destination. It is in places such as Australia, the United States, Western Europe, and the wealthy countries of Asia and the Middle East, where the true profits from trafficking-related exploitation are being generated; where vulnerable victims are trapped; and where the evidence to support strong, high-impact prosecutions is located. This focus has another important benefit. It forces us to confront the reality that human exploitation has built our world and continues to power the global economic growth that benefits our societies disproportionately. It would be sobering to calculate just how big our individual “slavery footprint” might be. In my work, I am inspired every day by the words of Nelson Mandela, who reminds us that “to be free is not merely to cast off one’s chains, but to live in a way that respects and enhances the freedom of others”.

## POR UNA LUCHA GLOBAL A LA CRIMINALIDAD

■ GUSTAVO VERA

Buenas tardes, y muchas gracias por la invitación.

En el año 1991-1992, los ideólogos del capitalismo neoliberal nos habían prometido el fin de la historia, pero evidentemente nos engañaron. En lugar del fin de la historia, volvimos a la prehistoria, a la prehistoria del capitalismo, a la prehistoria de cuando Inglaterra utilizaba a África como continente esclavo para acumular capital, a la prehistoria de cuando Europa utilizaba el continente latinoamericano para saquear sus reservas, para aniquilar a los pueblos aborígenes, y una vez más, como en aquella época, los jesuitas nos vuelven a proponer un pacto de humanidad.

Los jesuitas, en aquella época donde reinaba la trata en todo un continente, África; donde reinaba la servidumbre en todo un continente, América. En esa época los jesuitas comenzaron a armar las misiones a contramano de la ideología dominante, que era el dinero, que era el saqueo, que era la discriminación, que era la estigmatización de los más pobres. En esas misiones trataron de reconocer a los aborígenes como sus pares, como sus hermanos, en esas misiones repartieron los panes en partes iguales. Y esas misiones fueron tan importantes y tan peligrosas que dos imperios, el imperio portugués de la época y el imperio español de la época, lograron convencer al Vaticano de aquella época que expulsara a los jesuitas, que dismantelara las misiones, porque lo importante era el dinero, porque lo importante era el saqueo, porque lo importante era la acumulación mafiosa de capital.

Espero que esta vez no vuelvan a expulsar a los jesuitas, espero que esta vez los escuchen, porque lo que están advirtiendo es lo mismo que advertían en aquella época. Somos todos iguales, el centro del mundo tiene que ser el hombre, no puede ser el dinero, la trata de personas es un fenómeno que no se puede analizar de forma descontextualizada de lo que es la acumulación mafiosa de capital.

Francisco nos convoca en este encuentro – leo textual la carta que le mandó a la Academia Pontificia – “a que empecemos a hablar de la trata de personas y esclavitud moderna, y también de la trata de órganos”.

El narcotráfico, que genera adictos, genera esclavos. La palabra “adicto”, significa *esclavo*, significa *siervo por deuda*, el narcotráfico y la trata de personas actúan mancomunadamente, son organizaciones mafiosas que van corrompiendo los poderes del Estado y van adquiriendo dinero fácil y rápido a costa de la dignidad, de la vida y la libertad de las personas.

Pero tiene un componente más sutil que acá se ha analizado muy poco, que es el lavado de dinero, que es lo que hace que, mágicamente, de un día para otro, algunas personas pasen de ser pobres a multimillonarias. El lavado de dinero es una parte componente indispensable de la trata, y de esto se ha hablado muy poco lamentablemente, y si no hablamos de los ladrones de guante blanco – en la Argentina se llama “ladrón de guante blanco” no al ladrón que ejecuta directamente el delito, sino al que se beneficia económicamente de ese delito – vamos a estar dando vueltas en círculos y nunca vamos a resolver el problema.

El problema fundamental son los que cuentan los billetes de la esclavitud y de la sangre de millones de personas, ese es el problema fundamental, ese es el problema que debemos entender.

Porque está en los genes del capitalismo, que también fracasó como el comunismo estalinista, y este nivel de trata y este nivel de narcotráfico y este nivel de crisis de relaciones internacionales lo demuestra, demuestra que necesitamos una revolución moral. Demuestra que necesitamos hacer una plataforma de humanidad, como bien expresó el embajador Morel, y demuestra que la Iglesia tiene una oportunidad histórica, a través de la cultura del encuentro, de buscar el común denominador con todas las filosofías, con todas las religiones, para tratar de poner en pie la libertad, la dignidad y la igualdad. Y este es un trabajo en red, este es un trabajo de masas, esto es una revolución cultural. Pero esto es algo que se tiene que hacer sin ningún tipo de conveniencia previa. No cuidando a tal o cual multinacional, no es cuidando a tal o cual empresa, no es cuidando el interés de tal o cual Estado.

No se olviden de Jesucristo – acá me acaban de entregar la Sagrada Familia, la Sagrada Familia, ¿recuerdan? Jesús, migrando a Egipto, por el riesgo de una matanza, con toda su familia, discriminado, perseguido. ¿Qué hubiera pasado si no se hubiera podido refugiar? Otra hubiera sido la historia, digo, algo que tendrían que reflexionar quienes exigen trabas a las migraciones.

Durante muchos años compartimos esta lucha con Bergoglio, somos amigos en La Alameda de Jorge, de Francisco, nos hemos hecho amigos en un momento muy particular de la Argentina, en un momento donde lamentablemente crecía y crecen exponencialmente delitos de tipo mafioso, que tienen que ver con el lavado de dinero, que tienen que ver con el tráfico de personas, que tienen que ver con el trabajo esclavo. En estas situaciones límite, en este luchar codo con codo, en este denunciar 114 marcas por usar trabajo esclavo y que tienen causa abiertas en juzgados federales – la mayoría de ellas filmadas, no solamente denunciadas, filmadas –, nosotros rescatábamos víctimas, y muchas de las víctimas que recuperaban su dignidad después

se ofrecían como voluntarias para meterse dentro del infierno de vuelta, para ir a rescatar a sus hermanos, para dejar registro y para que todo el mundo vea cómo empresas como Puma, Zara o Adidas reducían a la servidumbre a migrantes en condiciones absolutamente abyectas.

Hemos desmantelado y hemos denunciado más de un millar y medio de prostíbulos. Hemos demostrado que la prostitución por cuenta propia era un cuento, que en realidad la mafia dirigía las calles, que en realidad siempre había algún servicio de regenteo, siempre había alguna explotación sexual por cuenta ajena, que ninguna mujer nace para prostituta; y que si en una situación de desesperación, porque no tiene trabajo, porque hay una sociedad desigual, tiene que caer en la prostitución, no va a poder ejercer la prostitución por cuenta propia, porque la comisaria, o la policía de la zona, o el “fiolo” de la zona, o alguno de ellos va a terminar cobrándole un servicio de regenteo, porque, si no, la van a asesinar en la calle.

Esto es lo que ocurre, pero no en las calles argentinas, esto es lo que ocurre en muchos lugares. Entonces, volviendo al principio, nos prometieron el fin de la historia y nos decían que llegábamos al paraíso del capitalismo neoliberal. ¿Con qué nos encontramos? Con una situación similar a la de los inicios del capitalismo. Por suerte nos encontramos otra vez con jesuitas que nos marcan el camino, y que nos dicen “así no, esta sociedad así no puede marchar”. Hay que construir otra sociedad diferente, porque evidentemente, una sociedad edificada sobre la sangre, la dignidad, la libertad y en base al lavado de dinero, obviamente no sirve.

Hay homilías, que Francisco daba en las plazas, en las plazas públicas, contra la trata, a favor de las víctimas, en una época donde iban 200 personas, 150 personas a verlo, nada más, y donde parecía que predicaba en el desierto, donde por ejemplo hay una frase textual de Francisco que dice “*Cuidado, hoy los esclavistas comen en Puerto Madero*”. Puerto Madero es el barrio más rico de la Ciudad de Buenos Aires, lo que Francisco quería decir es “cuidado, detrás de lo abyecto de los talleres clandestinos, detrás de lo abyecto de los prostíbulos, detrás de lo abyecto del narcotráfico, detrás de lo abyecto del narcotráfico, detrás de lo abyecto de la exclusión, hay gente que cuenta los billetes, hay gente que se ha vuelto rica, que no puede explicar el origen de su capital, y que son los principales responsables de este sistema de cosas”. Lo digo para que pongamos las cosas en su justo lugar.

Italia nos ha enseñado algún camino, ustedes recordarán que en Italia, en el año 1992, 1993, 1994, la mafia, la Cosa Nostra, la Camorra, estaba teniendo una presencia, un peso específico muy fuerte, estaba a punto de apoderarse del Estado; mataba a fiscales, jueces, periodistas, amedrentaban víctimas.



En aquel momento de desesperación de la sociedad italiana, donde el resto de Europa consideraba que Italia ya se había caído del continente, un montón de organizaciones – que hasta ese momento no se sentaban ni a tomar ni siquiera un café por las diferencias ideológicas que decían tener – ,ante la desesperación, el espanto del avance de las mafias, empezaron a practicar la cultura del encuentro que reclama Francisco. ¿Qué significa esto? Liberales, conservadores, demócratas cristianos, comunistas, anarquistas, se juntaron con dos curas, el cura Luigi y el cura Tonio, y formaron una red que se llamó *Libera*, y esa red empezó a organizarse para combatir a la mafia, que estaba destruyendo sus vidas, que estaba a punto de asaltar el Estado. Y esa red promulgó una ley, que fue una ley clave para empezar a acorralar a la mafia y hacerla retroceder, que fue la ley Pio La Torre.

Pio La Torre era un senador a quién asesinó la mafia, porque Pio La Torre era una persona que muy inteligentemente decía: “Si la mafia lo único que busca es el dinero, si lo único que le importa es el dinero rápido y fácil, entonces no solo hay que perseguirla penalmente, sino que además sus bienes mal habidos deben ser incautados y reutilizados socialmente”. Como era muy audaz y daba en el clavo, la mafia lo asesinó. Libera levantó esta ley y, movilizada en la calle, logró imponerla. En Italia, desde entonces, se incautaron 12 mil bienes, 12 mil bienes que fueron reutilizados socialmente. Ustedes saben que existe un instituto que administra los bienes decomisados, que ese instituto va asignando esos bienes según las prioridades que fija el Parlamento, hay hectáreas que han sido confiscadas, hay miles de millones de euros que han sido confiscados, fábricas que han sido confiscadas, locales comerciales de primer nivel que han sido confiscados y que han sido reutilizados socialmente, parte fue para la educación, parte fue para la salud, parte fue cedido en comodato a la sociedad civil. Ustedes pueden ir a Sicilia, donde es muy interesante ver hectáreas donde antes había mafias y hoy hay cooperativas que trabajan en la industria vitivinícola, y trabajan con fraternidad, y trabajan con igualdad.

Y cuando ustedes entran a esos campos, tienen un cartel que dice: “Municipio de Palermo, estos campos fueron confiscados al mafioso tal, y fueron cedidos en comodato a las cooperativas tales, tales y tales...”.

En la Argentina, este año, logramos la incautación de 100 máquinas textiles en talleres clandestinos de dos marcas importantes, que fueron cedidas, reutilizadas socialmente, al pueblo aborigen, que es perseguido actualmente por el gobierno provincial; me refiero al pueblo de los QOM, que está en la provincia de Formosa. Ese pueblo armó una cooperativa con maquinaria que antes eran instrumentos para reducir a la servidumbre, para la esclavitud. Y después de una capacitación, donde muchos voluntarios participaron,

ahora han lanzado su primera colección. Yo ayer le entregué al papa Francisco la primera remera, que se llama “Orgullo Qom”, el orgullo de nuestros pueblos aborígenes, perseguidos, que ahora estaban empezando a recuperar su dignidad y recuperaban su dignidad en base a la justicia de sacarle los bienes a los que antes usaban esas máquinas para explotar.

No es la primera vez que ocurre, también lo hemos logrado con un polo textil donde funcionan nueve cooperativas, pero lamentablemente no es la norma, ni en la Argentina ni en el mundo, es la excepción. Nadie quiere hablar de dinero, pero lo que mueve a la mafia es el dinero. Lo que mueve a la mafia es colocar el dinero por encima de todas las cuestiones, de la dignidad, de la libertad y de la vida. Nadie quiere hablar del lavado. La Argentina estuvo a punto de ser expulsada del GAFI por no cumplir 21 de las 23 condiciones que habían pactado los 160 países que forman parte de ese organismo para combatir el lavado de dinero. Éramos un festival de lavado de dinero, de sociedades anónimas, de fideicomisos, de paraísos fiscales, un festival de lavado de dinero. Hay un montón de marcas, un montón de empresas constructoras, que no pueden explicar el origen de su capital, porque hunden sus raíces en el crimen organizado.

Pero no es la Argentina el único caso, tal vez es el caso que se expresó más dramáticamente, porque la Argentina, cuando explotó en el 2001, económicamente era un país que estaba controlado por las multinacionales, que llevaron al país, con un neoliberalismo a ultranza, a una situación de colapso. Hubo una devaluación, una sustitución de importaciones, y entonces se empezó a recomponer un capitalismo nacional. El problema es que no había capitalistas. Entonces, ¿de dónde salía el capitalismo nacional? Es la misma pregunta que se hacían en Rusia en el año 1992-1993. Vamos a volver al capitalismo, perfecto.

Y los capitalistas, ¿de dónde los sacamos? ¿Dónde están los capitalistas que tengan capital? Lo que atravesó Rusia en la primer década de los 90 fue una acumulación mafiosa de capital, donde vivió todos los delitos juntos de crimen organizado, todos juntos. La Argentina vivió mucho de eso, por eso en la Argentina tenemos medio millón de esclavos, como mínimo, y estoy dando una cifra ultraconservadora; hay 114 marcas denunciadas; el 78% de la industria textil es trabajo esclavo, trabajo forzoso. Gran parte de la agricultura requiere mano de obra intensiva – la horticultura, la fruticultura, lo hemos filmado, no solamente lo hemos denunciado, cualquiera lo puede encontrar en Internet. Tenemos un canal en YouTube donde tienen cientos de videos, donde pueden ver el infierno en vivo y en directo, donde compañeros de La Alameda arriesgaron su vida y exvíctimas arriesgaron su vida solo para registrar lo que estaba pasando. ¿Para qué registrarlo? Era tan

impune la situación judicial que había que mostrarlo, que todo el mundo lo viera; que todo el mundo lo viera, primero, para que no nos mataran; que todo el mundo lo viera, segundo, para que tomaran conciencia, y que todo el mundo lo viera para generar lo que decía el embajador, ese cambio de cultura, que llevó a que en la Argentina se votaran dos leyes de reforma de trata en pocos años. Lo que tenía que ver con generar el escándalo, el escándalo en el buen sentido del término, de pensar a dónde estamos yendo como sociedad, sobre qué base, sobre qué valores queremos construir este edificio.

Mucho se ha hablado sobre estadísticas y diagnósticos, que estoy totalmente de acuerdo y por eso no lo voy a repetir, en brillantes intervenciones que ha habido acá, pero tenemos que empezar, y de todas las intervenciones me quedo con esa frase que dijo el Embajador Morel de que tenemos que reconstruir una plataforma de humanidad, y que tenemos unos pocos puntos de acuerdo, y alrededor de esos pocos puntos de acuerdo hay que empezar a trabajar una cultura del encuentro fuerte para empezar a trabajar este estado de cosas.

Y esos puntos de acuerdo tienen que ser muy concretos; la trata hay que verla dentro del contexto de lo que es la mafia, ¿saben por qué? Porque nosotros ya hicimos la experiencia en provincias enteras, donde logramos leyes para que cerraran todos los prostíbulos, y cerraron casi todos los prostíbulos. ¿Y saben lo que nos pasó? Crecieron los puntos de venta del narcotráfico. ¿Y saben quiénes eran los que traficaban droga? Los mismos que antes usaban los prostíbulos. ¿Se entiende? Porque son los mismos canales, son los mismos funcionarios corruptos, son los mismos carriles, o sea, no es que en la mafia unos se dediquen a la trata, otros al narcotráfico, otros al tráfico de armas, no. Van corrompiendo al Estado y van utilizando los delitos según su rentabilidad. Entonces, hay que combatirlos, primero, integralmente; segundo, la persecución no puede ser solamente penal, tiene que ser económica; o sea, hay que incautarles los bienes y reutilizarlos socialmente con preeminencia para reparar a las víctimas. Hay que hacer como acaba de hacer Brasil, que votó una enmienda constitucional para expropiar sin pago los bienes a los esclavistas, la acaban de votar el año pasado. O sea, cuando el Estado brasilero, cuando los inspectores brasileros advierten una situación de esclavitud infraganti, proceden a expropiar automáticamente el bien y a reutilizarlo socialmente. El único lenguaje que entiende la mafia es el del dinero. Si nosotros no entendemos esto nos vamos a engañar, y vamos a estar agarrando presos a los últimos eslabones de la cadena mafiosa, pero nunca vamos a agarrar, o lograr desbaratar la red y la esencia de la red, que es básicamente la acumulación de dinero a lo que dé lugar.

Y no vamos a poder desterrar esa mafiosidad que atraviesa transversalmente el aparato del Estado, que es una mafiosidad, una cultura, la cultura de la coima, la cultura del cohecho, la cultura de la corrupción, la cultura del doble estándar, porque están también los estados, como le decía a Juan Llach, están los estados que no admiten puertas para adentro, tienen trata y tráfico y hacen cumplir la norma, pero si alguna multinacional de su propio país esclaviza gente, ahí miran para otro lado.

Yo lo recuerdo, yo recuerdo cuando venían a La Alameda, han venido muchas embajadas, vino Joy Ezeilo inclusive a visitarnos en alguna oportunidad, muchas veces vino gente de la ONU, de la OEA, etc. Recuerdo que en alguna oportunidad vinieron funcionarios del Departamento de Estado norteamericano y nos venían a evaluar como país para ver qué pasaba con la trata de personas, entonces yo le dije, “¿Quieren saber qué pasa con la trata de personas? Traíganme dos del área de migraciones”, y los llevé a una villa miseria, a una villa de emergencia, y le mostré tres talleres clandestinos de Wal-Mart, de una empresa de ellos: “esto pasa con la trata de personas”. Fíjense que no es un problema solamente de los países subdesarrollados, es un problema global.

Entonces no nos podemos hacer los distraídos. Tenemos que tener la misma vara y la misma medida para juzgar las conductas y para defender la libertad y la dignidad de las personas; entonces, los fondos para reparar a las víctimas tienen que salir de esa propia incautación de bienes, hay que empezar a auditar a las ramas de la economía donde más se expresa el trabajo esclavo, y las tiene que auditar el Estado. Hay que auditar sus cadenas de valor, hay que auditar la marca de ropa, hay que auditar las empresas de construcción, hay que auditar a las agencias que emplean en el trabajo doméstico, hay que auditar lo que es el trabajo agrario, y esto no puede ser una auditoría privada, porque la auditoría privada me va a decir lo que yo quiero que me diga, yo le pago y me dice que está todo bien; no es así, tiene que ser una auditoría del Estado, o sea, los estados tienen que certificar y tienen que ser responsables concretamente de certificar que esas marcas venden productos que están libres de trabajo esclavo, que están libres de trabajo forzoso. Tenemos que tener refugios para recuperación y reinserción de víctimas, tanto de trata como de adicciones. En algunos países los hay, en otros ni siquiera existen, pero en donde los hay inclusive y donde se logra recuperar alguna víctima, después no se la puede reinsertar, tiene que haber un cupo obligatorio, un cupo obligatorio para que la víctima de trata o la víctima de adicciones que fue recuperada pueda trabajar de forma estable, ya sea en el ámbito del Estado o en el ámbito privado con alguna contraprestación, alguna rebaja impositiva, algún tipo de aliciente que in-

centive concretamente al ámbito privado a que las reincorpore o reinserte de forma privada, porque saben qué pasa, la víctima de adicciones o la víctima de trata, cuando se recupera, las pocas veces que se puede recuperar, pasa a ser un paria de la sociedad, nadie le da trabajo. Yo me presento a un trabajo y me dicen: “¿Y usted, dónde trabajó?” “No, mire, yo estuve en un proceso de recuperación” “¿Y antes, dónde estuvo?” “En un prostíbulo o en un taller clandestino”. Obviamente que nadie me va a dar un trabajo, estamos condenando a la víctima a que sea paria y a que se revictimice.

Hay programas que son ridículos, hay programas que establecen darle dinero para que armen un microemprendimiento, a una víctima de trata que arme un microemprendimiento, o sea, le estamos diciendo a la víctima de trata que salga a competir en el salvaje mercado capitalista, ¿se entiende? Sin comercialización, sin estrategia de marketing, sin preparación a una víctima de trata que le estalló la cabeza porque la violaron un millón de veces o porque la redujeron a su servidumbre y, obviamente, eso va a fracasar, y los organismos de cooperación internacional saben que va a fracasar, pero estamos todos jugando al como si lo recuperáramos, al como si lucháramos, al como si cambiáramos, y no cambiamos nada.

En muchos países las personas que son víctimas de discapacidades con legítimo derecho tienen un cupo de inserción en el estado o un cupo de inserción en el mercado laboral de forma estable. ¿Por qué no lo tienen las víctimas de trata? ¿Por qué no lo tienen las víctimas de adicciones? Y tiene razón Francisco: detrás de los países que caen en el flagelo de las adicciones – y la Argentina es uno de ellos, y cito datos de la ONU, tercer exportador mundial de cocaína, primer consumidor de Latinoamérica –, detrás de eso viene el imperio, pero el imperio no como una cosa consignista, detrás de eso vienen acuerdos ruinosos que traen más contaminación, más destrucción de recursos naturales, más saqueos. Es como la mita y el yanaconazgo; la mita y el yanaconazgo eran las formas de reducir a la servidumbre a los pueblos latinoamericanos mientras se saqueaban sus recursos. Hoy es el narcotráfico, la trata, el trabajo esclavo. Lo mismo pasa en Asia, ¿quién se hace responsable del derrumbe de Bangladesh? Porque sí, las marcas solo firman un convenio, pero alguien se hace penalmente responsable, ¿Zara se hace responsable? Zara ya tiene denuncias penales en 14 países, ¿Cuántos países más hacen falta para que el Gobierno español tome alguna medida contra Zara? O sea, en la Argentina fue descubierto el trabajo esclavo este año, el año pasado pagó una multa en Brasil, este año se derrumbó un edificio en Bangladesh y estaba Zara, siempre aparece la misma marca, estamos hablando de una marca que tiene al hombre, al tercer hombre más millonario del planeta, ¿entienden lo que les quiero decir? ¿Entienden dónde estamos

parados? Lo digo porque estamos en la Academia Pontificia y tenemos al papa Francisco, tenemos que aprovechar esta oportunidad para hacer esta revolución moral. Y yo no les puedo decir exactamente a dónde vamos, les puedo decir exactamente de dónde venimos: venimos del fracaso de dos sistemas, de un sistema que le ganó al otro y que dijo “es el fin de la historia”, y resulta que era puro cuento y lo que nos trajo es más esclavitud, más servidumbre, más desigualdad, más persecución a los migrantes, más narcotráfico. Entonces, esto es lo que tenemos que comprender, tenemos que comprender concretamente que las misiones jesuíticas iban a contramano de la estructura económica social de la época, y si iban a contramano, iban a contramano, tan a contramano como iba Jesús huyendo para Egipto. Iban a contramano, por supuesto que sí, pero si queremos colocar al hombre en el centro de la escena, y no al dinero, tenemos que hablar claramente. Las mafias buscan dinero; entonces, lo que hay que hacer para dismantelar a las mafias es sacarles ese dinero y esa economía ilegal. Esa economía que es fruto de la explotación y de la indignidad tiene que servir para fortalecer la educación, la salud, el trabajo, la vivienda. Es muy sencillo, no es tan difícil, hay que seguir la ruta del dinero de los mafiosos hasta llegar inclusive a los bancos, porque muchas veces en los bancos o paraísos fiscales están amontonados los billetes que fueron el producto de la esclavitud y la indignidad de millones de personas.

# A CATHOLIC RESPONSE TO HUMAN TRAFFICKING IN ASIA

■ JOHN LEE

## Prologue

1. I would like to begin this paper by narrating a story. This is a true story of a 10-year-old Cambodian girl named Tevy, whose name has been changed to protect her identity. We have often heard stories of girls sold to brothels by desperate families. This sadly was the real life experience of Tevy, an innocent and diligent young girl from Don Bosco Chreh School in Cambodia. Take another moment to consider that Tevy never missed school because it was there that she would receive her only meal of her day. When Tevy failed to turn up at school on two consecutive days, this raised the suspicions of principal, Sr Ophriini. Fearing the worst, Sister went quickly to the shack where Tevy's family lived to look for her. Unconvinced by her parents' story that she had gone to live with her uncle in the city, Sister persisted until they told her the shocking truth. Tevy had been sold to a pimp for USD50. Sister immediately rushed to the address given, and redeemed her for USD100, a life of prostitution, and probably early death from AIDS. What's the purpose of telling the story of Tevy?

## Unanswered Questions

2. In my research into human trafficking in Asia, I found that it was impossible to obtain any reliable data on the magnitude of the problem or that the relevant information even exists. But the world is slowly waking up to the reality of human trafficking, which might be more accurately described as a modern form of slavery, and those who care wish to know the answers to two sets of questions.

3. First they want to know the magnitude of the problem. How many victims are there? Who are the traffickers and what is their *modus operandi*? What are the trends, for example, whether the problem is getting more severe, and what are the reasons for these trends?

4. The second set of questions (probably more pertinent to our discussion) relate to what can people do as individuals? What are governments, international agencies like the United Nations or the Church doing about it?

Most people are genuinely concerned, but are also pessimistic about the change they can effect as individuals.

5. The first set of questions needs to be answered in order to formulate effective policies to address the problem. However, there has been little light shed on the subject since the UNODC first attempted to identify human trafficking patterns in April 2006. The incident involving Tevy and other anecdotal evidence of thousands of young children in Cambodia will probably never be officially recorded as the relevant authorities lack concrete evidence (or possibly the will) to pursue these cases. According to official Cambodian statistics based on conviction rates, there were only 292 cases of human trafficking with 65 convictions in the country in 2006. But the problem is not just one for developing countries to ponder. In developed and developing countries around the world, prostitution remains rife, and the refusal to acknowledge prostitution as the exploitation of the human person is a separate problem in itself. In the absence of reliable official statistics which are unlikely to ever be collated (because no government would want to report figures which present an unfavourable impression of their countries), most of the reports I researched either did not give a numerical figure or extrapolate from the personal experience of the authors. Essentially, the statistics from the research did not correspond to the anecdotal evidence. With these limitations in mind, I will attempt to give a sense of the magnitude of the problem and trends particularly in Asia.

6. The absence of reliable data should not be used as an excuse for inactivity. Human trafficking is undeniably a major problem and there are many things that the individual or the Church can do. But the focus of our efforts as Church and as individuals should be pragmatic. We should aim to rescue and rehabilitate the individual, rather than to try and totally eradicate a systemic problem.

### **Definition of Human Trafficking**

7. Let me begin by briefly highlighting the legal definition of human trafficking. Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime states that:

- “Trafficking in Persons” means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception,



of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

- Exploitation shall include, at a minimum, the exploitation of 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.

8. Due to the highly clandestine nature of the crime of human trafficking, the great majority of human trafficking cases go unreported and culprits remain at large. In many cases of reported trafficking, it is also very difficult to prosecute traffickers because the victims themselves are often reluctant to testify against them. They fear for the lives and safety of their family members, and are afraid of being punished and deported by law enforcement agencies if they happen to be in a country illegally. It is widely reported that many traffickers are associated with international criminal organizations, which makes them highly mobile, well protected within these organizations, and subsequently difficult to prosecute.

9. The 2005 Global Report on Forced Labour by the International Labour Organisation (ILO) estimated that of the 12.4 million victims of forced labour, more than 2.4 million were in forced labour as a result of human trafficking. According to ILO 2012 estimates, the Asia-Pacific region (AP) accounts for the largest number of forced labourers – 11.7 million or 56% of the global total. (Note: while trafficked people are often exploited through forced labour, not everyone who experiences forced labour has been trafficked).

10. Having said that, we also have to consider that with approximately 4.3 billion people, Asia hosts 60% of the world's current human population. In terms of prevalence, Asia does not fare especially badly compared to the rest of the world. While a simple outlook would be that if the problem of human trafficking would be significantly reduced if the Asian human trafficking numbers went down, I would strongly caution against an Orientalist approach that reduces the many and diverse countries in Asia to a monolithic bloc. The trends and statistics collected here do not necessarily give a complete picture of how human trafficking differs from one Asian country to another but we have to start somewhere.

### **Caveats to Studying Trends in Asia**

11. I wish to draw your attention to several trends and statistics on human trafficking in Asia, with the latest statistics from the UNODC Global Report on Trafficking in Persons 2012. But let me first reiterate my point that the data coverage for Asia is relatively weak, especially given the region's large population. Not all countries participated in the Report, and countries did not necessarily provide information for all indicators. As a result, while the sample size is relatively large compared with that of other regions, there is a high degree of uncertainty regarding how representative it is of the actual trafficking situation.

12. More than 10,000 cases of trafficking in persons have been recorded in South Asia, East Asia and the Pacific. However, a profile of the victims was available for only a limited number of those cases. Not just because the profile of the victims was not made available to UNODC, but also because these cases were often prosecuted under other offences, including victims of other crimes. Just nine countries in this large region provided information concerning the profile of more than 3,800 victims of trafficking in persons detected between 2007 and 2010. As a consequence, the results of this regional analysis cannot easily be generalized for the whole region but should be interpreted as representative of the patterns and flows in the countries covered.

### **Child Trafficking**

13. Child trafficking is a very real problem in Asia. Countries in South-East Asia consistently reported the proportion of children to be above 15–20%. In a particularly alarming case, the information reported by the Lao People's Democratic Republic indicates that most of the victims of human trafficking detected in the country were children. According to the Global Report on Trafficking in Persons of 2009, the majority of the victims detected in the countries of the Mekong river basin were children. The high rates of child trafficking are not limited to South-East Asia. In South Asia, Nepal reported the proportion of victims who were children was about 50%.

### **Nationalities of Traffickers**

14. The scarcity of information regarding the profile of the offenders in Asia is even more acute with regard to the nationality of the offenders. In East Asia, only Japan and Singapore provided information on this aspect of human trafficking. Japan reported that while just 7% of those convicted for all crimes between 2006 and 2009 were foreign nationals, some 23% of

persons convicted of trafficking in persons during the reporting period were foreign nationals. Singapore indicated that the majority of the human trafficking offenders were foreign nationals. It is difficult to draw any useful conclusions from this finding, given the lack of information.

### **Forms of Human Trafficking in Asia**

15. In general, forced labour accounted for 47% of all cases, sexual exploitation 44%, and other types of trafficking in persons 9%. However, these figures do not represent the trend for each Asian country. For example, trafficking in persons for forced labour, slavery or servitude was the most frequent form of trafficking reported in Indonesia and Taiwan. In particular, women trafficked for domestic servitude accounted for about 60% of the victims assisted by the International Organization for Migration in Indonesia between 2008 and 2010. Similarly, during those years a large share of the victims assisted in Taiwan were women exploited in domestic servitude and who had been trafficked from Indonesia, the Philippines, Vietnam and Bangladesh. The United Nations Inter-Agency Project on Human Trafficking (UNIAP) reported on trafficking victims from the Lao People's Democratic Republic exploited in domestic services, agriculture, fisheries, garment factories and the entertainment sector in 2009.

16. In contrast, human trafficking in Thailand for forced labour accounted for around 25% of the victims detected in 2011, while 73% of the victims were trafficked for sexual exploitation. UNIAP also reported that sexual exploitation was the major form of exploitation of Cambodian victims trafficked internally or abroad, while a limited number of cases of forced labour were also documented. The Philippines reported that a large number of the victims detected during the period considered were trafficked for sexual exploitation, prostitution and pornography. To a lesser extent, detected victims were also reported to be exploited in forced labour, slavery and child labour. A large part of the Filipinos trafficked within or outside the country were reported to be under debt bondage.

17. In the other parts of the region also considered, Mongolia and Nepal reported trafficking for sexual exploitation as the most frequent form of trafficking, although trafficking for forced labour or other forms of trafficking were also relatively frequent in these two countries. In detail, 30% of the victims assisted by the Mongolian Gender Equality Centre between 2003 and 2009 were trafficked for forced labour, and 45% for sexual exploitation. The other victims assisted were exploited through other forms of exploitation or for il-

legal adoption. In Nepal, cases of trafficking for organ removal were also reported by the authorities during the period in question.

### **Human Trafficking Flows in Asia**

18. Human Trafficking in Asia can be analysed in terms of origin and destination of local, intraregional and long-distance trafficking. For a global picture, countries in South and East Asia and the Pacific, as well as in Africa and in Eastern Europe and Central Asia, detect almost exclusively victims from within the region (including domestic trafficking), whereas several countries in the Middle East, North America and Western and Central Europe have a relatively high proportion of victims from other regions or sub-regions.

19. Between 2007 and 2010, countries of South and East Asia and the Pacific predominantly detected Asian victims. More than 99% of the victims detected in South and East Asia were trafficked either domestically or within South Asia and East Asia, respectively. This is also true for the rich destination countries of Asia and the Pacific, where victims from other regions were very rarely detected during the reporting period. Compared with the overall number of victims detected in Asian countries, non-Asian victims were relatively few.

20. Most of the trafficking flows relevant to Asian countries covered in this report are intraregional (i.e. flows within the region). In the period considered by this report, East Asia was confirmed as a significant source region of victims of trafficking in persons at the global level. Trafficking in persons originating in East Asia is the most widely diffused flow globally. Trafficked victims from East Asia are not only widely detected in terms of geographical destination but they are also detected in relatively large numbers worldwide. Between 2007 and 2010, victims from East Asia were detected in 64 countries around the world, including in sub-Saharan Africa, the Middle East, Central and South America and Eastern Europe. During the reporting period, East Asian victims accounted for about 7% of the victims detected in Western and Central Europe, 22% of victims detected in the Americas, and 35% of victims detected in North Africa and the Middle East.

21. No specific country can be identified as the main origin of the East Asian long-distance trafficking flow. Victims of different nationalities, including Chinese, Filipino, Thai, Vietnamese and others, were detected in or repatriated from various countries in other regions outside Asia between

2007 and 2010. Although the diffusion of the trafficking flows originating in South Asia is more limited, it should not be underestimated. The region is also an origin of long-distance trafficking flows. Indications of the wide diffusion of South Asian trafficking were reported from all the sub-regions considered in this report. During the reporting period, victims from South Asia have been detected in or repatriated from Southern Africa, South America and 13 European countries. In the Middle East, South Asians victims account for about 23% of the detected victims. Victims originating in Bangladesh were detected in the United Arab Emirates, and Nepalese and Sri Lankan victims were detected in Israel. Lebanon also detected victims of those nationalities. Indian and Pakistani victims were detected in Western and Central Europe. South Asians were also detected in the United States.

### **Female Dimension**

22. During the reporting period, most of the victims detected in the East Asian countries covered were female. With the exceptions of Japan, Philippines and Singapore, East Asian countries did not report adult men among the victims detected. Similarly, the proportion of boys among detected victims in this region was limited in number (less than 5% of total victims) and limited to a few countries. The proportion of males, where detected, among the total number of victims was always less than 10%.

23. It is also noteworthy that the proportion of individuals convicted of trafficking in persons in Asia who were women is higher than the proportion of women convicted of other crimes. It is also higher than the proportion of female convictions reported in other regions. The general proportion of women among crime convictions in these countries is higher than in Africa and the Americas and is similar to the levels found in Europe. Women account for about 10–25% of convictions for all crimes, and the presence of female human traffickers is more common than in other regions. Only three countries in South and East Asia and the Pacific provided data regarding the gender of persons prosecuted, and four countries provided data on the persons convicted of trafficking in persons. These data – although limited – further support the observed global pattern of a higher rate of female involvement in trafficking in persons than in other crimes. In addition, with the exception of Japan, the countries report that the participation of women in this crime is equal to or higher than the rate of participation by men.

## Human Organ Trafficking

24. The same issues relating to the difficulty of collecting data for trafficking in human beings also apply to the collation of data for illegal organ transplantation. The World Health Organisation (WHO) estimates that at least 10% of the total organ transplantation done annually are illegal i.e. 11,000 illegal transplantation are performed illegally (which maybe a gross underestimation) of which majority of the organs are procured from Asia.

25. Due to the paucity of data and the international nature of human organ trafficking, it is difficult to discern any trend that is peculiar to the Asian region. But there are enough anecdotal and media stories that give us notice that Asia is a hotbed of human organ trafficking.

## Illegal Organ Transplantation in Asia

26. The world was shaken in horror at the news during late August 2013 of Binbin, a 6-year-old Chinese boy who was found with his face covered with blood by his father in the middle of a field. Someone had drugged him to gouge out his eyes and left him unconscious on the ground. The police later found his eye balls, but without the corneas. They believed that Binbin was a victim of the illicit organ trafficking trade.

27. Binbin's story is just one more example of a global phenomenon that is rampant in Asia. Some estimates calculate that there are around 10,000 black-market operations involving human organs every year in the world generating profits of more than USD600 million. Patients, typically from developed countries, would travel to countries like China, India or Pakistan and pay USD200,000 for a kidney that was bought from a "donor" for as little as USD5000.

28. Asia is notorious for being one of the main destinations of organ trade tourism. Until very recently human organs for *in vivo* transplant were legally sold in countries like China, India, and Philippines. International pressure has since moved these countries make organ selling illegal. Today, only Iran has a legal and therefore controlled organ trade.

29. Inadvertently the legal prohibition may have created a flourishing underground market. It is estimated that since China banned organ sale, global prices for human organs have increased 40%. The shortage of organ donors both from cadavers and from living patients is alarming and the waiting lists can drag for years. Some countries have resorted to retrieve organs from

executed prisoners; but even with these “extreme” measures, the supply is simply not enough.

30. What does all this mean to us as Christians? Perhaps the first duty is to look at it from the perspective of our faith. This might be considered one of the signs of our times. There are some reasons from optimism. Most countries have moved from a liberalisation of the organ trade to a strict prohibition of any form of organ trafficking. It is true that at times, these prohibitions lack legal teeth and illegal trade still remains rampant. Nonetheless it is still a gesture towards a greater appreciation of the human body and its dignity.

31. This positive aspect however should not be an excuse for conformism. There are dangers that a new economic and utilitarian approach might reverse these advances. The acute shortage of human organs for transplant operations manifests itself in the temptation to legalize organ trade to augment the supply. The experiences of the few countries which have legalized organ trade seem to tackle the problem from a pragmatic perspective, and present a tempting proposition for other countries to follow suit. Constant efforts should be made to make sure that this never happens.

32. The problems of organ trafficking whether legal or illegal are well known. Perhaps the one of more obvious one is the exploitation of the poor. Even in countries where organ trafficking is regulated, the poor provide the majority of organs and the rich are the beneficiaries. This goes against social justice that demands that the burdens and benefits within society be fairly distributed.

33. Another obvious problem is the health risks that befall the individual who provides the organ. The cost of post-operation care and the possibility of complications arising from the operation could also force them to incur further expenses. A time of recovery is also needed, which prevents the provider from working (although this may be a moot point if the individual is out of a job, which may very well be the case).

34. We cannot forget that the perspective of quick money is often appealing to people in serious debt. It is easy for these people to think that they will solve their economic crisis with a straight forward approach. The reality is that often these debts are at least partly created by behavioural problems, which still remain after the money has been received. As the behavioural

pattern continues, they find themselves indebted very soon again, or even worse than in the original situation.

35. Organ trafficking has also become a deep rooted problem that might be extremely difficult to eradicate. Today, some countries have become a hub for “transplant tourism” where patients in need of organs will go to for fast access to what they need. Like in other forms of tourism, a whole economic system is developed in these areas which come up with the supply to meet an ever-growing external demand.

36. It is not only the economic pressure that motivates such trafficking, but quite possibly a cultural one too. In Asia it is traditionally (religiously) perceived that the body is a mere instrument of the mind, or only a vehicle for the transmigration of the soul. This traditional dualism is at times reinforced by the increasing influence of Western thought and its dualistic understanding of the body as something purely biological and not integrally personal. It is against this mentality that the proper ethics of organ donation needs to be understood, promoted and legislated.

37. The morality of organ transplant was not accepted in the church without difficulty. When the moral issue of organ transplant was first considered, it appeared *prima facie* to be hard to reconcile with traditional moral teachings in the church. The action of depriving a healthy person of a healthy organ appeared to be a “direct harm” against the person, something that no doctor should be permitted to do. Furthermore, justifying this kind of action on the basis that the patient receiving the organ benefits could give the impression that the end justified the means – which is not what the Church teaches.

38. But it was precisely the traditional understanding of the integral unity of the human person, the integral unity of a human body and a human soul that allowed the Church to see that organ donation was not merely the act of giving away a physical possession, such as when one donates money or other goods to the poor; but rather as an act of giving oneself – an act of charity. Framed in this perspective, the doctor is not harming the donor, but helping him to do an act of charity. As Blessed John Paul II stated in his address to the Organ Transplant Society in 1991: “It is not just a matter of giving away something that belongs to us but of giving something of ourselves, for ‘by virtue of its substantial union with a spiritual soul, the human body cannot be considered as a mere complex of tissues, organs and



functions ... rather it is a constitutive part of the person who manifests and expresses himself through it.”

39. This is the reason why it is crucial to distinguish between true organ donation, justified only as an act of charity, and organ trafficking and organ trade, which remains a commercial transaction of an integral part of the person, reducing human beings to mere commodities. Even the language is used to conceal the real and serious ethical difference between the two. Only in ethical donation is there a true donor. When a person exchanges an organ for money, there is nothing donated, simply sold, and therefore the word donor is inappropriate and deceiving.

40. We are therefore facing a problem that runs the risk of being dominated by the logic of economy, to which, we must oppose with the “logic of the gift” that emeritus Pope Benedict XVI proposed in his latest encyclical *Caritas in Veritate*. We face the challenge of being faithful not only to our Church’s teachings, but also indebted to serve the world with a most needed alternative way of thinking. As his Holiness Benedict XVI put it: “There is no ordering of the State so just that it can eliminate the need for a service of love. Whoever wants to eliminate love is preparing to eliminate man as such. There will always be suffering which cries out for consolation and help. There will always be loneliness. There will always be situations of material need where help in the form of concrete love of neighbour is indispensable” (*Deus Caritas Est* #28).

41. In this sense we should welcome and promote initiatives, and some are already present, that denounce organ trafficking with rigorous investigation of facts and data and at the same time promote strong judicial frameworks to ensure that organ donation remains strictly an act of charity and does not degenerate through excessive incentive in a *de facto* organ selling.

42. There is one more concern we need to address regarding organ donation from cadavers. In an effort to increase the supply for organs to be donated, some countries have adopted a policy of “presumed consent” where citizens are presumed to be donors after death unless they explicitly state something to the contrary. As we have been insisting, it is hard to see how an act of charity can be forced into the citizenship. Efforts should be made to promote a culture of life and the charitable gift of ourselves so that more and more people in total freedom come forward as organ donors. What is at stake is the precious and inviolable dignity of the human person that the Church has the right and duty to unceasingly proclaim.

## The Church's Response to Human Trafficking

*“Whatsoever you do to the least of these my sisters and brothers, you do it to me”  
(Matt 25:40, 45)*

43. In talking to many people, including Church leaders, during the course of research for this paper, I was faced with either ignorance or a profound sense of haplessness or resignation over what we can do as a Church or individuals to help the victims of this modern day slavery. From my personal experience I feel that there is much we can do as individuals; parish based communities, and as a Church. The universality of the Catholic Church gives us the framework and infrastructure necessary for us to implement these solutions. I believe that the Church should focus on preventing and rehabilitation of individuals rather than to emphasize on enacting global legislation to eradicate human trafficking.

### As a Universal Church

44. It is clear that some form of trafficking exists in every society from the poor developing nations to the more developed countries albeit in different forms. The first step to resolving the problem is to create awareness. Most people are generally well meaning but can be blind or oblivious to what is happening around them. Some have a “don't ask don't know” attitude. The Holy Father Pope Francis who is immensely popular with Catholics as well as non-Catholics (at least in Singapore for his pastoral approach, simplicity and humility) could issue a pastoral letter to Catholics not only through the traditional media but also through the popular social media describing the present day situation and urging everyone to reflect and act in whatever way they can to help the victims. The Irish Ambassador to Singapore has suggested that the Vatican could sponsor a proposal to establish a “World Day against Human Trafficking”.

### On a Regional or Diocesan level

45. The Pontifical Academy can then follow up by sending the relevant information to all the National Conference of Bishops to ask them to study the situation in their diocese and maybe even produce some booklets containing short stories describing actual situations together with some scriptural and Church's teaching on social justice and questions for reflections. In the Singapore diocese such booklets on social issues are disseminated during the Lenten and Advent reflection to great effect. These reflection booklets should also challenge the individual to see what he can do to change the situation. Generally most individuals do not act on their convictions and beliefs because they have little faith that they can change the society around them. Here is

where the Church can come in by facilitating and supporting the efforts of those who are passionate to act on their beliefs.

46. Regional or national bishop conferences could support the efforts to fight human trafficking by adopting the following course of action to promote greater networking and enhancing collaboration among congregations, conferences and lay associations. The first step would be to set up a database of organisations and contact persons working on human trafficking and enhance direct co-operation between host and source countries. Each Conference should nominate a passionate human rights advocate to follow-up on recommendations and provide updates in their respective regions. There should be regular meetings and review of progress on an international, regional, sub-regional and archdiocesan level. Collaboration across lay associates of different congregations should be enhanced with sharing of information and resources. This collaboration will strengthen the work within congregations and conferences thus maximising our resources and making our efforts more effective.

47. A vital first step is to raise awareness among bishops, diocesan clergy and religious congregations. To be effective we must develop a network of professionals including lawyers, doctors, media, businesses etc. We should leverage on parishes and institutions run by religious and reach out to schools and youths to build awareness. The formation of priests and religious should include Church social teachings and human rights. The Church should use whatever forum it can to build public awareness.

48. Where possible, the Church at both international and national level should engage NGOs, other faiths and government authorities in dealing with this problem. On a practical level the local Churches could explore the creation of shelters as sanctuary for the victims of human trafficking.

49. One of the main causes of human trafficking is poverty and ultimately the best means to eradicate poverty is education. When I first started mission work on behalf of FIAMC, I was focusing on medical support for disaster relief, providing clean water and building clinics and hospitals. Although these are important I soon realized that education was equally, if not more important, as a long term measure to eradicate and change society. During the Jubilee year, FIAMC received a small donation which was used to create a Pope John Paul II scholarship for some students in Taunggyi, Myanmar who have since graduated and are assisting Archbishop Mathias in his programs.

*On a personal level*

50. Having discussed what the Church can do, I would like to describe briefly a program called ACTS (A Call To Share). ACTS is an example of what individuals can achieve if a coordinating body is created to tie them up with Catholic institutions like Don Bosco that are already active in the more impoverished communities. In December 2006, I went to Cambodia with a small group of around 20 people to work with the Salesian nuns. That mission was the birth of a multi-parish mission group called ACTS following the biblical example of the early day Apostles. Mission participants are given pre-mission formation sessions where they are taught Church social teachings and there is also daily mass and reflection sessions during missions. “Share” implies that true giving is a two way process i.e. in sharing our God-given talents, the giver receives a lot more in return (Acts 20:35).

51. ACTS (although strictly Catholic in orientation includes a significant number of non-Catholic participants) is now a year-round program which amongst many activities feed thousands of Cambodian kids throughout the year, providing scholarships, building schools, etc. culminating in annual advent missions throughout Cambodia which have benefitted thousands of Cambodian children like Tevy. A sterling example is a young man named Savouen who received a partial scholarship and has since graduated as a doctor. He is now helping the Church in ministering to the infirm in sick shelters and also in coordinating a mass vaccination program that a Jewish gentleman is sponsoring.

52. ACTS is involved with building the first major Catholic secondary school in Cambodia which will provide education up to university level, enabling hundreds of students to avoid a fate of working in slave-like conditions in factories or prostitution. Every year ACTS brings several hundred mission participants to places like Cambodia, Myanmar and Philippines and has had participants from countries as far away as Mauritius and Australia. This December we are bringing 380 participants to Phnom Penh alone. ACTS also encourages the better off Cambodian kids to get involved in our activities and several of them are passionate about helping our work.

53. Indeed, the main beneficiaries are the Singapore children who realize how fortunate they are and believe they can change the world in their own little ways. The most common response when an individual is confronted with the issue of human trafficking is an air of resignation and defeatism as to what they could do to alleviate the situation. It is very important to em-

power the individual with the belief that no matter how young they are or their station in life, they can contribute to change society. I remember the 4 young children of my friend, aged between 6 and 12, asking me on one mission trip what they could do. I replied asking them whether they could abstain from meat on Fridays and they replied in the affirmative. I then asked them to think of what they could do with the money they saved from not eating meat. They thought about it for a little while and decided to use the money to sponsor a scholarship for a Cambodian child whom they have befriended. The oldest boy, Jerome subsequently tried to raise awareness of the plight of the impoverished Cambodian kids and get his classmates in an elite secular school to contribute scholarships. There are hundreds of similar heart-warming stories of kind deeds initiated by ACTS participants, young and old following the words of Mother Teresa that “In this life you cannot do great things, you can only do little things with great love”.

54. The work of ACTS is appreciated by the bishops throughout Cambodia and recognized by the Cambodian government. ACTS has been invited to replicate its program in other countries like Philippines, Myanmar, Vietnam and Indonesia. I am sure that there are thousands of similar programs and organisations working to bring God’s love to the less fortunate throughout the world and the various dioceses could highlight some of their own successful programs to encourage Catholics to respond to situations like human trafficking. A national or regional coordinating body is essential for the development of bottom up programs like ACTS.

55. Let us unite our efforts and prayers so that we can continue to be courageous witnesses of the Kingdom of God.

# ¿LIBERACIÓN O ESCLAVITUD SEXUAL?

## EL LADO OSCURO DE LA REVOLUCIÓN SEXUAL

■ ERMANNO PAVESI

El tema de la trata de personas con finalidades de explotación sexual ha sido abordado desde muchos puntos de vista. El tráfico criminal solo es posible si existe una demanda y el cliente es un eslabón esencial de esta cadena. Sin embargo, a la cuestión de los clientes se le brinda poca atención, y cuando se hace se plantea en la mayoría de los casos en clave ideológica: opresión del hombre sobre la mujer; opresión sobre personas más débiles como menores y transexuales o como explotación de su estado de necesidad. Desde esta perspectiva, el enfoque feminista parece el más apropiado para abordar el problema, para sensibilizar a los clientes acerca de la situación de dependencia de las prostitutas. A pesar de décadas de luchas y logros feministas, no obstante, el fenómeno se ha acentuado. Las limitaciones de este enfoque dependen de la ambivalencia hacia la prostitución, entre una tendencia que abiertamente rechaza todo juicio moral sobre la misma (sin excluir por ello la aceptación de una relación libre y consensual entre el cliente y la prostituta, considerada simplemente como una *sexual worker*, una trabajadora sexual), y la suposición que la condición de dependencia de la prostituta es muy compleja, tanto por la relación asimétrica con el cliente, como por lo que respecta a toda la red de explotación, de modo que se hace muy difícil excluir que sus prestaciones sean fruto de la coerción, incluso si faltan signos de violencia física en las mujeres, tales como contusiones o quemaduras. Me parece ilusorio apelar al sentido de responsabilidad del cliente y pretender que antes de contratar a una prostituta pueda aclarar su situación para descartar que sea víctima de *trafficking* en su más amplio sentido. En mi opinión más bien se debe considerar el fenómeno de la prostitución en general. Pero no se puede examinar este problema sin constatar la existencia de una cultura y de una mentalidad generalizadas hostiles al concepto tradicional de la familia y de la sexualidad, y sin entender cómo se formó esta cultura y qué teorías le han servido de inspiración.

### El patriarcado y la explotación de las mujeres

El erudito suizo Johann Jakob Bachofen (1815-1887), conectando fuentes muy diferentes, de los mitos antiguos a las narraciones de los historiadores, ha formulado una hipótesis sobre las fases del desarrollo de la civilización medi-

terránea: las primeras formas de la sociedad habrían sido originariamente de tipo matriarcal, con la ausencia de una estructura familiar, con la promiscuidad sexual y con una religiosidad telúrica sin trascendencia. Solo con el tiempo se habría dado un pasaje gradual de la sociedad matriarcal a la patriarcal, caracterizada, por ejemplo, por el matrimonio monógamo, la religiosidad trascendente y la educación moral de los hijos. El principal motor de esta transformación habría sido la religión con la afirmación progresiva de las divinidades solares y de la espiritualidad apolínea sobre divinidades lunares y telúricas y sobre espiritualidades naturalistas. “*Así, el pasaje del derecho materno al derecho paterno coincide con un superior desarrollo religioso de la humanidad. Es el progreso desde el principio material de la religión al intelectual, del físico al metafísico. Es la elevación, el ascenso de la tierra al cielo*”.<sup>1</sup> Esta teoría que, independientemente de la validez de la reconstrucción histórica, describe el conflicto siempre presente en la sociedad humana entre una visión puramente naturalista del hombre y el reconocimiento de un principio espiritual superior, ha tenido un impacto determinante sobre la cultura moderna. El filósofo alemán Friedrich Engels (1820-1895), por ejemplo, estima que la historia de la familia comienza precisamente con la publicación del libro de Bachofen sobre el matriarcado,<sup>2</sup> aunque, al contrario del erudito suizo, no considera el pasaje al patriarcado como un auténtico progreso, sino que lo considera más bien responsable de los males sociales y de los problemas culturales. Engels considera, además, el matrimonio monógamo como primera forma de explotación de una clase, que es representada por las mujeres, por otra, representada por los hombres. “*La monogamia [...] se manifiesta como el sojuzgamiento de un sexo por parte de otro, como la proclamación de un conflicto entre los sexos hasta ahora desconocido en toda la prehistoria. [...] El primer antagonismo de clases que aparece en la historia coincide con el desarrollo del antagonismo entre el hombre y la mujer en el matrimonio monógamo, y la primera opresión de clases coincide con la del sexo femenino por parte del masculino*”.<sup>3</sup>

Sin embargo, para Engels el matrimonio monógamo no habría eliminado la promiscuidad sexual originaria que habría sobrevivido en forma de heterismo, es decir, de relaciones extraconyugales y en la prostitución.

<sup>1</sup> Johann Jakob Bachofen, *Il matriarcato. Ricerca sulla ginecocrasia del mondo antico nei suoi aspetti religiosi e giuridici*, trad. it., Tomo primo, Einaudi, Turín, 1988, p. 150.

<sup>2</sup> Cfr. Friedrich Engels, *L'origine della famiglia, della proprietà privata e dello Stato*, Editori Riuniti, Roma 1970, p. 38: “*La storia della famiglia risale al 1861, con la pubblicazione del Mutterrecht di Bachofen*”.

<sup>3</sup> *Ibid.*, p. 93.

Interpretando en clave económica las relaciones humanas, considera que el matrimonio se transforma “*muy a menudo en la forma más burda de prostitución, a veces por parte de ambos, mucho más frecuentemente por parte de la mujer, la cual se diferencia de la común cortesana solo porque no alquila su propio cuerpo como una asalariada que trabaje a destajo, sino que lo vende en esclavitud de una vez por todas*”.<sup>4</sup>

También en el Manifiesto Comunista, Karl Marx (1818-1883) y Engels sostienen la comunidad de las mujeres en las sociedades primitivas, acusan de hipocresía burguesa al matrimonio monógamo que tolera relaciones extraconyugales y la prostitución.<sup>5</sup> El manifiesto aboga por la abolición de la familia. Engels describe de forma aún más precisa su visión: las relaciones sexuales deberían darse solo libremente y por amor, y dado que “*la duración del ímpetu del amor sexual individual es muy diferente*”, pero de todos modos limitada, también un matrimonio de amor sería de corta duración y estaría inevitablemente abocado al divorcio.<sup>6</sup> Engels está convencido que la transformación de las relaciones sociales y productivas conducirá a la aparición de una nueva generación de hombres y mujeres que tienen relaciones sexuales libremente, sin condicionamientos de ningún tipo.

La utopía descrita por Engels y Marx prevé una sociedad atomizada, hecha de individuos sin ligámenes, que debería eliminar relaciones entre los sexos en las cuales el hombre explota a la mujer, la reduce a una condición de dependencia y, por tanto, la obliga a entregarse para conseguir alguna ventaja. Tanto si la mujer se entrega por dinero con clientes ocasionales, se deja mantener por un amante o está regularmente casada, se trataría en todo caso de formas de prostitución. La misma condición de la mujer en el matrimonio se describe con dos términos que casan con el tema de esta jornada de estudio: prostitución y esclavitud.

Estas concepciones sobre el matrimonio y el papel de la mujer no solo se han establecido en ambientes políticos y culturales socialistas, sino que han penetrado también en las organizaciones internacionales. Se puede recordar el caso de los cónyuges Myrdal, en los años treinta del siglo pasado, en el que ambos miembros socialistas del Parlamento Sueco consideraban el papel del ama de casa como una “media prostitución” que justificaban como la única oportunidad “para mujeres insignificantes, estúpidas, perezosas

<sup>4</sup> Ibid., p. 98.

<sup>5</sup> Cfr., Karl Marx, Friedrich Engels, *Manifiesto del partido comunista*, Editori riuniti, Roma, 2005, p. 45.

<sup>6</sup> F. Engels, *L'origine...*, cit., p. 109.



y poco ambiciosas” o, en general, para individuos menos dotados.<sup>7</sup> Alva Myrdal (1902-1986) y Gunnar Myrdal (1898-1987) han ocupado sucesivamente cargos importantes en instituciones internacionales como la UNESCO, ambos han sido galardonados con el premio Nobel: él en 1974 por economía, ella en 1982 por la paz.

Para los teóricos de orientación marxista, como el psicoanalista Wilhem Reich (1897-1957), existe un vínculo indisoluble entre familia y sociedad clasista, tan es así que esta última no puede ser superada sin la abolición de la familia. La revolución política estaría, por tanto, destinada a fracasar sin una revolución sexual que modifique el papel de la mujer en cuanto al comportamiento sexual.<sup>8</sup>

La hipótesis de la libertad sexual, cuando no de la promiscuidad sexual, en la fase inicial de la historia de la humanidad pareció verse confirmada por los estudios de la antropóloga cultural americana Margaret Mead (1901-1978), que formula una interpretación únicamente cultural de los usos y costumbres de una población:

*“A uno a uno, muchos rasgos del comportamiento que se acostumbraba a considerar como atributos inmodificables de la naturaleza humana resultaron ser solamente productos de la civilización [...]. Se entendió así que ni la naturaleza humana, ni la raza, podían dar cuenta de los múltiples y variadas formas en las que se expresan, en condiciones sociales diferentes, emociones básicas como el amor, el miedo o la cólera”.*<sup>9</sup>

Si la forma en que se expresa el amor depende de factores culturales y no tiene una base natural, entonces no habría relaciones sexuales que se puedan considerar como naturales y, por lo tanto, no habría tampoco relaciones no naturales o contranatura. Margaret Mead llegó a estas conclusiones sobre todo tras una larga estancia en la isla de Samoa. Se convenció de que los indígenas eran más felices que los americanos merced a un comportamiento más espontáneo también en el campo sexual y a *“una forma de entender la vida más bien ligera y superficial”*,<sup>10</sup> y compara la *“microscópica y granguenosa familia biológica”*<sup>11</sup> con el comportamiento de las chicas de

<sup>7</sup> Alva Myrdal & Gunnar Myrdal, *Kris i befolkningsfrågan*, AiT Scandbook, Falun 1997, p. 209. Cfr Luca Dotti, *L'utopia eugenetica del welfare state svedese (1934-1975). Il Programma Socialdemocratico di Sterilizzazione, Aborto e Castrazione*, Rubbettino, Soveria Mannelli 2004, p. 84.

<sup>8</sup> Cfr., p.es. Wilhelm Reich, *Psicología de massa del fascismo*, trad. it., Arnoldo Mondadori, Milán, 1974, pp.174-180.

<sup>9</sup> Margaret Mead, *L'adolescenza in Samoa*, Giunti, Florencia, 2007, p. 13.

<sup>10</sup> *Ibid.*, p. 165.

<sup>11</sup> *Ibid.*, p. 176.

Samoa que prefieren “aplazar el matrimonio todo lo posible para entregarse a amores casuales a lo loco”.<sup>12</sup> Margaret Mead también estaba convencida de los efectos beneficiosos de la libertad sexual para el equilibrio psíquico: “La familiaridad con el sexo y el reconocimiento de la necesidad de una técnica en las cosas del sexo como un arte han formado un patrón de relaciones personales en las que no se encuentran neuróticos, no existe frigidez ni impotencia, excepto como resultado temporal de una enfermedad grave”.<sup>13</sup>

Las obras de la antropóloga estadounidense han tenido gran difusión y un impacto notable sobre la cultura de su tiempo, como señala en la introducción al libro sobre la adolescencia en Samoa, Mary Catherine Bateson, hija de Margaret Mead y del antropólogo Gregory Bateson (1904-1980): “las tesis de *Coming of Age in Samoa* sobre los efectos destructivos del aislamiento y de la intensa emotividad de la familia nuclear han influido sobre nuestra primera generación de terapeutas de la familia. Los primeros defensores de la libertad sexual, como Havelock Ellis [1859-1939] y Bertrand Russell [1872-1970], amaban este libro”.<sup>14</sup>

Estas concepciones han asumido casi un carácter mesiánico: emancipación femenina y liberación sexual representaban no tanto temas de un programa político, cuanto la convicción que la superación del antiguo ordenamiento patriarcal habría marcado el pasaje a una nueva época, el New Age, en el que la humanidad habría restablecido la originaria armonía con sus instintos naturales y con la naturaleza.

La tesis de la Mead que la libertad sexual habría beneficiado a la salud psíquica de sus habitantes remite a las teorías del médico austriaco fundador del psicoanálisis, Sigmund Freud (1856-1939). Dos de sus teorías son importantes para nuestro tema: separación de sexualidad y reproducción, y plena satisfacción de la pulsión sexual como condición de la salud psíquica.

### **Revolución sexual como revolución del comportamiento sexual**

El psicoanálisis ha influido profundamente en la actitud de la cultura moderna hacia la vida sexual. Freud explica el desarrollo psíquico de la humanidad y del individuo con la teoría de la evolución y, en particular, niega el finalismo: la naturaleza se habría desarrollado al azar, no existiría un orden

<sup>12</sup> Ibid., p. 163.

<sup>13</sup> Ibid., pp. 129-130.

<sup>14</sup> Mary Catherine Bateson, *Parole per un nuovo secolo*, in *ibid.*, p. XIV. Cabe destacar la transformación del significado de terapia de la familia, que ya no desea solucionar los problemas de la familia, sino que arranca del prejuicio que sus problemas dependen de su estructura monógama (gangrenosa, biológica y destructiva), que debe ser superada así como los principios sobre los que está asentada.

natural y, por tanto, sería erróneo plantearse qué finalidad tiene un instinto. El instinto buscaría únicamente su propia satisfacción y no estaría orientado hacia un objeto particular, antes bien, “*es el elemento más variable de la pulsión, no está conectado originariamente con ella, pero se le asigna solo en virtud de su propiedad para hacer posible la satisfacción [...] se puede cambiar un sinnúmero de veces durante las vicisitudes que el instinto experimenta durante su existencia*”.<sup>15</sup> Esto valdría también para el instinto sexual. Para remarcar que el instinto sexual originariamente no estaría orientado hacia un objeto particular, sino que podría ser satisfecho por cualquier tipo de objeto, Freud define al niño, incluso como “perverso polimorfo”, ya que potencialmente podría satisfacer el instinto sexual con un objeto cualquiera. Una orientación sexual específica solo sería una posterior adquisición.

La separación de la satisfacción del instinto sexual de la reproducción ha revolucionado asimismo la concepción del matrimonio: mientras el vínculo entre sexualidad y reproducción conllevaba también que el matrimonio, como lugar privilegiado para la reproducción y el crecimiento de los hijos, fuera también el lugar privilegiado para la actividad sexual, la escisión entre sexualidad y reproducción, en cierto sentido, ha legitimado aquello que por largo tiempo ha sido considerado una hipocresía de la clase burguesa, esto es, que los hombres tuvieran una familia y simultáneamente vivieran su vida afectiva y sexual en relaciones extraconyugales.

Según Freud, además, la causa más importante de los trastornos psíquicos sería de naturaleza sexual: “*las neurosis son, por así decirlo, enfermedades específicas de la función sexual, [y] depende de la cantidad de libido, y la posibilidad de satisfacerla y descargarla a través de la satisfacción, si un hombre en general enferma de neurosis*”.<sup>16</sup> El instinto sexual sería el motor fundamental para el desarrollo psíquico y trastornos psíquicos deberían ser reconducidos a obstáculos al desarrollo del instinto sexual. Salud y equilibrio psíquico dependerían de la posibilidad de vivir la propia sexualidad de la forma que el psicoanálisis considera más apropiada.

La socióloga de la cultura, Eva Illouz, ha descrito cómo el psicoanálisis se ha afirmado rápidamente en Estados Unidos para imponerse también, tras el final de la Segunda Guerra Mundial, en la cultura europea.<sup>17</sup> Las notables trans-

<sup>15</sup> Sigmund Freud, *Pulsioni e loro destini*, Opere Vol. 8, Boringhieri, Torino 1976, p.18.

<sup>16</sup> Idem, *Una difficoltà della psicoanalisi*, in Idem, *Opere 1915-1917 Introduzione alla psicoanalisi e altri scritti*. Boringhieri, Turín, 1976, p. 658.

<sup>17</sup> Cfr. Eva Illouz, *Saving the modern soul. Therapy, emotions, and the culture of self-help*, University of California Press, Berkeley, Los Angeles, Londres, 2008.

formaciones de la sociedad y en particular de la familia y, por tanto, también de las relaciones entre los sexos, habían planteado problemas que requerían nuevas estrategias. Los sistemas de valores preexistentes ya no han tenido la capacidad de responder de forma apropiada a tales exigencias, o las corrientes dominantes de la cultura no las han tomado en consideración. En esta fase de reorientación, el psicoanálisis ha brindado un sistema teórico articulado que ofrecía explicaciones para las situaciones de crisis, modelos para interpretar la propia condición existencial y, finalmente, también propuestas de solución. El psicólogo-psicoterapeuta se convierte en el experto de los problemas personales y de las relaciones interpersonales en la familia, y en lo que se refiere al tema de esta jornada de trabajo, de la vida sexual y de las relaciones hombre-mujer. El comportamiento humano se enmarca en una visión de la vida subordinada a un cierto concepto de salud sexual individual.

Se trata de un cambio epocal: ya no es la moral, sistematizada por la teología y por la filosofía moral, a indicar el fin del hombre y, por tanto, también el marco general para regular el comportamiento sexual y las relaciones entre los sexos, sino la psicología, ascendida a ciencia reina del hombre, que trata de imponer sus propias normas en lugar del sistema de valores preexistente. En esta contraposición el psicoanálisis juega un papel particular introduciendo la categoría de la salud. Los comportamientos humanos ya no se valoran conforme a los criterios de justicia o falsedad, de bondad o maldad, sino conforme a la teoría psicoanalítica, hagan bien a la salud o no. Y, en clave psicoanalítica, toda remoción de las pulsiones sexuales es patógena, esto es, provoca neurosis.

La eliminación de las remociones, aceptación e integración de los impulsos serían la condición necesaria para el bienestar sexual con la transformación de los valores de la sociedad y, sobre todo, de la conciencia moral individual. El concepto de salud sexual viene recordado a menudo junto al de salud reproductiva y relacionado a los problemas relativos al denominado “sexo seguro”, a la anticoncepción y al aborto, pero pretende también que sean instituidos en todos los colegios, incluidas las guarderías, cursos obligatorios de educación sexual.

La Oficina Europea de la Organización Mundial de la Salud, por ejemplo, publicó en 2010 las Normas para la Educación Sexual en Europa. Un marco de referencia para los responsables políticos, las autoridades educativas y de salud y especialistas,<sup>18</sup> elaboradas por un pequeño grupo de expertos,

<sup>18</sup>WHO Regional Office for Europe and BZgA: *Standards for Sexuality Education in Europe. A frame work for policy makers, educational and health authorities and specialists*, Colonia 2010.

en su mayoría vinculados al IPPF (International Planned Parenthood Federation), una organización internacional que lucha por la legalización del aborto.

Estas normas incluyen impresos que definen los temas a tratar y los conocimientos que deben ser adquiridos en los diferentes grupos de edad. Por ejemplo, a los niños de entre 9 y 12 años de edad hay que enseñarles a no tener sentimientos de vergüenza o culpa por sensaciones y deseos sexuales, a tomar decisiones conscientes sobre si tener o no tener relaciones sexuales, y el uso de preservativos y anticonceptivos.<sup>19</sup> Hay organizaciones internacionales que promueven este tipo de educación sexual como “educación sexual integral” y consideran los principios morales de las formas tradicionales de educación como tabúes que deben ser superados: “*La IPPF cree que los tabúes sexuales, resultado de la cultura y la religión, no son obstáculos insuperables para la ampliación del campo de acción de la educación sexual*”.<sup>20</sup>

Según el psicólogo norteamericano Carl Rogers (1902–1987), destacado exponente de una corriente psicológica que, en mi opinión, es definida de forma totalmente injustificada como humanista, el hombre no debería dejarse condicionar en sus comportamientos por ningún tipo de norma, y tampoco por ninguna decisión tomada previamente, sino vivir solo espontáneamente los sentimientos que prueba en todo momento. El hecho de estar casado no debería excluir la posibilidad de experiencias extraconyugales, que él define como “relaciones satélite”.<sup>21</sup> Dada la fugacidad de ciertas pasiones, Rogers invita también a no titubear a la hora de pasar a la intimidad, aconsejando incluso de vivirlas independientemente de una relación, en cuanto que su previsible ruptura provocaría solo sufrimientos: “*teniendo que vivir en un contexto humano, es necesario establecer con los demás relaciones íntimas, comunicativas y personales, en un espacio de tiempo muy breve. Tienen que aprender a dejar atrás esas relaciones íntimas sin sufrir demasiado*”.<sup>22</sup>

Teorías de este tipo han sido acogidas también por especialistas cristianos. El teólogo protestante y psicoanalista Joachim Scharfenberg (1927–1996) escribió una introducción a la psicología pastoral, asumida con autoridad también por ciertos autores católicos, en la que sostenía que matrimonio y familia en su forma actual representan algo así como un tabú cristiano, apre-

<sup>19</sup> Ibid., p. 44.

<sup>20</sup> *IPPF Framework for Comprehensive Sexuality Education (CSE)*, IPPF, Londres, 2010, p. 4.

<sup>21</sup> Carl R. Rogers, *Potere personale. La forza interiore e il suo effetto rivoluzionario*, Astrolabio, Roma 1978, p. 54.

<sup>22</sup> Ibid., p. 239.

ciaba las comunas estudiantiles surgidas a raíz del 68 y lamentaba, no obstante, que también en estas comunas, a pesar de su espíritu revolucionario, se hubiesen formado relaciones estables.<sup>23</sup>

### **La revolución sexual y la puesta en cuestión de la familia**

Las teorías descritas han influido la cultura dominante de nuestro tiempo contribuyendo a modificar la concepción de las relaciones sexuales y del matrimonio. Por una parte se cuestiona el matrimonio monógamo y, sobre todo, la actitud de los cónyuges: ya no donación recíproca, sino un clima conflictual dentro de la pareja, en la cual cada uno tiende a buscar su propio interés, a autorealizarse, a satisfacer sus propias necesidades, en el sentido de Sigmund Freud, o a vivir únicamente los propios sentimientos en el sentido de Carl Rogers. Por un lado, el matrimonio ya no es considerado el lugar donde pueden vivir de manera unitaria la afectividad, sexualidad y reproducción y, por otro, ha habido una sexualización de la sociedad, el sexo es considerado un fenómeno fisiológico y la satisfacción sexual sería la condición necesaria para el bienestar psicológico.

En un diálogo platónico, Sócrates declara: “*Hay que tener en cuenta [...] que, en cada uno de nosotros hay dos tipos de tendencias que nos dominan y nos guían, y nosotros las seguimos allí donde nos llevan: una es innata, es el deseo de los placeres, la otra, en cambio, es opinión adquirida que tiende al bien mayor*”.<sup>24</sup> Sócrates describe aquí dos modalidades existenciales que corresponden en último análisis al conflicto entre dos concepciones antropológicas: naturalismo y personalismo. El hombre tiene la posibilidad de perseguir el bien o dejarse dominar por las pasiones. La cultura moderna propone, sobre todo, antropologías naturalistas, que rechazan la existencia de principios morales absolutos y proclaman el derecho de todo individuo de establecer las normas del propio comportamiento. Como afirma Sócrates, la falta de principios lleva a ser dominados y, por tanto, a ser esclavos de los instintos naturales innatos. La revolución sexual ha hecho disminuir en muchos hombres la capacidad de dominar las pasiones, volviéndolos esclavos de sus instintos. Y es precisamente esta esclavitud, la incapacidad de controlar las propias pasiones, que obliga a los hombres a servirse de prestaciones sexuales de pago,

<sup>23</sup> Cfr. Joachim Scharfenberg, *Einführung in die Pastoralpsychologie*, Vandenhoeck & Ruprecht, Göttingen 1985, pp. 132-139. Sulla ricezione di antropologie naturalistiche nella psicologia pastorale cfr. Ermanno Pavesi, *Pastoral Psychology as a Field of Tension between Theology and Psychology*, *Christian Bioethics*, 16 (1), 9-29, 2010.

<sup>24</sup> Platone, *Fedro* 237D-238A, in Idem, *Tutti gli scritti*, cit., pp. 535-594 (p. 548).

cuando no es posible tener otra pareja. En la literatura especializada se observa a menudo que los clientes de las prostitutas desarrollan una forma de adicción, definida como *sexual addiction*.

Lamentablemente, se puede temer que la introducción de ciertos modelos de educación sexual, como la *comprehensive sexuality education* y su objetivo declarado de acabar con los tabúes culturales y religiosos, y las teorías de la salud sexual y reproductiva minarán ulteriormente el papel de la familia monógama, contribuirán a extender una concepción únicamente biológica de la sexualidad y una mentalidad que considera a la pareja sexual solo como a un género de consumo que, si es necesario, nos podemos procurar de pago. Esta situación únicamente podrá alimentar el mercado de la prostitución y, por consiguiente, también las tratas ilegales de personas vinculadas a la prostitución.

Por estas razones es importante una reflexión antropológica y teológica sobre el cuerpo y la sexualidad, sobre la educación sexual y el matrimonio.

# **PROSTITUCIÓN, DROGAS Y SIDA ¿CÓMO VIVIR CON DIGNIDAD? REHABILITACIÓN Y REINSERCIÓN SOCIAL**

■ MARIA INEZ LINHARES DE CARVALHO\*

La prostitución es parte de una industria de miles de millones de dólares. Las diferentes modalidades de esta industria son:

- El turismo sexual.
- La trata de mujeres – 700.000 mujeres son víctimas de trata cada año. Aproximadamente el 83% de ellas van a la industria de la pornografía y la explotación sexual. Esta es la tercera de las actividades más rentables practicadas por el crimen organizado, solo superado por el tráfico de drogas y de armas. Actualmente se mueven de 7 a 10 mil millones de dólares.
- La explotación sexual de niños y adolescentes (1 millón son traficados cada año, algunos de ellos destinados al comercio de órganos y la adopción ilegal).

Un informe de la ONU indica que aproximadamente 100.000 niños son explotados sexualmente en Brasil cada año. Estos niños y niñas son víctimas de la pobreza, el crimen organizado, la disfunción familiar y el tráfico de drogas, y sufren daños sexuales, físicos y emocionales que conducen principalmente a una muerte temprana.

## **El tráfico de drogas**

Un estudio publicado recientemente en Brasil, por la Fiocruz (Rio de Janeiro), ha mostrado que hay por lo menos 1.035 millones de consumidores de drogas ilícitas. De ellos, 370 000 hacen uso de crack, 50.000 menores de 18 años.

El Ambulatório de la Providencia forma parte de la Red de Instituciones de Tratamiento de Dependencia Química – Legado Social de la JMJ – compromiso de la visita del papa Francisco a Brasil.

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## La propagación de enfermedades de transmisión sexual y SIDA

Las consecuencias para la salud de las mujeres y los niños traficados en la región son graves.

Las víctimas son objeto de abuso físico y sexual por parte de los clientes y los funcionarios encargados de hacer cumplir la ley, según las denuncias recibidas. También se supone que las mujeres y niños traficados tienen mayores riesgos de contraer HIV/SIDA y otras enfermedades de transmisión sexual debido a su relativa ignorancia sobre la salud sexual.

Un estudio reciente de 100 menores de Costa Rica en condiciones de explotación sexual demostró que el 86% ingería alcohol, el 82% consumía tabaco, el 80% consumía marihuana, el 34% consumía cocaína y 41% consumía crack.

## Consecuencias para la salud mental

Es escasa la información detectada en relación con las consecuencias específicas para la salud emocional de las mujeres traficadas. Se supone que la violencia, el aislamiento y la dependencia vinculados al tráfico dan lugar a depresiones y a una reducción de la autoestima, entre otras afecciones. Los grupos que trabajan con esas mujeres explotadas sexualmente en la región comentaron la escasa autoestima y la incapacidad para mantener relaciones saludables, como demuestran numerosas prostitutas. El daño para las víctimas adolescentes y niños es más visible, con efectos de esta explotación sexual que se trasladan hasta la edad adulta e interrumpen un desarrollo emocional pleno.

## Beneficiarios

Esta industria no solo beneficia al cliente, también trae beneficios a terceros y a los propietarios de la casa o de un hotel, a los proxenetas, traficantes y agencias de turismo. También hay un gran número de mujeres involucradas en la trata de personas, no solo como víctimas, sino como culpables: las antiguas



víctimas que se convierten en autores como un medio de escapar de su propia victimización. Las personas generalmente se conocen y son confiables para las víctimas.

## Leyes de Brasil

En Brasil, la trata de personas sigue siendo un delito invisible. Es la verdadera impunidad. Nuestras leyes castigan el tráfico de drogas con mayor severidad que la trata de personas. La venta de drogas conlleva una pena de 5 a 15 años, mientras que el tráfico tiene una pena máxima de ocho años, con la liberación del trabajo. En los últimos tres años, 3.000 brasileños fueron transportados al extranjero con fines de explotación sexual y trabajo forzado. Este número no representa el total, porque no sabemos cuántos casos se nos escapan. Lo más difícil de la lucha contra la trata de personas en Brasil es el hecho de que es solo un crimen cuando se conduce a la explotación sexual y la esclavitud; con penas relativamente suaves y ligeras que las que se aplican por otros delitos. La Convención de las Naciones Unidas contra estos delitos adoptada en 2000 y ratificada por Brasil en 2003, identifica específicamente los delitos de trata de personas y propone amplias sanciones que el Brasil no ha incorporado a su legislación.

“El trabajo esclavo niega la personalidad de la persona y la víctima se convierte en una mercancía que puede ser objeto de contrabando y víctima de la trata”, afirma Erick Blatt, de la Policía Federal.

## Proyectos de ley

Ya se trasladaron a la Cámara de Diputados numerosos proyectos para reglamentar la prostitución como “trabajadoras del sexo” o “profesionales del sexo”. Uno de estos proyectos, pendiente de aprobación, ni siquiera tiene la intención de liberar a las prostitutas de la verdadera esclavitud a la que son sometidas por los proxenetas. Estos, de acuerdo con el proyecto, serían promovidos a “gestores del prostíbulo” y así se legalizaría la explotación sexual de las mujeres. Considerar la prostitución como una opción de trabajo es una forma de aceptar que el sexo y el cuerpo femenino son mercancías. La línea política estricta de la UNODC (Oficina de las Naciones Unidas contra la Droga y el Delito) es permanecer neutral en el tema de la prostitución. Es una responsabilidad nacional, de conformidad con la legislación de cada Estado.

## La sociedad condena

La sociedad condena generalmente a las mujeres que consiguen salir de la prostitución, sin tener que preocuparse acerca de las causas que las llevaron a esta situación, las llaman “mujeres de la vida”, a las que les gusta la “vida fácil”. La sociedad no condena el agente activo de la situación: el cliente. Siempre discutiendo la prostitución, la atención se centra en la mujer y se hace un muro de silencio alrededor del hombre que paga, que mantiene el

comercio sexual. La prostitución implica por lo menos dos personas, pero solo una lleva la marca de un pecador. La mujer prostituta es la víctima; en lugar de ser condenada, debe ser apoyada.

### Las causas de la prostitución

Entre las principales causas que llevan a las mujeres a ejercer la prostitución, tenemos la *socioeconómica*, situación en la que la gran mayoría de los adolescentes y madres jóvenes con dificultades de quedarse con sus hijos que viven en condiciones infrahumanas (chabolas, villas miserias o sótanos) terminan prostituyéndose en aras de la supervivencia.



Otra causa importante son los factores psicológicos, por consecuencia del abuso y la violencia. La mayoría fueron violadas por alguien muy cercano, (padre, padrastro, hermano), provocando alteraciones en su desarrollo y obstáculos afectivos y emocionales en el aprendizaje escolar básico. Todo esto conduce a la falta de autoestima que las hace vulnerables y pasivas, haciéndoles creer que su único recurso es utilizar su propio cuerpo como un objeto sexual. Además, la mala educación y la falta de apoyo familiar, finalmente las lleva al uso de drogas ilícitas, el alcohol y la prostitución. La mujer en esas condiciones considera el sexo como única puerta a la solución de sus problemas y con frecuencia son engañadas por la codicia de otras mujeres.

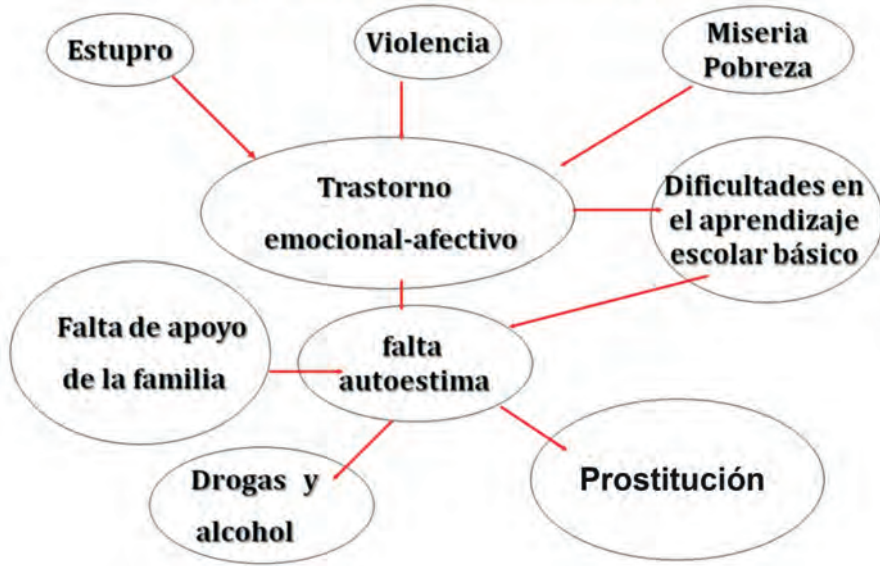
### Las causas de la prostitución

Estupro, violencia, miseria y pobreza llevan al trastorno afectivo y emocional, a la dificultad del aprendizaje escolar básico que lleva a una baja autoestima, lo que, unido a la falta de apoyo familiar, lleva al uso de drogas ilícitas de alcohol y a la prostitución.

Según la mayoría de las investigaciones, el ciclo es casi siempre el mismo: la chica se prostituye después de haber sido violada por su padre, el hermano

o el padrastro. Esto genera una visión negativa del propio cuerpo y la falta de afecto. Una serie de problemas que se presentan están ocultos porque la mujer es vista como la única responsable de todo y, por lo tanto, se lleva a la marginalidad.

### Las causas de la prostitución



Hay que recordar que esta mujer tiene un nombre, tiene una historia, era una niña, había soñado ilusiones en su vida... La acción de apoyo se debe realizar en este tiempo, el fortalecimiento y el aumento de su autoestima y la conciencia para que pueda reconocerse dentro de su propia historia y que esta culpa disminuya.



Nuestro trabajo.

La Arquidiócesis de Rio de Janeiro, a través del Ambulatorio de la Providencia, fundado en 1982, hace un trabajo dedicado a la no marginalización, y la no exclusión de las mujeres que se prostituyen. Este trabajo se lleva a cabo, en parte, en el área más grande de baja prostitución de la ciudad, que es Vila Mimosa. Al ser una zona de prostitución, los residentes y las pequeñas empresas comparten el espacio con una gran cantidad de mujeres (cerca de 1.800, en virtud de la rotación). El número de traficantes y consumidores de drogas tampoco es pequeño, la convivencia no es siempre pacífica – los conflictos entre grupos rivales y la liquidación de cuentas son constantes, con muertes violentas.

A lo largo de la zona de la prostitución, también hay residencias. Estas viviendas son verdaderas ruinas donde familias enteras viven en cubículos, duermen todos hacinados en una situación de miseria total y sin relación con la prostitución. Acaso no tienen otro lugar donde vivir. Las aguas residuales en varios sitios quedan al descubierto. Enfermedades de transmisión sexual, SIDA, infecciones intestinales y de la piel, tuberculosis pulmonar, anemia y niños con bajo peso son una constante.

Este trabajo tiene como objetivo principal restaurar la dignidad, la autoestima y la ciudadanía de estas mujeres, que tomen conciencia de los valores y derechos, librándolas de la explotación de los proxenetas que están en el sitio. También buscamos su inclusión en el entorno social, dándoles opciones de medios de vida a través de cursos de formación profesional. La simple presencia, en este sitio, de un profesional de la salud, con atención, con escucha, con orientación, puede salvar muchas vidas.

### **El perfil de la mujer de la Vila Mimosa**

Hicimos un estudio con 329 mujeres de la Vila Mimosa, de edades comprendidas entre 20 y 29 años. Tomamos nota de lo siguiente:

- Se prostituyen un promedio de 7 a 12 veces al día.
- 31% hace uso de drogas ilícitas (marihuana y/o cocaína)
- 80% consume alcohol
- 82% aborta por lo menos una vez
- 78% tiene al menos una enfermedad de transmisión sexual
- 7% tiene SIDA
- 76% de las prostitutas tienen síntomas de depresión
- 59% sufre estrés crónico
- 36% dijeron que consideran el suicidio
- 99% están haciendo la prostitución por falta de elección

## Las Hermanas Misioneras de la Vida

En medio de tanto sufrimiento y obscuridad existe una gran luz que es la Capilla San José, que se encuentra a 500 metros de la calle de prostitución, donde trabajan las hermanas misioneras de la vida con un grupo de laicos y desarrollan una misión de compasión con las mujeres que se prostituyen. El objetivo de las hermanas es ser testigos de la Misericordia en medio de tanto sufrimiento y desolación. Muchas mujeres participan de la Santa Misa, adoración eucarística, preparación para los sacramentos entre otras actividades.

Jesús está en medio de todo este ambiente de muerte, dando esperanza y rescatando muchas vidas con su amor misericordioso.



## Conclusión

### *Recuperar la auto estima*

Las mujeres tienen una fisonomía que muestra cómo sufrieron el abandono, también el hambre y la violencia que sufren cada día; sus rasgos se vuelven muy pesados, marcados por la pobreza, la falta de atención y la ignorancia. Este aspecto de maltrato es más cruel aun cuando existen pequeños defectos físicos como cicatrices resultantes de peleas o agresiones sufridas en algún momento de sus vidas, lo que hace aún más difícil incluso conseguir un trabajo. Empecé a ver que era importante el tratamiento de la apariencia física de una prostituta con el fin de hacerla más bella para sí misma, mejorando la apariencia en ciertas partes de su cuerpo, como las piernas (tratamiento de las venas varicosas) y su rostro, aclarando su piel y tratando manchas de acné y cicatrices. Aquellas mujeres que se negaban a mirarse en el espejo comenzaron a preocuparse más, a tener más amor a sí mismas. Finalmente, me di cuenta de que su autoestima había aumentado significativamente.

### *Combatir la marginación*

Esta situación se puede cambiar, con la lucha contra la marginación, ya que es el gran pecado social de nuestros días. El mundo margina, excluye al hombre que fue detenido, a las personas que tienen otras culturas, al negro, al indígena, a una persona que no reza su credo, a la prostituta. El plan de Dios no es este. Fue la indignación ética en esta situación en la que los seres humanos son reducidos a la condición de subhumano que nos da coraje para continuar con este trabajo. Indignación ética suficientemente fuerte como para llevarnos a asumir riesgos y el dolor de los demás, encontrando en cada rostro abrumado y sufrido, a la figura misma de Cristo, sufriendo en la piel, la auténtica y verdadera exclusión social.

### *Perspectiva cristiana*

En el episodio de la mujer sorprendida en adulterio (Juan 8:1-11), Jesús condena el pecado de la mujer, pero no condenó a la mujer, diciendo: “Va, y ahora no peques más”. Se propone un nuevo camino. En Mateo 21, 31-32: “De cierto os digo, que los publicanos y las prostitutas les preceden en el reino de Dios. Porque vino Juan a vosotros en camino de justicia, y no le creísteis. Los publicanos y las prostitutas le creyeron. Y lo encontró, por lo que tampoco se arrepintió después, creyendo en Él”.

El principio más fuerte de la vida de Jesús es la misericordia. La misericordia es una reacción al sufrimiento de los demás para su erradicación. El principio de la misericordia es sentarse con los marginados. Quien ejerce la misericordia será salvado. Dios escucha el clamor de los que sufren y, por esta razón, decide tomar una acción liberadora. La misericordia es uno de los frutos de la Caridad. Requiere beneficencia y benevolencia. Estas dos virtudes, sumadas a la compasión, forman al médico cristiano. La parábola del “Buen Samaritano” muestra que él es movido por la misericordia. El que mira con indiferencia a la persona excluida no tiene fe, porque no pueden ver detrás de esta persona frágil el mismo Cristo crucificado, Él es la luz de la Resurrección. Debemos escuchar y aceptar sin juzgar. La clave es el fortalecimiento en el amor, es sentirse persona de nuevo, para recuperarse de tantas calamidades y desgracias.

“Hay que promover la cultura del encuentro, del diálogo (...) ir a las periferias (...) ir contracorriente de la cultura del descartable”.

Papa Francisco, Rio de Janeiro, julio, 2013 (JMJ).

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# THE NEW SLAVORIES: THE SUB-SAHARAN AFRICAN SITUATION: NEO COLONISATION BY THE INTERNATIONAL AGENCIES

## *How Catholics Can Save Civilization*

■ HENRIETTA MARIA WILLIAMS\*

### Introduction

Human trafficking, often defined as the “modern day slavery”, is caused by human rights violations embodied in poverty while it also contributes to increased deprivation. Recent concern about human trafficking in the sub-Saharan Africa and attempts to produce a precise definition of human trafficking as an emerging form of human mobility – often labeled as the “new form of slavery”. This has provoked much controversy owing to the diversity of perspectives from which the subject may be viewed.

According to UNICEF (2003: 9-10)<sup>1</sup> trafficking is recognized as a problem in the greater majority of West African countries and as a severe problem in a third of them. In Eastern and Southern Africa it is also identified as a problem in roughly one in three countries.

### Situation Analysis

#### *West and Central Africa*

Veil (1999 in Adepoju, 2005: 77)<sup>2</sup> identifies six different processes that can be involved and may lead to trafficking:

- Poor parents sell their children for money – having also received promises that they will be treated well.

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<sup>1</sup> UNICEF Innocenti Research Centre (2003) *Trafficking in Human Beings, Especially Women and Children in Africa*, Florence: Innocenti Research Centre, United Nations Children's Fund.

<sup>2</sup> Adepoju, Aderanti (2002) “Fostering Free Movement of Persons in West Africa: Achievements, Constraints, and Prospects for Intra-regional Migration,” *International Migration*, 40 (2): 3- 28. (2005) “Review of Research and Data on Human Trafficking in sub-Saharan Africa,” *International Migration*, 43 (1/2): 75-98.

- There is “placement” for a specified period in return for a token sum or gift items.
- “Bonded placement” of children is the reimbursement for a debt the parents accrued.
- There is enrolment with an agent for domestic work – the parents paying the agent a fee.
- Fees are also paid to agents who promise to enrol the children in some course of schooling or training in a trade but who put them out to domestic work.
- And there is straightforward abduction.

ILO-IPEC (2001)<sup>3</sup> offers a detailed picture of the context, patterns and backgrounds of families and communities, which have facilitated trafficking in West and Central Africa. It identifies three key clusters of factors, as follows:

(1) *socio-cultural factors* such as the social acceptability of putting children to work, traditions of migrations that are centuries old in Africa, illiteracy or low education levels, and preparations for marriage (sometimes having to engage in domestic work to pay the dowry),

(2) *economic factors* such as the imbalance between rural and urban wealth levels and a desire to escape poverty,

(3) *juridical and political factors* such as absence of legislation and the ignorance of parents and trafficked persons of their rights under the law, or mistrust of the law; and open borders.

### ***Southern and Eastern Africa***

Information is accessible about the incidence, trends and routes of trafficking of women and children in Southern Africa is scarcely available. Accessible information suggests that both internal and cross-border forms of trafficking are prevalent.

Molo Songololo (2000)<sup>4</sup> produced an in-depth report on the internal trafficking of children in South Africa for the purposes of commercial sexual

<sup>3</sup> ILO-IPEC (2001) *Combating Trafficking in Children for Labour Exploitation in West and Central Africa: A Synthesis Report based on Studies in Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Ghana, Mali, Nigeria and Togo*, Geneva: International Labour Organization – International Programme for the Elimination of Child Labour.

<sup>4</sup> Molo Songololo (2000) *Trafficking of Children for Purposes of Sexual Exploitation - South Africa*, Cape Town: Molo Songololo.

exploitation. The findings show children are predominantly trafficked within their country of origin and traffickers are predominantly locals, but that where cross-border movement occurs the traffickers are foreign persons or crime organizations.

Both sexes are exploited although girls are more likely to be channelled through cross-country migration and lured into the sex industry. Girls are sold by their family as brides (to single men) or to brothels, syndicates and gangs. They can also be abducted, held captive and sexually assaulted in exchange for money.

Boys tend to be voluntary migrants and engage in homosexual prostitution as a means to survive.

The report provides examples of recruitment of girls into the sex industry through newspapers ads where “young women are then surreptitiously coerced through a form of debt bondage into doing strip-tease work, providing ‘sex’ for patrons of certain establishments or performing in pornographic films”. A clear link between tourism and the sex trafficking of girls is revealed through interviews with sex tourists – men actively seeking young girls.

## **NEO COLONISATION OF SUB-SAHARAN AFRICA BY INTERNATIONAL AGENCIES FOR ECONOMIC GAIN**

### **Background To The “New Slaveries” In The Biotechnology Industry**

#### *The New Global Ethics*

A global postmodern cultural revolution with a new global ethics and agenda, under the guise of a “soft consensus” has imposed itself for the purpose of “integration of global economies”.

The agenda is rooted in Western apostasy and driven by powerful minorities at the rudder of governance since 1989 (“Sadducees”) represented by UNDP/UNFPA/WHO, World Bank/IMF, and their agencies IPPF, UNAIDS, Marie Stopes, Planned Parenthood, etc.

(Sadducees were a sect or group of Jews within the upper social and economic echelon of Judean society in the Bible in the time of Jesus who did not believe in the Resurrection. The Sadducees had influence on the government of that time).

Today they are “represented” by the secular atheistic humanists, who wish to impose their own ideologies of moral relativism, by force, by blackmail, by threats if necessary on the world. These ideologies are similar to the ideas of Protagoras’s moral scepticism:

- There is no ultimate moral truth.

- Our individual moral views are equally true.
- The practical benefit of our moral values is more important than their truth.
- The practical benefit of moral values is a function of social custom rather than nature.

New words, paradigms, norms, values, lifestyles, educational methods and governance processes, belonging to a new globally spread ethics, rules the world cultures. The majority of intellectuals, politicians, and decision-makers follow the new norms without carefully analysing their origin and implication, whilst a minority are reactionary.

As the members of the Church of Christ, obedient to our call of mission, (Matt. 28: 19.) believing in the full authority and power of Christ, and fully standing on the promises of God, we must actively evangelize, resist and oppose this evil by a **cultural revolution of love**.

### **“New Slaveries” from the Biotechnology Industries: Trafficking in Human Eggs and Human Embryos**

Some Western economies are seeking to transform from electronic technology to the “human industry” using embryonic stem cell research, which if successful, has a potential of raising a \$30 Trillion US Dollar market, one-third of the World economy for the bio-tech companies 90% owned by billionaire members of the Bill and Melinda Gates Foundation, such as The Biotechnology Company Monsanto, St Louis USA and the Danforth Foundation St Louis USA which have huge investments in this industry.

**Biotechnology** means any technological application that uses biological systems, living organism, or derivatives thereof, to make or modify products or processes for specific use.

**Genetically Modified Organism (GMO)** means living or non-living organism that possesses a novel, combination of genetic material obtained through the use of modern biotechnology techniques.

**Modern biotechnology** includes the application of:

- (a) In-vitro nucleic acid technique including the use of recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles; or
- (b) Fusion of cells beyond the taxonomic family, that overcome natural physiological, reproductive and recombination barriers and which are not techniques used in traditional breeding and selection.

Perfection of the key procedure of Somatic Cell Nuclear Transfer (SCNT) that will yield the necessary human organs for the industry, requires about 100 million ovarian eggs per annum from at least 10 million women, to

make human embryos to be killed and dismembered in these experiments in Western laboratories, in the next five years. The donor women may suffer side effects from complications of ovarian hyper stimulation syndrome (kidney failure, liver failure, cancers, infections etc).

Africans are regarded by the biotechnology companies as the natural resources for the embryonic stem cell industry, since payment of human egg donors for experimental purposes faces many legal barriers in Western Countries. This new “human industry” will make and sell human organs parts made from embryonic stem cell research.

Many International agencies including UNDP, UNFPA, IPPF, UNICEF, UNDP, WHO, USAID, DFID, CIDA, IMF, World Bank, have been putting pressure on African leaders clouded by naivety and lack of knowledge to pass self-imposed laws by consensus documents, which under the guise of sexual and reproductive rights will entrench sexual and reproductive health initiatives, written in foreign countries, running contrary to African cultural and religious faiths and beliefs, to facilitate the biotechnology industries, by surreptitiously slipping into these documents sections that allow the supply of the raw materials needed to export Africans to foreign laboratories as human embryos.

The sexual and reproductive health initiatives contain protocols for abortion and in vitro fertilisation procedures. Abortion is utilised to increase the effectiveness of failed contraception for use in population control by reducing unintended pregnancies, reducing fertility rates, and increasing per capita income in their own index of human development.

These initiatives are fraudulently marketed to African countries as aid to improve maternal mortality by reducing unsafe abortion.

Abortion is an abomination in all African cultures and abortion without restriction to reason is illegal in mostly all African countries. Abortion is not illegal in South Africa and here maternal mortality figures have doubled since the abortion law was passed in that country. Their claims for their sexual health initiatives are not supported by the most recent scientific evidence. The most recent studies from Denmark, which have excellent maternal health records, show very clearly that pregnancy is safer than so called “safe abortion”, or therapeutic abortion.<sup>5</sup>

<sup>5</sup> Short and long term mortality rates associated with first pregnancy outcome: Population register based study for Denmark 1980–2004, David C. Reardon, Priscilla K. Coleman, 1 Elliot Institute, Springfield, IL, U.S.A., 2 Bowling Green State University, Human Development and Family Studies, Bowling Green, USA., © Med Sci Monit, 2012; 18(9): PH71-76 www.medscimonit.com, PMID2936199: 2 <http://www.medscimonit.com/fulltxt.php?ICID=883338>

### **International Protocols and Conventions Used by Western Countries**

- CEDAW – Convention on Elimination of All Forms of Discrimination about Women.
- Maputo Protocol – *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. The Protocol went into effect in November 2005, after the minimum of 15 of the 53 African Union member countries ratified it.*
- G8 African Action.

These protocols are marketed as beneficial to reducing fertility rates of poor Africans thereby increasing their quality of life and their economic empowerment. They are to be domiciled in African countries and enforced by sexual and reproductive rights approach, even though they contain articles contradicting the Universal Rights Declaration. This is neocolonisation.

Recent well researched studies from John Hopkins School of Public Health show clearly that poverty reduction from reduction of fertility rate is not a function of sexual and reproductive health initiatives but results from education, economic status, and empowerment.<sup>6</sup> The authors recommend parallel investments in programs aimed at poverty eradication (MDG 1), universal primary education (MDG 2), and women's empowerment (MDG 3).

### **National Laws Sponsored by Western Countries and International Agencies**

- New Draft Constitution of the Federal Republic of Nigeria 2013.
- National Health Bill 2008, 2012: (Section 51-58), Section 51. (2) *No person shall import or export human zygotes or embryos without the prior written approval of the Minister on the recommendation of National Ethics Research Committee.* This actually says: "any person can import or export human zygotes or embryos with permission of the Minister..."

The Association of Catholic Medical Practitioners of Nigeria and other Pro-Life Non Governmental Organisations raised concerns about the serious health risks that current and future egg donations would pose to patients, given our rate of poverty; repeated egg donations for money would cause serious health risks.

<sup>6</sup> Ahmed S, Creanga AA, Gillespie DG, Tsui AO. Population, Family and Reproductive Health Department, Johns Hopkins Bloomberg School of Public Health PLoS One. 2010 Jun 23;5(6):e11190. doi: 10.1371/journal.pone.0011190

This Section 51 should be as follows:

1. (a) *No person shall import or export human zygotes or embryos or engage in embryo splitting or killing.*  
(b) *All research in reproductive health must be performed with the prior written approval of the Minister on the recommendation of National Ethics Research Committee with the guiding principles of respect for the “Sanctity of Human Life”.*
2. (a) The right to life guaranteed by the Constitution is vested in each human being, and is the paramount and most fundamental right of a person; and  
(b) the life of each human being begins with fertilization, cloning, or its functional equivalent, irrespective of sex, health, function or disability, defect, stage of biological development, or condition of dependency, at which time every human being shall have all the legal and constitutional attributes and privileges of personhood.

The National Health Bill Sections 52, 53, 54, 55, 56, 57, 58 authorize taking organs (heart, kidney, liver etc), bone marrow and stem cell from living and dead Nigerians for transplantation on order of a doctor or health personnel. There is no consent clause linking Section 49 with Section 52-58.

This bill should read: Revised Section 52. (1) A person shall not remove tissue from a living person for transplantation in another living person or carry out the transplantation of such tissue except in accordance with the prescribed conditions of informed consent in Section 49, further including-

- (a) in a hospital authorized for that purpose; and
- (b) on the written authority of:
  - (i) the medical practitioner in charge of clinical services in that hospital or any other medical practitioner authorized by him or her; or
  - (ii) in the case where there is no medical practitioner in charge of the clinical services at that hospital a medical practitioner authorized thereto by the person in charge of the hospital.
- (2) The medical practitioner stated in subsection (1)(b) shall not be the lead participant in a transplant for which he has granted authorization under that subsection.

### **Genetically modified organisms and biosafety bills sponsored by foreign interests bills engineered to facilitate human embryo trafficking in Nigeria**

- An Act to provide a framework for the regulation, development and management of a National Health System and Set Standards for Rendering Health Services in the Federation, and other matters connected therewith, 2012 by Ndudi Elumelu and Senator Ifeanyi Okowa.

- An Act to regulate activities in genetically modified organisms, to establish the National Biosafety Authority and connected purposes (sections 17-20), by Senator Grace Folashade Bent.
- An act to establish the Nigerian assisted reproduction authority to among others, regulate the practice of assisted reproduction techniques in Nigeria and related matters, by Hon. Kigbu Joseph Haruna
- Bills on concessioning of public hospitals to private foreign based investors, to create organ trafficking centers in Africa.

Bill Gates aims in just a few years to gain the monopoly of staple food crop seeds in the whole of Africa, and hence all of Africa's food security will be vested in his companies. It is easy to imagine "an ovarian egg for food program" for Nigerians to eat their daily bread.

### **Key factors in human trafficking**

The fact that trafficking is a very sensitive issue may contribute to public reluctance to acknowledge its prevalence and this itself can be an obstacle to research and data analysis. There is tension between two key sets of concerns:

- the sovereignty and interests of nation-states as discrete units in international relations; and
- the violations of the human rights of persons in a particular process of migration labelled "human trafficking".

In other words, poverty is one of the main factors leading people, especially women and children to fall prey to the traffickers. In turn, human trafficking traps the trafficked persons in poverty through exploitation. This vicious circle "poverty – human trafficking – poverty" denies individuals the basic right to education and information, the right to health, the right to decent work, the right to security and justice.<sup>7</sup> This is what the person needs together with moral formation for authentic human development.

The struggle against human trafficking requires a different approach from that of trafficked goods – such as drugs and small arms despite the similar aspects of illicitness.

Unlike with illicit goods, human trafficking involves a process of exploitation – from debt dependency to enslavement – to ensure continued income from the same trafficked persons. Traffickers objectify persons under

<sup>7</sup> Thanh-Dam Truong; Poverty, Gender and Human Trafficking in Sub-Saharan Africa: Rethinking Best Practices in Migration Management, Preface. © UNESCO 2006. All rights reserved. SHS/CCT/2006/PI/H/1



their control, put them to work without payment, subject them to repeated sale, and may force them to take deadly options to destroy evidence – or murder them (Truong, 1998, 2003a).

Governments and those civic organisations, which seek to free trafficked persons from enslavement or servitude, and to prosecute traffickers, must deal with people who have been placed in such difficult situations that their perception may have been transformed, and their survival mechanisms manipulated in ways that strengthen rather than reduce dependency.

Current efforts to counteract human trafficking fall into three categories:

- (a) prevention and deterrence,
- (b) law enforcement and prosecution of traffickers,
- (c) protection of trafficked persons, ‘rehabilitation’ and assistance in social reintegration.

### ***Political and Legal Framework***

The different forms of trafficking – particularly those with transnational links – tends to defy the authority of current theories pertaining to migration and their affiliated analytical tools.

Since 1996, West and Central African governments, individually and collectively, have made significant efforts to reform the judiciary to address human trafficking.

### **Child trafficking**

The Libreville Common Platform of Action of the Sub-regional Consultation of the Development of Strategies to Fight Child Trafficking for Exploitative Labour Purposes in West and Central Africa was signed in 2000 by 21 countries in West and Central Africa (supported by UNICEF and ILO with the cooperation of the government of Gabon).

This was followed by the Declaration of Action Against Trafficking adopted by the Economic Community of West African States (ECOWAS) and the endorsement of ECOWAS Plan of Action 57 in Dakar in 2001 by 15 member-states.

This Common Platform of Action identifies the main characteristics and causes of child trafficking, and suggests government commitment in several areas:

- advocacy and sensitisation campaigns;
- setting up appropriate legal and institutional mechanisms to address child trafficking;
- improving care received by trafficked children;

- monitoring the incidence of trafficking by collating data from (new) research;
- improving inter-governmental and inter-ministerial cooperation.

### **Sex trafficking**

There are currently six perspectives on sex trafficking and related actions:

- A moral problem that leads to intervention for the abolition or prohibition of prostitution or commercial sex;
- A problem of organised crime that leads to legislative reforms, policing and the penalising of criminal networks;
- A migration problem that leads to border controls (passport and identification papers);
- A public order problem that leads to awareness campaigns, publicity about risks, and changing cultural practices;
- A labour problem that leads to intervention such as improving working conditions and labour monitoring systems, and abolishing child labour;
- A human rights problem and a gender issue that lead to intervention to address violence against women and children (Wijers and Lap Chew, 1997).

### **Human rights**

The human rights theme is the central concern of all epistemic communities working on human trafficking. Two frames for human rights issues can be discerned.

- One uses the definition of human trafficking by the Trafficking Protocol for trafficked persons, and
- the other follows the lines of socioeconomic rights – taking the identification of poverty, gender, vulnerability and ethnic identity as causal factors.

Among the other actors fighting human trafficking are national governments, the Office of the High Commissioner for Human Rights (OHCHR), Organisation for Security and Cooperation in Europe (OSCE), United Nations Development Programme (UNDP), United Nations Interregional Crime and Justice Research Institute (UNICRI), United Nations Development Fund for Women (UNIFEM), and the United Nations High Commissioner for Refugees (UNHCR).

*Discussions on human rights protection must therefore be grounded in the specific setting of social transformation and any dialogue on the different possible directions guided by the principle of inclusion and justice for all.*

## Poverty reduction schemes

### *Poverty and wellbeing as defined as the possession of commodities*

A UNICEF report (2002:15) notes:<sup>8</sup> “[t]here is a need for prevention approaches that go beyond awareness raising to focus on development”.

There are, for example, no poverty reduction schemes to combat child trafficking in the African sub-region other than micro-credits schemes in Cameroon and Togo. The costs of awareness-raising activities may be lower than the costs of programmes for poverty reduction. They may be easier to manage and have an immediate impact, while poverty reduction schemes need long-term commitment and maintenance.

However, the absence of systematic poverty eradication strategies and the lack of sustained efforts within prevention activities undermine the impact of the entire prevention arsenal. Although poverty is consistently cited as a root cause at the level of policy rhetoric, it is not consistently addressed at the grassroots levels, where income generation activities (IGA) and micro-credit is not always available.

Progress made in the analysis of poverty during the last two decades is a result of close monitoring of the impact of Structural Adjustment Programmes (SAP) on the poor. SAPs consist of a complex bundle of instruments with differing goals although the main aim is to stimulate national economic growth by restoring balance between (1) government revenues and spending, (2) savings and investments, (3) export and import of goods and services, (4) the flow of foreign capital. More than 150 countries have implemented such programmes since the early 1980s. The basic overall goal has been to create a level playing field for different economic actors in the process of global economic integration.

The World Bank is the main architect of Structural Adjustment Programs. It is supported by institutions such as the International Monetary Fund, whose main role is to assist with the design of adjustment policies to achieve a viable balance of payment and price stability, and to provide finance to these programmes. The main assumption behind a SAP is that a period of economic austerity is necessary for achieving long-term gains from trade, rising income its conceptual proximity to money and markets.

*One major breakthrough achieved by the critique of adjustment policies regards their quantitative approach which uses the monetary measures of income and pur-*

<sup>8</sup> UNICEF Innocenti Research Centre and UNICEF Regional Office for West and Central Africa (2002) *Child Trafficking in West Africa: Policy Responses*, Florence: Innocenti Research Centre, United Nations Children’s Fund.

*chasing power as criteria for drawing what are called “poverty lines” – by which to assess the correlation between economic growth and the level of persistent poverty.*

- The first point is that this approach fails to capture the multi-dimensional character of poverty as a lived reality.
- The second point is that it raises doubt about its ability to take into account the significance of non-monetary resources used by the poor in response to stress. These resources may include a variety of support networks – such as clan and kinship, civic organisations, community and state – which have all helped cushion adjustment burdens (Elson, 1991; Beneria and Fieldman, 1992).<sup>9</sup> A weakening or disbandment of any of these networks can trigger a downward spiral from relative to chronic poverty levels and poverty reduction.

Mahbub ul Haq et al. made significant contributions towards shifting the refocus on poverty and wellbeing away from the possession of commodities.<sup>10</sup> Their common point of departure is the treatment of human development as an end in itself rather than a means to some other goals.

The Human Development Index (HDI) is a composite statistic of life expectancy, education, and income indices used to rank countries into four tiers of human development. It was created by the Pakistani economist Mahbub ul Haq and the Indian economist Amartya Sen in 1990 and was published by the United Nations Development Programme.<sup>11</sup>

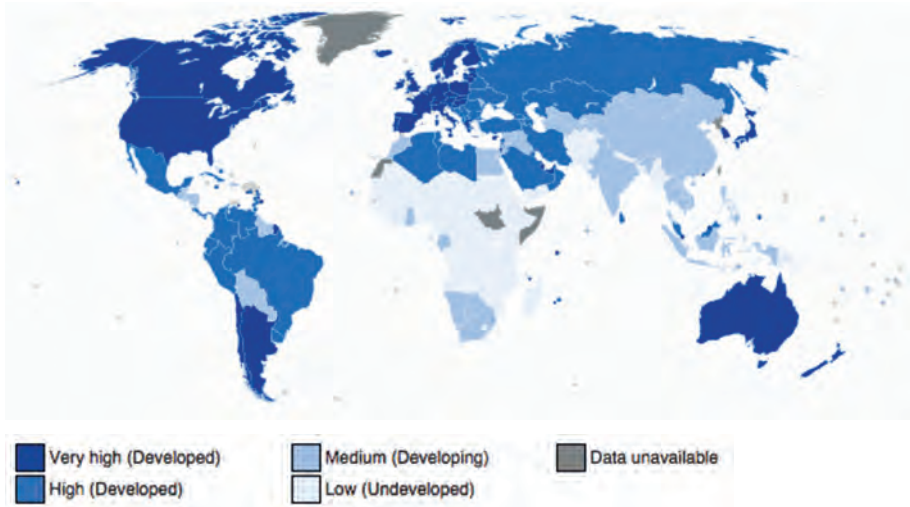
Data unavailable central to their framework – better known as the capabilities approach – is the proposition that the absence of entitlements and rights puts a limit on action taken to achieve a meaningful life. They bring to the fore issues of democracy and point to a causal link between a lack of openings for people’s capabilities – resulting from an unjust social system – and the prevalence of poverty among particular social groups.

The emphasis on capabilities provides the scope by which to analyze poverty beyond the level income and to cover. The factors behind govern-

<sup>9</sup> Elson, Diane (1991) “Male Bias in Macroeconomics: The Case Of Structural Adjustment,” *Male Bias in the Development Process*, Diane Elson (ed.) Manchester: Manchester University Press. (1994) “Micro, Meso, Macro: gender and economic analysis in the context of policy reform,” *The Strategic Silence: Gender and Economic Policy*, Isabella Bakker (ed.) London: Zed Press. Beneria, Lourdes and Sally Feldman (eds) (1992) *Unequal Burden: Economic Crises, Persistent Poverty and Women’s Work*, Boulder, Co: Westview Press

<sup>10</sup> Mahbub ul Haq (1994), Amartya Sen and Martha Nussbaum (1993) 22.

<sup>11</sup> “United Nations Development Programme”. Undp.org. 2013-05-26. Retrieved 2013-05-30.



**English:** The United Nations Human Development Index (HDI) rankings for 2012. For full details, see List of countries by Human Development Index (en.wikipedia).

ment accountability for widespread poverty become visible, a point that has been obscured in the ascendancy of neoliberalism.

The emphasis on capabilities provides the scope by which to analyze poverty beyond the level income and to cover its social and political dimensions – including the structural determinants for individual and collective functioning and achievement.

By placing measures of human development in the matrix representing issues of governance, the capabilities approach allows quantification of poverty conditions of specific social groups. It also gives more credence to the rules of entitlements and rights that affect women, children, the elderly and any marginalized ethnic groups. The factors behind government accountability for widespread poverty become visible, point that has been obscured in the ascendancy of neoliberalism.

White et al. (2003:380)<sup>12</sup> noted that the current development literature on poverty emphasizes its multidimensional character and stresses the signifi-

<sup>12</sup>White, Howard et al (2003) “Comparative Perspectives on Child Poverty: a review of poverty measures,” *Journal of Human Development*, 4 (3): 379–396.

cance of access to basic services. At the macro-level the aggregate outcome of positive child development contributes to a country's present and future overall development. The growing body of literature on child poverty also emphasizes the capabilities of families and societies to nurture, guide and protect children – which is a basic thread in the social fabric and relies on “a network of family and community relationships and support systems that underpins livelihoods and human welfare” (Harper and Marcus, 2000: 66). An adequate understanding of the mechanisms of intergenerational poverty transfer is much needed to address its long-term entrenchment in society.

Since 1990, the UNDP through its Human Development Reports has promoted a concept of poverty that encompasses ‘security’ in daily life and “empowerment” as human agency – concepts predicated on the notion of control over one's destiny through voice and political choice.

Since the World Development Report of 2000–2001 the World Bank has also embraced the notion of empowerment by introducing a participatory approach to poverty assessment. Because individual and community responses to crisis are mixed, the various ways in which local institutions are or are not able to support individuals and communities in handling and managing external shocks have become an important area of inquiry for comparison and learning (Christiaensen et al 2003).<sup>13</sup>

## Conclusions

*There is a need for a total change in our culture from secularity and neoliberalism to Gospel Values*

Secularity feeds 4 problems that cripple us as a society:

1. The global secular culture is built on marketing, which appeals to desire and emotion, suppressing critical thought. We need a political system that depends for its success on a literate, reasoning population grounded in moral values and wisdom.
2. The global secular culture fails to remember history because the past is full of memories of mistakes and unkept promises. We need to remember the lessons of the past, and not reinvent the wheel.
3. We need imagination and hope to know about things we cannot measure, and that we are not a collection of intelligent carbon atoms, otherwise science and technology carry with them a “revenge of unintended consequences”, so we become its objects and victims. Science and tech-

<sup>13</sup> Christiaensen, Luc et al (2003) “Macro and Micro Perspectives of Growth and Poverty in Africa,” *The World Bank Economic Review*, 17 (3):317–347.

nology should be at the service of the human person, not the person at the service of science culminating in a rise in the materialistic view of the world and a collapse in our confidence that humanity is unique and sacred in creation. We need to talk about the sanctity of the human person, understand human dignity when we talk about human rights.

4. We must recognise and live real human freedom, which is not just a supply of options and choices which is only another form of idolatry, held together by the economy we share and money as a glue for everything which is a commodity to be bought and sold. Freedom is the ability to see and the courage to do what is morally right. This is the culture we must change in a “New Evangelisation”.<sup>14</sup>

## **Recommendations**

### *We need to initiate a counter cultural revolution of love*

The social teachings of the Catholic Church on justice and peace address the shortcomings of the contemporary secular culture. The natural law of God requires that we “act justly, love tenderly, and walk humbly with your God” (Mic 6: 6,8).

1. We need to actively promote socio-cultural education grounded in evangelisation in the Christian Culture which recognises the dignity of the human person created in the image of God as the end of human development according to the natural law of God the Creator.
2. There must be a paradigm shift from the relativism of moral scepticism to recognising and accepting the wisdom of objective truth.
3. The moral element is important in economic empowerment.
4. We must put into place a juridicial reorientation from a rights approach to a personhood approach in implementing global initiatives for improvements in the quality of life of human persons.

<sup>14</sup> Chaput, Archbishop Charles. 2013. O.F.M., CAP. “How Catholics Can Save Civilisation”.

# AVANCES POLICIALES SOBRE LA TRATA DE SERES HUMANOS

■ FRANCISCO BARREIRO SANMARTÍN

## Introducción

El problema que tratamos es tan antiguo como el propio ser humano, la historia nos demuestra que todas las “civilizaciones” en algún momento comercializaron con otras personas, las cuales habitualmente procedían de otros pueblos contra los que se enfrentaban en guerras muy cruentas, y a los derrotados que sobrevivían los esclavizaban.

Esta dura situación perduró muchos siglos, y parece dar la razón al filósofo inglés Thomas Hobbes en sus ideas filosóficas esgrimidas en su *Leviatán*, que expresa su idea sobre la situación primitiva del hombre, diciendo que “en el estado de naturaleza el hombre vive una guerra de todos frente a todos, el hombre es un lobo para el hombre”, reconociéndole seguidamente una facultad por encima del lobo, el “raciocinio” que le permitirá superarse.

Esta idea de superación hace que las condiciones de dominio del hombre sobre el hombre varíen haciéndolas más “humanas”, pero aún hoy día encontramos situaciones muy duras para gran parte de la sociedad en cualquier país.

Los primeros pasos para este avance fueron dados por la Iglesia y por España, en aquellos años de la Corona de Castilla y León.

El papa Eugenio IV en la Bula “Reprimini Gregis” en el año 1434, proclama la libertad de los aborígenes en los territorios que se evangelizaban. Esta decisión fue respaldada por la Corona de Castilla, y la reina Isabel la Católica reafirmó esta doctrina papal en 1477, referente a las Islas Canarias, ampliándola posteriormente con la “Real Cédula”<sup>1</sup> del 2 de diciembre de 1501 a los nuevos territorios de América.



<sup>1</sup> Cédula: Despacho del Rey expedido por algún consejero o Tribunal Superior en el que se concede alguna merced o se tomaba alguna providencia.



La Reina deja esta forma de proceder plasmada en el “Codicilio”<sup>2</sup> de su testamento al ordenar que las Indias (América), tierra firme de la Mar Oceánica, descubiertas o por descubrir, fueran cristianizadas, lo que significaba que no podían ser esclavizadas.

Esta decisión fue confirmada posteriormente por el emperador Carlos I de España y V de Alemania; muchos de los súbditos no cumplieron estas disposiciones, y algunos fueron juzgados y condenados. El paso esencial en esta línea fue dado por el papa Pablo III en la Bula “Sublimis Deus”, por la que concede a los indios americanos la condición de “hombre verdadero” dotado de alma, en el año 1537. Esta Bula parece ser que estaba influenciada por los escritos de Fray Bartolomé de las Casas, que explicaba los abusos que se cometían en el Nuevo Mundo.

Estos avances papales y reales no consiguieron anular la esclavitud: nuevas leyes fueron fuertemente protestadas por los colonizadores que veían en peligro la mano de obra gratuita.

La realidad fue muy diferente, si bien estos pasos impidieron, en parte, la esclavitud de los indios, no es menos cierto que la raza negra sufriera esta lacra hasta hace muy pocos años.

La abolición definitiva de esta lacra no llegó a la España peninsular hasta el año de 1837, y a Cuba en 1880.



<sup>2</sup> Codicilio, es un derecho, una disposición que el testador añade a su testamento con posterioridad a ser otorgado y que tiene como objeto realizar una modificación no sustancial del mismo, siempre y cuando no se alteren los herederos ni cualquiera de las condiciones que le afectan en tal condición. Su origen se remonta al derecho francés. Son admitidos en el derecho foral navarro y el derecho civil catalán, y los requisitos exigidos para otorgarse son los mismos que para realizar un testamento. En el derecho portugués la figura es idéntica, aunque con más restricciones dado que solo es posible establecer algunos reconocimientos, dádivas e instrucciones sobre cuestiones menores.

## I. La trata de seres humanos en el derecho

Esta introducción nos permite ver cuán difícil ha sido y es para el ser humano variar sus posiciones de dominio y poder sobre otro hombre.

La humanidad, al menos en el aspecto formal, ha tomado conciencia de este problema, y en los primeros años del pasado siglo XX se alcanzaron determinados acuerdos internacionales como:

- Convenio para la represión de la trata de blancas, firmado en París en 1910.
- Convenio para la represión de la trata de mujeres y niños, Ginebra en 1921.
- Convenio para la represión de la trata de mujeres mayores de edad, Ginebra en 1933.
- Convenio para la represión de la trata de personas y de la explotación de la prostitución ajena, Nueva York en 1950.

Sin embargo, el gran paso se da en la sede de las Naciones Unidas que - después de formar una comisión de trabajo - han llegado a unos acuerdos plasmados en el Protocolo de Palermo contra la delincuencia organizada transnacional, firmado en Nueva York el 5 de noviembre del 2000.

Este Protocolo es consecuencia de la Resolución 53/111 de la Asamblea General, de 9 de diciembre de 1998, que nombró un comité especial intergubernamental para estudiar la trata de mujeres y niños.

Cinco años después, el 16 de mayo del 2005, el Consejo de Europa emite un convenio sobre la lucha contra la trata de seres humanos.

En España, desde los años 90 se han dictado diversas normas y leyes todavía vigentes hoy día que dan a las fuerzas y cuerpos de seguridad del Estado diversas herramientas para afrontar esta situación, independientemente de que el Protocolo de las Naciones Unidas fuera ratificado el 11 de diciembre del 2002, y el Convenio Europeo el 23 de febrero del 2009; fechas a partir de las cuales estas disposiciones pasan a formar parte del ordenamiento jurídico español, cumpliendo con el artículo 5 del Protocolo, que obliga a los Estados miembros a tipificar en su ordenamiento jurídico las conductas recogidas en el mismo.

El Protocolo define, en el artículo 3, la trata de personas como:

La captación, el transporte, la acogida o la recepción de personas, recurriendo a la amenaza o al uso de fuerza u a otras formas de coacción, al rapto, al fraude, al engaño, al abuso de poder o de una situación de vulnerabilidad o a la concesión o recepción de pagos o beneficios para obtener el consentimiento de una persona que tenga autoridad sobre otra, con fines de explotación. Esta explotación incluirá, como mínimo, la explotación de la prostitución ajena u otras

formas de explotación sexual, los trabajos o servicios forzados, la esclavitud o las prácticas análogas a la esclavitud, la servidumbre o la extracción de órganos.

Esta definición nos permite reconocer tres formas diferenciadas de abusos:

- Contra la explotación sexual, incluida pornografía.
- Contra los derechos de los trabajadores.
- Extracción de órganos corporales.

Todos estos aspectos incluyen como agravante la circunstancia de ser el explotado menor de edad.

El mismo protocolo reconoce que para prevenir y combatir la trata de personas, especialmente de mujeres y niños, se requiere un enfoque amplio e internacional en los países de origen, tránsito y destino, incluyendo medidas para prevenir la trata, sancionar a los traficantes y proteger a las víctimas.

Asimismo, en materia de investigación, las actuaciones penales permiten adoptar una serie de medidas sin necesidad de las partes intervinientes. Igualmente, obligan a realizar una serie de medidas de cooperación internacional, intercambio de información, prevención, protección y asistencia a las víctimas.

Este protocolo crea dos mecanismos de seguimiento, el grupo GRETA y el Comité de las Partes, el primero formado por un grupo independiente de expertos en la lucha contra la trata de seres humanos, y el segundo formado por representantes en el Comité de Ministros del Consejo de Europa de los Estados miembros partes en el convenio.

En el ordenamiento jurídico español estos preceptos fueron desarrollados en diversas leyes:

- *Código penal: ley 10/1995*:
  - Artículo 177 bis (trata de seres humanos), artículo 187, 188, 189, 189 bis y 190 (la explotación sexual, incluida la pornografía).
  - Artículo 232, 311 y siguientes hasta 318 (imposición de trabajo, esclavitud o prácticas similares, mendicidad).
  - Artículo 156 bis (la extracción de órganos corporales).
  - Artículo 570 bis, tercero y cuarto (organizaciones y grupos criminales) dedicados a la comisión de estos delitos.
  - Artículo 318 bis (contra los derechos de los ciudadanos extranjeros).

El artículo 177 dice: Será castigado con la pena de prisión de 5 a 8 años como reo de trata de seres humanos el que, sea en territorio español, sea desde España, en tránsito o con destino a ella, empleando violencia, intimidación o engaño, o abusando de una situación de superioridad o de necesidad o de vulnerabilidad de la víctima nacional o extranjera, la capture,

transportare, trasladare, acogiere, recibiere o la alojare con cualquiera de las finalidades siguientes:

- a) La imposición de trabajo o servicios forzados, la esclavitud o prácticas similares a la esclavitud o a la servidumbre o a la mendicidad.
  - b) La explotación sexual, incluida la pornografía.
  - c) La extracción de sus órganos corporales.
- Aún cuando no se recurra a ninguno de los medios enunciados en el apartado anterior, se considerará trata de seres humanos cualesquiera de las acciones indicadas en el apartado anterior cuando se lleven a cabo respecto de menores de edad con fines de explotación.
  - El consentimiento de una víctima de trata será irrelevante cuando se haya recurrido a alguno de los medios indicados en el apartado primero de este artículo.

El artículo 177 bis sigue diciendo: En todo caso, las penas previstas en este artículo se impondrán sin perjuicio de las que correspondan, en su caso, por el delito del artículo 318 bis de este Código y demás delitos efectivamente cometidos, incluidos los constitutivos de la correspondiente explotación.

- Las condenas de jueces o tribunales extranjeros por delitos de la misma naturaleza que los previstos en este artículo producirán los efectos de reincidencia, salvo que el antecedente penal haya sido cancelado o pueda serlo con arreglo al derecho español.

- Sin perjuicio de la aplicación de las reglas generales de este código, la víctima de trata de seres humanos quedará exenta de pena por las infracciones penales que haya cometido en la situación de explotación sufrida, siempre que su participación en ellas haya sido consecuencia directa de la situación de violencia, intimidación, engaño o abuso a que haya sido sometida y que exista una adecuada proporcionalidad entre dicha situación y el hecho criminal realizado.

- *Ley de extranjería y su reglamento:*

- Artículos 59 y 59 bis (colaboración contra redes organizadas y víctimas de este delito).
- El capítulo IV (trata de los permisos de extranjeros víctimas del delito).

- *Otros textos legales:*

- Ley Orgánica 1/1992, sobre protección de la seguridad ciudadana.
- Ley 3/1995, sobre ayudas y asistencia a las víctimas de delitos violentos y contra la libertad sexual.
- Ley Orgánica 11/2003, sobre medidas concretas en materia de se-

guridad, violencia doméstica e integración social de los extranjeros.

- Acuerdo del Consejo de Ministros, de 12 de diciembre de 2008, por el que se aprueba el plan integral de la lucha contra la trata de seres humanos con fines de explotación sexual.

Este desarrollo legal ha puesto en marcha la normativa interna de los cuerpos de seguridad para adaptarse a la lucha contra esta lacra, dictando circulares en las que se establecen los protocolos y procedimientos de actuación e investigación.

Debemos tener presente que, para que estos protocolos se desarrollen durante los últimos años, se necesitó que la UE diseñara en el año 2004 un plan sobre mejores prácticas, normas y procedimientos para afrontar esta lucha, organizándose en 8 capítulos:

- Coordinación de la actuación de la UE
- Determinación del alcance del problema
- Prevención de la trata
- Reducción de la demanda
- Investigación y enjuiciamiento
- Protección y apoyo a las víctimas
- Repatriación y reintegración
- Relaciones exteriores

Como resultado de ello, la UE decide una estrategia conjunta para erradicar la trata de seres humanos, con la que pretende proporcionar un marco coherente que evite solapamientos políticos y legislativos de los Estados miembros y que complemente la directiva del año 2011.

Creó, también, una página web<sup>3</sup> dedicada a esta lucha, y nombró un coordinador para que supervisara la ejecución de esta estrategia.

El documento establece cinco prioridades con diversas acciones cada una de ellas:

- a) Detectar, proteger y asistir a las víctimas de la trata de seres humanos.
- b) Reforzar la prevención de la trata de seres humanos.
- c) Perseguir más activamente a los traficantes.
- d) Mejorar la coordinación y cooperación entre los principales interesados y la coherencia de las políticas.
- e) Conocer mejor y responder eficazmente a las nuevas tendencias relacionadas con todas las formas de trata de seres humanos.

<sup>3</sup> [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/fight\\_against\\_trafficking\\_in\\_human\\_beings/index\\_es.htm](http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_trafficking_in_human_beings/index_es.htm)

Para los investigadores, el apartado (c) resulta fundamental ya que en el mismo se indican cuatro acciones de gran transcendencia aportando un arma que permite el flujo de información fluido entre los Estados miembros.

*Acción 1:* crear unidades policiales nacionales multidisciplinares.

*Acción 2:* garantizar una investigación financiera proactiva.

*Acción 3:* reforzar la cooperación policial y judicial transfronterizas.

*Acción 4:* reforzar la cooperación más allá de las fronteras.

## II. Rutas de los movimientos migratorios que dan lugar a la trata de seres humanos

Antes de iniciar el comentario sobre estos protocolos y procedimientos, uno de los puntos de inflexión en la historia de la humanidad se produce en el neolítico, cuando el hombre inicia su etapa sedentaria.

Una de las primeras migraciones de las que hay constancia escrita y que figura en el Antiguo Testamento es el éxodo del pueblo judío desde Egipto hacia la Tierra Prometida (figura 1).

Es necesario tener presente que las migraciones se han tratado de enjuiciar bajo criterios generales, pero cada momento histórico es diferente y a cada uno le corresponde un movimiento migratorio. Por ejemplo, los mo-



Figura 1.

vimientos de finales del siglo XX corresponden a profundos desequilibrios de los países pobres del Tercer Mundo que se dirigen hacia el centro desarrollado y que tienen su origen en un proceso estructural y no coyuntural, lo que da lugar al inicio del mundo actual.

En el siglo XIX, se producen dos movimientos importantes (figura 2):

1. Desde las metrópolis hacia las colonias (Europa hacia América Latina, Oceanía y África).
2. El naciente crecimiento económico de Norteamérica atrajo mano de obra europea.

La Gran Depresión de principios del siglo XX dio por finalizadas estas corrientes.

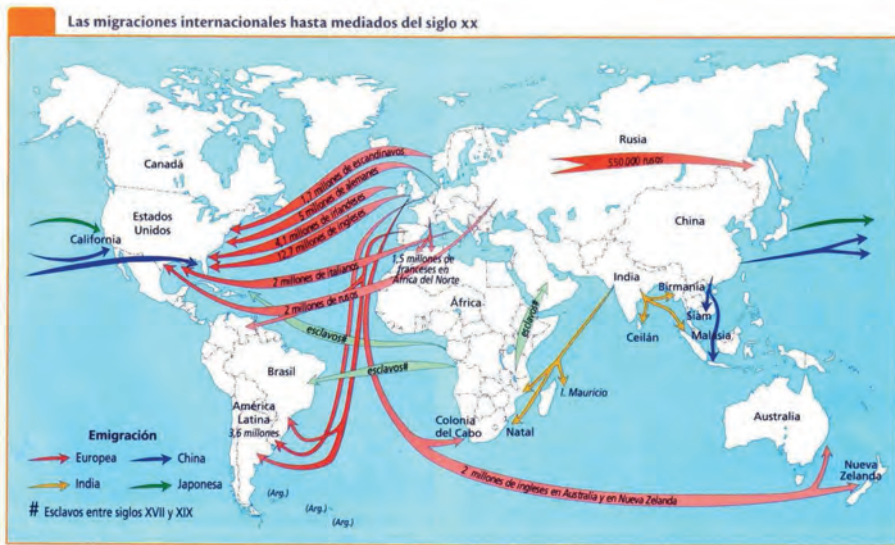


Figura 2.

Después de la II Guerra Mundial muchos países del Tercer Mundo inician el camino hacia su independencia en la creencia de que liberándose del dominio colonial podrían realizar sus propios proyectos de desarrollo, pero esta nueva situación dio lugar a gobiernos corruptos, provocando una recesión económica, y al no ver una salida a su situación miran al norte y occidente, inician las migraciones como salida al cerco del hambre, la guerra y las enfermedades. En este mismo momento el centro y norte de Europa atrajeron a personas del sur, principalmente de España, Portugal, Italia y Grecia.

Asimismo, América Latina (sobre todo México) inicia una migración hacia Estados Unidos, a la vez que los países que habían logrado la descolonización hacia sus antiguas metrópolis, Francia e Inglaterra (figura 3).

En Europa, en la última década, se produce un importante incremento migratorio procedente del África subsahariana, el Magreb y Turquía. Entre los años 1980 y 1985 había en Europa unos 128.000 inmigrantes, y entre 1995 y 2000 nos encontramos con unos 2.788.000 (figura 3). Este tipo de inmigración es además indocumentada (acuden sin documentos de identidad o pasaporte para evitar ser deportados a su país).



Figura 3.

Este tipo de inmigración lleva consigo unos riesgos para la propia vida del inmigrante, por la forma en que se produce el traslado, por obligarle a tener que abonar una cantidad monetaria importante a fondo perdido para lograr una plaza en medios de transporte muy precarios (figura 4), experimentando todo tipo de penalidades y vejaciones. Por otro lado, esta inmigración pone trabas a la acción del país receptor, ya que no puede realizar ninguna repatriación o expulsión inmediata al desconocer su identidad y origen.

La inmigración ha sido fundamentalmente masculina hasta finales de los años 80, en que la inmigración de mujeres comienza a igualar la del hombre, dado que deja el trabajo del hogar y se incorpora al trabajo remunerado.

Estos movimientos se aprecian en los diferentes mapas (figuras 3 y 5).

En el inicio del presente siglo un 53% de la población mundial vive en regiones emisoras de migración y casi un 40% en zonas fuertemente emi-





**Figura 4.**

soras, produciendo, asimismo, un importante cambio de mentalidad: anteriormente, el inmigrante deseaba regresar a su origen; hoy, lo que desea es quedarse en el lugar donde ha cumplido su sueño.

Hay muchas causas de la inmigración, pero podemos resumirlas en:

- Causas políticas (persecuciones por ideología)
- Causas culturales (idioma, religión, etc.)
- Causas socioeconómicas (fundamental: buscar una mejor calidad de vida)
- Causas familiares (situación de un familiar que ha inmigrado anteriormente)

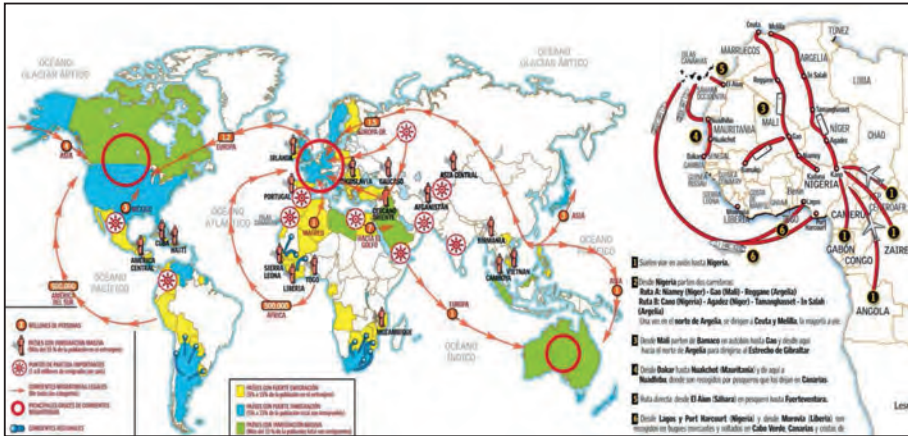


Figura 5.

- Causas bélicas (migraciones forzadas, sobre todo mujeres y niños)
- Causas de catástrofes naturales (sequías, terremotos, etc. que dejan zonas desbastadas donde la supervivencia se hace imposible)

Como resumen podemos decir:

Para una buena parte de la juventud y de sus familias la emigración se ha constituido en la única vía de mejora económica, lo que ha dado lugar a un negocio para hacer posible el viaje, en el que operan diferentes componentes, a la vez que crea unas expectativas de destino cada vez más inciertas.

La evolución social y económica ha dado lugar a una tradición emigratoria que normaliza los desplazamientos con la finalidad de mejorar las condiciones de vida y trabajo (nuevas tecnologías de la información, como la televisión e Internet, permiten ver otras condiciones de vida a las cuales aspiran).

Como ejemplo estadístico vemos los datos con los que cuenta la Guardia Civil en los últimos años.

Si tomamos como referencia la frontera y línea de costa (figura 8), obtenemos una gráfica similar, donde igualmente se produce un pico en el año 2006; estos datos son sobre todo de inmigración árabe (zona del Magreb y subsahariana). Por la configuración de la frontera española, debemos tener presente la situación de las islas Canarias (figura 10), que ha dado lugar a una inmigración particular procedente del Sahara y Mauritania, con la misma incidencia de ese año 2006.

Por último, unos datos muy dolorosos que nos sonrojan cada vez que se producen, sobre todo tras lo recientemente acontecido en Lampedusa, reflejan el número de muertos en el intento de alcanzar su meta, el inicio de una vida mejor. Como curiosidad, el año de las grandes oleadas de inmi-

grantes no fue precisamente el de más fallecidos, fue el 2003 con 108 personas muertas (figura 14). La Guardia Civil (figura 6), para evitar el crecimiento de este número, ha dedicado un gran esfuerzo, tanto personal como material, para controlar esta inmigración y, sobre todo, para prestar apoyo a las personas que viajaban en esas embarcaciones sin las mínimas condiciones de navegabilidad para afrontar la distancia que separa África de las islas o cruzar el estrecho, en “cayuco” o “patera” (figuras 7, 9 y 11). Por desgracia, tenemos la seguridad de que se han producido otros naufragios de los cuales jamás hemos tenido noticia.



Figura 6.



Figura 7.

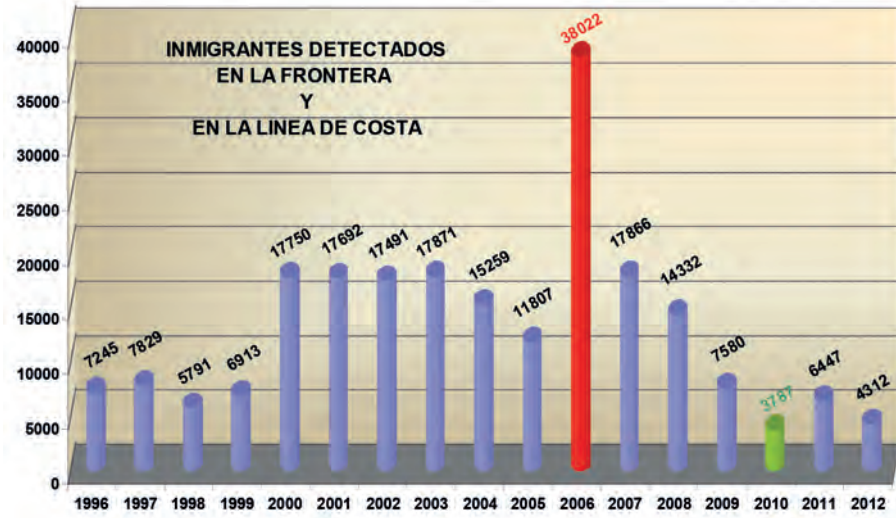


Figura 8.



Figura 9.

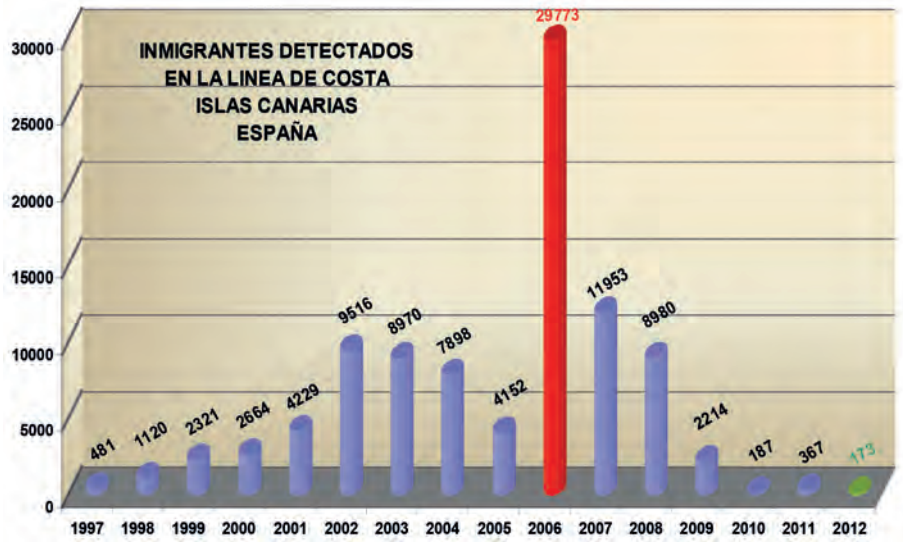


Figura 10.



Figura 11.



Figura 12.

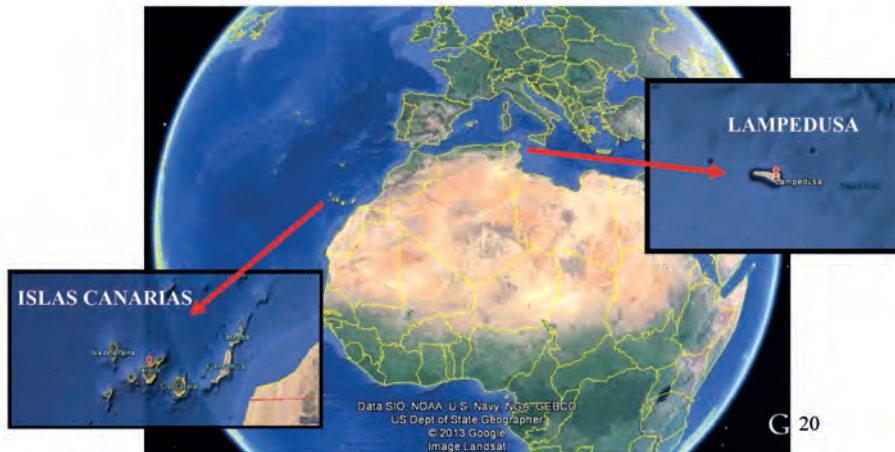


Figura 13.

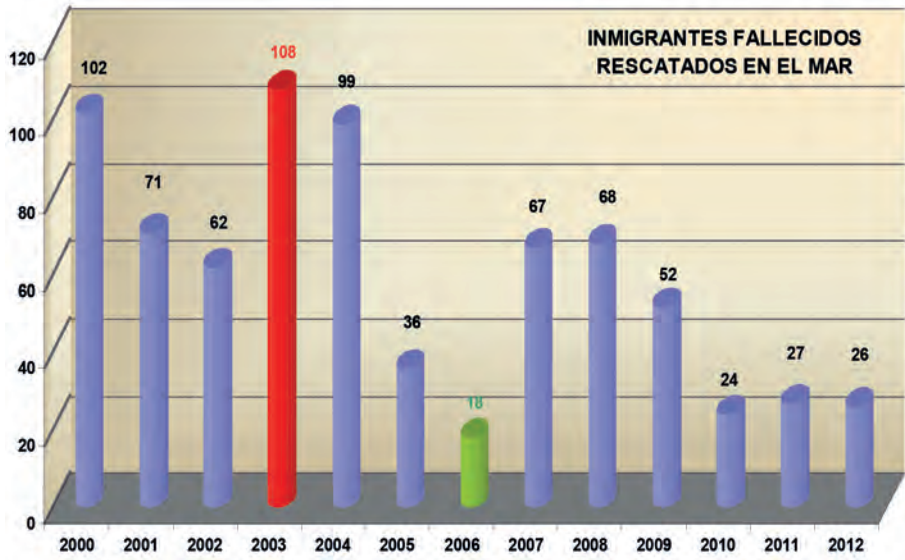


Figura 14.



Figura 15.



Figura 16.



Figura 17.



### III. Investigación de la trata de seres humanos

Lo referido sobre la normativa internacional ha dado lugar a unificar criterios policiales y a manuales de buenas prácticas para desarrollar la investigación de estos hechos.

Comenzamos por diferenciar la trata de seres humanos de la inmigración. En la *trata de seres humanos*, las personas son entregadas a organizaciones que han pagado por ellas, contrayendo una deuda que se salda mediante la explotación sexual o laboral. La trata de seres humanos constituye un delito contra los derechos humanos.

En la *inmigración*, se produce el transporte ilegal de las personas al país de destino, con el cual finaliza la relación entre transportista y trasportado. Esto es un delito contra los intereses del Estado.

Podemos resumirlo diciendo que:

- Tráfico sin trata es inmigración irregular.
- Trata sin tráfico es explotación de nacionales o extranjeros regularizados.
- Tráfico con trata es la modalidad más compleja; detrás nos encontramos con grupos de crimen organizado internacional.

El Convenio del Consejo de Europa marca unos objetivos:

- Prevenir y combatir la trata de seres humanos.
- Proteger los derechos humanos de las víctimas.
- Promover la cooperación internacional.

Estos objetivos buscan como fin último lograr la detención de los grupos organizados que están detrás de estos hechos, para lo que es necesario realizar una serie de actividades encaminadas a lograr la cooperación de las ONG, organizaciones que suelen estar muy próximas a los lugares donde se producen estos conflictos.

Para ello, hay que garantizar la asistencia social con la finalidad de no obligar a la persona a testificar, o hacerlo de forma que preserve su identidad. Hay que darle un plazo de 30 días para que decida si desea colaborar o no; para que se restablezca de la situación en la que se encuentra; y evitar la influencia de las organizaciones delictivas.

En el caso de darse esta colaboración, la norma establece que obtendrá determinados beneficios, como el permiso de residencia y trabajo.

En el delito de tráfico de seres humanos siempre vamos a ver una serie de acciones, con el uso de unos medios coercitivos para obtener unos fines, todos ellos utilizados por el crimen organizado para lograr su enriqueci-

miento. Entre las acciones se produce una captación de la víctima, su transporte, traslado posterior, acogida y recepción.

Para ello, usan la amenaza, la fuerza, la coacción, el rapto, el fraude, el engaño, el abuso de poder, y con ello logran la explotación sexual, laboral o lo que hoy día es más grave, la extracción de órganos.

Lo que especifica claramente la legislación es que el consentimiento forzado no es válido en ningún caso, y si nos encontramos ante un menor, siempre debemos actuar como si fuera tráfico de seres humanos.

Lo referido hasta este momento sobre la normativa internacional queda reflejado en la legislación española, coincidiendo en las definiciones dadas por la convención de la ONU, pero el dato fundamental es que todos los países que han firmado este convenio aceptan las sentencias de otro para ser tenidas presentes a la hora de calificar la agravante de reincidencia .

Esta investigación, en el caso de España, requiere una actuación multidisciplinar y coordinada por parte de todos los cuerpos de seguridad involucrados, contando con el inestimable apoyo de las ONG, como conocedoras en múltiples ocasiones de la realidad de las víctimas de primera mano.

Con carácter general, las acciones a llevar a cabo en una investigación tipo, orientada de forma primordial a la asistencia a las víctimas, podría venir determinada por los siguientes:

1. La identificación de la víctima la realizarán las autoridades policiales (Guardia Civil o Cuerpo Nacional de Policía) con formación específica en investigación de la trata de seres humanos e identificación de víctimas.
2. Se le proporcionará asistencia y protección, y también se realizarán las diligencias necesarias.
3. Cuando la identificación exija una toma de declaración de la potencial víctima (entrevista), se hará mediante una entrevista personal en condiciones adecuadas, en ausencia de explotadores y, en lo posible, con apoyo jurídico, psicológico y asistencial (ONG).
4. Se ha de proceder a recabar indicios para lograr demostrar el delito.
5. Debe informarse a las víctimas de los derechos del artículo 59 bis de la LO 4/2000.
6. Se hará una propuesta al delegado/subdelegado para la resolución sobre la situación irregular teniendo en cuenta los siguientes términos: si es extranjero irregular.
7. No se incoarán ni se suspenderán temporalmente los expedientes sancionadores.
8. Suspensión temporal de las órdenes de expulsión.

9. Puesta en libertad si hay centro de internamiento para extranjeros.
10. El instructor propone la exención de responsabilidad.
11. Autorización de residencia y trabajo por circunstancias excepcionales.
12. Retorno asistido al país de origen.

Preocupa especialmente la faceta de explotación sexual, por lo que se aprueba un plan integral contra este tipo delictivo.

Se busca abordar el problema de forma integral con “tolerancia cero”, buscando la cooperación de los países de origen para difundir medidas preventivas que eviten que otras víctimas caigan en sus redes.

Se combinan medidas de tipo judicial, social, educativas y policiales, integrando la acción de las ONG.

Recordando que estas personas no son delincuentes, sino víctimas, es necesario cuidar sus derechos ofreciéndoles asistencia y protección.

Para ello se deben adoptar unas medidas de actuación referidas a:

- Sensibilización, prevención e investigación.
- Educación y formación.
- Asistencia y protección a las víctimas.
- Legislativas y procedimentales.
- Coordinación y cooperación.

El Cuerpo de la Guardia Civil, ante esta situación, ha dado como respuesta a este fenómeno la Directiva de Servicio número 40/2009, con la finalidad de:

1. Proporcionar una respuesta integral y coordinada de todas las Unidades de la Guardia Civil a la trata de seres humanos.
2. Prevenir y combatir la trata de seres humanos, así como proteger los derechos humanos tanto de las víctimas como de los testigos, garantizando la igualdad de género.
3. Promover la cooperación internacional en el ámbito de la trata.

En la mencionada directiva, se imparten una serie de indicaciones y distribución de funciones, para que de una forma coordinada, se dé una respuesta en forma de lucha eficaz contra este tipo delictivo.

Esta directiva tiene en cuenta la distribución piramidal y jerarquizada de la Guardia Civil, con la finalidad de que cada escalón actúe según sus competencias y capacidades.

La actuación de cada escalón da lugar a la intervención de las unidades de investigación específicas. La actividad policial de estas unidades en la investigación de este tipo de delitos sigue el patrón general, pero con una serie de peculiaridades, especialmente en los siguientes puntos.

### ***Entrevista a potenciales víctimas de trata***

- Detectar indicios de trata de seres humanos y asesorarla sobre sus derechos.
- *Ambiente de la entrevista*: necesidades cubiertas, entrevistador especializado y del mismo sexo, lugar confidencial, situación legal, idioma, miedos y diferencias culturales.
- *Aspectos a evaluar*: datos personales y familiares; necesidades; documentación; tipo de trabajo, salario y condiciones; antecedentes de maltrato; motivos de migración; circunstancias del viaje; trayectoria en España; si fue captada o amenazada; si es forzada a practicar la actividad; expectativas de futuro; cómo percibe su situación.

### ***Indicios para la identificación de víctimas***

- Ausencia de documentos.
- Ausencia o escasez de dinero.
- Falta de libertad deambulatoria.
- Aislamiento social y familiar.
- Coste excesivo del viaje.
- Dificultad para comunicarse (idioma y situación).

### ***Indicios para la identificación de víctimas (entorno)***

- Medidas extremas de seguridad.
- Las potenciales víctimas viven en el establecimiento donde ejercen la prostitución.
- Vigilancia continua.

### ***Indicios para la identificación de víctimas (conductuales)***

- Reticencias o desgana a la hora de hablar, se observa que mienten.
  - Apariencia desaliñada, descuidada y/o rastros de malos tratos.
  - Expresan miedo o preocupación por su situación familiar.
- La investigación se puede iniciar por:
- *Denuncia*: de las propias víctimas, clientes o familiares.
  - *Inspecciones administrativas*: entrevistas reservadas (indicadores).
  - *Investigaciones colaterales*: otros delitos (drogas, blanqueo, etc.).
  - *Información de organismos de cooperación policial internacional*: Interpol, Europol, enlaces policiales (consejeros, agregados de interior).

Una vez iniciada una investigación se ha de tener en cuenta lo siguiente:

### ***Investigación de los aspectos relativos a la captación***

- Lugares geográficos (población) de procedencia en países de origen.

- Situación socio-cultural y económica de la víctima (herencias, hijos, propiedades).
- Reclutamiento: voluntario/oferta de trabajo (engaño total o parcial); secuestro; relación sentimental o amistad; ofertas de cursos de formación; personas de contacto.
- Compromisos contraídos: deuda.
- Identificación e investigación de reclutadores en el país de origen (a través de Interpol y/o Europol y/o enlaces policiales).

### ***Investigación de los aspectos relativos al traslado***

- Identificar e investigar al autor y las empresas organizadoras del viaje.
- Documentar ruta: pasajes de avión, barco, medios terrestres.
- Documentar instrucciones para el viaje: comportamiento, vestimenta, dinero, cartas de presentación, contratos laborales falsos, documentos de identidad falsos, reservas de hotel, etc.
- Identificar e investigar personas de contacto en nuestro país (apodos, rasgos físicos, vehículos, teléfonos).
- Documentar desplazamientos por nuestro país: fechas, medios de transporte, hospedajes, etc.
- Documentar medios de coacción durante el viaje/tránsito.

### ***Investigación de modos y medios de coacción/explotación***

- Limitación de movimientos y vigilancia permanente: personas y/o medios técnicos.
- Administración de drogas, fármacos; privación de alimentos.
- Venta entre clubes/personas; traslados colectivos entre lugar de residencia y de trabajo.
- Retención/falsificación de documentos identificativos.
- Amenazas a su propia persona y/o a familiares (exhibición de armas); lesiones físicas, psicológicas, agresiones sexuales, asesinatos.
- Retención del dinero, satisfacción de la “deuda”; condiciones laborales (horarios, precios, servicios, etc.); estado de salud (prostitución con menstruación o fiebre).
- Lugar en el que vive y condiciones del mismo.
- Normas de comportamiento arbitrarias, cláusulas abusivas y sanciones por su incumplimiento. Documentar si las mismas han sido redactadas en “contrato de esclavo”.
- Personas a las que se lo ha contado (otras mujeres, médicos, farmacéuticos, clientes), y si existen otras mujeres en la misma situación.

Teniendo como misión principal y como norte en la investigación que la

misma debe dirigirse como una investigación tradicional, apoyada fundamentalmente en la cooperación policial de carácter internacional, no debemos olvidar nunca realizar una investigación patrimonial simultánea, con la finalidad de desposeer a las organizaciones de crimen organizado de nivel transnacional de las ganancias obtenidas con este repugnante crimen, atacando directamente a las finanzas y sistemas de blanqueo de los beneficios obtenidos.

#### **IV. Nuevas tecnologías**

Los avances en los medios de información, comunicación y transporte han facilitado la movilidad de las personas, y a la vez permiten su localización para determinar los desplazamientos que realizan. Para esto último, en los últimos años se han adoptado nuevos sistemas tales como:

##### ***Radars-SIVE (móviles y fijos)***

Se trata de un sistema de detección de embarcaciones mediante la utilización de radares con una potencia de 3 Ghz, y con un alcance máximo de 60 millas, que faculta al operador para la grabación de trazas de velocidad, rumbo, coordenadas, etc., así como su seguimiento hasta el límite del alcance. Va coordinado con una cámara optrónica de infrarrojos que tiene un alcance eficaz de 10 millas y grabador de imágenes (figura 18).



**Figura 18.**



Figura 19.

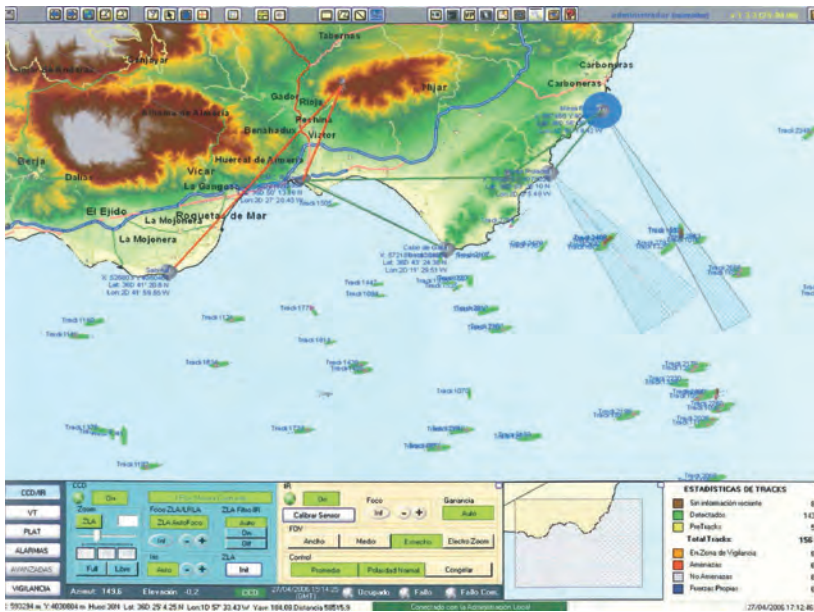


Figura 20.

## Scanners

Permiten la discriminación de la carga en función de su densidad, mediante la utilización de rayos X, con el fin de detectar potenciales materiales radiactivos, tráfico ilícito de mercancías, inmigración irregular, etc. (figuras 21, 22 y 23). Son sistemas fijos o móviles que permiten realizar visionados del interior de un envoltorio sin necesidad de abrir o manipular, esto incluye contenedores, vehículos, paquetería y hasta aviones.

Como características tenemos:

- Muestra amenazas orgánicas y contrabando.
- Obtiene una imagen de tipo fotográfico, lo que hace más fácil para los operadores la identificación de anomalías.
- Puede escanear vehículos, contenedores (hasta dos alturas), carga aérea, carga en palets y estructuras ligeras.
- Puede ser operado por una sola persona.
- Puede escanear en movimiento.



Figura 21.



Figura 22.





Figura 23.

### *Aviones no tripulados*

Los radares SIVE (sistema integrado de vigilancia exterior) dan lugar a establecer centros de localización y coordinación con bases de localización (figuras 19 y 20).

Con la firma del Tratado de Amsterdam el 2 de octubre de 1997 y su posterior entrada en vigor el 1 de mayo de 1999, se constituyó un nuevo espacio geográfico y político, integrado por el territorio de los entonces quince Estados miembros, en el que la libertad, la seguridad y la justicia se consagraban como premisas fundamentales de la construcción de la nueva Europa; lo que conllevaba necesariamente una especial atención en el control y la vigilancia de las fronteras exteriores, como quedó claro con la promulgación de su gran objetivo:

Mantener y desarrollar un espacio de libertad, seguridad y justicia, en el que esté garantizada la libre circulación de personas conjuntamente con medidas adecuadas respecto al control de las fronteras exteriores...

La herramienta SIVE viene coadyuvando en una faceta muy concreta de la función policial como es la vigilancia de las fronteras marítimas, surgiendo de la necesidad a la respuesta desde el momento en que España tuvo que asumir el control de una parte significativa de la frontera sur de la Unión Europea, para hacer frente al tráfico ilícito de sustancias estupefacientes y la inmigración irregular.

El Centro de Coordinación Regional de Canarias es, a día de hoy, el laboratorio de experimentación de nuevas tecnologías y de procedimientos



Figura 24.

de coordinación y gestión más importante que existe a nivel mundial en el tema de lucha contra la inmigración ilegal por vía marítima. El despliegue de medios y personas que la Guardia Civil ha efectuado en países africanos, origen de inmigración ilegal, así como los dispositivos de patrullas mixtas con las gendarmerías y policías de países del Magreb y del África Subsahariana (Marruecos, Mauritania, Senegal y Cabo Verde) es pionero en el mundo, a nivel bilateral, y representa un logro fundamental en la cooperación y colaboración policial entre Estados.

Sin embargo, el salto cualitativo en el que se está trabajando lo dan las Aeronaves No Tripuladas, UAV por sus siglas en inglés (*unmanned aerial vehicle*) (figura 24). Desde el punto de vigilancia de fronteras se han identificado dos tipos que cumplen los requisitos buscados: los MALES (altitud media y largo alcance), capaces de volar ininterrumpidamente durante 24 horas, con control y transmisión de imágenes vía satélite, y con una capacidad de carga que permite transportar sistemas de radar y optrónicos; y aquellos que por sus características pueden ser embarcados en los buques oceánicos con que cuenta la Guardia Civil, ampliando así sus capacidades operativas.

Por su parte, los sistemas UAV embarcados permiten proyectar los medios de observación de los buques oceánicos a unos doscientos kilómetros del mismo, con lo que su capacidad de vigilancia aumenta muy significativamente. En la instrucción de las diligencias policiales es relativamente frecuente que se presenten situaciones en las que las personas detenidas por los hechos delictivos contra la trata de seres humanos y otros delitos, no están fehacientemente identificadas. Con la finalidad de solventar esta situación en el ámbito de la Guardia Civil, se crea desde el Servicio de Criminalística (Departamento de Identificación) la base de datos denominada “Sistema Automático de Identificación Dactilar” (SAID), siendo esta una excelente herramienta para la resolución de investigaciones criminales capaz de resolver infinidad de casos de una manera rápida y segura.

La identificación de rastros biológicos mediante el análisis comparativo de ADN se ha ido incorporando paulatinamente a la investigación penal hasta convertirse en una herramienta forense de rutina, pues no solo se demuestra la utilidad del análisis del ADN para la investigación penal, sino que se establece en materia de búsqueda de perfiles genéticos de grupos humanos.

La mayor dificultad con la que nos encontramos con la trata de seres humanos es la falta de una identificación plena, bien sea por utilización de documentación falsa o por la propia falta de esta. La falsedad documental se detecta por diversos sistemas electrónicos, empleo de luces específicas, control documentos bases, etc.

Si la persona no tiene documentación alguna, esto supone una pérdida de identidad total, ya que no disponemos de ningún dato sobre ella. Los países de origen recelan de lo que aporte esta persona, sin poder contar con muestras indubitadas para poder realizar un cotejo de huellas o ADN.

## **V. Conclusiones**

Visto el problema desde un punto de vista policial, como conclusiones de estas reflexiones, considero que este punto de vista no es el que puede resolver esta situación tan preocupante, y al menos debemos tener en cuenta otros aspectos, pero se analizan los más próximos a la investigación.

### *Necesidades políticas/judiciales*

- Compromiso de los Estados en lucha continua contra esta lacra.
- Establecimiento de la obligatoriedad (a los países que han firmado los convenios) del cumplimiento de los acuerdos ratificados.
- Incremento de las penas y pérdida del patrimonio de los autores de este delito que hayan conseguido un lucro ilegal.
- Apoyo a los servicios de control de fronteras de los países de origen para evitar la salida y la posterior explotación de sus ciudadanos.

### *Necesidades policiales*

Organismos internacionales como Interpol, Europol, Frontex, OIM y Naciones Unidas, conscientes del papel primordial que detenta la intervención policial en este ámbito, han publicado manuales de buenas prácticas sobre investigación, identificación, asistencia y protección de víctimas de trata, que recogen la experiencia multidisciplinar de gran número de expertos. Por ello deben realizarse seminarios interpoliciales para establecer contactos directos con la finalidad intercambiar experiencias.

Ejemplo de este contacto ha sido la reunión a nivel de personal de investigación, como la celebrada en Rabat en el pasado mes de junio, en la que se trató este problema y asistieron representantes de diferentes cuerpos policiales con estructura militar, y representantes de Francia, Italia, Portugal, España, Marruecos, Argentina, Chile, Qatar, Holanda y Rumania.

Policialmente, debemos tener presente el Plan de mejores prácticas, normas y procedimientos de la Unión Europea, y poner en marcha las cuatro acciones referidas: unidades multidisciplinarias; garantizar la investigación financiera; reforzar la cooperación policial y judicial; y reforzar la cooperación más allá de la propia frontera.

### *Necesidades sociales*

- Dar ayuda a los países de origen de las personas objeto de la trata para favorecer su desarrollo de forma que no sea necesaria la inmigración.
- Favorecer la integración de los que se encuentran en los países de acogida, mediante medidas de oferta de trabajo y permiso de residencia, sobre todo en los casos de implicación para el desmantelamiento de las redes organizadas.
- Favorecer, si así lo desean, el retorno a sus países de modo que puedan obtener formas de mejorar la calidad de vida de la víctima y de su familia.

Para finalizar, no debemos perder de vista que es habitual que el delito de trata de seres humanos con fines de explotación sexual conviva con otros ilícitos penales, entre ellos, el blanqueo de capitales, la extorsión, el tráfico de drogas, el secuestro, la detención ilegal, las agresiones sexuales, coacciones, amenazas, falsificación y otros que atentan contra la integridad física y la dignidad de las personas. Por ello, una vez en marcha la investigación, debemos continuar para lograr desarticular su red económica y poner a disposición judicial todo el patrimonio de estos nuevos comerciantes de esclavos. La educación, la formación, el equilibrio económico y la igualdad de oportunidades unidos al sentimiento de justicia, son factores que pueden paliar esta tragedia humana.

# THE EMPIRE OF SUFFERING: TRAFFICKING OF CHILDREN IN THE GLOBAL MILLENNIUM

■ MARCELO SUÁREZ-OROZCO, CAROLA SUÁREZ-OROZCO, WINMAR WAY

Homo homini lupus – Man is a wolf to man.  
Who, in the face of all his experience of life and of history,  
will have the courage to dispute this assertion?  
Sigmund Freud, *Beyond the Pleasure Principle*, 1920

Tonight an estimated 27 million human beings, but perhaps many more, will go to bed as modern day slaves (U.S. Dept. of State, 2013). Tomorrow, they will wake up as denizens of an empire of suffering where the foundational values, structures, and strictures of civilization are suspended. Human trafficking, an ancient infamy, is now a fully globalized part and parcel of an ever more interconnected, miniaturized, and fragile world. It thrives in the era of advanced technologies, mobile devices, and social media. It is a global empire, generating billions of dollars in profits – over 30 billion dollars representing the third most profitable criminal enterprise after illicit narcotics and armaments (UNODC, 2012).<sup>1</sup> It is an empire bridging failed states with weak or no institutions and rachitic economies to the advanced high-income postindustrial democracies of North America and Europe.

It encompasses all continents and races, the world's religions and languages: "Almost every country in the world is affected by trafficking, whether as a country of origin, transit or destination for victims" (UNODC, 2012).<sup>2</sup> It is a dark empire where the victims and the crimes are once everywhere and nowhere. Like Poe's "Purloined Letter", it is hidden in plain sight.<sup>3</sup> "Victims of forced labor have been found in nearly every

<sup>1</sup> "They are powerful, representing entrenched interests and the clout of a global enterprise worth billions of dollars, but they are not invincible" (UNODC, 2004). According to some estimates, modern human trafficking now is the "third most profitable criminal enterprise behind drugs and guns (Bales and Soodalter, 2009: 3; see also Coen, 2011)".

<sup>2</sup> Trafficking victims originating from 127 countries and have been identified in 137 countries. Trafficking occurs both across borders as well as within a single nation state (United Nations Office on Drugs and Crime, 2012).

<sup>3</sup> Denial of what is in plain sight is a common occurrence, "Trafficking doesn't happen here". Approaching human trafficking as a crime that occurs only in far off places ignores situations of forced labor or sex trafficking that may be happening closer to

job setting or industry imaginable, including private homes, factories, restaurants, elder care and medical facilities, hotels, housekeeping, childrearing, agriculture, construction and landscaping, food processing, meat-packing, and cleaning services” (U.S. Dept. of State, 2013, p. 30).

Pope John Paul II noted, “The alarming increase in the trade in human beings is one of the pressing political, social and economic problems associated with the process of globalization”. Globalization has intensified the trafficking of men, women, and children across well-travelled corridors.<sup>4</sup> As in all clan-

home. Human trafficking is not a problem that involves only foreigners or migrants, but one faced in nearly every corner of the world involving citizens who may be exploited without ever leaving their hometown” (U.S. Dept. of State, 2013).

<sup>4</sup> Trafficking corridors, sometimes called trafficking “flows”, are defined as a “link between two countries or two places within the same country (one of origin and one of destination for victims of trafficking in persons), with at least five officially detected victims having been trafficked from the origin to the destination country: there are about 460 such flows across all regions and sub-regions, and involving most countries” (UNODC, 2012, p. 12). Nepal-India is one such well-established trafficking corridor. “Charimaya Tamang, who 19 years ago went out to the fields to cut grass in her village in Nepal. Typically she would have gone with other women from her village, but that day she was alone. A group of men grabbed her from behind, tied her hands and made her swallow ‘a powder’. When she woke up she was in a city in northern India. ‘I had never seen tall buildings before’, she recalled. It was a lot hotter than her village and the men offered her a soda. ‘I didn’t want to drink it but I was so thirsty’, she said. The heat and soda were her last memories before finding herself in a Mumbai brothel under the care of a woman she called ‘Auntie’, where she remained in forced prostitution for 22 months. ‘The sex trafficking starts with the procurers in Nepal, who might be anyone: a stranger with a fake job to offer – or a girl’s own brother-in-law. Then someone else escorts the women across the open border and out of the country. ‘The pimp might take a girl across the border in a cycle-rickshaw and put a tikka dot on her forehead so it looks like she and he are married’, said Pamela Gurung, an activist affiliated with the Nepalese branch of the Catholic nonprofit group Caritas Internationalis, which among other things fights human trafficking throughout Nepal. Anti-trafficking workers have started to train border police officers to be on the lookout for scared-looking women, suspicious couples or men with multiple women. But border police officers are not paid much. Many are bribed as part of the vast criminal network of trafficking between India and Nepal. A brothel pimp or madam pays close to \$2,000 for one trafficked Nepalese girl, according to Rupa Rai, head of Caritas Nepal’s gender department. The girl is then obligated to repay this fee over time. Charimaya Tamang was the first woman in Nepal to file charges against her trafficker and win. The very same men that made her drink that soda were caught and put in jail, she said. Ms. Tamang then began advocating on behalf of other trafficked women. Today she is married with two children and lives in a small room on the third floor of a dilapidated concrete building in Katmandu. On the wall above her bed is a glass display case nearly 12 feet long filled with awards. The sit-

destine systems even the most elemental of data are inadequate and elusive. The most authoritative estimates suggest that women “account for 55–60% of all trafficking victims detected globally; women and girls together account for about 75%” (United Nations Office of Drugs and Crime, 2012, p. 19). Even more elusive are the estimates for under-age trafficking which range from 27% of all victims detected globally (UNODC, 2012) to 50% of victims detected in the United States (APA, 2013).

## Chapter Aims

In this chapter we present an ecological conceptual framework placing victims at the center but locating human trafficking in the context of globalization. We outline the range of trafficking modalities with a focus on the most vulnerable and weakest victims. We examine the consequences to individuals and bring to the fore the voices of the forgotten victims of the empire of suffering – children and youth.

## What Is Trafficking?

Human trafficking is an empire with a hard-to-survey topography. Definite statistics are difficult to establish. The gulf between the estimates of the total trafficked population and identified victims is enormous.<sup>5</sup> Trafficking resists easy generalizations. Its constituent units are diverse and causally linked to disparate origins. It is composed of dissimilar parts. It contains incommensurable formations in different continents: the enslavement of Thai girls for sexual tourists, the trafficking of unauthorized immigrants from Mexico and Central America for labor exploitation in Southern California, and the of child soldiers in Africa. It also involves cultural practices such as the trafficking of Albinos for body parts in ritual practices in East Africa, the estimated 150,000–500,000 “restavec” children in forced domestic labor in Haiti, (U.S. Dept. of State, 2013, p. 19) and the trafficking of

uation in Nepal is improving in certain ways, thanks to activists like her, international pressure and better coordination with the Indian police. But the problem is daunting, and the number of trafficked women continues to grow” (Orlinsky, 2013).

<sup>5</sup> While the best estimates suggests that 27 million human beings are trafficked today, the US Department of State suggests that only 40,000 victims of trafficking have been identified in the 150 countries who are parties to the United Nations Protocol to Prevent Suppress and Punish the trafficking in persons – the so-called Palermo Protocol. See, United States Department of State, *Trafficking in Persons Report*, 2013, p. 7. Washington DC, US Government Printing Office.



brides from North Korea, Vietnam Indonesia to Taiwan, Japan and China.<sup>6</sup>

Becoming instruments of gain, the trafficked endure their horrors in Van Gennep's ever-dangerous zone of "liminality", between and betwixt the rules and rituals constitutive of the social order. As in all liminality there is a "social death" that Patterson places at the center of slavery (Patterson, 1985). It is only recently that the global community has arrived at a broad definition of human trafficking. The United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, defines trafficking in persons as: "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of 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" (UNODC, 2013).

A primary feature of human trafficking is that movement is nearly always from low (or lower) income origins to high (or higher) income destinations. Well-travelled corridors include trafficking from Bangladesh, the Philippines, and Thailand to the Gulf Countries, the Caribbean, Mexico, Central and South America to the United States, and from the former Soviet Union to the European Union. A second feature of trafficking, involves the exploitation of the strong over the weak – in the case of children for sex or labor, the exploitation is from older to younger generations. A third feature of trafficking is that always "people are treated as instruments of gain rather than free and responsible persons" in the words of Pope John Paul II (2002).

<sup>6</sup> "Commodified transnational marriages of young women from Vietnam, Indonesia, North Korea, Myanmar, the Philippines, and Cambodia; the bureau or agent receives payment – reportedly upwards of \$10,000 to \$15,000 – from the prospective groom in richer, more developed countries, including Taiwan, Japan, South Korea, China, and Singapore to make the arrangements". There are an estimated 120,000 Vietnamese foreign brides in Taiwan alone. See Bloom, Jane, *Triple jeopardy: Young, migrant and stateless*. U.S. Liaison Officer International Catholic Migration Commission (ICMC).

While transnational trafficking is a growing concern, “Human trafficking can include but does not require movement. People may be considered trafficking victims regardless of whether they were born into a state of servitude, were transported to the exploitative situation, previously consented to work for a trafficker, or participated in a crime as a direct result of being trafficked. At the heart of this phenomenon is the traffickers’ goal of exploiting and enslaving their victims and the myriad coercive and deceptive practices they use to do so” (United States Department of State, 2013, p. 29).

Human trafficking is often associated and confounded with human smuggling. While there are certain overlaps between human trafficking and human smuggling,<sup>7</sup> these two formations differ in a variety of ways:

1. **Consent** – “migrant smuggling, while often undertaken in dangerous or degrading conditions, involves consent. Trafficking victims, on the other hand, have either never consented or if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive action of the traffickers” (UNODC, 2013a).
1. **Exploitation** – “migrant smuggling ends with the migrants’ arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim” (UNODC, 2013a).
2. **Transnationality** – “smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another state or moved within a state’s borders” (UNODC, 2013a).
4. **Profits** – “in smuggling cases profits are derived from the transportation or facilitation of the illegal entry or stay of a person into another country, while in trafficking cases profits are derived from exploitation” (UNODC, 2013a).

Three factors are essential in the equation of modern day trafficking: a) vulnerable victims, whose forced labor can be turned into economic value (profit) by b) predatory traffickers and, as important, c) armies of Dante’s “carnal malefactors” ready to consume the fruits of this bitterest of harvests. The weakness of the victims is a *sine qua non* – above all in the case of chil-

<sup>7</sup> Trafficked persons begin their journey by agreeing to be smuggled into a country, but then later find themselves coerced or forced into a situation that is exploitative. Traffickers use fraud by presenting an “opportunity” that later turns into exploitation of the victim. Criminals use the same “routes and methods” for transporting their victims of smuggling and trafficking (UNODC, 2013a).

dren. Traffickers today “prey on excluded populations – many trafficking victims come from backgrounds that make them reluctant to seek help from authorities” (U.S. Dept. of State 2013, p. 8). Human trafficking turns the world’s most vulnerable populations, undocumented immigrants, racial and caste minorities, peoples of color, indigenous populations, the disabled, the abject, and children into “instruments of gain” (U.S. Dept. of State, 2012, p. 8).

### **Taking a Contextual Perspective**

At the center of the trafficking experience is the individual who has been enslaved. An ecological framework suggests that the human experience is a result of reciprocal interactions between individuals and the various layers of their environments with varying and significant implications for adaptation (Brofennbrenner, 1986). The individual comes in direct contact with a variety of settings and systems referred to by Brofennbrenner as *microsystems*. The *exosystem*, ensconced in the *macrosystem*, is made up of interconnections between settings, institutions, and social structures that have influential but indirect effects on the individual’s experiences and outcomes (APA, 2012). The *macrosystem* is the most distal context – it is the global economic, historical, and cultural contexts setting the stage for human trafficking in the 21<sup>st</sup> century.<sup>8</sup>

The Macro-System of trafficking is now structured by the global economy, the globalization of inequality, structural adjustment shocks, global pauperism, as well as the historical and cultural contexts given rise to the instrumental exploitation, commodification, and symbolic disparagement of stigmatized populations.<sup>9</sup> Exo-Systems represent the anemic or complicit

<sup>8</sup> Brofennbrenner also makes reference to the *chronosystem*, which recognizes development over time as well as the *mesosystem*, which considers the interactions between the individual and various micro-systems in his or her life. In the interest of parsimony, in this chapter and discussion we are concentrating on the most relevant concentric levels of the ecological model as it applies to human trafficking.

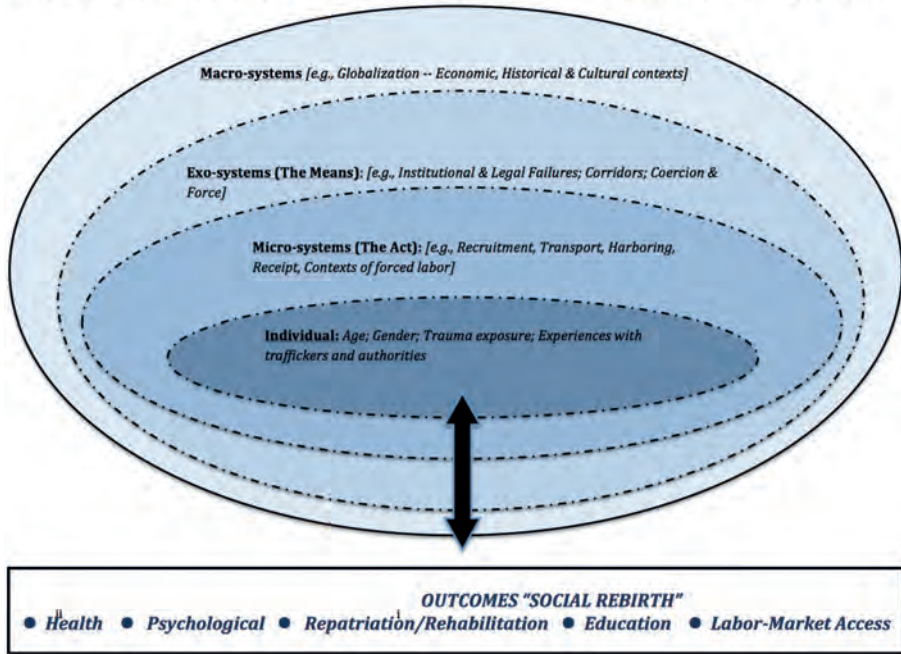
<sup>9</sup> The desperation that comes from global pauperism is a common theme. Here are the voices of two trafficked persons, one from Uganda to Kenya the other from El Salvador to Mexico. “Latulo was desperate to find a job to pay for his university school tuition. While in town one day, Latulo met a man who said he needed people to work for him at a factory in Kenya. Hoping this job would help pay for his tuition, Latulo agreed to accompany the man to Kenya and met with him the very next day to travel. Other men and women also met them to travel to Kenya. Eventually they arrived at their final destination in Kenya at a huge house. The man, who had earlier been kind to

institutional and legal frameworks, the specific niches of trafficking (labor vs. sexual) as well as the networks of relationships and migration corridors established between sending and receiving regions. The Micro-Systems represent the mechanisms of recruitment, abduction, transport, harboring, and the contexts of exploitation – the Devil in the details. At the center is the Individual who in “social death” (Patterson, 1985) is made an “instrument of gain”. At the individual level, experiences will depend on age (child, young adult, adult), gender, race/ethnicity, the extent and nature of trauma – length of enslavement, the nature of the relationships with the traffickers, the exploiters, and the authorities.

Upon rescue, release and re-entry, individual outcomes, will depend on rehabilitation (and in some cases repatriation) programs, individual differences in age, health, socio-emotional and cognitive resources and supports. Educational access, participation in the legitimate labor market, civic engagement, along with the ability to establish basic social trust, intimacy and autonomy would represent significant landmarks on the road out of darkness. Such outcomes represent what we term, “Social Rebirth”.

them all, suddenly became rude and ordered them to give him their identification and phones. They were shown a video of a man who had been suffocated with a bag because he attempted to escape. They were all told that they would not be working at a factory, but rather would be working as sex slaves. Every room had a camera and they were recorded while they were forced to have sex with strangers. After a month and half of captivity, Latulo was allowed to accompany his captors into town. When they stopped to have lunch, he ran away. Law enforcement officials in Kenya opened an investigation and Latulo was able to return to Uganda and received medical attention’. ‘Liliana’ was desperate; she was unemployed and unable to find a job in El Salvador when she decided to leave El Salvador in search of work. ‘A family friend promised to take Liliana to the United States, but instead took her to Mexico. When Liliana discovered that she had been tricked, she ran away and ended up in an area where other migrants like herself waited to go to back to El Salvador. One day a group of men invited her and the others to join their organization, the Zetas, a notorious drug cartel. They said they would give her work and feed her. When she joined them, she was forced into prostitution, tricked for the second time. Liliana was drugged the first day and woke up with a ‘Z’ tattoo, branded for life. She was forced to ingest drugs and was never allowed to travel unaccompanied. After three months, her aunt in El Salvador paid for her freedom and she was freed”. *Trafficking in Persons Report*, 2013, United States Department of State, pp. 10 and 15. <http://www.state.gov/documents/organization/210737.pdf>

**The Empire of Suffering: An Ecological Perspective on Human Trafficking, Suárez-Orozco et al., 2013.**



**Figure 1.** Ecological Model of Human Trafficking.

**Globalization’s Dark Side – the Macro-System**

Globalization’s three “M’s”, Markets (their integration and disintegration), Media (new information, communication, media technologies, and mobile devices) and mass Migrations are the macro context for human trafficking. The integration and disintegration of markets, new information, communication, and media technologies, the ease and declining costs of mass transportation, the brisk growth of inequality across the world, and new demographic factors are the rocket fuel behind globalization’s new vertigo. In the integrated global economies of the 21<sup>st</sup> century, economic shocks wreak instant devastation from Wall Street to Main Street, North to South, and West to East. Multiple economic crises over the last decade, *inter alia*, are behind a world “with 1.18 billion people living on \$1.25-2 per day in 2010” (World Bank 2013). The budget-and-debt management structural adjustments regimes imposed on low- and middle-income countries by global lending institutions have decimated wages, health and safety reg-

ulations, and weakened already moribund public social services to the poor in low and middle income countries.

Transnational pauperism, the implosion of the structures that codify familial and social norms, and a new epidemiology of failed states – intensifying in the aftermath of the Soviet collapse and the 2008 economic cataclysm, have given human trafficking its global turn. Furthermore, in the post-modern dystopia, consumption defines self, personhood, and citizenship, making the selling and buying of human life ubiquitous.

More and more studies of children and work mention a sometimes insidious “pull” factor – the desire for material goods and the need for the money with which to buy them: consumerism. This desire functions on two levels, that of the whole family and that of the children themselves. In countries and regions across the world, families want the refrigerators and TVs that make life easier – or at least make their poverty more bearable. Sending children to work is a way to augment family income and make some of these purchases possible (ILO, 2004, p. 91).

Unemployment, underemployment, and wage differentials, when controlled for cost of living differences continue to grow in nearly all South-North corridors. Under these conditions the numbers of vulnerable human beings at risk of trafficking remains staggering.

Second, the global integration and disintegration of markets has produced unprecedented levels of both legal and unauthorized migration worldwide with an estimated one billion human beings as international or internal migrants. The globally integrated economies of the 21<sup>st</sup> century are structured around a predilection for migrant workers – both in the knowledge-intensive sectors and in the least desirable sectors of the economy generating large numbers of unauthorized immigration the world over – studies suggest that such workers are especially vulnerable to trafficking (Zhang, 2012).

Third, new information, communication, and social media technologies have stimulated new patterns of trafficking, including the prostitution of minors, no longer transacted in dark alleys and seedy brothels but rather in fluid, ubiquitous internet sites and via new mobile devices. Scholarly research in the United States and elsewhere is beginning to outline the uses of digital technologies, mobile devices, tablets, smart phones, and social networking sites for human trafficking. “Increasingly, the business of human trafficking is taking place online and over mobile phones” (Laterno, 2012). Facebook, the world’s most ubiquitous social media site with 1.2 billion users, has become an important conduit to the sexual exploitation of children. By one estimate, “About half of online child sexual exploitation occurs

in on social networks” (Goel, 10, p. A1). Researchers at the Annenberg Research Series on Technology and Human Trafficking offer a succinct summary of the state of knowledge:

(Our) investigation indicates that mobile devices and networks have risen in prominence and are now of central importance to the sex trafficking of minors in the United States. While online platforms such as online classifieds and social networking sites remain a potential venue for exploitation, this research suggests that technology-facilitated trafficking is more diffuse and adaptive than initially thought. ... While the sex trafficking of minors continues to expand across multiple media platforms, our research indicates that the rise of mobile technology may fundamentally transform the trafficking landscape. No other communication technology in history, including the Internet, has been adopted so rapidly around the world. The World Bank estimates that 75% of the global population has access to a mobile phone. Mobile’s ability to facilitate real-time communication and coordination, unbound by physical location, is also being exploited by traffickers to extend the reach of their illicit activities. Traffickers are able to recruit, advertise, organize, and communicate primarily – or even exclusively – via mobile phone, effectively streamlining their activities and expanding their criminal networks. In short, human traffickers and criminal networks are taking advantage of technology to reach larger audiences and to do illicit business more quickly and efficiently across greater distances (Laterno, 2012).

Globalization’s dystopia is the macro-system for human trafficking in the 21<sup>st</sup> century. In separate statements both the United Nations and the United States Department of State concur that globalization and new technologies are facilitating the business of human trafficking. “As technology and globalization make the world more interconnected, traffickers’ ability to recruit and exploit their victims has also intensified” (U.S. Dept. of State, 2013, p. 8).<sup>10</sup>

### *The Palermo Protocol and the Micro- and Exo-Systems*

Contemporary human trafficking unfolds in a complex ecology with extended social, cultural, economic, technological and transportation net-

<sup>10</sup> “Criminal groups have wasted no time in embracing today’s globalized economy and the sophisticated technology that goes with it”. United Nations Convention against Transnational Organized Crime and the Protocols Thereto, Kofi Annan, 2004, p. iv, <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

works by which people are recruited in their communities of origin and exploited by traffickers using deception and/or coercion to lure and control them. Conceptually, the ecological model of trafficking presented here builds upon the foundations laid by the “Palermo Protocol” which specified three distinct definitional elements: “the act, the means, and the purpose”. The micro-system and exo-system are particularly relevant and align with “the act” and “the means”.<sup>11</sup>

Broadly speaking, microsystem subsumes “the act” involving the recruitment, transport, harboring or receipt of persons intended for trafficking. In modern human trafficking, the arc of recruitment, transportation, harboring and/or receipt of persons is wide. It involves advanced transnational criminal networks working across continents – relying on sophisticated communications and transportation networks, safe houses, the forging of documents and bribing of authorities, to “mom-and-pop operations”, trafficking a victim to a nearby village, or simply a “boyfriend” or “an auntie” prostituting a minor in a truck stop in a desolated highway.

“The means” – in the ecological model the Exo-Systems – tend to be enabled by broken, anachronistic, corrupt, or otherwise non-existent institutional and legal frameworks. It is the use of force, deception, threats, coercion, abduction, or abuse of power used in luring victims. There is a range in the deployment of force, deception, coercion, and abuse of power: from forced isolation to deprivation of physical movement and chaining, to torture, mutilation and burning, to drugging, psychological manipulation, lying and threatening. These are aimed to render the trafficked individual helpless and unable to act autonomously. “The means” arc back to a premodern domination of the human body. In our model of human trafficking, “the act” and “the means” commence the trafficked person’s “social death” – terminating agency, autonomy, and personhood (UNODC, 2013b).

Thus, “the act, the means and the purpose” constitute a system organized to maximize the profits extracted from human labor and sexual exploitation. It is predicated on the logic of slavery and the debasement of human life for material gain. In the eternal words of the Second Vatican Council, “slavery, prostitution, the selling of women and children, and disgraceful working conditions where people are treated as instruments of gain rather than free and responsible persons” ... constitute “a supreme dishonour to the Creator” (*Gaudium et Spes*, 27).

<sup>11</sup> “The purpose” is the form of exploitation to which the traffickers subject their victims, “whether, forced labor, sexual exploitation, domestic servitude or one of a range of other forms such as organ removal” (UNODC, 2013b).



### *Implications for the Individual*

Human trafficking interrupts the essential developmental function allowing for the establishment of basic trust (Erickson, 1950). Whether born into slavery, kidnapped, tricked, or sold, each will have implications for capacities for trust and attachment (APA, 2013). It rips individuals from their family members and community and isolates them in their new settings. Further, physical, sexual, and psychological abuses are intertwined with the trafficking experience.

There are far reaching physical and psychological implications of trafficking to its victims and survivors (APA, 2013, Zimmerman et al., 2011). At the most basic level, victims will suffer from an array of health issues including physical injuries, sexually transmitted diseases (APA, 2013; Rafferty, 2008), malnutrition, as well as an array of other somatic difficulties. Maltreatment from traffickers, employers, and exploiters often result in broken bones and teeth, dislocations and head injuries which can take many years to heal (APA, 2013). Sexually transmitted diseases, including HIV/AIDS, as well as complications from Hepatitis B & C, uterine infections, complications in pregnancy and infertility are all secondary to trafficking (APA, 2013; Farley, 2003). Other illnesses that are reported to be high amongst trafficked victims include malaria, asthma and other lung diseases, anemia, gastro-intestinal diseases, among others (APA, 2013; Farley, 2003).

There are myriad psychological consequences to trafficking resulting from the trauma following captivity that include physical and sexual exploitation (APA, 2013; see also Zimmerman et al., 2011). The psychological repercussions suffered by victims of trafficking are reported to be significantly higher for than those of other victims of crimes (APA, 2013; Dovydaitis, 2010). Reported symptoms are consistent with profiles of post-traumatic stress disorder (Rafferty, 2008) including: “depression, anxiety, somatic symptoms, hopelessness, guilt, shame, flashbacks, nightmares, and loss-of self-esteem” (APA, 2013, p. 18). For children in particular who have been isolated, neglected, and abused, anxious, disorganized attachment, social and emotional withdrawal, aggression, and behavioral problems have been noted (APA, 2013; Deb & Mathews, 2011). Disassociation as a short-term coping mechanism to escape the intolerable is common but is linked to long-term difficulties including future victimization (APA, 2013; Herman, 1997). Amnesia, substance abuse, as well as suicide are all also negative individual outcomes of trauma and victimization following trafficking (APA, 2013; Courtois, 2008).

## The Youngest Victims Of Trafficking

The scholarly and policy literature on trafficking is rightly focused on interrupting and preventing such infamy. Most of the literature takes either a labor rights or a legal rights framework delving into various instruments available at the national and supra-national level to combat human trafficking (see, *inter alia*, Parreñas, Hwang, & Lee, 2012; Lloyd, 2011; Bales & Soodalter, 2010; Nagle, 2008; Weitzer, 2007; Chuang, 2006; Soderlund, 2005). There has been, too date, much less attention to the plight of minors and youth.

### *Children: Normative Child Work vs. Child Slavery*

Global child labor is often associated with structural conditions of marginality and concentrated disadvantage. These may include deep poverty, stigmatized minority status, race, caste, and gender disparagement, and immigrant status. However, there are features of child work that must be viewed culturally and with an ethnographic lens. The world over we can find practices of legitimate child work that should not be confounded with exploitative, forced child labor.

The household can be defined as a unit of biological reproduction, with constitutive socio-cultural, religious, and ritual functions. It is also a unit of economic production and consumption. Normative household practices where children work, have been found widely throughout the ethnographic record. Children work – now as they did in historic times. According to the International Labor Organization,

The number of children working in the world today is higher than most people think, although it is difficult to obtain anything more than an educated global estimate. This is firstly because many kinds of child labour are underreported, and secondly because many countries have no desire or incentive to publicize how many of their young people work. Nevertheless, statistical techniques allow us to estimate that 211 million children aged 5 to 14 and an additional 141 million children aged 15 to 17 are “economically active”, i.e. are involved in some form of work (ILO, 2004, p. 8).

Some forms of child work are rooted in culturally constituted patterns of human development. We concur with the ILO in highlighting this distinction:

Not all work done by children should be classified as child labour that is to be targeted for elimination. Children’s or adolescents’ participation in work that does not affect their health and personal development or interfere with their schooling, is generally regarded as

being something positive. This includes activities such as helping their parents around the home, assisting in a family business or earning pocket money outside school hours and during school holidays. These kinds of activities contribute to children's development and to the welfare of their families; they provide them with skills and experience, and help to prepare them to be productive members of society during their adult life (ILO, 2004, p. 8).

Culturally normative forms of child work are not forced, exploitative, coercive, denigrating, or debasing. Furthermore, all societies known through the historic and ethnographic records demarcate a line separating abusive from legitimate practices.

### *Children in the Empire of Suffering*

Child trafficking has been broadly defined as “taking children out of their protective environment and preying on their vulnerability for the purpose of exploitation” (ILO, 2013). Although no precise figures exist, the ILO estimated that “980,000 to 1,225,000 children – both boys and girls – are in a forced labor situation as a result of trafficking” (ILO, 2013).<sup>12</sup> It is associated with feeble institutional controls and weakened or broken labor protections,

The trafficking in children – internally in countries, across national borders and across continents – is closely interlinked with the demand for cheap malleable and docile labour in sectors and among employers where the working conditions and the treatment grossly violates the human rights of the children. These are characterized by environments that are unacceptable (the unconditional worst forms) as well as dangerous to the health and the development of the child (hazardous worst forms). These forms range from bonded labour, camel jockeying, child domestic labour, commercial sexual exploitation and prostitution, drug couriering, and child soldiering to exploitative or slavery-like practices in the informal industrial sector (ILO, 2004, p. 16).

According to the ILO, “The occupations in which most children are working as forced or slave labourers are in agriculture, drug trafficking, commercial sexual exploitation, and as child soldiers in (paramilitary combat units)” (ILO, 2013). The International Labour Organisation (2004) offers

<sup>12</sup> Notably, this figure albeit from data derived from 2005, is considerably lower than contemporary estimates from UNODC (2013), which estimates that over a quarter of the 27 million estimated trafficked persons are underage.

the following guidelines towards a definition of child labor including its most extremes and harmful forms:

The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

★ is mentally, physically, socially or morally dangerous and harmful to children; and

★ interferes with their schooling:

– by depriving them of the opportunity to attend school;

– by obliging them to leave school prematurely; or

– by requiring them to attempt to combine school attendance with excessively long and heavy work.

In its most extreme forms, child labour involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities

– often at a very early age (ILO, 2004 p. 16).

The range of economic domains implicated in the exploitation of children is broad and no region of the world seems exempt. “Hazardous work and the unconditional worst forms of child labour occur in every part of the world. Their extent is alarming” (ILO, 2004, p. 63). Agriculture and farming, especially in conditions of concentrated poverty, the rise of third-party labor contracting, and weak institutional controls, are implicated in child labor.<sup>13</sup> It is often a family affair: “Children are often included as part

<sup>13</sup> “Large numbers of children around the world work in the farm sector. Farming probably accounts for more hazardous child labour than manufacturing, and tends to have a high accident rate, in the developed as well as the developing world. The risks faced by child agricultural workers in poor, rural communities include exposure to the elements (hot sun, rain) as well as harmful animals and insects; they may be cut by tough stems and the tools they use. Rising early to work in the damp and cold, often barefoot and inadequately dressed, some develop chronic coughs and pneumonia. The hours in the fields are long – eight to ten-hour days are not uncommon. Children working on commercial agricultural plantations are known to pick crops still dripping with pesticides or to spray the chemicals themselves. Skin, eye, respiratory or nervous problems can result from exposure to pesticides. Studies of children harvesting tobacco in Tanzania indicate nausea, vomiting and fainting from nicotine poisoning. Children involved in processing crops such as sisal can suffer respiratory problems due to dust, or wounds from handling the sharp, abrasive leaves. Frequent awkward or heavy lifting and repetitive strains can permanently injure growing spines or limbs, especially if poorly designed equipment is being used. Transport machinery accidents can be common such as being run over by forklift trucks, falling off or under tractors or harvesting machinery (ILO, 2004, pp. 16–17).

of hired family labour for large-scale enterprises producing for export. The use of casual labour by contractors in plantations on a piece-rate or quota system not infrequently involves children as cheap labour, although they are not formally hired and may be engaged in dangerous tasks. Management can plead in such situations that they have no direct responsibility for the health and safety of child workers. With a dramatic rise in the use of contract labour worldwide, the demand for child labour on farms and plantations is likely to remain strong” (ILO, 2004, p. 59).

Debt bondage is especially pernicious in trapping children into forced labor.<sup>14</sup> “Debt bondage to a landlord is a particular kind of forced labour that can entrap children from poor families in agriculture without land or with too little of it to meet their subsistence needs. If the parents become indebted, they may have little choice but to bond their children into agricultural or domestic labour to repay the debt. Debt bondage places children ultimately at the mercy of the landowner (or a contractor or money-lender), where they suffer economic hardship and are deprived of an education. Bonded child labour flourishes in different parts of the globe – not only in South Asia, with which it is most commonly linked, but also in Latin America, Africa and Southeast Asia” (ILO, 2004, p. 59).

As this girl explains poignantly:

I am 14 years old. I am an orphan. I have five brothers and two sisters.  
I live in the house of my landlord, who owns 22 acres of land. I live

<sup>14</sup> “Domestic labor” – labor hidden behind closed doors, often hides the cruelties of child trafficking. “One may think that domestic work is relatively “safe” compared to other occupations described in this chapter. However, this is not so. Since domestic labour is usually unregulated, this type of work is often hidden from the public eye. Children, particularly girls, are often exposed to cruel treatment, forced to work excessive hours, and prohibited from attending school. Sometimes, they have been trafficked into the situation. Most child domestic workers are girls, although the proportion of girls and boys varies from place to place. Children are constantly on call and deprived of sleep. They may get inadequate food, and may perform hazardous jobs for which they are unprepared. In many cultures, sexual favours are seen as simply part of the job. Girls who drop out of domestic work often run a high risk of ending up in prostitution or other forms of commercial sexual exploitation. Even though Convention No. 182 does not mention domestic work among the worst forms, such slavery-like situations or other worst forms of child labour need to be tackled urgently. On the other hand, domestic employment for children may be permitted within the framework of the minimum age for admission to work under Convention No. 138. This could be done by regulating the conditions, including allowing children to go to school, providing them with a good place to sleep and nourishing meals, some free time to do schoolwork and play with others, the freedom to visit family, and so on (ILO, 2004, p. 60).

in his house 24 hours a day. I work during the day in the fields. I scatter manure in the fields, fetch water from the well, graze cattle, give them fodder, bathe them in the pond, wash utensils, water the garden in the house of my landlord. I don't get paid any wage for this work. Only food. As food I get rice, dal and some times subzi (vegetables). Once a year, I get clothes on festivals. Two lungis (wrap-arounds), and sometimes old rejected clothes from the master's house. I have been working in this landlord's house for the past four years. My family has no land. My master doesn't allow me to leave. I tried last year, but he said no. My master doesn't beat me, but abuses me often. I would like to learn carpentry or tailoring or else I would like to do farming, if the government gave me land (ILO, 2004, 49).

In general the data available, while sub-optimal, allow for certain generalizations. Asia and the Pacific basin have much larger estimated numbers of children at work than the rest of the world combined. In this case of seven-year-old Tola:

... she was lured away from her parents by a couple who owned the field her family worked. While enslaved, she was forced to take care of cats and dogs for the couple's pet grooming shop. For five years, Tola's parents hoped to see her again, never knowing how she disappeared or where she might be. They never imagined that Tola was close, enduring torture and abuse. If Tola did not do her job properly, she was kicked, slapped, and beaten with a broom. Sometimes the couple locked her in a cage and poured boiling hot water over her. On one occasion, the traffickers cut off her ear lobe with a pair of scissors. One day, she climbed a concrete fence of the house while chasing a cat and realized she was free. A neighbor called the police and she was taken to a nearby shelter where her mother identified her. The couple was arrested and charged with various charges, including torture, detaining a person against their will, enslavement, and kidnapping. The couple posted bail and escaped. As for Tola, injuries on her arms affected her muscles; she can no longer move her left arm (US Dept. of State, 2013, p. 20).

While middle- and high-income countries have in general a lower absolute number of children at work, the scourge of abusive child labor is global and the littlest victims tend to come from disparaged communities especially in the mid- and high-income countries:

In Europe, for example, child labourers are likely to be of African or Turkish origin. Among some European minorities, such as the Roma, poverty and lack of education seem to be widespread, which may ex-

plain their more positive attitude toward working children. In Canada, working children tend to be of Asian descent, and in Brazil, they come from indigenous groups. In Southeast Asia and India, they come from the ethnic or tribal minorities living in isolated hill areas, or from ethnically distinct and more impoverished populations living in the rural backwaters of neighbouring countries (ILO, 2004, p. 49).

### *The Sexual Trafficking of Children*

In the Empire of Suffering, special horrors await children whose fragile bodies and minds are shattered in calamitous human debasement and putrid sexual exploitation. Children in conditions of sexual slavery endure a world they are neither physically, maturationally, or psychologically able to cope with. “Sex trafficking has devastating consequences for minors, including long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and even death” (U.S. Dept. of State, 2013, p. 31). The enslavement of children for sexual exploitation, including pornographic performances in the rapidly growing production of online child pornography, shares features with other forms of trafficking but has some unique qualities. In the words of this child:

My name is Gabriela. I am 13 years old. I’ve been on my own for three years now. I used to beg for money, but now I am working. I am a prostitute. I don’t like to say that, because it’s not who I am inside. I dream of my village, and the fresh mountain air there, and the smell of the freshly turned earth. But here in “El Hoyo” it smells like a dirty toilet, and the diesel smoke from the buses turns my stomach. I hate this place. I hate the men who I sleep with. All I can do when they touch me is think of something else – of the walks I used to take through the fields with my sister Juliana on Sunday mornings. I think of the good things I loved at home. It makes it all a little easier (ILO, 2004, p. 53).

The recruitment, harboring, and ongoing exploitation of children is the only major trafficking domain where women play a significant role. Women traffic children across borders, harbor them in clandestine sites, and work as “Madams” socializing children in the child sex industry (UNODC, 2012a). Second, it is a trans-generational form of exploitation involving an older generation and younger generation. Third, the sexual enslavement of children is a double crime of the here-and-now and of the future. It derails children from mastering the developmental tasks (in terms of maturation, cognitive, emotional and moral development) required for the transition to

adulthood. Such derailment may explain why women who were victims of trafficking as children, sometimes graduate to become traffickers – a kind of “life sentence” where manumission or exit from the culture of exploitation is an illusive mirage. Lastly, when girls become pregnant a new generation of babies is born into sexual captivity.

The quotidian conditions of slavery – the physical restrictions, controls, psychological and physical torture, and everyday sadism, the unsanitary conditions, the sheer savagery of the sexual act with children lacking maturational readiness, the medical complications – from tearing and scarring, to stigmatized venereal diseases, HIV-AIDS, hepatitis, and others – make this category of trafficking extraordinarily urgent. Children in conditions of sexual slavery are unable to psychically cope with their situation or make meaning of their conditions. They oscillate, as the words of Gabriela reveal, between a state of learned helplessness (Seligman, 1975) and a psychic dissociation from the reality of the here-and-now (APA, 2013).

Many children in conditions of structural violence, concentrated poverty, and socioeconomic desperation are forced to enter the commercial sexual exploitation world, via other forms of trafficking. This case exemplifies this pathway into exploitation:

Bina’s father is a sharecropper. Her mother died long ago. She has an elder brother, two elder sisters (both married), a younger sister and a younger brother at school. Bina (then 15 years old) went to Kathmandu, the capital of Nepal, with her friends to work in a carpet factory. She stayed with a friend from her village and worked in the factory for two years. The woman owner had promised her a wage of 300 rupees per month (USD4). She provided her with food and shelter and said that she would give her money when she went home. When Bina wanted to leave, she told her not to go and warned her about the danger of being trafficked to Bombay. Despite the warning, Bina and a friend ran away at night with two Nepalese men and a woman who had promised them a better job. The traffickers took them to an apartment and the next morning, they set out for India. On the way, Bina and her friend were handed over to two Nepalese persons. When the original party disappeared, Bina asked about them but got no answer. On arrival in Bombay, the traffickers put Bina and her friend on different buses. When Bina asked about her friend, she was told that she could meet her later. She was then taken to a brothel owner (a woman) in Bombay and was sold to her. She met 25 to 30 other women in the brothel, mostly Nepalese and some Indians and Bangladeshis, aged 20 to 25. There were five to six girls and women



in a room divided by a curtain. Bina learned later that she had been sold for 50,000 Indian rupees (US\$1,100). After three days she was asked to serve an Indian client. When she tried to resist, she was beaten. Others told her that she would starve to death if she resisted. So she gave in. She served up to six or seven clients a day. She was told that she would receive money when she returned home, but she feared that day would never come.

After a year or so, the brothel was raided by the police, who took her and the other girls into custody. She was brought back to Nepal by an NGO. She feels that she has been very lucky in having been able to return to Nepal. She is undergoing a six-month course in literacy and income-generating activities. She wants to find a job to support herself, and she wants to help other girls who are at risk (ILO, 2004 p. 55).

Data on the commercial sexual exploitation of children reveal a global phenomenon involving high-, middle- and low-income countries. It also suggests that it preys on the weakest and most vulnerable of children and youth. According to the ILO,

[The commercial sexual exploitation] of children takes place in numerous countries. An estimated 1.8 million children worldwide, some of them very young, are used for the gratification of adults' sexual needs. The children are most often young girls, who may have been trafficked by intermediaries and coerced into this activity or who fell into it through peer pressure or certain damaging events that made it difficult for them to live "normal" lives due to trauma or stigma (early rape, for example, that reduced their chances of marriage). The increasingly frequent loss of parents through HIV/AIDS and the need to earn money to support younger siblings or an ill parent, in the absence of any education or skills and in a labour market offering them no other possibilities, also contribute to their entry into sexual exploitation. Sometimes this occupation is practiced in their own villages, sometimes far from home. Some of these girls contract HIV/AIDS while still young teenagers, but they cannot obtain any of the life-extending medicines that are available in the wealthier countries. Many return to live in their home villages, where they are sometimes not well received because of the double stigma of their occupation and illness, or they end up in rehabilitation centres where both the required medicines and counselling are usually in short supply. Other girls become pregnant and bear children at a very young age and have to take care of them while exercising their occupation, an occupation that offers no future prospects. These girls, barely

teenagers, are trapped by circumstances, and it is likely that their daughters raised in this environment will be as well (2004, p. 53).

Precise data on the commercial sexual exploitation of children are wanting. But it is clear that it is widespread in the high- and middle-income countries of the world:

It is impossible to determine the extent of commercial sexual exploitation of children in the developed world. One survey (Kane, 1998) cites reports of more than 400 children in prostitution in Calgary, Canada, and up to 3,000 in Montreal, Canada. Another survey (cited in Cecchetti, 1998) identified nearly 3,000 child prostitutes in Athens, Greece. The US Department of Health and Human Services estimated that there might be as many as 300,000 children in prostitution in the USA as a whole. These children often find their way into prostitution after spending a period of time living on the streets. Many children enter the sex trade by being trafficked from other countries. For example, in the USA, Mexican girls as young as 14 were recruited by offers of domestic employment and then delivered to brothels frequented by migrant workers (Dorman, 2001). In Europe, 500,000 women and young girls are trafficked each year, especially from former Soviet states (ILO, 2004, p. 62).

The globalization of sexual tourism brings “Johns” (or customers) back and forth from well travelled corridors such as Europe to Asia, North America to the Caribbean (UNODC, 2012). Boys and transgendered youth are also victims of trafficking. Structural violence and concentrated poverty, again, are at the forefront, but the pathologies of consumption along with a feverish desire for a Western consumerist “glamorous lifestyle” also play a role:

There is a demand (that may be on the increase) for boys by male tourists from rich countries who come to seek out young boys in certain known tourist areas. Some recent research has demonstrated the growing attraction these contacts offer to the boys, since they are given money, clothing, and perhaps also the (almost inevitably false) hope of a materially richer future that they would have no other means of achieving. A keen desire for the more glamorous lifestyles depicted in western mass media plays a role here, along with the decline in more traditional and less individualistic values, a decline that has been remarked upon by researchers in many countries. In some cases, the same clients return year after year to the same boy. Some boys may be encouraged to enter this occupation on account of peer pressure, but poverty and the need (or desire) for money and, more fundamentally, the lack of alternative prospects in life are the deeper

causes. The families may sometimes approve and turn a blind eye for these reasons. And they may be less approving of patronage of the same children by local clients because there is less to be gained from it (ILO, 2004 p. 56).

In high-income countries, the pathways of children into dark alleys of sexual slavery are littered with broken economies, broken neighborhoods, broken families, broken safety nets. Earlier this year, the United States Federal Bureau of Investigation concluded the largest operation of its kind in history, “Operation Cross Country”, liberating 105 sexually exploited children in 76 cities. The FBI arrested in total 150 traffickers and others involved in the exploitation of children.<sup>15</sup> Alex’s path is not uncommon. At age 15, she left a troubled home to stay with a girlfriend and then went to live with an aunt. “When that didn’t work out, she found herself on the street – with an abusive boyfriend who wanted to pimp her out. ‘You learn quickly that the only people who are really willing to feed you, clothe you, and shelter you are your parents’, she said. ‘So I had to figure something out’” (FBI, 2013).

By age 16 Alex was desperate. “Eventually she turned to prostitution and began working for a pimp. ‘At first it was terrifying, and then you just kind of become numb to it’, she said. ‘You put on a whole different attitude – like a different person. It wasn’t me. I know that. Nothing about it was me’” (FBI, 2013). FBI Special Agent Kurt Ormberg, who helped recover Alex and put her pimp behind bars, explained that children who are most susceptible to sexual exploitation have a void in their lives. “‘That void might be related to family, food, or shelter, but it’s a void that needs to be filled, and pimps fill it’. And after they nurture their victims, he said, they sexually exploit them. ‘Too often’, Ormberg added, ‘these young victims don’t think they have anywhere else to turn’” (FBI, 2013).

In the 21<sup>st</sup> century, pimps or “Aunties” are turning to sophisticated technologies to maximize the profits extracted from slaving a child. Consider the following case reported by the USC’s Annenberg scholars:

On April 11, 2012, 26-year-old Marquist Piere Bradford – dubbed in the news media as the “Twitter Pimp” – was arrested in Springfield, Illinois, for sex trafficking of children. Bradford reportedly used Facebook to communicate with a 15-year-old girl from Fresno, California. According to Bradford’s arrest warrant, the teenage girl had been con-

<sup>15</sup> “Over the last ten years the FBI’s Innocence Lost National Initiative has resulted in the identification and recovery of more than 2,700 children who have been sexually exploited” (FBI, 2013).

sistently running away from an aunt's home in Fresno and engaging in commercial sex involving pimps since she was 14. Another minor, known as Princess, befriended the Fresno girl on Facebook and introduced her to Bradford. After several weeks of messaging via Facebook among the two minors and Bradford, he sent the Fresno girl a bus ticket with instructions to meet him in Sacramento. Upon her arrival, Bradford began advertising her on various escort service websites, namely MyRedBook and VerifiedPlaymates, and trafficked her for two weeks throughout the San Francisco, Sacramento, and San Jose areas. Bradford allegedly confiscated the minor's mobile phone and provided her with a pre-paid mobile phone. Bradford also utilized Facebook for recruitment of and communication with his victims, used pre-paid mobile phones to arrange commercial sex sessions and transactions, posted advertisements on escort websites, and bragged about his exploits on Twitter (Latonero, et al., 2012, p. 8).

### *Children as Drug Mules*

A subcategory of child trafficking is closely linked to another global scourge, the trafficking of narcotics – the world's most profitable criminal enterprise. Children are entrapped early on, and like in the case of sexual slavery, children do not have the cognitive, maturational, and socio-emotional tools to cope with the extreme danger. It is often a “no exit” life-style:

This becomes a way of life for the children who engage in it. It is an activity encouraged and sometimes enforced by adults (perhaps including family members) who are the *de facto* employers, and the child's involvement tends to be maintained both by the rewards of money, prestige and power, and by friendships with peers who are similarly employed. Drug-related activities can start at a very young age, and the child's personal drug addiction often ensues to set the seal on involvement in the drug world. The external environment also contributes, because the child often comes from a community where dealing in drugs is one of the few employment options available. Adversarial relations with the police and being known by them, as well as by rival groups, makes it difficult for a child to opt out of this occupation once he or she becomes identified with it. The only way to leave is to change locations, and it is indicative that recent research into children involved in drug trafficking in some communities of a large country found that the dream of many of them was to earn enough through their activity to be able to buy a house far away from their community so that they and their families would be exposed to less risk (ILO, p. 56).

In this case, the cultural construction of childhood innocence is turned into an instrument for enormous profit. UNICEF (2003) “reports that in one case, a 13-year-old girl was used to traffic £1 million worth of heroin into Great Britain from Pakistan. The same report points out that trafficking of drugs by drug swallowing, often by teenage girls, has become one of the most common means of smuggling cocaine into Great Britain” (ILO, 2004, pp. 62).

### *Child Soldiers*

A category of child trafficking that is less global and more dependent on local and regional conflicts is the matter of child soldiers. Child trafficking in zones of conflict simultaneously turns children into slaves and into killers. Like in the case of sexual slavery, it is spectacle of the grotesque: children forced to act in ways well behind their maturational, psychological, and socio-emotion readiness. Again, it is a Dantesque inferno with no easy exit.

Children may be kidnapped and forced into combat in rebel military units or government forces; there are even cases where entire classrooms of children have been kidnapped from their rural schools for this purpose. In a few cases the children are persuaded to join military units by their peers or family members who are already involved. In these cases, they may be motivated by religious beliefs, and/or by the hope that their minority ethnic group or impoverished region will one day enjoy political independence and material benefits.

Most often, however, the children have been coerced into what is a form of forced labour. The actual work they do can include wielding sophisticated weaponry at a very young age and with little training. They may be forced to commit acts of extreme savagery, often under the influence of drugs to dull their sensitivity and moral conscience – and under pain of their own death if they refuse to carry out the order. Other assignments, seemingly less horrific but highly dangerous, can include acting as advance lookouts and guards at roadblocks; if there is an enemy ambush they will be the first victims. Girls are used both as cooks and as sexual workers; they live with the units and are often forced to serve the sexual needs of large numbers of male combatants. Some girls are also involved in armed combat. Escape for child combatants is very difficult, and unfortunately rehabilitation even in specialized facilities has proven very problematic. Children who have been traumatized and obliged to commit heinous acts against other human beings or who have been repeatedly raped over long periods may never return to total normalcy (ILO, 2004 p. 51).

A child soldier's shares his story:

"I was on my way to the market when a rebel demanded I come with him. The commander said to move ahead with him. My grandmother argued with him. He shot her twice. I said he should kill me, too. They tied my elbows behind my back. At the base, they locked me in the toilet for two days. When they let me out, they carved the letters RUF across my chest. They tied me so I wouldn't rub it until it was healed. Later, they gave me injections in the legs and cut the back of my head to put in cocaine... It happened any time we were going on the attack – more than 25 times".

As a child soldier, Abbas had to perpetrate many atrocities: "When villagers refused to clear out an area we would strip them naked and burn them to death. Sometimes we used plastic and sometimes a tire. Sometimes they would partially sever a person's neck, then leave him on the road to die slowly". It will take a long time for Abbas to find his way back into a normal life: "Three months ago a friend insulted me, called me a rebel who killed so many people and destroyed the whole world. I said, 'You won't make remarks like that again'. I met a woman slicing potato leaves. I snatched the knife from her and stabbed him. I ripped his skin (Newsweek, 13 May 2002).

### *Concluding Thoughts*

Children in the empire of suffering are the victims of two simultaneous crimes: they are robbed of their childhood and they are robbed of their future. Forced child labor involves three criteria. First it turns a child into an "instrument of gain" by extracting profit from her forced labor. Second, it removes her from the proscribed pathways that enable children the world over to reach and master culturally determined developmental milestones – in the biological, emotional, cognitive, moral, and social realms required to successfully make the transition to adulthood. Third, it is life-thwarting, harming of the child's physical, psychological, moral, and social wellbeing placing children contexts that are inherently dangerous and beyond the developmental readiness and maturational capabilities to meet horrendous challenges.

When children the world over are working through the developmental milestones, be they the Piagetian cognitive tasks of achieving "concrete operations", or the Eriksonian developmental task of achieving "industry versus inferiority" or "identity versus role confusion", the littlest denizens in the empire of suffering are removed from the challenges and joys of normative child development, swimming against a powerful undertow ever

threatening to draw them. These most horrendous of crimes must be given absolute priority for eradication.

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# **DNA-PROKIDS: GENETIC IDENTIFICATION OF MISSING CHILDREN TO FIGHT CHILDREN TRAFFICKING & ILLEGAL ADOPTIONS**

■ JOSÉ ANTONIO LORENTE

## **Executive Resume**

Child trafficking for different purposes such as prostitution and sexual exploitation, for forced labour and in slavery, using the children as soldiers or in delinquency, and of course illegal adoptions, is one of the main problems of our society and it could even be considered as a pandemic.

According to recent statistics, children, who are so naïve, are increasingly being involved in human trafficking (for illegal adoptions among others causes). Human Identification is one of the main tools that could be used to fight this problem. Forensic DNA typing provides genetic data from a variety of materials and individuals and is applied to many important issues that confront society. Part of the success of DNA typing is the generation of DNA databases to help identify missing persons and to develop investigative leads to assist law enforcement.

With genetic identification, in cases like illegal adoptions and human trafficking, this could provide a sure identity of the adoption, and in cases of a missing child, it could provide the linking between children and their relatives. DNA-PROKIDS is an international humanitarian, non-profit project founded by the University of Granada (Spain) in 2004; it is aimed at fighting human trafficking using genetic identification of victims and their families, especially in children. The goal was to not limit the scope of research to domestic crimes, but to spread results worldwide with the aim of boosting the international fight against human trafficking.

## **Introduction**

UNICEF estimates that ca. 300 millions of children all around the world are involved in events such as violence, exploitation and others kind of abuses, including child work exploitation, armed conflicts and other harmful practices such as female genital mutilation or cutting and child marriage.

Figures from the United States only begin to demonstrate the magnitude of the missing children problem within a country. Approximately 800,000 children are reported missing each year, although most of these cases are

solved immediately without representing a real criminal problem. Out of the 800,000 cases, approximately 360,000 are runaways, 340,000 are classified as “missing with benign explanation”, and about 100,000 are abducted either by family members or other known individuals or are lost and/or injured. While these figures are disturbing, they relate to mostly domestic situations and do not represent the greater international problem where children are illegally sold for often malevolent purposes.

Since the advent of forensic DNA analysis there have been two main objectives: 1) the identification of those who could be the source of biological evidence, which includes associations of individuals due to some alleged kinship; and 2) to exclude individuals wrongly associated with evidence.

The generation of reliable genetic profiles from unknown individuals and reference samples, systematic and objective interpretation practices, and providing a statistical evaluation of the results are equivalent to a robust forensic DNA identification program. Large databases house DNA profiles from convicted felons (and in some jurisdictions arrestees), from forensic evidence, human remains, and direct and family reference samples of missing persons.

There is a demand to type more samples to place in these databases to help develop more investigative leads for solving crime. This need has motivated the community (government, academia and industry) to work collaboratively to develop and validate standard DNA typing kits that contain the necessary reagents to type core identity genetic markers and the concomitant automation of a number of processes (extraction, quantitation, amplification and to some degree interpretation of the results) to facilitate typing. The ability, for example, to type a reference blood or buccal sample without extracting DNA away from interfering compounds would not have been imagined possible a few years ago and yet today such technology is readily available.

The standard genetic markers used in essentially every forensic DNA typing laboratory in the world are autosomal short tandem repeat loci (STRs). The standard operating procedures employ a set of 10–17 STR loci, which provide a high level of diversity and resolution for identity testing. Commercially available kits, such as AmpFLSTR® Identifiler® PCR Amplification Kit (Applied Biosystems, Foster City, CA), or the PowerPlex® 16 System (Promega Corp., Madison, WI), enable analysis with high quality materials and forensic samples. These kits, and STR loci, have been used extensively for identification of human remains as well as in kinship cases, such as paternity testing and family reconstructions. While these STRs apply to the majority of biological evidence analyses, there are situations where autosomal STRs cannot yield sufficient information.

Evidence, such as mixtures with a large amount of female DNA and a small amount of male DNA, and kinship cases where the reference sample derives from a relative separated by several generations from the individual of interest require other markers, e.g., Y-STRs, X-chromosome linked markers, or mitochondrial DNA (mtDNA). These lineage based systems provide additional power because of their unique biological qualities compared with autosomal markers.

Additionally, when performing familial searching, i.e., searching for relatives of the true source of the sample, these lineage markers are extremely useful for reducing the number of adventitious associations in candidate lists. Mitochondrial DNA sequencing is used to strengthen the genetic evidence when there are maternal relatives available to serve as references. Mitochondrial DNA, inherited through the maternal line, has a special property that makes it particularly useful for samples that are severely degraded and/or of limited quality, such as human remains in missing persons and mass disaster cases. There are hundreds to thousands of mtDNA molecules in a cell, compared to only two copies of nuclear autosomal genetic

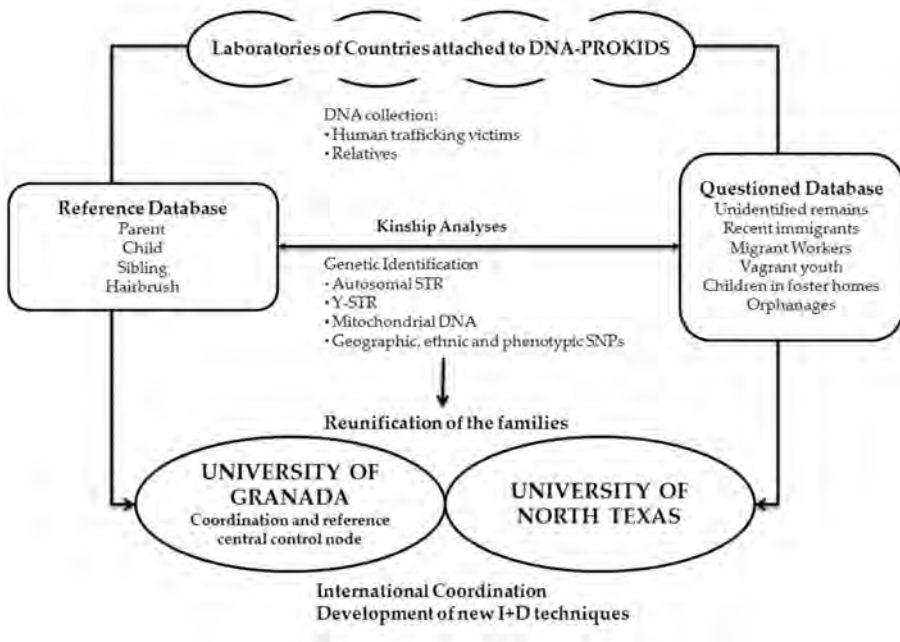


Figure 1. DNA-PROKIDS model.

markers. Thus, when STR typing does not yield a result, there still is a good chance to obtain a result via mtDNA typing.

DNA-PROKIDS is an initiative of the University of Granada Genetic Identification Laboratory, supported by the Spanish Government. Since 2009, the University of North Texas Center Health Sciences Center, Center for Human Identification (UNT-HSC – CHI) is collaborating with the University of Granada. Beside the Government support, we are supported through donation from BBVA, CajaGRANADA, Fundación Botín (Banco Santander), D. C. Zogbi from Mexico and Life Technologies (USA).

This project accounts with the collaboration of many institutions all around the world such as Guatemala (National Institute of Forensic Sciences, INACIF); Bolivia (National General Attorney); El Salvador (National Civil Police); Indonesia (Ejkman Institute); Mexico (Federal General Attorney (PGR), State General Attorneys (PGJs) of Baja California, Guanajuato, Chihuahua, Michoacan & Chiapas); Paraguay (National General Attorney); Peru (National Police); Philippines (University of the Philippines); Sri Lanka (University of Colombo); Thailand (Royal Thai Police); Nepal (National Forensic Science Laboratory).

This program accounts with a specific kit (DNA-PROKIDS KITS) specially designed for the collection of the samples in an easy way and avoiding contamination or degradation of DNA. The kit is prepared by UNTCHI & Bode Technologies and it contains the following parts:

- Buccal swab or finger prick device.
- Chain of custody and voluntary consent forms.
- Minimal personal information (name, relationship to child, place of sample collection).
- No information on related case or the context of the sampling.
- Educational sheets.

There is equipment which is provided to select countries. This DNA-PROKIDS equipment accounts with:

- Digital Polaroid camera.
- Computers with software for law enforcement to store case-related information.
- Scanners to digitize sample collection cards.
- Software to perform DNA profile comparisons.



**Figure 2.** Picture of the kit showing its components. Note the two main ones: swab and card to write data from the donors (unidentified children or relatives of missing children).

## Results

Since the creation of this international project called DNA-PROKIDS in 2004 to 31st of June 2013 there are around 9.200 samples in databases (Figure 4). Among all of this data, there is a classification of 638 positive identifications (matches between a missing unknown child and a relative); 257 illegal adoptions detected (DNA proved that the person trying to give the child for adoption was not a biological relative as claimed, usually the mother); and 218 negative identifications (DNA proved that a child was wrongfully identified by alleged relatives, this usually happens involuntary with children under 12 months when people are looking for a missing child).

## Future perspectives & development

DNA-PROKIDS is an international collaboration that places forensic DNA approaches at the forefront of efforts to combat global trafficking of children. Their main mission is to identify the victims and return them to their families (reuniting) but also to stop traffic in human beings thanks to identification of victims, and to the gathering of information about the origins, the routes and the means of this crime (i.e. police intelligence), these are key elements for police forces and judicial systems.

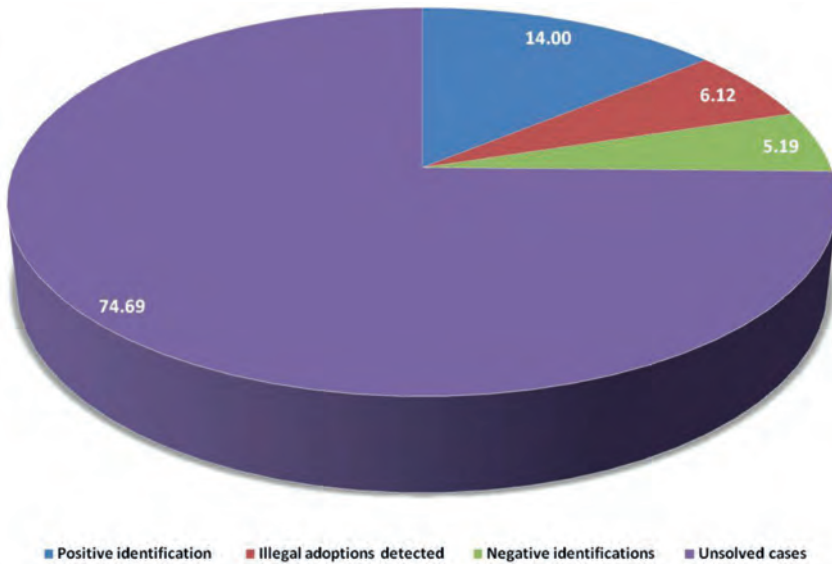


Figure 3.

Human trafficking is an illegal international business that is perpetuated by several social, economic, cultural, and political drivers and calls for a proactive, comprehensive response. In many countries, criminal organizations have been operating for decades and may have connections within the local or national governments.

Genetic identification of trafficking victims relies upon the generation and comparison of two databases: the Reference Database (RD) containing DNA profiles of relatives of missing persons, and the Questioned Database (QD) comprised of DNA profiles from unknown remains. DNA-PROKIDS aims to ultimately establish worldwide DNA registries. These registries will be used to identify trafficked children, provide law enforcement a scientific methodology to build investigations and develop police intelligence.

### Illegal adoptions

An important issue that I want to cover with some detail is the one related to illegal adoptions. Most of these “illegal” adoptions could end up as “legal” adoptions, since documents are easily falsified, and faked passports will show whatever traffickers want them to show.

Therefore, operationally, I do classify the adoptions in 3 groups: completely legal, completely illegal, and legal but illegal. I'll try to explain this classification.

1. *Completely legal adoption* is the one where all legal procedures are followed, and these are the cases where parents or relatives voluntarily go to the designated agency to handle adoptions.
2. *Completely illegal adoption* is the one where no legal procedures are followed. These usually occur when “wealthy” people do not want to wait too long to adopt a child. Or, when a family wants to choose age, sex, and country of origin of the adoptee. The adopting family pays money and the mafias and traffickers get the baby to be sold, usually stolen babies, although there are cases of children that are bought off poor families.
3. *Legal but illegal adoption* is the one where the families adopting a child proceed legally from the very beginning; they follow all the procedures, they contact the right, authorized agency in the country of origin of the adoptee, and receive – along with the baby – all the documentation. A number of these children may have been stolen and given up for adoption by a young woman that claims that she is the mother and that she has no money to feed the child.

No child should be given up for adoption without checking that it is his or her biological mother or father (or any other relative who could have the right to do that, i.e., grandparents) who voluntarily decides to give up the child for that purpose. A simple DNA analysis will be able to prove this link.

In those cases where children are found abandoned and no one is looking for them, the authorities should conduct DNA analysis to ensure that – if in the future – their families look for them, they will be informed.

If we could progressively pass laws to ensure that all children who are adopted must have their DNA registered in their countries of origin, we would take a giants step.

Global initiatives to encourage the utilization and growth of these DNA databases may provide authorities with additional tools that could significantly increase the likelihood of identifying and apprehending the individuals responsible for committing these crimes against children. Ultimately, the goal of our and similar efforts is to reunite victims with their families or communities.

Finally, I'd like to mention and point out that special laws, like the Alba-Keneth Law from Guatemala (enacted 13/SEPT/2010) endorsing and requiring DNA analysis from missing, unidentified children and from relatives of missing children (art. 13 of that law) plays and will play an important role to protect children and their families. Nevertheless, this is a topic to be

covered in this meeting by Dr. Jorge N. Cabrera, from Guatemala, and therefore I will not enter in a detailed explanation. To finish I want to mention that this is the first, and so far, unique law of its kind in the world.

The University of Granada, with the support of the Spanish Government, is organizing a meeting – to be held along next spring in 2014 (April or May) in Granada or Spain – to coordinate all efforts and initiatives made so far, and not only from a scientific point of view, but also from a legal, social and mass communication perspective.

Our goal is to promote the creation of an International Observatory or Center that should coordinate and supervise all the above mentioned initiatives, and to facilitate all kind of information, experience and available support to those countries that wants to start using similar, compatible tools to fight this terrible, heinous crime.



# THE MODERN-DAY SLAVE TRADE: HOW THE UNITED STATES SHOULD ALTER THE VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT IN ORDER TO COMBAT INTERNATIONAL SEX TRAFFICKING MORE EFFECTIVELY\*

■ MELISSA HOLMAN

## I. Introduction

“...[T]he injustice, the outrage of human trafficking, must be called by its true name – modern slavery. It is barbaric and it is evil and it has no place in the civilized world.”<sup>1</sup>

To many, the worldwide slave trade is a problem found only in history books. However, the truth is that human beings are still being enslaved on a massive scale. Often, the victims are women and children held captive for the purposes of sexual slavery. According to the U.S. Department of State, approximately 560,000 women and children are trafficked across international borders each year and forced into the commercial sex trade.<sup>2</sup> This is a conservative estimate, and some non-governmental organizations (NGOs) put the number well into the millions.<sup>3</sup> When sex-trafficking figures are cumulated over the years, the scope of the problem becomes even more evident. For example, over the last thirty years, sex trafficking alone has resulted in the victimization of approximately thirty million Asian women and children.<sup>4</sup> One official working for UNICEF described the trafficking of women and children across Asia as “the largest slave trade in history.”<sup>5</sup>

Of the millions of women and children trafficked across international borders, many find themselves sold into brothels.<sup>6</sup> While some of these brothels operate illegally, many do not. That is, many women are trafficked into brothels that are owned and operated with state approval. This begs the question: is there a link between legalized prostitution and the trafficking in persons for sexual exploitation? This article will argue that legalized prostitution and sex trafficking are inexorably linked. It will also argue that states that practice legalized prostitution are condoning violence against

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women, because even women in highly regulated prostitution systems suffer rape, violence, mental abuse, and emotional trauma.

In recent years, the international community has grown more aware of the problem of international sex trafficking. The United Nations has addressed the issue with several treaties and protocols.<sup>7</sup> Individual nations have adopted domestic legislation to combat the problem.<sup>8</sup> This article, however, will focus on the United States' response to the sex trafficking crisis – namely, the Victims of Trafficking and Violence Protection Act of 2000 (TVPA). This U.S. legislation is significant because it is the first law passed by any body that will lead directly to the punishment of those countries that do not adequately combat international sex trafficking. Thus, the law has the potential to play a very significant role in the fight to end international sex trafficking.

The TVPA was the first federal legislation directed at ending international sex trafficking.<sup>9</sup> The statute provides for increased law enforcement on American soil and also increased pressure on foreign nations to implement stricter policies against sex trafficking.<sup>10</sup> Nations are assigned to one of four tier groups based on their compliance with the TVPA's minimum standards, which require that nations have laws against sex trafficking, punish sex traffickers, and make serious efforts to end trafficking.<sup>11</sup> Under the TVPA, the U.S. will cease providing non-humanitarian, non-trade-related aid to countries that are not in compliance with the minimum standards and are not actively trying to achieve compliance.<sup>12</sup> However, the TVPA makes no reference to prostitution and does not consider whether a country has legalized prostitution when determining its compliance with the minimum standards.

Although the TVPA is a significant step in the right direction, this paper will argue that by ignoring the issue of legalized prostitution, the TVPA has seriously impinged its potential efficacy. By turning a blind eye to the legalized sex industry, the TVPA ignores one of the largest motivating factors behind the global trade in persons. Additionally, the TVPA fails to punish countries that practice state-sponsored violence against women in the form of legalized prostitution. Although the TVPA was amended in 2008 to require foreign governments to make serious and sustained efforts to reduce the demand for commercial sex acts, this requirement has not been enforced. The TVPA should go further and be amended so that its minimum standards require countries to have strongly enforced anti-prostitution laws. More importantly, any country in violation of this minimum standard should not be able to achieve Tier 1 status.

Part II of this article provides an overview of the scope of international sex trafficking. It also discusses the role that different states play as source,

transit, and/or destination countries. Part III of the article provides an overview of the international response to sex trafficking, with particular focus on relevant U.N. conventions and protocols. Part IV discusses the U.S. response to sex trafficking. This section focuses primarily on the TVPA and its relevant provisions. Finally, Part V discusses the link between sex trafficking and legalized prostitution. This section argues that any legislation that does not specifically address the legal sex industry will be inherently ineffective in combating international sex trafficking. It also discusses the reasons why the legalization of prostitution does not effectively protect women.

## **II. International Sex Trafficking Is a Grave and Growing Problem**

The TVPA defines sex trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”<sup>13</sup> It is one subset of human trafficking, which also includes trafficking for labor or forced servitude.<sup>14</sup> Sex trafficking can easily be considered one of the most dire human rights abuses facing the world today. While it is hard to pinpoint the exact number of people trafficked across international borders each year, the U.S. government’s estimate puts the number somewhere between 600,000 and 800,000.<sup>15</sup> This figure does not include victims who are trafficked domestically for sexual exploitation or forced labor.<sup>16</sup> If included, these victims would raise the tally to between two and four million.<sup>17</sup> Of the people trafficked across international borders, the majority are women and children who are trafficked for purposes of sexual exploitation.<sup>18</sup> Currently, human trafficking is the third-most profitable criminal activity, surpassed only by drugs and weapons trafficking.<sup>19</sup> Each year, an estimated USD9.5 billion is generated through all human trafficking, with at least USD4 billion attributed to the brothel and prostitution industries.<sup>20</sup> Some observers speculate that, within ten years, human trafficking will surpass drugs and weapons trafficking to become the most profitable criminal activity in the world.<sup>21</sup>

International sex trafficking is not limited to poor and undeveloped areas of the world – it is a problem in virtually every region of the globe. Countries with large (often legal) sex industries create the demand for trafficked women, while countries where traffickers can easily recruit provide the supply.<sup>22</sup> Generally, economically depressed countries provide the easiest recruitment for traffickers.<sup>23</sup> In such nations, women are often eager to leave the country in search of better employment opportunities.<sup>24</sup> Traffickers exploit this fact and often trick victims into thinking they will be going abroad to work as nannies or models.<sup>25</sup> As illustrated below, the regions that produce the most sex trafficking victims are the former Soviet republics, Asia, and Latin America.

The collapse of the Soviet Union and the economic depression that followed created a pool of millions of women who could be easily recruited by traffickers.<sup>26</sup> It is estimated that over the last ten years, hundreds of thousands of women have been trafficked from Central and Eastern Europe into prostitution throughout the world.<sup>27</sup> Some observers report that women from Russia and the Ukraine are the most popular and valuable women in the sex industry today.<sup>28</sup> In the Ukraine alone, over 100,000 women have been forced into the international sex trade during the last ten years.<sup>29</sup>

Asia has also been heavily affected by global sex trafficking. Many Asian countries have large sex tourism industries, resulting in Asia being a significant player on both the demand and supply sides of international sex trafficking.<sup>30</sup> Around 225,000 people are trafficked out of South Asia each year.<sup>31</sup> Japan provides the largest market for Asian trafficking victims, with approximately 150,000 non-Japanese women currently working as prostitutes.<sup>32</sup> In Thailand, where one-third of Thai prostitutes are minors, some estimates put the number of prostitutes working in the country as high as 2.8 million.<sup>33</sup>

Latin America and Caribbean countries serve as source, transit, and destination markets for trafficking victims.<sup>34</sup> According to some reports, there are approximately 70,000 Brazilians, 50,000 Colombians, and 50,000 Dominicans who have been trafficked into Europe to work in the sex industry.<sup>35</sup> Additionally, 1,700 women from Latin America are trafficked each year to Japan.<sup>36</sup>

Though trafficking victims often come from poor countries, these women and children frequently find themselves being trafficked into some of the most prosperous nations in the world. Traffickers are in the business of making money, so it is of little surprise that they would traffic women into wealthy nations where they are able to charge higher rates for their commodity. Some of the largest destination countries in the sex trafficking market are the United States, Canada, the Czech Republic, Germany, Hungary, the Netherlands, Greece, Spain, and Portugal.<sup>37</sup> The majority of these countries either have no laws against prostitution, or rarely enforce the laws they do have.<sup>38</sup>

In the United States, the government estimates that approximately 50,000 women and children are trafficked into the country each year.<sup>39</sup> In the Netherlands, it is estimated that roughly 80% of the women working in the legalized sex industry have been trafficked against their will from other countries.<sup>40</sup> The Czech Republic contains over 860 brothels, and the sex industry has turned into a hundred-million dollar business for the organized crime networks involved.<sup>41</sup> In Spain, organized crime rings are purported to make over USD600 per prostitute per day, and over 20% of Spanish men report they have visited a prostitute at least once.<sup>42</sup>

### III. The International Response to Sex Trafficking

Though international sex trafficking has been on the rise in recent years, it is not a newly observed phenomenon. The first international treaties designed to combat the problem date back over one hundred years. As discussed below, the treaties and protocols passed over the last century often disagreed as to whether the definition of “sex trafficking” should encompass trafficking for “voluntary” sex work in addition to involuntary sex work.

#### *a) Background*

The possibility of a slave trade in women and girls first came to the international community’s attention in 1877, during the first congress of the International Abolitionist Federation at Geneva.<sup>43</sup> During that congress, a story surfaced claiming that dozens of women sent to Austria and Hungary under the pretext that they would be working as governesses for wealthy families were actually being sent to work in brothels.<sup>44</sup> The allegations sparked an international outcry, and countries began to launch investigations into their own sex industries. A few years after that first congress, Belgian authorities broke up a sex trafficking ring in Brussels, and a local police chief was convicted for his involvement.<sup>45</sup>

The issue burst to the forefront again in 1885, when the famous British muckraker W.T. Stead published a graphic account of sex trafficking in the *Pall Mall Gazette*.<sup>46</sup> The article discussed the sex trafficking situation in London in lurid detail.<sup>47</sup> The public outcry from the article was overwhelming, and many nations began to seriously consider creating an international agreement designed to prevent sex trafficking.<sup>48</sup> In 1888, England created the British National Vigilance Association, which was formed with the sole purpose of ending sex trafficking within the country.<sup>49</sup> Its secretary, William Alexander Coote, advocated for the formation of similar groups in countries all across Europe.<sup>50</sup> Around this same time, countries began to form small agreements with one another to prevent the trafficking of women across state lines. For example, the Netherlands entered into agreements with both Austria-Hungary and Belgium to monitor and reduce trafficking between the countries.<sup>51</sup>

#### *b) The First International Treaties to Combat Sex Trafficking*

The idea of an international treaty to combat sex trafficking gained new momentum in 1895, when the International Prison Conference went on the record demanding that an international commission be formed to study sex trafficking.<sup>52</sup> As a result of this recommendation and the continued efforts of Mr. Coote, arrangements were made for a first international congress.<sup>53</sup>

The first international congress gathered to oppose white slave traffic was held in London in June 1899.<sup>54</sup> 120 delegates from various nations attended the congress, where resolutions were adopted to create a permanent organization to be known as the International Congress.<sup>55</sup> In 1904, the International Congress passed the first comprehensive agreement designed to address white slave traffic: the “International Agreement for the Suppression of the White Slave Traffic” (“Agreement”), signed in Paris on May 18, 1904.<sup>56</sup> The Agreement provided that signatory countries would keep a close watch on areas where women and children could be trafficked, particularly railway stations and ports of embarkation.<sup>57</sup> It also focused on immigration issues and addressed what should be done with trafficking victims when discovered.<sup>58</sup> Furthermore, the Agreement established an authority within each of the signatory nations that would be charged with the duty of centralizing all information about sex trafficking within that particular country and sharing such information with the authorities in the other signatory countries.<sup>59</sup> The Agreement was signed by the United Kingdom, Germany, Belgium, Spain, Denmark, France, Italy, the Netherlands, Portugal, Russia, Sweden, Norway, and Switzerland.<sup>60</sup>

In 1949, the newly formed United Nations assumed the duties previously held by the International Congress.<sup>61</sup> Thus, the responsibility for maintaining and enforcing the Agreement fell upon the United Nations and its member states.<sup>62</sup> The U.N., deciding to update the Agreement to modernize its approach to sex trafficking, amended and signed the “International Agreement for the Suppression of the White Slave Traffic” at Lake Success, New York, on May 4, 1949.<sup>63</sup> The amended Agreement focused more on the punishment of traffickers than the 1904 Agreement.<sup>64</sup> Specifically, it stated that “[a]ny person who, to gratify the passions of others, has by fraud or by the use of violence, threats, abuse of authority, or any other means of constraint, hired, abducted or enticed a woman or girl of full age for immoral purposes . . . shall be punished.”<sup>65</sup> The amended Agreement required signatory nations to adopt domestic laws that would allow them “to punish such offences in accordance with their gravity.”<sup>66</sup>

As illustrated above, the amended Agreement did not condemn sex work in which a woman was a willing participant, but instead endorsed a definition of sex trafficking that only included sex work induced through force.<sup>67</sup> This garnered vocal criticism of the amended Agreement. In the years since the 1904 Agreement, increasing numbers of critics had begun to argue that the distinction between voluntary and involuntary prostitution was false.<sup>68</sup> As early as 1910, critics argued that regulation was ineffective, and that only the abolition of prostitution could lead to eradication of international sex

trafficking.<sup>69</sup> Additionally, the original and amended Agreements were “criticized for failing to acknowledge and confront the less visible forms of coercion – economic, cultural, social, and psychological – that could lead a woman into prostitution.”<sup>70</sup> States and NGOs began to push for the international community to address all forms of prostitution as human rights violations.<sup>71</sup>

Shortly after the signing of the amended Agreement, the U.N. gave voice to its critics by holding a new convention to deal with sex trafficking. The “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others” (“Convention”) was ratified on March 21, 1950 and took force the following year.<sup>72</sup> The Convention was designed to consolidate all the international agreements that had been drafted on the issue of sex trafficking since 1904, and it was the first international instrument of any kind to consider all forms of prostitution to be human rights violations.<sup>73</sup> The first sentence of the preamble states that “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person...”<sup>74</sup> The Convention goes on to state:

The parties to the present Convention agree to punish any person who, to gratify the passions of another:

1. Procures, entices, or leads away, for purposes of prostitution, another person, even with the consent of that person;
2. Exploits the prostitution of another person, even with the consent of that person.<sup>75</sup>

Because it provided that a woman’s consent no longer excused the traffickers and brothel owners who were profiting from her sexual exploitation, this Convention signaled a radical shift in the international community’s approach to sex trafficking.<sup>76</sup> It made the crimes listed above, as well as brothel owning, extraditable offenses.<sup>77</sup> As of 2003, the Convention had been signed and/or ratified by 79 countries, less than one half of the UN’s 192 member states.<sup>78</sup> A few of the many countries notably absent from the list were the United States, Germany, Australia, the Netherlands, Canada, and New Zealand.<sup>79</sup>

The United Nations did not address the topic of sex trafficking again for many years. Nonetheless, the problem of sex trafficking continued to increase, particularly during the late twentieth century.<sup>80</sup> Technological developments during this time and increased globalization allowed transnational organized criminal activities to expand.<sup>81</sup> As a result, in the late 1990s the international community began investigating ways to combat organized

crime.<sup>82</sup> In 1998, the U.N. General Assembly founded an ad hoc committee to draft the Convention Against Transnational Organized Crime.<sup>83</sup> That same year, during a session of the Commission on Crime Prevention and Criminal Justice, “Argentina suggested drafting a new convention against trafficking in minors.”<sup>84</sup> Following a suggestion by Greece, the scope of the convention was broadened to include all forms of human trafficking.<sup>85</sup> The other member states agreed, and the scope of the convention was expanded to include all trafficking in persons.<sup>86</sup> The member states also agreed that the instrument would be implemented as an optional protocol to the U.N. Convention Against Transnational Organized Crime.<sup>87</sup>

In 2000, the U.N. General Assembly adopted the “Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children” (known as the “Palermo Protocol”).<sup>88</sup> With the Palermo Protocol, the U.N. attempted to answer critics who argued that the “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others” focused too heavily on the punishment of sex traffickers and not enough on the protection of the victims’ human rights.<sup>89</sup> The Palermo Protocol signaled another shift in the U.N.’s treatment of sex trafficking because it no longer defined sex trafficking to include all sex work irrespective of consent.<sup>90</sup> Rather, when a victim consents, sex trafficking would only be illegal where the following means had been used: “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.”<sup>91</sup> Voluntary prostitution was no longer considered sexual exploitation under the Protocol.<sup>92</sup>

This new definition allowed countries to be signatories to the Protocol even if they had active, legal sex industries within their borders. However, the Protocol did not prevent countries from criminalizing prostitution in an effort to combat sex trafficking. This definition was seen as a necessary compromise if the Protocol were to be an effective international instrument.<sup>93</sup> The compromise appeared to work, and many nations which had not ratified the 1950 Convention chose to ratify the Palermo Protocol. Almost 80 nations signed the Convention at the Signing Conference in Palermo, Italy in 2000.<sup>94</sup> Currently, there are 170 signatories to the Protocol, including the United States, Germany, Australia, New Zealand, the Netherlands, and Canada.<sup>95</sup>



#### IV. The United States' Domestic Response to Sex Trafficking: The TVPA of 2000

The movement against sex trafficking in the U.S. came later than in Europe. The first acknowledgement of a possible domestic sex trafficking industry came in 1906 when the U.S. formed its first national vigilance committee.<sup>96</sup> This was the result of strong encouragement by Mr. Coote, who had been instrumental in forming the first national vigilance committee in England.<sup>97</sup> The committee uncovered the existence of a sex trafficking industry in New York City and other U.S. cities.<sup>98</sup> Largely as a result of the findings uncovered by the committee, the U.S. became a party to the International Agreement for the Suppression of White Slave Traffic in June of 1908.<sup>99</sup>

The first domestic U.S. legislation specifically designed to address the problem of sex trafficking was the “White Slave Traffic Act of 1910,” more commonly known as the Mann Act.<sup>100</sup> The Mann Act was designed to “further regulate interstate commerce and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls.”<sup>101</sup> Although the law was initially designed to bring the U.S. into compliance with the 1904 Agreement, the vague wording of the statute rendered it largely ineffective.<sup>102</sup> For example, the Mann Act prohibited all transport for “immoral purposes,” not simply prostitution. This gave law enforcement wide discretion in determining who was breaking the law, and led many to believe that the Act was just another form of Jim Crow.<sup>103</sup>

The U.S. did not broach the topic of sex trafficking again until 2000, when it passed the TVPA.<sup>1</sup> The TVPA was the first comprehensive federal law specifically designed to protect victims of sex trafficking and to prosecute their traffickers.<sup>104</sup> In particular, the TVPA combats “severe forms of trafficking in persons.”<sup>105</sup> This is defined as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.”<sup>106</sup> It is notable that, with respect to adult victims, the TVPA definition only applies to acts where force, fraud, or coercion is involved. This definition is more limited than the one found in the Palermo Protocol, which also forbids

<sup>1</sup>The TVPA was re-authorized in 2003, 2005, and 2008 with broad bi-partisan support. However, it was allowed to lapse at the end of 2011, and was not signed back into law until March 2013. The 2013 re-authorization was passed as an amendment to the broader Violence Against Women Act. See <http://www.nytimes.com/2012/03/22/opinion/the-fight-against-modern-slavery.html>; <http://www.endslaveryandtrafficking.org/trafficking-victims-protection-reauthorization-act>

commercial sex acts induced through deception, abuse of power, abuse of a position of vulnerability, or through buying a woman from her relatives.<sup>107</sup>

The TVPA aims to attack the issue of sex trafficking in a number of ways. One of its primary goals is to reduce sex trafficking abroad by increasing funding and support for governments and NGOs working to combat the problem.<sup>11</sup> The scope and success of this aspect of the TVPA will be discussed briefly in Section A. Section B will discuss the enforcement side of the TVPA and will provide an overview of the Trafficking in Persons Report, the minimum standards countries are required to meet, and the penalties countries may face if they do not make sufficient efforts to combat international sex trafficking. Section C will evaluate the TVPA's effectiveness.

#### *a) The "Carrot"*

The TVPA authorized the creation of the State Department's Office to Monitor and Combat Trafficking in Persons, which is currently headed by Ambassador Luis CdeBaca.<sup>108</sup> In 2003 alone, this office supported more than 240 anti-trafficking programs in over 75 countries.<sup>109</sup> Since 2001, the United States has provided more than USD295 million to support anti-trafficking programs in more than 120 countries.<sup>110</sup> In 2010 alone, the U.S. government allocated USD85,270,083 to international anti-trafficking programs.<sup>111</sup>

These programs include (1) economic alternative plans for vulnerable groups, (2) education programs, (3) training for government personnel, (4) establishment of safe houses for victims, and (5) medical and psychological counseling services for victims.<sup>111</sup> For example, in 2003 the U.S. gave USD500,251 to the NGO WorldVision to implement a targeted information campaign at international destination points designed to deter U.S. citizens from participating in sex tourism.<sup>112</sup> That same year, the U.S. gave USD150,000 to New York University to "train government officials and journalists on collaborative approaches to combat trafficking in persons in Armenia."<sup>113</sup> One government report shows that USD17,731 was given to International Labour Organization to produce a documentary on child trafficking in Burkina Faso, Africa, and show it on national television, along

<sup>11</sup> The TVPA also includes laws focused on tackling the problem of sex trafficking within the United States, and includes victim-protection laws designed to protect victims of trafficking in the U.S. However, this paper focuses on the aspects of the TVPA designed to deter sex trafficking in foreign nations.

<sup>111</sup> U.S. Government Anti-Trafficking in Persons Program Funding, 2010 Fact Sheet. Available at <http://www.state.gov/documents/organization/167319.pdf>

with USD30,155 for the purpose of producing and disseminating radio and television spots, pamphlets, and placing signs in airports.<sup>114</sup>

*b) The “Stick”*

While the increased aid and support given to foreign countries and NGOs is a significant part of the TVPA, it is not the most significant aspect for purposes of this paper. Rather, this paper focuses on how the TVPA penalizes foreign nations that do not do enough to combat international sex trafficking. It is through this enforcement mechanism that the U.S. could effectively pressure foreign nations to adopt stricter anti-prostitution laws.

Under the TVPA, the U.S. evaluates a country’s efforts to combat sex trafficking by determining how well that nation complies with the minimum standards contained in section 108 of the Act. First, the “government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.”<sup>115</sup> Since the definition of severe forms of trafficking only includes force, fraud, or coercion, countries with legalized prostitution are not in violation of this minimum standard.<sup>116</sup>

Next, the government should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault when there is a knowing commission of any severe form of sex trafficking; or when the victim of trafficking is a child; or when the trafficking involves rape, kidnapping, or death.<sup>117</sup> Additionally, for the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense. *Id.*

Finally, “the government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.”<sup>118</sup> When deciding whether or not a country has met this standard, the U.S. will look to whether or not the country (1) investigates and prosecutes severe forms of sex trafficking vigorously; (2) protects victims and gives them options other than immediate deportation; (3) works to educate the public about sex trafficking; (4) extradites people accused of sex trafficking; (5) monitors emigration and immigration patterns for evidence of sex trafficking; (6) investigates and prosecutes public officials who participate in or facilitate sex trafficking; (7) adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons; (8) cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons; (9) whether the percentage of victims of severe forms of trafficking in the

country that are non-citizens of such countries is insignificant; (10) whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the above criteria; Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year; and (11) whether the government of the country has made serious and sustained efforts to reduce the demand for commercial sex acts and participation in international sex tourism by nationals of the country.<sup>IV 119</sup>

Under the TVPA, the U.S. State Department is required to create an annual “Trafficking in Person’s Report” (TIP Report) and rate each country’s efforts to combat sex trafficking.<sup>120</sup> First, the report must include “a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards.”<sup>121</sup> These countries will be listed on Tier 1 in the TIP Report.<sup>122</sup> Next, the report must provide “a list of those countries, if any, to which minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance.”<sup>123</sup> These countries would be classified in the TIP Report as Tier 2 countries.<sup>124</sup> The Report must also include a list of countries whose governments do not fully comply with the TVPA’s minimum standards but are making significant efforts to comply<sup>125</sup> and:

- I) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- II) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials, or;
- III) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.<sup>126</sup>

<sup>IV</sup>The requirement that governments must make serious effort to reduce the demand for commercial sex acts was added by amendment in the 2008 TVPA re-authorization. See 2008 Re-Authorization, available at: <http://www.state.gov/j/tip/laws/113178.htm>

These countries are listed in the TIP Report on the Tier 2 Watch List.<sup>v</sup> Finally, the report must include “a list of those countries, if any, to which the minimum standards for the elimination of trafficking apply and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.”<sup>127</sup> These countries are placed on Tier 3.<sup>128</sup>

The tier placement of countries in the annual TIP Report is significant because Tier 3 countries risk losing all non-humanitarian, non-trade-related foreign assistance.<sup>129</sup> The U.S. government will deny such assistance to any government that “does not comply with minimum standards for the elimination of trafficking...and is not making significant efforts to bring itself into compliance with such standards.”<sup>130</sup> For countries that are not currently receiving non-humanitarian, non-trade-related aid, the U.S. will penalize them under the TVPA by refusing to provide “funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year.”<sup>131</sup> The only way a country in Tier 3 can avoid these penalties is through a Presidential waiver.<sup>132</sup> Under the TVPA, the President may issue a waiver if he determines that the provision to the country of such aid would promote the purposes of the TVPA or is in the U.S. national interest.<sup>133</sup> Under the TVPA, the President is required to exercise his waiver authority when it is “necessary to avoid significant adverse effects on vulnerable populations, including women and children.”<sup>134</sup>

### *c) The TVPA Has Proven to Be an Effective Tool to Combat Sex Trafficking*

Overall the TVPA, has been a success. The threat of losing aid, combined with the stigma associated with being listed as a Tier 3 nation, has created a climate in which countries are actively working to improve their response to international sex trafficking. For example, in the first TIP Report in 2002, Indonesia was placed on Tier 3.<sup>135</sup> The Indonesian government was so concerned about potentially losing its U.S. aid that it immediately created a National Trafficking Commission.<sup>136</sup> This move earned Indonesia a spot in Tier 2 the following year, where it has stayed for nine of the last ten years.<sup>137</sup>

As another example, Belize was listed in Tier 3 in the 2003 TIP Report.<sup>138</sup> The reasons cited for the placement were the fact that the Belize government exercised no direct anti-trafficking efforts and had no laws that

<sup>v</sup> A 2008 amendment to the TVPA provides that any country that has been ranked Tier 2 Watch List for two consecutive years and that would otherwise be ranked Tier 2 Watch List for the next year will instead be ranked Tier 3 in that third year.

specifically prohibited trafficking in persons.<sup>139</sup> Within one year of being placed in Tier 3, Belize had drastically reformed its position on sex trafficking.<sup>140</sup> The government passed a comprehensive anti-trafficking law, created a national taskforce to monitor and combat sex trafficking, and increased law enforcement efforts against brothel owners and operators.<sup>141</sup> In the 2004 TIP Report, Belize was moved up to Tier 2 Watch List.<sup>142</sup> By the 2005 TIP Report, Belize was in Tier 2.

Cambodia was listed in Tier 3 in the 2005 TIP Report because it failed to combat severe forms of trafficking, particularly through its failure to convict traffickers and public officials involved in trafficking.<sup>143</sup> Over the following year, Cambodia increased its efforts to arrest, prosecute, and convict traffickers; for instance, police raided a large brothel in which many trafficking victims were found.<sup>144</sup> The brothel owner was later tried and convicted, and the Cambodian government arrested and prosecuted several police officers in connection with the raid.<sup>145</sup> Though Cambodia is still plagued by “corruption at all levels of government and an ineffectual judicial system,” being placed in Tier 3 seems to have motivated the country to increase its efforts to combat sex trafficking.<sup>146</sup> As of the 2013 TIP Report, Cambodia was listed in the Tier 2 watch list.

As illustrated through the examples above, the TVPA has proven to be effective tool at fighting international sex trafficking. Under the TVPA, there has been a positive impact both domestically and internationally “to reduce trafficking and to deter the crime of sex slavery ... and the United States is playing an important role to eradicate slavery through legislative example, interagency cooperation, and multilateral efforts.”<sup>147</sup> However, the TVPA falls short in one area: countries with large, legalized domestic sex markets can still be found in Tier 1.<sup>vi</sup> As discussed below, the TVPA could be substantially more effective in combating international sex trafficking if it considered countries with legal sex industries to be in violation of the Act’s minimum standards.

## **V. The Link Between Sex Trafficking and Legalized Prostitution: Why the U.S. Should Amend the TVPA to Address Countries with Legalized Prostitution**

This section will address the crux of this article’s argument: legalized prostitution increases sex trafficking and does not protect women. Part A discusses the link between legalized prostitution and sex trafficking. Part B

<sup>vi</sup> Remarkably, this is true *even after* the addition in 2008 of a requirement obligating governments to take steps to reduce the demand for commercial sex acts.

of the article addresses the fact that legalization of prostitution does not create a safer working environment for women. Finally, Part C provides two case studies in support of the conclusion that only countries who stringently prohibit prostitution can effectively combat international sex trafficking.

### *a) Legalized Prostitution Increases Sex Trafficking*

#### *1. Legalized Prostitution Increases Demand for Trafficking Victims*

The legalization and regulation of the sex industry does not deter sex traffickers. In countries where prostitution is legal or tolerated, there is a greater demand for prostitutes, and thus a greater demand for trafficking victims.<sup>148</sup> Customers often want unlimited access to a variety of women who are ethnically and culturally diverse.<sup>149</sup> This constant demand for new and different women is one of the primary drives behind the international trade in women.<sup>150</sup> The Swedish government, which has been very effective at combating its own trafficking problem, has stated that “international trafficking in human beings could not flourish but for the existence of local prostitution markets where men are willing and able to buy and sell women and children for sexual exploitation.”<sup>151</sup>

One of the arguments for legalization in the Netherlands was that it would help to curb the exploitation of migrant workers who had been trafficked there for sexual exploitation.<sup>152</sup> However, many argue that legalization has actually increased the traffic of migrant workers. One study in 1999 found that 80% of the women working in brothels in the Netherlands had been trafficked from other countries.<sup>153</sup> Within one year after lifting the ban on prostitution, eight different Dutch victim support groups reported an increase in the number of trafficking victims.<sup>154</sup> Additionally, the country has had to curb its anti-immigration efforts in order to keep up with the demand for sex workers. In 2000, the Dutch Ministry of Justice actually “argued in favor of a legal quota of foreign ‘sex workers,’ because the Dutch prostitution market demanded a variety of ‘bodies.’”<sup>155</sup>

Nonetheless, the Netherlands was listed as a Tier 1 country in the latest TIP Report.<sup>156</sup> This is due in large part to the fact that the U.S. does not take the Netherlands’ legalized sex industry into account when evaluating its efforts to combat trafficking. The fact that the Netherlands has anti-trafficking laws on the books and prosecutes traffickers is apparently enough to assure it of a Tier 1 ranking.<sup>157</sup> The 2013 TIP Report stated that “the Government of the Netherlands fully complies with the minimum standards for the elimination of trafficking,” despite the fact that the Netherlands has one of the most well-known commercial sex industries in the world. It

is unclear how the U.S. can claim that the Netherlands has met minimum standards when there is no indication that the Netherlands has “made serious and sustained efforts to reduce the demand for commercial sex acts,” as is required by the TVPA. The 2013 TIP Report makes little mention of legalized prostitution in the Netherlands.

Prostitution became legalized in certain areas of Germany during the 1980s.<sup>158</sup> By 1993, it was widely acknowledged that 75% of women in Germany’s prostitution industry were foreigners, largely from South America.<sup>159</sup> After the fall of the Berlin wall, a large number of women were trafficked into the country from Central and Eastern Europe.<sup>160</sup> In 2002, Germany legalized prostitution in all areas of the country, which created an even greater influx of foreign sex workers.<sup>161</sup> Many experts believe the large number of foreign women working in the German sex industry suggests these women were trafficked into the country, through a process the German government refers to as “facilitated migration.”<sup>162</sup> However, this is a disingenuous label, as it is virtually impossible for impoverished women to “facilitate their migration, underwrite the costs of travel and travel documents, and set themselves up in ‘business’ without intervention.”<sup>163</sup> Germany was also listed as a Tier 1 country in the 2013 TIP Report.<sup>164</sup>

## ***2. Legalization Actually Increases the Black Market***

Some scholars, such as Katri Sieberg, argue that legalization of prostitution reduces the influence of the black market.<sup>165</sup> She argues that “if it were legalized, then the government – and not the organized criminals – would control it; and the government could gain from taxing it.”<sup>166</sup> Though this argument seems sound in theory, it has not proven accurate. Even in markets where prostitution is legalized, the black market continues to flourish.<sup>167</sup> The increase in demand opens up the market for criminal enterprises that traffic victims into the country.<sup>168</sup> Legalized prostitution is a trafficker’s best shield, allowing him to legitimize his trade in sex slaves and making it more difficult to identify trafficking victims.<sup>169</sup>

For example, after legalizing prostitution, the Dutch government decided it was necessary to pass laws that enabled women from the European Union and former Soviet Bloc countries to obtain working permits as “sex workers” in the Dutch sex industry.<sup>170</sup> To receive such a permit, women were required to prove they were self-employed.<sup>171</sup> The government thought that such a measure could reduce the number of victims trafficked into the country. However, several NGOs have discovered that traffickers involved in the black market illegally use the work permits to bring foreign women into the Dutch prostitution industry.<sup>172</sup> They mask the fact that the women



have been trafficked by coaching them to refer to themselves as independent “migrant sex workers.”<sup>173</sup> Thus, a measure designed to reduce black market involvement in the sex industry has actually increased it.<sup>174</sup>

The argument that governments should legalize prostitution in order to benefit from the tax revenue is not convincing, either. In Germany, lawmakers expected hundreds of millions of euros in tax revenue when they legalized prostitution.<sup>175</sup> However, in keeping with the criminal nature of prostitution, many brothels have refused to pay taxes.<sup>176</sup> Additionally, the failure of many criminally run brothels to register with the state has resulted in a budget deficit for Germany, with the government estimating €2 billion in unpaid tax revenue annually from the sex industry.<sup>177</sup> In 2004, the government began seeking ways to increase tax collections from prostitutes.<sup>178</sup> Thus, Germany is now having to look to some of the most abused and exploited women in the world for its desired tax windfall.

## ***b) Legalizing Prostitution Does Not Reduce Abuse***

### ***1. Prostitutes Working in Regulated Environments Still Suffer High Rates of Abuse***

One of the most frequently used arguments in favor of legalizing prostitution is that prostitution is a victimless crime. For example, when discussing a high profile prostitution arrest in 2007, American journalist and prominent libertarian John Stossel wrote: “Don’t prostitutes own their bodies? Shouldn’t they be able to freely contract to use their bodies as they wish? Who was hurt here? This is a victimless crime.”<sup>179</sup>

Unfortunately, prostitution is not a victimless crime. Prostitutes report high incidences of abuse even in countries where prostitution is legal and regulated. In the Netherlands, where prostitution is legal, 60% of prostituted women reported suffering physical assaults, 70% experienced verbal threats of physical violence, 40% experienced sexual violence, and 40% had been forced into sexual abuse or prostitution by acquaintances.<sup>180</sup> In a survey of legal prostitutes in the U.S., 86% reported that they had been subject to physical violence by buyers.<sup>181</sup> A survey of legal sex workers in Victoria, Australia (where prostitution is reportedly highly regulated) found that one in five clients still demands unsafe sex.<sup>182</sup> In Canada, where anti-prostitution laws are on the books but are seldom enforced, prostituted women and girls suffer a mortality rate 40 times higher than the national average.<sup>183</sup> In one international study where 186 prostitutes were interviewed, the women consistently stated that prostitution establishments did little to help them, regardless of whether the brothels were legal or illegal.<sup>184</sup> As one victim

stated, “The only time they protect anyone is to protect the customers.”<sup>185</sup>

It is not only the clients who are abusing women. Prostitution exists in legal and illegal environments in largely the same way – prostitutes are controlled and often beaten by pimps and brothel owners who have complete power over the women’s finances and well-being. The only difference is that in countries where prostitution is legal, pimps are no longer criminals, but rather operate as third party businessmen and legitimate sexual entrepreneurs.<sup>186</sup> In a survey of prostitutes in the U.S., 76% reported that they had been beaten by their pimp.<sup>187</sup> A similar study which surveyed 146 prostitutes in five countries found that 80% of the women had suffered physical violence from their pimp.<sup>188</sup> During a study of prostitution in Germany, where prostitution is legal, 59% of respondents said they did not feel that legalization made them any safer from rape and physical assault.<sup>189</sup>

## ***2. The Act of Prostitution Is Inherently Abusive***

A frequently espoused argument in favor of legalized prostitution is that once prostitution is regulated, it will be easier to protect the women’s health.<sup>190</sup> It is true that in most systems where prostitution is legal, health checks and certification are required for women.<sup>191</sup> However, these programs only apply to the prostitutes, not the customers.<sup>192</sup> Thus, unbeknownst to either party, customers may be infecting prostitutes with sexually transmitted diseases. Though these programs are allegedly designed to protect women, it is only the customers who are being protected from the risk of STDs.

Countries in which prostitution is legal often implement strict condom policies.<sup>193</sup> However, these policies are virtually impossible to enforce. First, men frequently offer to pay more money for sex without a condom.<sup>194</sup> In a business where prostitutes are desperate to make as much money as possible, women are frequently willing to forego their health in order to increase their price. As one woman stated, “I’d be one of those liars if I said ‘Oh, I always use a condom.’ If there was extra money coming in, the condom would be out the window. I was looking for the extra money.”<sup>195</sup>

Additionally, pimps and customers often pressure prostitutes to have sex without condoms. In a survey of U.S. prostitutes, 45% stated that men had become abusive when asked to wear a condom.<sup>196</sup> The women also reported that the vast majority of male customers expected that oral sex be performed without a condom, even though this practice can spread HIV and other STDs.<sup>197</sup> Additionally, pimps are usually unconcerned with their employee’s health and are primarily interested in increasing their bottom line. Thus, pimps often pressure women to have sex without condoms if a customer will pay more.<sup>198</sup>

Even if it were possible to protect a woman from violent pimps and customers and to protect her physical health from disease through the use of condoms, it would still be impossible to protect a prostitute's mental health. This is because the practice of prostitution itself is abusive and can have dire consequences on a woman's psyche.<sup>199</sup> Pimps and traffickers often subject women in prostitution to brutal rapes in order to condition them to prostitution.<sup>200</sup> Prostitutes are expected to service many anonymous men per day, and pimps often issue quotas that prostitutes must meet in order to be paid.<sup>201</sup> These forms of abuse, along with the torturous effects of some sexual practices, often leave women with serious long-term physical and emotional harm.<sup>202</sup> Studies have shown that prostituted women often suffer the same serious psychological injuries as war veterans and torture victims, such as flashbacks, anxiety, and sleep disturbances.<sup>203</sup> Melissa Farley, a psychologist who has extensively researched the links between prostitution and post-traumatic stress disorder ("PTSD"), found that 68% of prostitutes in nine different countries met the criteria for a diagnosis of PTSD.<sup>204</sup> The rates of PTSD were the same for street prostitutes as they were for prostitutes working in brothels.<sup>205</sup> This indicates that it is the intrinsically traumatizing nature of prostitution that causes PTSD, not the environment in which the prostitute works.

### *c) Lessons From Australia and Sweden*

The experiences of Australia and Sweden offer valuable lessons regarding the impact of legalized prostitution on sex trafficking.

The argument that legalization of prostitution reduces the illegal sex trade can perhaps best be refuted by the example of Victoria, Australia. In 1984, the state of Victoria passed legislation to legalize prostitution.<sup>206</sup> The legislation was designed to reduce criminal involvement in the industry and to curb unregulated expansion. However, the sex industry has actually grown massively since the legislation passed.<sup>207</sup> Ironically, the growth has been primarily in the illegal sector.<sup>208</sup> In 1999, unlicensed brothels, which outnumbered the legal sex businesses, had tripled in twelve months to more than 100.<sup>209</sup>

Organized crime in the prostitution industry has expanded under the regime of legalized prostitution.<sup>210</sup> Often convicted criminals, who are fronted by more legitimate businessmen, operate and run brothels.<sup>211</sup> For example, a man named Fred Lelah was arrested and brought to trial in 2000 for selling girls aged 10–15 in his legally operated brothel.<sup>212</sup> He had already served two years for the same offense.<sup>213</sup>

Along with this black market comes an increase in women illegally trafficked into the area. One study found that brothels in Victoria are earning

USD1 million a week from illegal sex trafficking.<sup>214</sup> While it is impossible to know the exact number of women trafficked into Victoria, many legal brothels contain such “contract workers”<sup>215</sup> who are women trafficked into the country with passports and earnings confiscated until their contracts were worked off, a practice known as debt bondage.<sup>216</sup> Additionally, of all the states and territories in Australia, Victoria has the highest reported incidence of child prostitution.<sup>217</sup> There is clear evidence of organized, black market commercial exploitation of children in Victoria.<sup>218</sup> The government of Victoria has proven to be either unable or unwilling to curb the explosion of sex trafficking in the area. One trafficker, who brought forty Thai women into Victoria and held them in debt bondage until they each had sex with over 500 men, received an 18-month suspended sentence and a fine.<sup>219</sup>

The case of Sweden, on the other hand, illustrates how strong laws against prostitution can effectively combat sex trafficking. As part of its campaign to combat human trafficking, Sweden passed aggressive anti-prostitution laws in 1999.<sup>220</sup> Prior to this time, prostitution was legal in Sweden. The 1999 laws were unique in that they were enforced against only customers, brothel owners, and traffickers.<sup>221</sup> The Swedish lawmakers’ goals were to destroy the market, thereby making Sweden less attractive to traffickers.<sup>222</sup>

Only two years after implementing the law, there was already a 50% decrease in women selling sex, and a 75% decrease in the number of men buying it.<sup>223</sup> As of 2007, there were only between 105 and 130 prostitutes working in Stockholm.<sup>224</sup> Additionally, sex trafficking in Sweden has decreased dramatically.<sup>225</sup> Currently, Sweden has the least serious sex-trafficking problem of any country in the European Union.<sup>226</sup> Swedish police report that an estimated 400 to 600 foreign women are trafficked into the country each year for prostitution.<sup>227</sup> By contrast, in Finland, a country half the size of Sweden, there are approximately 10,000 to 15,000 women trafficked into the country each year.<sup>228</sup> Sweden’s anti-prostitution laws have been so effective in curbing sex trafficking that Norway and Iceland have since adopted similar legislation.<sup>229</sup>

Sweden illustrates that countries who diligently enforce anti-prostitution laws can be incredibly effective at reducing illegal sex trafficking. Victoria, Australia, on the other hand, supports the argument that countries endorsing state-sponsored prostitution contribute to the international traffic in women. Thus, TVPA should be altered to sanction countries such as Australia, which not only indirectly sanction violence against women, but also contribute to the market for trafficking victims.

## VI. Conclusion

International sex trafficking is a problem that will not soon disappear. As long as profits are high and victims are plentiful, traffickers will continue the trade in women and children. Therefore, it is imperative that international actors create effective legislation to combat sex trafficking. Though the U.N. initially adopted a definition of sex trafficking that included both consensual and non-consensual sexual exploitation, it has since had to back away from that position for the sake of global consensus. However, the U.S. has no such excuse for refusing to acknowledge that legalized prostitution is an integral part of international sex trafficking. By failing to take a country's policies toward prostitution into account when evaluating that country's placement on the Trafficking in Persons Report, the U.S. is ignoring some of the biggest contributors to the international demand for trafficking victims. Additionally, the U.S. is failing to recognize that so-called consensual prostitutes suffer many of the same abuses and horrors as trafficking victims. Thus, if the U.S. wants the TVPA to be truly effective in combating international sex trafficking, it must amend the Act so that the minimum standards require nations to have stringently enforced laws against prostitution. The U.S. should also enforce its current requirement that countries must make serious and sustained efforts to reduce the demand for commercial sex acts. Countries that do not attempt to meet these requirements would then be assigned to Tier 3 and would be at risk of losing various forms of U.S. aid.

### Endnotes

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<sup>2</sup> U.S. Dep't. of State, Trafficking in Persons Report 15 (2004), available at <http://www.state.gov/documents/organization/34158.pdf> [hereinafter 2004 TIP Report].

<sup>3</sup> Sex Slaves: Estimating the Numbers, <http://www.pbs.org/wgbh/pages/frontline/slaves/etc/stats.html>.

<sup>4</sup> S. Huda, Sex Trafficking in South Asia, *Int'l J. of Gynecology and Obstetrics*, 374, 375 (2006).

<sup>5</sup> Asia's Sex Trade is "Slavery", BBC News, Feb. 20, 2003, available at <http://news.bbc.co.uk/2/hi/asia-pacific/2783655.stm>.

<sup>6</sup> See, e.g., Sex Slavery: The Growing Trade, CNN, Mar. 8, 2001, <http://archives.cnn.com/2001/WORLD/europe/03/08/women.trafficking/index.html> (describing the sale of women and children into brothels in Asia and North America).

<sup>7</sup> See G.A. Res. 55/2, ¶ 9, U.N. Doc. A/RES/55/2 (Sept. 18, 2000) (“We resolve therefore ... [t]o intensify our efforts to fight ... trafficking as well as smuggling in human beings ...”).

<sup>8</sup> See, e.g., Sexual Offences Act, 2003, c.42, §57 (Eng.).

<sup>9</sup> Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. § 7101 et. seq. (2000), available at <http://www.state.gov/documents/organization/10492.pdf>.

<sup>10</sup> *Id.* §§ 7103–04.

<sup>11</sup> *Id.* §7106.

<sup>12</sup> *Id.* §7107.

<sup>13</sup> *Id.* §7102.

<sup>14</sup> U.S. Dep’t. of State, Facts About Human Trafficking 1 (2004), available at <http://www.state.gov/documents/organization/33216.pdf>.

<sup>15</sup> 2004 TIP Report, *supra* note 2, at 15.

<sup>16</sup> Claire Ribando, CRS Report for Congress, Trafficking in Persons in Latin America and the Caribbean 3 (2005), available at <http://www.oas.org/atip/Latin%20America/CRS%20Dec%202005.pdf>.

<sup>17</sup> *Id.*

<sup>18</sup> 2004 TIP Report, *supra* note 2, at 15.

<sup>19</sup> Nat’l Coal. Against Domestic Violence, Human Trafficking Facts (2006), available at <http://www.ncadv.org/files/HumanTrafficking.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> Susan Cohen, Ominous Convergence: Sex Trafficking, Prostitution, and International Family Planning, 8 *The Guttmacher Rep. on Pub. Pol’y* 1, 12 (2005).

<sup>22</sup> See Claire Ribando, *supra* note 16, at 6, 19 (identifying major destination and recruitment countries, and noting the U.S. State Department’s position that legal prostitution increases demand).

<sup>23</sup> Iris Yen, Comment, Of Vice and Men: A New Approach to Eradicating Sex Trafficking by Reducing Male Demand Through Educational Programs and Abolitionist Legislation, 98 *J. Crim. L. & Criminology* 653, 657 (2008).

<sup>24</sup> Peter Landesman, *The Girls Next Door*, *N.Y. Times*, Jan. 25, 2004, available at <http://www.nytimes.com/2004/01/25/magazine/25SEXTRAFFIC.html>.

<sup>25</sup> *Id.*

<sup>26</sup> Donna Hughes, *The ‘Natasha Trade’: Transnational Sex Trafficking*, *Nat’l Inst. of Just. J.*, Jan. 2001, at 9, available at <http://www.ncjrs.gov/pdffiles1/jr000246c.pdf>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 10.

<sup>30</sup> Huda, *supra* note 4, at 375.

<sup>31</sup> *Id.* at 374–75.

<sup>32</sup> Coalition Against Trafficking in Women – Asia Pacific (CATW-AP), Facts and Statistics, <http://www.catw-ap.org/programs/research-documentation-publications/facts-and-statistics/> (last visited Jan. 15, 2009).

<sup>33</sup> *Id.*

<sup>34</sup> Ribando, *supra* note 16, at 4.

<sup>35</sup> 2004 TIP Report, *supra* note 2, at 227, 230, 233.

<sup>36</sup> Ribando, *supra* note 16, at 6.

<sup>37</sup> Hughes, *supra* note 26, at 10.

<sup>38</sup> See *id.* at 14 (discussing difficulties of enforcement).

<sup>39</sup> Janice G. Raymond and Donna M. Hughes, *Sex Trafficking of Women in the United States: International and Domestic Trends* 7 (2001), available at [http://www.uri.edu/artsci/wms/hughes/sex\\_traff\\_us.pdf](http://www.uri.edu/artsci/wms/hughes/sex_traff_us.pdf).

<sup>40</sup> Coalition Against Trafficking in Women, Comments of CATW in preparation for the United States 2002 Trafficking in Persons Report, <http://action.web.ca/home/catw/readingroom.shtml?x=31742> (last visited Jan. 15, 2009).

<sup>41</sup> Donna M. Hughes, Don't Legalize: The Czech Republic Proposes a Dutch Solution to Sex Trafficking, *The Nat'l Rev. Online*, May 11, 2004, <http://www.nationalreview.com/hughes/hughes200405110833.asp>.

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<sup>43</sup> *The Committee of Fifteen, The Social Evil: With Special Reference to Conditions Existing in the City of New York* 197 (Edwin R.A. Seligman ed., G.P. Putnam Sons 2d ed. 1912) (1902).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 199.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *The Committee of Fifteen*, *supra* note 43, at 199.

<sup>50</sup> *Id.* (describing how Mr. Stead alleged that during the course of his investigation, he discovered a trafficker who was willing to sell him ten Belgian virgins).

<sup>51</sup> *Id.* at 199–200 .

<sup>52</sup> *Id.* at 200.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *The Committee of Fifteen*, *supra* note 43, at 200.

<sup>56</sup> *International Convention for the Suppression of the White Slave Traffic* 84, May 18, 1904, available at [http://untreaty.un.org/English/CTC/ch\\_VII\\_8p.pdf](http://untreaty.un.org/English/CTC/ch_VII_8p.pdf).

<sup>57</sup> *Id.* art. 2.

<sup>58</sup> *Id.* art. 3.

<sup>59</sup> *Id.* art. 1.

<sup>60</sup> *Id.* at 84–85.

<sup>61</sup> Edmund Jan Osmanczyk, *Encyclopedia of the United Nations and International Agreements* 2344 (Anthony Mango ed., 3d ed., Taylor & Francis 2003) (1985).

<sup>62</sup> See *International Convention for the Suppression of the White Slave Traffic*, May 4, 1910, [http://untreaty.un.org/English/CTC/ch\\_VII\\_10p.pdf](http://untreaty.un.org/English/CTC/ch_VII_10p.pdf).

<sup>63</sup> *International Convention for the Suppression of the White Slave Traffic as amended by the Protocol Amending the International Agreement for the Suppression of the White Slave Traffic, and Amending the International Convention for the Suppression of the White Slave Traffic*, May 4, 1949, 2 U.S.T. 1999, 30 U.N.T.S. 23.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* art. 2.

<sup>66</sup> *Id.* art. 3.

<sup>67</sup> *Id.* arts. 2, 3.

<sup>68</sup> Lin Lean Lim, *The Economic and Social Bases of Prostitution in Southeast Asia*,

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<sup>69</sup> The Committee of Fifteen, *supra* note 43, at 205.

<sup>70</sup> Lim, *supra* note 72, at 15. *supra* note 68.

<sup>71</sup> *Id.*

<sup>72</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, July 25, 1951, 96 U.N.T.S. 271. available at <http://www.unhchr.ch/html/menu3/b/treaty11a.htm>.

<sup>73</sup> United Nations, *Multilateral Treaty Framework: An Invitation to Universal Participation: Focus 2001, Rights of Women and Children* 58 (2001).

<sup>74</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Mar. 21, 1950, 96 U.N.T.S. 271, available at [http://untreaty.un.org/English/CTC/ch\\_VII\\_11\\_a\\_bp.pdf](http://untreaty.un.org/English/CTC/ch_VII_11_a_bp.pdf).

<sup>75</sup> *Id.* art. 1 (emphasis added).

<sup>76</sup> *Id.* art. 1.

<sup>77</sup> *Id.* arts. 2, 8.

<sup>78</sup> Gabriella Blum, *Bilateralism, Multilateralism, and the Architecture of International Law*, 49 *Harv. Int'l L.J.* 323, 346 (2008).

<sup>79</sup> *Id.*

<sup>80</sup> Natalia Ollus, *The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: A Tool for Criminal Justice Personnel*, Resource Material Series No. 62, at 16, 20 (2008), available at [http://www.ungift.org/docs/ungift/pdf/knowledge/unafei\\_analysis.pdf](http://www.ungift.org/docs/ungift/pdf/knowledge/unafei_analysis.pdf).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Ollus, *supra* note 81, at 20

<sup>88</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000, available at [http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf) [hereinafter "Palermo Protocol"].

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<sup>91</sup> Palermo Protocol, *supra* note 88, at 2, art. 3(a).

<sup>92</sup> Ditmore & Wijers, *supra* note 91 at 79-80.

<sup>93</sup> *Id.* at 79-80.

<sup>94</sup> Ollus, *supra* note 81, at 16, 20.

<sup>95</sup> United Nations Office on Drugs and Crime, <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html> (last visited Jan. 25, 2009).



<sup>96</sup> The Committee of Fifteen, *supra* note 43, at 207.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 208.

<sup>100</sup> *Id.* at 209.

<sup>101</sup> White Slave Traffic (Mann) Act, 18 U.S.C. §§ 2421-2424 (2006).

<sup>102</sup> Unforgivable Blackness, Knockout, [<http://www.pbs.org/unforgivableblackness/knockout/mann.html>], last visited Jan. 23, 2009.

<sup>103</sup> See Eric Weiner, *The Long, Colorful History of the Mann Act* (National Public Radio) (March 11, 2008) (For example, Jack Johnson, the first African American heavy-weight champion, was one of the first to be charged under the Mann Act. He was convicted of transporting his white girlfriend across interstate lines and was sentenced to one year in prison. In 1944, Charlie Chaplin was charged under the Act for producing a baby out of wedlock – many believed the charges were motivated by Chaplin's leftist political views.).

<sup>104</sup> U.S. Dep't of Health and Human Services, *Trafficking Victims Protection Act of 2000: Fact Sheet*, available at [http://www.acf.hhs.gov/trafficking/about/TVPA\\_2000.pdf](http://www.acf.hhs.gov/trafficking/about/TVPA_2000.pdf).

<sup>105</sup> *Victims of Trafficking and Violence Protection Act of 2000*, 22 U.S.C. § 7101 (2000), available at <http://www.state.gov/documents/organization/10492.pdf>.

<sup>106</sup> *Id.*

<sup>107</sup> *United Nations Convention Against Transnational Organized Crime*, *supra* note 91, art. 3(a) at 2.

<sup>108</sup> *Victims of Trafficking and Violence Protection Act of 2000* §105(e); *Biography of Luis CdeBaca*, available at <http://www.state.gov/r/pa/ei/biog/124083.htm>

<sup>109</sup> U.S. Dep't of State, *International Information Programs, U.S. Cooperates with Europe to Combat Sex Trafficking* (2005).

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Officer to Monitor and Combat Trafficking in Persons, U.S. Government's International Anti-Trafficking Programs* (2004), available at <http://www.state.gov/g/tip/rls/rpt/34182.htm>.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Victims of Trafficking and Violence Protection Act of 2000*, *supra* note 12, at §108(a) (1), 22 U.S.C. § 7106.

<sup>116</sup> *Id.* § 103(8)(a), 22 U.S.C. § 7102.

<sup>117</sup> *Id.* § 108(a)(2), 22 U.S.C. § 7106.

<sup>118</sup> *Id.* §108(a)(3), at 22 U.S.C. § 7106.

<sup>119</sup> 22 U.S.C. § 7106(b).

<sup>120</sup> U.S. Dep't of State, *Trafficking in Persons Report 12* (2007), available at <http://www.state.gov/documents/organization/82902.pdf> [hereinafter 2007 TIP Report].

<sup>121</sup> *Victims of Trafficking Violence Protection Act of 2000*, at §110(b)(1)(A); 2007 TIP Report 12, *supra* note 109 (explaining that minimum standards are applicable to those countries in which there are determined to be 100 or more victims of sex trafficking per year). Generally, a country is only omitted from the TIP report tier rankings if there is not adequate information available to make a determination about the coun-

try's compliance with the minimum standards. *Id.* Such countries are often listed in the "Special Cases" section of the TIP report. *Id.*

<sup>122</sup> 2007 TIP Report, *supra* note 120.

<sup>123</sup> Victims of Trafficking and Violence Protection Act of 2000, §110(b)(1)(B), 22 U.S.C. § 7107.

<sup>124</sup> 2007 TIP Report, *supra* note 120.

<sup>125</sup> Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, ch. 77, §§ (e) (3) (A) (iii), 117 Stat. 2875, 2883 (2003).

<sup>126</sup> *Id.*

<sup>127</sup> 2007 TIP Report, *supra* note 120, at 27.

<sup>128</sup> Victims of Trafficking and Violence Protection Act of 2000, at §110(b)(1)(C), 22 U.S.C. § 7107.

<sup>129</sup> *Id.* §110(a).

<sup>130</sup> *Id.* §110(a)(1) + (2).

<sup>131</sup> *Id.* §110(d)(1)(A)(11).

<sup>132</sup> *Id.* §110(d)(4)(5).

<sup>133</sup> *Id.*

<sup>134</sup> Victims of Trafficking Violence Protection Act of 2000, §110(d)(5)(B). See also Off. Press Secretary, Presidential Determination with Respect to Foreign Governments' Efforts Regarding Trafficking in Persons (2006), available at <http://www.state.gov/g/tip/rls/prsr/73440.htm> (explaining that the President has generally exercised his waiver power when it is determined that withholding aid would cause the kind of human rights abuses that the TVPA was designed to prevent). For example, in 2006 Iran and Syria were granted a partial waiver so that "certain types of individuals who are influential in Iranian society [may] learn about and be exposed to the United States and its people." *Id.* The exempted individuals included teachers, professors, journalists, economists, and sports and cultural figures. *Id.* Additionally, a partial waiver was granted to Zimbabwe so that the U.S. could continue to give "an estimated USD9.376 million in assistance...to support three separate programs that operate in conjunction with the Government of Zimbabwe to combat HIV/AIDS." *Id.* However, there has also been some indication that political motivations can affect Presidential waivers. *Id.* In 2006, the President waived all sanctions against Saudi Arabia because over ten billion dollars in foreign military sales (FMS) to Saudi Arabia would have been restricted by sanctions under the Act. A full waiver has been granted in the national interest of providing these military sales in order to advance goals of the Global War on Terror and U.S. commercial interests. Sanctioning MEPI programs would have removed a key U.S. government tool in promoting democratic reform and human rights in Saudi Arabia. *Id.*

<sup>135</sup> Johan Lindquist & Nicola Piper, From HIV Prevention to Counter-Trafficking: Discursive Shifts and Institutional Continuities in South East Asia, in *Human Trafficking* 138, 147 (Maggy Lee ed., 2007).

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*; see also TIP Reports 2003-2013. Indonesia fell to the Tier 2 Watch List in 2006, but moved back up to Tier 2 the following year.

<sup>138</sup> U.S. Dep't of State, Off. to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report June 2003 in Country Narratives, Belize (2003).

<sup>139</sup> *Id.*

<sup>140</sup> U.S. Dep't of State, Off. to Monitor and Combat Trafficking in Persons, Trafficking

in Persons Report June 2004 in Country Narratives, Western Hemisphere, Belize (2004).

<sup>141</sup> Id.

<sup>142</sup> Id. at 39.

<sup>143</sup> U.S. Dep't of State, Off. to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report June 2005 in Country Narratives (A to Z), Cambodia (2005).

<sup>144</sup> U.S. Dep't of State, Off. to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report June 2006 83-84.

<sup>145</sup> Id.

<sup>146</sup> Id.

<sup>147</sup> Susan W. Tiefenbrun, Sex Slavery in the United States and the Law Enacted to Stop It Here and Abroad, 11 Wm. & Mary J. Women & L. 317, 386 (2005).

<sup>148</sup> U.S. Dep't of State, The Link Between Prostitution and Sex Trafficking 1 (2004), available at <http://www.state.gov/documents/organization/38901.pdf>.

<sup>149</sup> Gunilla S. Ekberg, Special Advisor, Division for Gender Equality, Ministry of Industry, Employment, and Communications, Sweden, Seminar on the Effect of Legalization of Prostitution Activities, (Nov. 5-6, 2002).

<sup>150</sup> Id.

<sup>151</sup> The Link Between Prostitution and Sex Trafficking, *supra* note 140, at 2.

<sup>152</sup> Janice Raymond, Ten Reasons for Not Legalizing Prostitution, Coalition Against Trafficking in Women, in Prostitution, Trafficking, and Traumatic Stress 315, 317 (Melissa Farley ed., 2003).

<sup>153</sup> Id.

<sup>154</sup> Id.

<sup>155</sup> Id.

<sup>156</sup> U.S. Dep't of State, Trafficking in Persons Report (2013), available at <http://www.state.gov/g/tip/rls/tiprpt/2013/82806.htm>.

<sup>157</sup> 2007 TIP Report, *supra* note 123, at 12-17.

<sup>158</sup> Raymond, *supra* note 155, at 317.

<sup>159</sup> Id.

<sup>160</sup> Id. at 317-318.

<sup>161</sup> Id. at 318.

<sup>162</sup> Id.

<sup>163</sup> Raymond, *supra* note 155, at 318.

<sup>164</sup> U.S. Dep't of State, Trafficking in Persons Report Country Narratives A-G (June 12, 2013), available at <http://www.state.gov/g/tip/rls/tiprpt/2013/82805.htm>.

<sup>165</sup> Katri K. Steiberg, Criminal Dilemmas: Understanding and Preventing Crime 59 (Charalambos D. Aliprantis & Nicholas C. Yannelis eds., 2001).

<sup>166</sup> See *id.* at 62.

<sup>167</sup> The Link Between Prostitution and Sex Trafficking, *supra* note 148, at 2.

<sup>168</sup> Id.

<sup>169</sup> Id.

<sup>170</sup> Raymond, *supra* note 155, at 319.

<sup>171</sup> Id.

<sup>172</sup> Id.

<sup>173</sup> Id.

<sup>174</sup> Id.

<sup>175</sup> Hughes, *supra* note 41.

<sup>176</sup> Id.

<sup>177</sup> Id.

<sup>178</sup> Id.

<sup>179</sup> John Stossel, *Defending the ‘D.C. Madam’: Outlawing Immoral Behavior Doesn’t Make It Go Away*, 20/20 (May 1, 2007), [http:// abcnews.go.com/2020/story?id=3105239&page=1](http://abcnews.go.com/2020/story?id=3105239&page=1).

<sup>180</sup> Monica O’Connor & Grainne Healy, *Coal. Against Trafficking In Women, Eur. Women’s Lobby, The Links Between Prostitution and Sex Trafficking: A Briefing Handbook*, 18 (2006), available at <http://action.web.ca/home/catw/attach/handbook.pdf>.

<sup>181</sup> Id.

<sup>182</sup> Id. at 19.

<sup>183</sup> Ekberg, *supra* note 140, at 6.

<sup>184</sup> Raymond, *supra* note 143, at 321.

<sup>185</sup> Id.

<sup>186</sup> Id. at 316.

<sup>187</sup> Ill. Coal. Against Sexual Assault, *By the Numbers Manual: Prostitution* 83, available at <http://www.icasa.org/forms.aspx?PageID=475>.

<sup>188</sup> Raymond, *supra* note 152, at 322.

<sup>189</sup> Melissa Farley et al. *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder*, in *Prostitution, Trafficking, and Traumatic Stress* 33, 49 (Melissa Farley ed., 2003).

<sup>190</sup> Raymond, *supra* note 152, at 323.

<sup>191</sup> Id.

<sup>192</sup> Id.

<sup>193</sup> Id.

<sup>194</sup> Id.

<sup>195</sup> Raymond, *supra* note 152.

<sup>196</sup> Id.

<sup>197</sup> Id..

<sup>198</sup> Id. at 323–24.

<sup>199</sup> Ekberg, *supra* note 149.

<sup>200</sup> Id.

<sup>201</sup> Id.

<sup>202</sup> Id.

<sup>203</sup> Farley et al., *supra* note 189, at 56.

<sup>204</sup> Id.

<sup>205</sup> Id. at 60.

<sup>206</sup> S. Afr. Law Reform Comm’n, *Discussion Paper 111: Trafficking in Persons* 64 (2006), available at <http://www.doj.gov.za/salrc/dpapers/htm>.

<sup>207</sup> Id.

<sup>208</sup> Mary Sullivan & Sheila Jeffreys, *Coal. Against Trafficking in Women, Legalising Prostitution Is Not the Answer: The Case of Victoria, Australia* 3 (2001), available at <http://action.web.ca/home/catw/attach/AUSTRALIAlegislation20001.pdf>.

<sup>209</sup> Id.

<sup>210</sup> Id. at 10.

<sup>211</sup> Id.

<sup>212</sup> Id.

<sup>213</sup> Id.

<sup>214</sup> Sullivan & Jeffreys, *Coal. Against Trafficking in Women*, *supra* note 208, at 10.

<sup>215</sup> See *id.*

<sup>216</sup> Id.

<sup>217</sup> Id.

<sup>218</sup> Id.

<sup>219</sup> Id.

<sup>220</sup> Donna M. Hughes, *The Demand for Victims of Sex Trafficking* 32 (2005), available at [http://www.uri.edu/artsci/wms/hughes/demand\\_for\\_victims.pdf](http://www.uri.edu/artsci/wms/hughes/demand_for_victims.pdf).

<sup>221</sup> Id.

<sup>222</sup> Id.

<sup>223</sup> Bureau of Pub. Affairs, U.S. Dep't of State, *The Link Between Prostitution and Sex Trafficking* 2 (2004), available at <http://www.state.gov/documents/organization/38901.pdf>.

<sup>224</sup> André Anwar, *Criminalizing the Customers: Prostitution Ban Huge Success in Sweden*, Spiegel Online, Nov. 8, 2007, <http://www.spiegel.de/international/europe/0,1518,druck-516030,00.html> (last visited June 7, 2008).

<sup>225</sup> Id.

<sup>226</sup> Id.

<sup>227</sup> Id.

<sup>228</sup> Id.

<sup>229</sup> Section 202a of the Norwegian Penal Code; Chapter XXII on Sexual Offences from the General Penal Code of Iceland

# STATEMENT ON TRAFFICKING IN HUMAN BEINGS

*The Pontifical Academies of Sciences and Social Sciences  
and the Fédération Internationale des Associations de Médecins Catholiques*

Vatican City, November 2013

*Human trafficking is the most extensive form  
of slavery in this 21st century!*  
Pope Francis, Easter Message 2013

Each human being is a free person, whether man, woman, girl or boy, and is destined to exist for the good of all in equality and fraternity. Any relationship that fails to respect the fundamental conviction that all people – men, women, girls and boys – are equal and have the same freedom and dignity constitutes a grave crime against humanity.

Despite the efforts of many, trafficking in human beings – the most extensive form of slavery in our twenty-first century – is a plague on a vast scale in many countries across the world. Victims are hidden away in private homes, in illegal establishments, in factories, on farms, behind closed doors, in families, houses and other places in the cities, villages and slums of the world's richest and poorest nations. This situation is not improving but, on the contrary, is probably deteriorating.

There is now a compelling need to put an end to trafficking in human beings and all forms of exploitation, particularly prostitution, forced labour, the harvesting of human organs and the use of children as drug dealers and in the production of pornographic material, especially on the Internet.

Trafficking in human beings in all its forms, and in particular trafficking for sexual exploitation and prostitution, must be declared a crime against humanity. Traffickers should be prosecuted on the basis of clear international and national laws, including the confiscation of the profits derived from their illegal activities, and the victims ought to be fully compensated from such funds.

All stakeholders, at all levels, have a moral and legal duty to eradicate this grave violation of human rights and strive to ensure that all human beings co-exist in freedom, equality, harmony and peace, in accordance with the values common to our shared humanity. With the support of academics, moral and religious leaders, together with the influence of a global movement and social networks, we must expose these hidden crimes by using

today's technology and working through good and just national and international institutions. It is our moral imperative to make ours the last generation that has to fight the trade in human lives.

We suggest that:

*The Holy See*

1. Signs and ratifies the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.
2. Signs and ratifies the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the 'Palermo Protocol').
3. Ratifies the 2005 Council of Europe Convention on Action against Trafficking in Human Beings.
4. Commits the Permanent Missions of the Holy See in international organisations to insisting upon the urgency of a global strategy against trafficking in human beings.
5. Encourages the ratification of the International Convention on Migrant Workers (18 December 1990) and the Domestic Workers Convention of the ILO (16 June 2011) and advocates the inclusion of domestic workers and agricultural workers in national labour laws.
6. Promotes a movement to ensure the commitment of the Catholic Church and of all men and women of good will to stopping human trafficking and prostitution; one that is stated in the clearest and most decisive terms.
7. Encourages male religious Orders to work alongside female religious to alleviate the immediate suffering and long-term social exclusion of trafficked persons.

*International Organisations*

8. Forcefully stress that the trafficking in human beings is first and foremost a severe form of human-rights violation.
9. Insert as a specific objective the ending of trafficking in human beings in the new post-2015 Global Development Goals.
10. Take all possible actions to reduce the demand for all forms of exploitation damaging to human life and especially sexual exploitation.
11. Establish codes of conduct and specifically a policy of zero tolerance towards sexual exploitation and other abuses deleterious to human life and well-being.

*Governments and National Authorities*

12. Prepare national action plans to address trafficking in human beings, including measures to avoid re-trafficking, in cooperation with civil society organisations, including faith-based organisations.
13. Establish a national mechanism to combat and prevent trafficking in human beings and to protect its victims.
14. Ensure the necessary political, legal and financial support to the courts, the administrative offices and the security forces involved in action against trafficking in human beings at all levels, including enhanced “Witness Protection Schemes” for those trafficked who are willing to testify in court or supply information to the police that improves the chances of apprehending traffickers and accessories to this crime.
15. Resist hasty, automatic and involuntary repatriation of those who have been trafficked and develop programmes for their housing and re-training, in the expectation that these will result – when desired – in the granting of a work permit in the host country.
16. Take urgent action to curb the demand that fuels all forms of exploitation, especially sexual exploitation, and criminalise the clients of prostitution as a deterrent against sex trafficking. This entails recognition that the trafficking of women, girls and boys is intrinsically linked with legalised prostitution systems and the commercialisation of sex.
17. Ensure that businesses are sufficiently regulated and held accountable for abuses that occur. Prohibit the supply of sexual material and advertisements for sexual activities in hotels and other public places.
18. Consider the key role of the Internet and especially pornography in facilitating the online recruitment of victims for trafficking in human beings and legislate against possible damage involved. Promote the incorporation, at point of sale, of “default settings” on computers precluding access to pornographic material.
19. Introduce a compulsory system of birth registration, incorporating DNA identification in cases of risk or need.
20. Ensure the full confiscation of assets from criminals.
21. Ensure appropriate compensation to victims.
22. Target financial investigation, increased prosecution and conviction for traffickers.
23. Intensify the training of all relevant actors and particularly front-line officials in the work against trafficking in human beings.
24. Prioritize the eradication of child trafficking, including trafficking for sexual exploitation, and ensure the early identification of children who may be victims. To this end consider innovative means such as the es-



establishment of national DNA databases to identify and prevent child trafficking.

#### *Civil Society Organisations*

25. Promote enhanced awareness campaigns concentrating specifically on different forms of exploitation, especially targeting the demand for sexual and labour exploitation.
26. Create networks of associations of professionals relevant to the work against trafficking in human beings and protecting and assisting its victims *pro bono*.
27. Create online resources to address this global phenomenon and to foster appropriate action.
28. Lobby for the establishment of free national “Helplines” for victims and their wide public visibility.

#### *The Business Community*

29. Introduces strict codes of conduct and legislation on transparency for supply chains that are free of trafficked and other forms of enslaved labour.
30. Raises awareness about the serious risks and damage involved in the “race to the bottom” to minimise labour costs, risks that exist *per se* and because they frequently entail forced labour.

#### *Christians*

31. Ensure the effective and systematic involvement of Bishops’ Conferences, bishops, clergy, Congregations, parishes, schools and media instruments in knowledge about, and action against, trafficking in human beings.
32. Incorporate the subject of human trafficking into pastoral care in formation courses and create an advocacy community opposed to such trafficking that is specially trained to dialogue with diplomatic communities, the business world, police/security forces and others on behalf of victims.
33. Create working groups on the topic of trafficking in human beings, focusing on concrete actions and preparing position papers on key issues that could form the basis for future statements (by Church leaders).
34. Strengthen public knowledge and support popular understanding and quality research regarding all forms of exploitation associated with trafficking.

*All Religions*

35. Reinforce inter-confessional and ecumenical networks locally, regionally and internationally in order to create an ever-growing pool of resources to help victims.
36. Provide access for those from local churches and other faith groups to training and resources to promote an appropriate community-level response in all activities connected with trafficking in human beings.
37. Educate people on the phenomenon and scale of trafficking in human beings and stress that this is a grave form of human rights' violation.
38. Give victims access to monasteries, convents and religious houses and make every effort to assess their pressing needs.
39. Coordinate the work against trafficking in human beings by all faith-based organisations and ensure the active participation of nuncios, religious representatives and diplomats.
40. Establish a World Day of prayer, fasting, action, and reflection on trafficking in human beings.
41. Reach out to all people, women, men, girls, and boys, and raise awareness of their moral duty to refrain from any activities, including any involvement in the sex industry, that fuel trafficking in human beings.

*All People of Good Will*

42. Cooperate to forward these proposals, by acting together and sharing information, with the aim of eradicating this grossly inhumane practice of our times.

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