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Trafficking for Sexual Exploitation

from the Perspective of Migration & Human Rights

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July 2013

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Introduction

Human trafficking is an extensive global phenomenon that requires addressing at a specific national level. It is defined in the UN Protocol 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." [1] That numbers of trafficking victims are difficult to measure has become a truism, given that human trafficking is by definition a clandestine activity. However, there are some regularly cited figures that can be used to give an idea of the scale and scope of the problem and Europe offers a relative wealth of data compared to the rest of the world. [2] The UNODC reports that victims from 127 countries have been exploited in 137 states, with criminal groups involved in Europe making about \$3 billion per year. The UNODC estimates that there are 140 000 victims of trafficking in Europe, more than two-thirds of whom are women. [3]

Clearly, trafficking is a vast and multifaceted issue and it is not useful to examine it in such broad terms. It is, of course, acknowledged that trafficking for sexual exploitation also exists within states and affects boys and men sometimes but this paper will be concerned with one specific "type" of trafficking: cross-border trafficking of women and girls for sexual exploitation. It is an interesting area to choose because this issue's battleground has seen innovative changes in approach and increasing prominence in the past two decades, with the growing centrality of the reduction of demand for sexual services in political debate. However, the legal position of the selling and buying of sexual services varies greatly across Europe, while human trafficking continues to flourish. [4]

This paper will therefore go on to examine the existence of trafficking for sexual exploitation first within a context of migration and then from the perspective of destination states. In other words, this is to treat the market forces of human trafficking separately: the supply forces from the perspective of trafficked victims at their point of recruitment and the demand forces from the position of the destination state. [5] The paper raises questions rather than reaching solid conclusions, but it will become clear that the very use of the term "trafficking" is problematic, and that the approach of states to address the phenomenon could work well from a migration perspective in areas of origin and from a human rights perspective in areas of destination. Otherwise, we come to see the state's approach may in fact be complicit with the interests of the trafficker - the worst case scenario for victims.

Trafficking for Sexual Exploitation within the Context of Migration in Europe

Trafficking for sexual exploitation can be considered within a context of global migration. The world sees increasingly porous borders, particularly within Europe since the establishment of the Schengen Area. The International Organisation for Migration estimated the total number of international migrants in Europe to be 72.1 million in 2010, with 2.5 million internally displaced persons. [6] The European Union has repeatedly called for states to establish systems to monitor trafficking specifically but data remains scarce and unreliable, often only existing within files on prostitution or immigration. [7]

It is within this migration context that a paradox in the political treatment of human trafficking is located. Victims of trafficking usually begin the process as migrants

seeking employment and thus it is clear that the trafficking phenomenon is different at its origins from its destination. This poses a paradoxical problem for states as follows: how can trafficking be prevented at the point of recruitment, even before the coercive and exploitative aspects have begun? Furthermore, how can destination states respect an individual's rights to migrate within Europe and to work legally, while maintaining its responsibility to protect victims of trafficking, be they European citizens or from elsewhere? ^[8] This section sees the first question examined from the perspective that trafficking for sexual exploitation begins as a migration issue, on an individual level and an empirical level.

Qualitative Evidence

Migrants are disproportionately represented among victims trafficked into forced labour and among these migrants women are the overwhelming majority of those trafficked for sexual exploitation. ^[9] Many trafficked women began the migration process before they were trafficked. For example, women trafficked in the UK, surveyed individually by the POPPY Project, reported the promise of "new opportunity" in the form of work or education that motivated them to migrate. ^[10] International literature consistently documents similar personal explanations from women trafficked for sexual exploitation, although the numbers of women interviewed are small and reliable global data is scarce. There are some widely agreed and evident trends, however. Kidnapping is the least common form of recruitment, with most women reporting deceptive offers of jobs abroad, whether they are jobs in the sex industry or elsewhere. Indeed, a survey of 102 women trafficked into or through Ireland in 2007-2008 found deceptive recruitment to be common. The interviews highlighted poverty, family dislocation, war and violence and childhood abuse as key vulnerability factors predisposing women to being trafficked. ^[11] It seems clear that there are shared experiences and contexts that push women into the control of traffickers, which are irrespective of the trafficker. This is particularly relevant where the trafficking process begins as a voluntary movement.

Quantitative Evidence

This anecdotal evidence (garnered from qualitative studies concerning relatively small numbers of women) can be supported by a number of empirical works. A 2006 study on transnational sex trafficking used International Labour Organisation quantitative cross-national data from 1995-2004 to conclude that the supply of trafficking victims is highest when female youth unemployment is highest. Lack of access to employment acts as a push factor for women who consider that they may find better opportunity elsewhere. In line with the qualitative evidence, this makes them more vulnerable to traffickers. ^[12] Another study from 2009 concerns the economic drivers of human trafficking (not specifically trafficking for sexual exploitation) from five Eastern European countries and stresses that trafficking is an economic phenomenon. Using data from 5513 households in Bulgaria, Belarus, Moldova, Ukraine and Romania, commissioned by the International Organisation for Migration in 2005-2006, the study concludes that individual trafficking risks increase with the regional scale of emigration. Trafficking flows in the region run parallel to migration flows and many trafficked victims are recruited through personal relationships and leave voluntarily. ^[13]

There is a dearth of effective quantitative studies on trafficking but there are clear useful lines that can be drawn between those cited here and the qualitative evidence collected from victims. Firstly, many women enter the trafficking process as voluntary migrants, seeking a better life in a new place. Secondly, women may not know they have been trafficked until the point of arrival when the exploitation begins, and some may still not realise then. In the next section these conclusions will be placed within a context of demand for trafficked persons in areas of destination, before the implications of this information will be addressed.

Trafficked Women at their Destination

It has been demonstrated that female migration has increasingly become part of the "global care chain", whereby there has been a transfer of labour from poorer countries to richer countries in areas of traditionally "female" work, such as carers and homemakers. ^[14] This is also relevant to the trafficking of women for sexual exploitation because it fits the same principle of supply and demand. The victim who enters the migration process before being exploited wishes to supply herself in response to the market demand for low skilled female workers in the place of destination. The trafficker for sexual exploitation sees financial gain for themselves where there is both a demand for help in the migration process and a demand at destination for prostituted women. Specifically with regards to trafficking for sexual exploitation, it is important to note that the same qualities in women that are sought by men who buy sex are also risk factors for trafficking: for example, young age, low price and foreign or "exotic". ^[15] This section therefore addresses the second question posed in the introduction, concerning the right to migrate and work against the right not to be trafficked.

Many women enter the trafficking process as voluntary migrants

The victim's interests at the beginning are in line with the trafficker's interests: both seek financial profit. This fact is connected to the first difficulty for destination states, where officials can struggle with the idea that many victims enter the process as voluntary migrants and there is a sense of "it's not trafficking if they knew what they were going to do." ^[16] In fact, in a 2012 study investigating the experiences of people trafficked into Scotland for sexual exploitation, many officers are cited highlighting this very difficulty. One officer explains how this makes identification hard: "She knew she was coming to work in the sex industry. That's where people find a grey area, where people think she knew she was coming to work in the sex industry so she isn't trafficked, but she is." ^[17]

Meanwhile, women trafficked into a country are living there illegally and working there illegally, even in places where prostitution is legal as trafficking victims very rarely work in regulated, state-taxed establishments. Therefore they need to remain invisible and traffickers can effectively exploit fears of discovery to maintain control of the victims. In turn, a state response can play into the hands of the trafficker if officials treat the victims as illegal immigrants or illegal workers. For example, women in Ireland who have been detected but not designated victims of trafficking, despite having been severely exploited in the sex industry, have faced arrest and even deportation. In this way, without adequate victim identification and victim treatment policies, the actions of the state towards trafficking victims can almost be complicit with the interests of the traffickers. ^[18]

Central to this problem is the perception in destination states that migration is always desirable to the migrants. Indeed, states can become inclined to treat trafficking victims as if they have acted illegally when they consider that the victim entered the trafficking process voluntarily. Meanwhile, rising xenophobia in Europe fuels social, political and economic concerns about levels of migration to the detriment of useful and humanitarian debate around trafficking and smuggling. ^[19] Similarly, this xenophobia manifests itself in tightly controlled immigration laws in destination countries, which facilitate trafficking: destination states will grant visas for highly-skilled workers but not for unskilled workers despite the existence of millions of low-skilled jobs. ^[20] This works in the interest of traffickers seeking profit through offering help to low-skilled women in the migration process, then proceeding to coerce them into prostitution or exploit their willingness to work as prostitutes.

Women may not know they have been trafficked

Next is the fact that the term "exploitation" is not clearly defined in any legal international document, even the UN Protocol. Interpretations in Europe vary greatly; indeed, the Protocol explicitly leaves it to individual states to decide what constitutes sexual exploitation. ^[21] When it comes to sexual exploitation, for example, the Swedish model links prostitution to exploitation, an abuse of human rights and a manifestation of gender inequality, while in the Netherlands prostitution is legal and regulated. Meanwhile, in France since 2003, in an effort to prevent soliciting, it has been illegal "to stand in a public place known for prostitution dressed in revealing clothes". ^[22] This ambiguity and variety with regards to exploitation across states not only feeds the difficulty officials have in identifying trafficking victims, but also shows how a victim could be equally unsure about their own status and not know that they have been trafficked.

It is therefore clear that the strict concept of trafficking can be unhelpful, from the point of view of both victims and law enforcement officials. This is particularly true with regards to women trafficked for sexual exploitation. Levels of severity can vary hugely and there are some situations in which migrant women do not fit neatly into the classic conception of trafficking but have still experienced deceit and exploitation. There can be different levels of control exerted over the women: some may be held in captivity, while others are "free" to come and go while not working. ^[23] This is particularly relevant in a state where prostitution is legal, as a woman has a right to work as a prostitute in that case. She also has a right not to be exploited; that is to say, access to the money she earns and the ability to work as she wishes. This is of course a simplistic analysis, setting aside questions of how "freely" any woman enters prostitution. However, it is useful in order to highlight the problems a binary - trafficked or not trafficked - law enforcement approach can take, to the detriment of the labour rights of a woman who has been trafficked for sexual exploitation. ^[24]

Conclusion

The fact that migrants make up the majority of trafficking victims is central to this paper. It is of course vital to note that there are many victims of trafficking within state borders that have not been addressed here, and for whom the distinction between destination state strategies and origin state strategies is not very useful. It is sometimes suggested that a disproportionate amount of attention is given to the trafficking of women for sexual exploitation, relative to all other forms of trafficking, and so it is important to acknowledge the others that exist. ^[25] There are also those victims who are taken without any consent; this paper is mainly concerned with trafficking victims who initially seek to migrate voluntarily. It by no means claims to be a conclusive nor exhaustive piece of work, and seeks to open up more questions rather than answer any concretely. There are however a number of conclusions to make from the information presented. First are suggestions for areas of origin, and second are suggestions for destination states - although clearly there needs to be linkage and communication between the two.

A Migration Approach

In light of the evidence in the first section that so many victims of trafficking for sexual exploitation begin as migrants seeking work in a new place, it is fair to call for more effective awareness campaigns in places of origin. One guide from a psychological perspective stresses the potential effectiveness of raising awareness of legal paths of migration to potential victims in combatting human trafficking, as they will be more likely to take the legal route and less likely to be vulnerable to traffickers. It is not in a migrant's interest to exist undocumented in a state, ineligible for healthcare and other such benefits, and a rational human with an adequate supply of information would not willingly enter an exploitative situation. ^[26] Similarly, the study of economic drivers of

human trafficking found some evidence that awareness campaigns can successfully help reduce trafficking risks: "the incidence of trafficking is considerably lower in regions where the awareness of the phenomenon of human trafficking is high." [27]

This is not to victim-blame, but to acknowledge traffickers will continue to traffick while there is demand for the labour that trafficking victims can provide. Therefore, the starting point of areas of origin could work well from a migration perspective with particular emphasis on potential victims of trafficking. This strategy can be pigeon-holed with the strategy of a destination state that targets more forcefully the demand and the traffickers.

A Human Rights Based Approach

On the other hand, destination states do run a great risk of blaming victims for their own exploitation and treating them as criminals if they do not address their policies effectively. Once a woman has been sexually exploited, her initial voluntary status should be irrelevant and she should therefore be treated as a victim of criminal traffickers. In this way, a destination state can approach trafficking from a human rights based strategy, which works in tandem with the more migration based strategy of the origin states.

Indeed, there has been a new direction in the combatting of human trafficking in the past decade or so, that is to make the buying of prostituted women illegal, thereby seeking to reduce demand for trafficked women in destination states. This strategy of course poses a risk of pushing trafficking and illegal prostitution further underground. However, there is some evidence that the reduction of the demand reduces human trafficking, as seems logical when discussing trafficking as a product of market push and pull forces. For example, a 2012 study of the situation in 150 states asking "Does legalised prostitution increase human trafficking?" concluded that on average countries with legalised prostitution see larger human trafficking inflows. [28]

It is vital that destination states bear in mind that victims of trafficking may not know themselves that they have been trafficked. A number of NGOs stress the importance of strategies to recognise trafficking victims and the limitations of the trafficking concept are increasingly being recognized by different countries and organizations. For example, the Council of Europe Convention on Action against Trafficking in Human Beings has broadened the approach to victim assistance, suggesting that a person have access to appropriate services when authorities have 'reasonable grounds' to believe that trafficking has taken place. Meanwhile, the International Organization for Migration is expanding its trafficking victim assistance programmes to include other 'vulnerable migrants', rather than relying on a victim being defined as "trafficked". [29]

Taking the evidence presented in this paper regarding the prevalence of migrants among trafficking victims, these approaches could be very effective if implemented properly in states. This can happen if states remove their treatment of trafficking victims from their treatment of undocumented migrants and take a human rights based approach.

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