

HUMAN TRAFFICKING

Victims of Human Trafficking:
A Complex Issue

Dossier
de Análisis

Documentos del Centro de Estudios Internacionales –CEI
Facultad de Ciencias Sociales
Universidad de los Andes

08

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DACEI No. 08 – Mayo 2015

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Esta publicación es parte del proyecto Dossiers de Análisis del Centro de Estudios Internacionales (CEI) de la Universidad de los Andes. El objetivo de esta serie de publicaciones es realizar análisis de coyuntura internacional desde un enfoque interdisciplinario, para promover el conocimiento y debate en Colombia y la región latinoamericana sobre temas relevantes en el mundo. Cada dossier es sometido a un proceso de evaluación doble, externa y anónima por especialistas en el tema, con el fin de garantizar su calidad al momento de la publicación.

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Introduction

Human trafficking is a global problem. The United States Department of State has identified a significant trafficking problem in more than 180 countries (U.S. Department of State, 2014), while the United Nations Office on Drugs and Crime (UNODC), between 2010 and 2012, identified human trafficking in 124 countries in which victims held citizenship from 152 different countries (UNODC, 2014). Media reports, based on United Nations and U.S. Government sources claim that "After drug dealing, trafficking of humans is tied with arms dealing as the second-largest criminal industry in the world (U.S. Department of Health and Human Services, HHS), and is the fastest-growing" (HHS, 2006; UNHCR, 2010).

The number of victims of trafficking is allegedly increasing, and in 2005, the International Labor Organization estimated the total number of persons enslaved worldwide as a result of trafficking at 2.45 million (ILO, 2005). The ILO has published more recent statistics estimating the number of people exploited worldwide in forced labor at nearly 21 million,¹ however, there are no separate statistics generated for trafficked victims (ILO, 2012). The ILO estimates that there are 4.5 million victims of forced labor for sexual exploitation and 14.2 million victims of forced labor for labor exploitation. While estimates range in the millions, national authorities worldwide, reporting to the US Department of State, identified only 46,570 victims of trafficking (of which, 17,368 were victims of labor trafficking) in 2012 (US Department of State, 2014). The reality lies somewhere be-

¹ These figures vary by region: The Asia-Pacific region accounts for the largest number of forced laborers in the world – 11.7 million (56 %) of the global total, followed by Africa at 3.7 million (18 %) and Latin America with 1.8 million victims (9 %), Central and Southeastern Europe and the Commonwealth of Independent States at 1.6 million victims (8 %), The Middle East (600,000 or 3 %) and Developed Economies and the European Union 500,000 (2%).

tween these estimates and those victims who were identified by authorities.

The issue of who is a victim of trafficking, how we identify and count them, how we label them, and how they see themselves, has proven to be problematic. Unlike victims of more traditional crimes – such as theft, burglary or robbery – victims of human trafficking often defy categorization and deny their victimization. This paper, based upon a review of academic literature and reports from Government and non-governmental organizations, explores these complexities in an effort to unravel myths and come to a deeper understanding of the phenomenon of human trafficking, and those that it affects.

Human Trafficking Defined

The United Nations Protocol supplementing the Convention on Transnational Organized Crime is the first international, legally-binding instrument defining human trafficking and including trafficking for forms of sexual exploitation, forced labor and organ trafficking. According to Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, human trafficking is defined 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" (United Nations, 2000; 2). This definition comprises three constituent elements: *the act* (recruitment, transportation, transfer, harbouring or

receipt of persons), *the means* (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), and *for the purpose of exploitation* (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). One element from each of these three constituent elements or categories must be present for trafficking to occur.² Consent is negated when any of the means discussed above are used to obtain an individual's cooperation. Furthermore, in the case of children, defined as any person under the age of 18, human trafficking occurs even when the act does not involve means set forth in the definition.

While consent is negated if obtained through the means of force, fraud or deception, the question arises as to whether or not a person can *consent* to being exploited. Urban myths exist about persons waking up in bathtubs filled with ice with a huge scar across their side – victims of organ trafficking. It is the exception rather than the rule, that the organs of donors (usually a kidney) are obtained through force. More common, are cases of individuals willingly selling an organ for a small amount of money. The "victim" and organ broker agree to a price (Yea, 2010; GTZ, 2004). When coercion is absent and when the price negotiated is paid in full, can we consider this an act of human trafficking, and the donor, a trafficked victim? The answer may depend upon whether or not the

2 Although this is the definition put forth in the UN Trafficking Protocol, some countries, such as Belgium, have introduced legislation which deviates from the UN definition providing more protection for victims. In Belgium, only the act and purpose must exist, so that the recruitment, transportation, transfer, harboring or receipt of persons for the purpose of exploitation is considered an act of human trafficking.



consent was informed consent. Often the donor/victims are told half lies³ or are not clearly informed of the risks of organ donation without proper post-operative care (which they are rarely given). The donors are rarely informed that their physical and mental condition and economic situation will often deteriorate after organ donation (Goyal, et. al., 2002). While consent is given to the operation and agreed-upon payment, information is often withheld concerning health risks.

Similarly, do we identify as a trafficked victim, a woman who voluntarily works in prostitution, willingly handing over a large part of her earnings to her pimp/trafficker, because she still makes more in the destination country being financially exploited than keeping her total earnings in her country of origin? The answer to this question depends. Where exploitation occurs and there are ‘multiple dependencies’, it is likely that a person is the victim of human trafficking. When a person is dependent upon the “employer” for work, housing, transportation, medical care, permission to leave the premises, or make phone calls, this creates a position of vulnerability – and the possibility of the exploitation of the vulnerability – making the likelihood much greater that the person is a trafficked victim (Aronowitz, 2009b).

Understanding Victimhood

According to the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, “Victims” [are] persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are

in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power”.⁴

Studies in criminology and victimology identify “pure” or ideal victims. The criminologist Nils Christie⁵ identified a number of attributes of ideal victims. These are (among others), the fact that the ideal victim is likely to be female, and very young or old. The victim should be virtuous and blameless for what has happened to him or her. Furthermore, the victim should be able to elicit sympathy and victim status. There are further expectations of victims of human trafficking. Srikantiah (2007) refers to them as ‘iconic’ victims, and they should be 1) female and trafficked for sexual exploitation; 2) assessed to be good witnesses by law enforcement; 3) fully cooperative with law enforcement investigations; and 4) rescued from the traffickers rather than escaping. Those that do not fulfill these requirements may not be seen as trafficked victims. Warren (2012) argues that the innocent victim paradigm⁶ is put forth by many Governments and NGOs and has created an image of the helpless victim.

Not all victims, however, fit this image. Unlike the scenario in which two American teenagers are kidnapped from an apartment in Paris, in the Hollywood film ‘Taken’, most victims

⁴ United Nations Office of the High Commissioner for Human Rights, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*; Adopted by General Assembly resolution 40/34 of 29 November 1985; <http://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>; accessed on 30 March 2015.

⁵ Nils Christie (1986). “The Ideal Victim”, in Fattah, F.A. (ed.) *From Crime Policy to Victim Policy*, New York: St. Martin Press, cited in Newburn (2013).

⁶ Brunovskis and Surtees (2008: 53) identify this same phenomenon in shelters and with service providers, claiming that victims that do not behave as expected, and do not “...conform to a preconceived idea of a victim of trafficking” are not considered rehabilitated.

³ Schepper-Hughes (2005) has documented cases of doctors who have not asked permission to remove kidneys, or donors have been told lies about doctors taking “sleepy kidneys” and leaving the one which is “awake”.

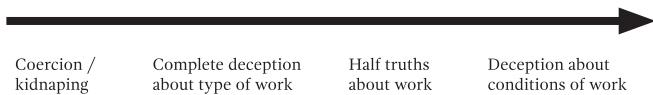
are not obtained through coercion or force, but are deceived through false promises of work, or a new life through promises of marriage. Victims are told different stories and the degree to which they are aware of what awaits them at the end of their journey differs.

The degree to which victims (of sexual exploitation) knew of their situation can best be understood if victims are placed on a continuum. On the far left side of the continuum are victims who are kidnapped and forced into prostitution. As one moves further along the continuum, victims are completely deceived through promises of employment as nannies, kitchen help, domestic servants or laborers in factories, and are forced into prostitution. Deception through half-truths occurs when women are told they will be working in strip clubs but will only be dancing and will not be forced to have sexual intercourse with customers. On the far end of the continuum, are

trafficker – with no time off. This victim continuum is portrayed below in Diagram 1. The further to the left a victim lies, the more she or he is seen as a pure victim. Those falling to the right of the continuum, evoke less sympathy. According Cameron (2008;), a simplistic view is that victims should always be “blameless” and that trafficked persons who display some agency – perhaps in deciding to go abroad and knowingly work in prostitution – are treated as “co-conspirators”.

Tying this back to the concept of the pure victim, it is easy to understand why law enforcement or border officials might be less inclined to identify women working in prostitution, who were knowingly recruited to work in prostitution, as trafficked victims. Yet these women, too, are victims of human trafficking because their willingness to travel abroad and consent to work in prostitution was obtained through deception – even if this is only in regards to the working conditions.

Diagram 1 Victim Continuum



women who are recruited to knowingly work as prostitutes – possibly those that have already been working as prostitutes in their own countries – and come to another country to work in prostitution. The deception occurs when they are not informed of the extreme working conditions⁷ – often 10 to 12 hours a day, six to seven days a week, having to sometimes earn as much as €1000 a night for their

“Victimhood”, from the victim’s perspective may be a very different thing. Despite deception in the recruitment and working conditions, trafficked persons do not always identify themselves as victims. Even those who are identified by Government officials and NGOs, are often hesitant to admit they are trafficked victims. This may be due to allegiance to the trafficker, fear of reprisals against oneself or one’s family, or the shame of having been exploited; this is particularly true for victims who have been forced into prostitution.

Others, however, do not view themselves as trafficked victims for a different reason. According to Warren (2012; 110), many women returning to Colombia from East Asia do not identify themselves as victims, but prefer to “...distance themselves from their past. Many of these women see themselves as people who made unfortunate job decisions that resulted in their having to work in exploitative and dangerous conditions with poor pay...”.

⁷ This same victim continuum can be applied to victims of organ trafficking. Victims have been coerced into “donating” a kidney and they have been told lies concerning the removed kidney which, like fingernails, they are told, will grow back. Other donors willingly sell a kidney for an agreed-upon amount, but are deceived about the health risks involved.



In fact, the conditions of exploitation in Japan were similar to the exploitative conditions at home. Piscitelli (2012; 301) found the same in studying Brazilian sex workers in Spain. While many of the women working in the sex industry in Spain would be considered crime victims according to Brazilian law, they rejected this label and "...they perceived their migratory trajectories and sex work as paths for the improvement of their lives".⁸

Radical feminists have tended to infantilize women's choices to work in prostitution and have demanded eradication of the sex industry and the rescue and rehabilitation of "victims", which Meyers argues, may be reason for individuals, even in cases of exploitation, to want to 'hide from their rescuers' (Meyers, 2013). Warren (2012) and Piscitelli (2012) argue that forcing women to accept the victim label denies women self-determination and agency. This infantilizes them (Brunovskis and Surtees, 2008) and causes them to be viewed as an object (Piscitelli, 2012). Applying the victim label "...rejects the idea that these workers may well have other understandings of their work, alternative definitions of how jobs far from home might serve their family's financial goals, and other positions in the organizations they decide to work for" (Warren, 2012). Because sex work is stigmatized, this reinforces the belief that women are unable to rationally chose to work in the sex industry, and thus must be victims of human trafficking – when in fact, they may not see themselves as such. "Instead of objectifying women migrants as trafficked victims, we need to recenter the lived experiences of women migrants. Only by recognizing the agency of illegalized migrants can we understand how their mobility is shaped and curtailed by global economic disparity" (Zheng, 2010; 9).

⁸ It is questionable whether these women would be considered victims of trafficking (or free-lance sex workers) given the ease with which they traveled back and forth between Spain and Brazil and the regular transfers of money to their families back home.

Counting and Identifying Victims

Identifying victims of human trafficking remains difficult and challenging, making it impossible to accurately count victims. Because trafficking is a criminal, clandestine operation, there will always remain a dark number of victims and offenders who are never identified. This may be true more so for victims of labor exploitation who, unlike those in forced prostitution, may never come into contact with a customer or client.⁹ Some victims self-identify, or openly admit that they are trafficked victims, thus it is easy to register these individuals. Where individuals are found in exploitative situations – but may deny being victims of trafficking, the question then arises, how or if these individuals should be registered. Other problems contribute to our inability to properly identify victims and contribute to the inaccuracy of statistics on trafficked persons. Human trafficking is often conflated with prostitution (Weitzer, 2012) or undocumented migration (Jordan, 2002).

Eurostat publishes annual statistics on human trafficking in the European Union. It suggests registering both "identified" as well as "presumed" victims of human trafficking. Identified victims are those persons "...who have been formally identified by the relevant authorities as a victim of trafficking in human beings". Presumed victims are those persons who have met the criteria of a trafficked victim¹⁰ but have not been formally identified by the relevant authorities or who have declined to be formally or legally identified as a trafficked victim (Eurostat, 2014; 21).

⁹ Operations involving trafficking for labor exploitation tended to go unnoticed or were able to operate longer than trafficking for sexual exploitation before being uncovered. On average, forced labor operations generally lasted from 4½ to 6½ years before being discovered, while trafficking operations for sexual exploitation lasted from approximately one to two and a half years (O'Neill Richard, 1999).

¹⁰ As outlined in the EU directive 2011/36/EU on prevention and

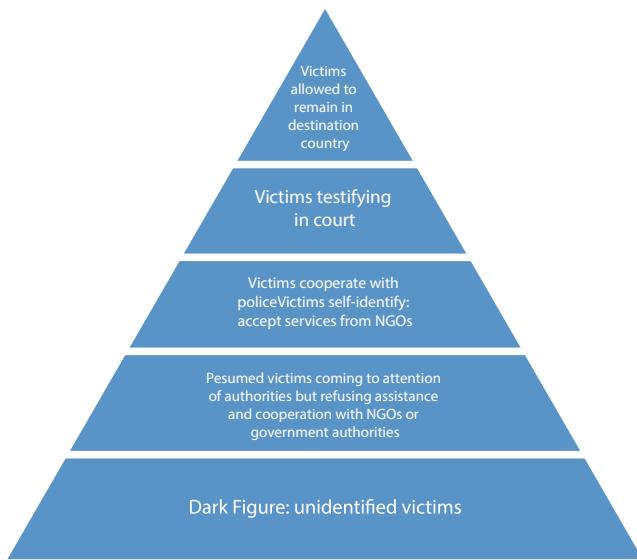
Any cross-country comparison of the number of victims is difficult. Registration of victims differs from one country to the next. Even within a country, different organizations may register victims differently. In many countries, victims may only be registered as such, if they agree to provide details to and cooperate with law enforcement, or when they accept and receive assistance from NGOs. Organizations identifying trafficking victims have different motivations for doing so. This depends upon the focus or goals of the organization. NGOs may rely upon funding based upon the number of victims to whom they supply services, whereas police funding for human trafficking units may depend upon the number of cases uncovered or investigated, or the number of victims rescued and traffickers arrested.

The number of victims still in situations of exploitation represents the dark figure of crime. This is probably the largest number of trafficking victims (if one is to believe the estimates on the number of victims of human trafficking). As one moves “up” the “victim pyramid”, the number of presumed victims represents those individuals who are suspected of being trafficked victims based upon a number of indicators, but who may refuse to cooperate with law enforcement or accept assistance from service providers, or deny they are victims. This number of presumed victims may be larger than the number of victims who “self-identify”.¹¹ A percentage of victims turn to service providers for assistance, but refuse to cooperate with government authorities, while others do so, but also agree to cooperate in law enforcement investigations. The number who agree to testify against their trafficker in court is small, and the number of foreign trafficked victims allowed to remain

in the destination country legally, under such regimes as the T-visa in the United States or the B-8 regulation in the Netherlands, is relatively small. Where victims fall on this victim pyramid will determine the number of victims in a particular jurisdiction at a given time.

Both governments and individual victims may be responsible for our inability to locate and identify victims of trafficking. For various reasons, individuals may refuse to identi-

Diagram 2 Victim Pyramid



fy themselves as victims. At the government level, inadequate legislation, denial of its existence, lack of political will, and insufficient expertise all contribute to the problem.

Inadequate Legislation: Not all countries have introduced legislation in line with the definition put forth in the UN Trafficking Protocol and that address all forms of human trafficking and exploitation (Jordan, 2002). As of the publication of its 2014 *Global Report on Trafficking in Persons*, UNODC reports that 9 countries lack legislation and 18 others have implemented legislation that addresses only certain forms of exploitation. Because some of these countries are densely populated, “...

¹¹ One of the worst cases of human trafficking in the Netherlands, the Sneep case, involved 120 possible victims of trafficking, of which 78 were identified as presumed victims. Only 15 of these victims ever came forward and cooperated with the police in the investigation and prosecution of the traffickers.



more than 2 billion people lack the full protection of the Trafficking in Persons Protocol” (UNODC, 2014; 12).¹² In other countries, though, legislation is adequate and appears to be in place. As the European Union Anti-Trafficking Coordinator, Myria Vassiliadou, has said, the legislation is there; it now needs to be implemented.¹³

Lack of Political Will: The Kafala system, prevalent in many of the Gulf States and Middle East, regulates the employment of foreign workers. This “employer-driven sponsorship system” allows employers to dictate the conditions under which migrant workers reside and are employed in the destination countries. The system binds workers to their employers and requires permission of the employer for the worker to change employment or leave the country. Many foreign workers in the Gulf States live and work in deplorable conditions as domestic servants (Vlieger, 2011) and construction workers (Amnesty International, 2013). The case of Qatar and the foreign workers involved in the construction of stadiums and infrastructure for the World Soccer Cup in 2022, is particularly egregious. Despite the fact that foreign workers die on a regular basis and that the General Secretary of the International Trade Union Confederation, the International Labor Organization and Human Rights Watch and other human rights organizations have all called for improvement of conditions for foreign workers from South Asia, Qatar and other Gulf States continues to deny that a problem exists.¹⁴

¹² Organ trafficking, for example, is not defined as form of trafficking in the United States Victims of Trafficking and Violence Protection Act of 2000, and its subsequent reauthorizations.

¹³ See Europe’s Sex Slave Shame. On the Frontline Documentary, 12/11/2014 at <http://www.euronews.com/2014/11/12/europe-s-sex-slave-shame-is-enough-being-done-to-fight-human-trafficking-across/>. Accessed on 12 January 2015.

¹⁴ See ESPN’s documentary Qatar’s World Cup at <http://vimeo.com/95215527> (accessed on 26 January 2015). Qatar has promised to introduce protections for migrant laborers, but the Government has been criticized for failure to produce a time-frame for implementing the reforms.

We’re Not Looking for Victims: If trafficking does not exist in a particular jurisdiction, it is probable that authorities are not looking for it, or are unaware of the possibility of its existence. For a number of years, police officers in the Netherlands had encountered young men from Romania working in prostitution servicing homosexual customers and had simply assumed that they were freelance sex workers. Upon closer investigation, the Dutch police discovered that these young men were brought to the Netherlands and had been trafficked into prostitution. We are so trained to think of exploitative sex work as being the domain of trafficked women, that the link is not automatically made to human trafficking when individuals in the sex sector are men or transgenders.

If emergency medical services assume every case of violence between partners is domestic violence rather than a potential case of human trafficking, if enforcement agencies are not aware of the fact that citizens can be trafficked and exploited within their own countries, or law enforcement agencies and other stakeholders are not open to the possibility that cases may involve victims of human trafficking rather than illegal migrants, victims will continue to go unnoticed.

Characteristics of Victims and Their Experiences

Victims of trafficking will differ depending upon the markets into which, and the geographical area to and from which individuals are trafficked. The United Nations Office on Drugs and Crime has produced a *Global Report on Trafficking in Persons* for the third year. Despite limitations in the data, these reports are the first attempt to produce data on an international level indicating trends in human trafficking. The most recent report provides data from 80 countries on the age and gender of 31,766 victims. Data shows that the

majority of victims are adult women followed by female children and then men and boys. The majority of cases of trafficking identified in this study involve cases of sexual exploitation (53%), followed by forced labor (40%), organ removal (0.3%) and other forms of trafficking (7%) such as forced begging, criminal activity, forced marriages, benefits fraud, pornography, selling babies, illegal adoption, and child soldiers. However, these global, aggregate figures belie regional and sub-regional differences. The majority of victims of trafficking in Europe and Central Asia are adult women exploited as victims of sex trafficking (82% of victims from this region are adults); in Africa and the Middle East, 62% of victims of trafficking are children. Furthermore, in Europe, sexual exploitation is the most prevalent form of exploitation (66% of cases). In East Asia, South Asia and the Pacific, 64% of the detected trafficked victims were exploited in forced labor, servitude and slavery-like conditions (UNODC, 2014).

Most of those who deal with trafficked victims identify a number of qualities that characterize those who fall prey to traffickers. They tend to be vulnerable. In a study examining the vulnerability of persons to trafficking in 12 countries, researchers identified a number of personal, individual, and external factors. Some vulnerabilities are individual or intrinsic to the victims such as age (young children and to a lesser extent, older people), poverty, mental and physical disability, cultural and religious beliefs (in certain parts of the world, voodoo or juju is used to control victims), gender and sexuality (women and transgender persons) or precarious social status. Other vulnerabilities such as isolation and lack of social networks, or illegal migration status may be vulnerabilities created by the trafficker to maintain control over the victim. While these are vulnerabilities which make persons susceptible to trafficking, it is the abuse of these vulnerabilities which make trafficking occur. These abuses include

making the victim dependent upon the trafficker, emotionally, financially and physically, by threatening to disclose to the victim's family or others that the victim is involved in prostitution, or by threatening to report the victim's irregular migration status to the authorities. "In the context of trafficking, 'vulnerability' is typically used to refer to those inherent, environmental or contextual factors that increase the susceptibility of an individual or group to being trafficked. These factors are generally agreed to include human rights violations such as poverty, inequality, discrimination and gender-based violence" (Gallagher; 2013:15). It is not however, the vulnerability to abuse, but the "...abuse of vulnerability as a means by which trafficking is perpetrated" (Gallagher, 2013:15).

Traffickers use a number of measures to maintain control over their victims. In addition to physical force and threats of force or violence against the victim, traffickers have been known to threaten the family of the victims – in particular, to harm the victim's child(ren) or other family members. Traffickers have been known to use public displays of violence against one victim to keep others in line. In the case of irregular migrants, traffickers threaten to report them to immigration officials or police, and the creation of debt places the victim in a position of debt bondage (Aronowitz, 2009a).

The Polaris Project was one of the first to discuss "trauma bonding" as a measure to exercise control over victims. Through a combination of affection and violence, the trafficker bonds his victim to him, thus ensuring that she will not leave him. This is often the *modus operandi* of 'loverboys' – what the U.N. refers to as 'recruitment through feigned romantic relationships' – men, usually in their twenties and thirties who prey on younger women. Once involved in the relationship, the trafficker grooms her for prostitution. Because of her involvement with the traffick-

er, it is often difficult for the victim to leave, or she refuses to do so, even when rescued, falsely believing that she owes allegiance to her boyfriend pimp.

One of the difficulties faced by law enforcement is recognizing a trafficked victim as such. The classic scenario of victims locked in rooms, chained to beds, passports seized, escorted by a security guard whenever they leave the premises does not always match the reality of the situation.¹⁵ These may be indicators of traditional human trafficking, perhaps in the past, but Leman and Janssens (2008), report that criminal organizations are learning organizations and they have learned to adapt to more modern scenarios. In their study of case files of Albanian and Russian trafficking organizations moving women into Belgium for forced prostitution, the authors found that women are given more freedom, more money, and sometimes their own living quarters.¹⁶ This does two things – it binds the victim to the trafficker ensuring her allegiance, and also confounds law enforcement, who, in the absence of signs of physical coercion, may assume that they are dealing with a case of consensual prostitution rather than human trafficking. All of these methods of control mean that it is no longer necessary for traffickers to use more traditional measures of confinement such as chains, ropes, or handcuffs to physically control their victims. Control is much more subtle and psychological. Until investigative officers understand this, they may continue to overlook trafficked victims and confuse them with victims of simple domestic violence or freelance prostitutes.

How victims of trafficking experience their exploitation depends upon a number of variables and differs between individuals. The

trauma they experience may depend upon the age at which the victim was trafficked, the nature of the exploitation, the length of time the victim was exploited, the degree of violence and coercion to which the victim was exposed, and the degree of stigma which the victim faces upon return to his or her home (country) (Aronowitz, 2009a). Much of the trafficking literature focuses upon harm to female victims trafficked for sexual exploitation (Hughes, 2000; Stewart & Gajic-Veljanoski, 2005; Jones, et. al, 2007). Victims are exposed to physical harm as a result of rape, sexually transmitted diseases, forced abortions, and physical injuries. Psychological harm includes depression, withdrawal, self-blame, psychiatric and psychotic disorders. The literature often neglects those trafficked into labor exploitation, who also suffer terrible physical harms (Aronowitz, et.al, 2010). According to Kevin Bales (2005; 52), a leading authority on slavery, “Victims of forced labor have been tortured, raped, assaulted, and murdered. They have been held in absolute control by their captors and stripped of their dignity. Some have been subjected to forced abortion, dangerous working conditions, poor nutrition, and humiliation. Some have died during their enslavement. Others have been physically or psychologically scarred for life. Once freed, many will suffer from a host of health-related problems, including repetitive stress injury, chronic back pain, visual and respiratory illnesses, sexually transmitted diseases, and depression”. Media reports have documented hundreds of deaths of foreign workers in building the World Cup stadiums in Qatar (Gibson, 2014). Even though the injuries may not have been sustained as a result of the forced labor, victims exploited in domestic service may also be exposed to sexual intimidation, assault and rape by the men in the household (Vlieger, 2011).

¹⁵ For more on indicators of human trafficking, see the International Labor Organization (2009).

¹⁶ This has also been confirmed by the Dutch police.

ficking for sexual and non-sexual exploitation were diagnosed with anxiety, depression and post-traumatic stress disorder (PTSD),¹⁷ although measures were higher in those exposed to sexual exploitation than the non-sex workers group. While the sample was small, almost 30% of the victims of sex trafficking tested positive for HIV; none of the victims of labor trafficking tested positive (although 80% of the sample was not tested). Interesting to note was the fact that victims exploited for labor were trafficked at a younger age and were exploited for a longer period of time (Tsutsumi, et. al., 2008).

According to the U.S. National Human Trafficking Resource Center, “The needs of victims of trafficking are among the most complex of crime victims, often requiring a multidisciplinary approach to address severe trauma and medical needs, immigration and other legal issues, safety concerns, shelter and other basic daily needs, and financial hardship (NHTRC, no date, p.1). All of the studies point to the need to identify victims of trafficking and to provide services that address their psychological, medical, legal and safety needs. Traumatized victims often need a period of time to understand what has happened to them and to think about whether or not to cooperate in a law enforcement investigation. The Experts Group on Trafficking in Human Beings, European Commission, European Union (EU) has recommended, in line with a human-rights based approach, a reflection period of three months to allow victims to recover from their experiences and decide whether or not to assist and cooperate in the police investigation and criminal proceedings.¹⁸

Trafficked persons often come into conflict with the criminal justice system while under the control of their traffickers. They may be forced to commit offenses (begging, stealing, transporting drugs, prostitution, using false documents) or by the very nature of their presence as an undocumented migrant, they are seen as violating migration laws and are subsequently arrested, detained and deported. Criminal sanctions have often been applied to trafficked victims. The United Nations (Working Group on Trafficking in Persons, 2010) urges the non-punishment and non-prosecution of trafficked persons who may have committed offenses while trafficked victims. If crimes have been perpetrated under duress or force, Member States are urged to establish the principle of non-liability of the illegal acts committed by trafficked victims through a duress-based provision (a trafficked person is compelled to commit the offense) or through a causation-based provision (the offense committed by the trafficked person is directly related to the trafficking). The first provision would apply to those who are coerced into working for the criminal organization – such as recruiting new victims, working as drivers, money collectors or guards. The duress¹⁹ and causation-based provisions²⁰ would apply to victims who are

trafficking-in-human-beings.

19 The Council of Europe Convention on Action against Trafficking in Human Beings (Article 26), also concerned with the non-punishment of victims, states: “Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.” This is an example of the duress model (Working Group on Trafficking in Persons, 2010; 5).

20 An example of the causation model is Argentina’s law on Prevention and Criminalization of Trafficking in Persons and Assistance to Victims of Trafficking of 2008, Article 5, which states: “Victims of trafficking in persons are not punishable for the

17 The IOM reports that victims of human trafficking have been so brutalized that they suffer psychological trauma so serious that only 30% of the victims of human trafficking fully recover to lead a normal life (IOM, no date).

18 See the Experts Group on Trafficking in Human Beings, European Commission, European Union (EU) at <http://lastradainternational.org/doc-center/1048/opinion-of-the-expert-group-on-reflection-period-and-residence-permit-for-victims-of->

in the country illegally, those forced to work in prostitution (in countries where prostitution is illegal), or forced to beg, steal or commit other offenses. Rather than viewing trafficked persons as criminals, they should be viewed through the lens of a human rights-based approach – and protected.

Concluding Remarks

Human trafficking is a complex problem. Victims are difficult to identify, in part, because gender bias precludes the identification of male victims or because trafficked persons do not fit the profile of an “ideal” crime victim, and in part, because many refuse to self-identify when discovered. Beliefs of who constitutes a trafficked victim, as well as culturally reinforced ideas of who can be victimized, prevent proper identification of victims. Misguided attitudes towards sex work result in the label of ‘trafficked victim’ being forced upon those found to be working as prostitutes, even when the individuals do not see themselves as such.

Care should be taken in making any assumptions about the magnitude of the problem, or the nature of traffickers or victims based upon the current data. The fact that we either underestimate the number of trafficked victims by failing to identify them, or overestimate the number by registering all persons found working in the sex industry as trafficked victims emphasizes the fact that trafficking data are unreliable. Therefore, we should stop trying to estimate the number of trafficked persons, particularly when estimates are based upon extrapolations of identified victims. What we should be focusing on, is how to increase our awareness of the problem and understand the complexity of ‘victimhood’ and identifying victims.

commission of any crime that is the direct result of having been trafficked.” (Working Group on Trafficking in Persons, 2010; 5).

Given the harm suffered by victims of trafficking, we should ensure that all mechanisms are in place to provide them with a safe environment, psycho-social care, housing, medical and legal support, employment and educational services. A human-rights approach to victims of trafficking includes ensuring a reflection period to allow them to recover, and upholding the principle of non-liability of the illegal acts which guarantees that victims will not be punished for crimes they have committed while under the control of traffickers. Furthermore, victims should be offered legal means to remain in the destination country – regardless of whether or not they cooperate in a police investigation. Only when they feel safe and are healed, will they move from victim to survivor status.

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