

Human Trafficking in Southeastern Europe

.

Challenges and Complexities in Assessing State-Based and Regional Solutions

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Inter-University Center Dubrovnik

Crime Prevention through Criminal Law and Security Studies

The Phenomenon: Human Trafficking

PROCESS

- ▣ Recruiting
- ▣ Harboring
- ▣ Moving
- ▣ Obtaining
- ▣ Maintaining

→ MEANS

- ▣ By Force
- ▣ By Fraud
- ▣ By Coercion

→END

Involuntary
servitude
Debt
bondage
Slavery
Sex Trade

Contributors ...

- ▣ **Poverty** → Vulnerability
- ▣ **Illiteracy** → Optionlessness
- ▣ **Indifference** (Police/Society/Media)

POINTS OF ACCESS

from varying perspectives

- ▣ **Economic** insight:

SUPPLY DEMAND DISTRIBUTION

- ▣ **Geographic/physical** insight:

SOURCE TRANSIT DESTINATION

- ▣ **Business** Manifestations: OPTIONS & PROFITABILITY

sex trade, mail order brides, maid schemes, domestic servants, illicit adoptions, migrant laborers

- ▣ **Politics:** ? Priority of the “problem”

? Capacity to solve with public policy

Balkan Picture ...

- ▣ Bosnia, Croatia, Macedonia --
transit & destination
- ▣ Albania, Serbia, Montenegro, Kosovo --
source & transit

“Western Balkan governments have national action plans that have laws, institution-building measures, targeted educational efforts, victim assistance and protection programs, public relations campaigns – ***yet throughout the Western Balkans, distinctions between contending views of trafficking remain blurred in policy and practice.***” Friman

One slice of the problem ...

September '02

Police in CEE with US support raided 20,558 times to
break up trafficking rings ... \$373 million
293 arrests, 237 trafficking victims

Unsettling conclusion ... government officials are
complicit or are providing protection

Cost-benefit analysis might suggest this is a
poor policy priority

GOOD NEWS in Southeastern Europe

- ▣ NGO capacity has increased
- ▣ Identifying & assisting trafficked persons has increased
- ▣ Regional cooperation efforts have increased
- ▣ Transnational advocacy networks nurtured the addition of the human rights approach
- ▣ Transnational policy actors have begun to focus on their (in)effectiveness –

US, UN, EU, IOM, OSCE

Solutions ... pillars

IDEAL “3Ps”

- ▣ Protection
- ▣ Prevention
- ▣ Prosecution

REAL *(best case)* “3Rs”

- ▣ In lieu of protection –
rescue
- ▣ In lieu of prevention –
rehabilitation
- ▣ In lieu of prosecution –
reintegration

Four major CONCEPTUAL Approaches to Addressing Human Trafficking

- (a) As a migration / criminal problem (most common)
- (b) As a law enforcement problem
- (c) As a human rights challenge
- (d) As a broader economic issue
- (e) As a question of public policy priority

EACH lends itself to different “responses”

A&B -- border patrol, repatriation, suppressing traffickers

C -- expanding the legal & socio-economic rights of those at risk; address underlying incentives that place women and children at risk

D -- addressing poverty; education & skills training

E – inaction or symbolic gestures without resources

*Issues &
Challenges
to effective policy*

Operational Factors inhibiting effective anti-trafficking measures

- ▣ Resource tensions between international organizations & NGOs
- ▣ Disputes over information sharing among counter-trafficking actors and the effort to blend enforcement
- ▣ Migrant & development programs: cross purposes
Reliance on flawed indicators of success
Politics, money & extraneous political considerations

Central Propositions (Issues & Challenges)

1. Challenge: **DIFFERENTIATE BEHAVIORS**
2. Challenge: **FINDING CONSENSUS**
3. Challenge: **REDUCING DEMAND**
4. Challenge: **PUNISHING THE GUILTY &
NOT THE VICTIMS**

Differentiating Behaviors

Migrant labor in globalized world (remittances)
alien smuggling; irregular migration

Reality = population re-nourishing is a requisite for
development & a magnet for others

“RIGHTS” are state-centric / collaboration possible
but contingent on regime / culturally framed

“Compensation” & exploitation -- level, form ↑↓

Mobility: essential for labor market in capitalism /
what and where one engages in labor market

MORE ...

- ▣ “A priori” knowledge vs. deceptive promises
(unworkable distinction for policy-makers)
- ▣ Does KIND of work matter?
(benign / state or legally regulated)
- ▣ Sorting: debt bondage, serfdom, forced
& compulsory labor, slavery
vs. “victim” paying appropriate costs for services?
- ▣ Does the nature of the “agency” matter?
 (“legitimate” “licensed” “tax-paying”)

Some Practical Problems with Legal Approach in the Balkans

Law enforcement often treats ...

- ▣ ALL prostitutes as trafficking victims
- ▣ All arrested trafficking victims as prostitutes
- ▣ ONLY foreign prostitutes and under 18s as trafficked
- ▣ ALL foreign prostitutes as illegal migrants

These undermine all efforts at effective policy!

Validating the AMBIGUITY

- ▣ Friman, “A challenge for the introduction of effective measures against trafficking is that the definition of sex trafficking itself remains contested.”
- ▣ Andras & Nadelmann, “The contested issue of prostitution appears likely to continue to derail the global prohibition regime against human trafficking.”



Finding Consensus on “Solutions”

- ▣ **Academics & Authorities**

- ▣ **State to State**

'49 convention : initially signed by 14; '00 by 72

'03 protocol: by '06 117 signatories/110 parties

*in both cases, less than half the potential parties;
indicates profound cultural resistance/discomfort*

- ▣ **Levels of Government** / information sharing issues,
jurisdiction, resources / extra problem for transitional govmnt

- ▣ **Public – Private**

complicated by generic issues of gov regulating business

- ▣ **Citizen level** commitment to monitoring child abuse & solicitation

How to incentivize **anti-trafficking elements**:

police, citizens, NGOs, media, institutions?

Achieving Multilateralism

- ▣ Fundamental cultural contrasts:
 - moral entrepreneurs vs. traditional values
 - ▣ Male/female roles
 - ▣ Conceptualization of what is a “child”
 - ▣ Moral ambiguities
- Ideological differences regarding the role of government -- roles in guiding society & behavior

NO GLOBAL CONSENSUS! Progress in Europe? #3→

Reducing Demand

- ❑ Effort best directed at individual values and morality
- ❑ Opinion-shaping players in society –
“classic agents of socialization”
- ❑ Expatriate & Deployed Workers – international community = key clientele (themselves not rooted)
- ❑ Links to pornography
- ❑ Follow computer trails requiring tech sophistication

Bosnian example

- ▣ One recent study concludes that:
“UN operations and personnel created the context within which human trafficking thrived.”
- ▣ Military troops, contractors, civilian personnel, international police and money all stimulated trafficking.
- ▣ Vandenburg Study recommendation:
criminal accountability for UN personnel!

Punishing the Guilty

- ▣ Criminal challenges: investigative resources; jurisdictional issues; prosecutorial ineffectiveness
- ▣ Civil recourse
- ▣ Attacking profits / effective economic punishment
- ▣ Dis-incentivizing / attach assets / punish money laundering

Steer Balkan criminal networks away from trafficking as a business option

- ▣ Problem: the unlikely visibility of small operations

Recognizing the Limits of Public Policy (& the Law)

- ▣ **Finding context and perspective**/other ills/competing needs
 - ▣ Examine the proposition that “government” can solve all problems –
 - ▣ Law is intrinsically a search for control and “justice” but is imperfect in both efforts
 - ▣ Law is always a reaction to ills rather than a solution
 - ▣ Policies/law can steer activity but not diminish
 - ▣ Policy “addition by subtraction” concept: legalization
- ?Policy objective: partial** – address most egregious **vs. comprehensive** – reduce or eliminate all exploitation

Avoid Widening the Circle of Victims

- ▣ Consider the trafficked victim & those who rely on him/her
- ▣ How handle the “informed” exploited worker?
- ▣ Economic realities vs.
moral prescriptions

Values – luxury of the comfortable ...

Avoid victimizing the victims: Helping without hurting

- ▣ Providing legal recourse (language & location)
- ▣ Recognize motives of traffickees
- ▣ Victim assistance & protection post apprehension
 - most common = detention & deportation*
 - inadequate shelters & services*
 - legal limbo; material witness & visa status*
- ▣ Witness protection
- ▣ Awkwardness of repatriating to persecution
& vulnerability to “re-trafficking”

Bottom line!

“The experience of the Western Balkans reveals that the problem is not the absence of ideas for a multi-faceted, integrated approach to human trafficking, but the failure of these ideas to attract the **required support** for integrated implementation.”

Friman & Reich

Final Thought ...

*All this adds up to the conclusion that
addressing human trafficking is a
problem of*

POLITICAL WILL

and establishing this problem as a

POLITICAL PRIORITY!

Searching for Dimensions

- ▣ Mid-90s **500,000** women trafficked from EE to WE
- ▣ UN estimates average price for slave = \$12,500;
overhead cost = \$3000 profit margin \$10,000 per
- ▣ ILO: 2.5 million people; \$32 billion
- ▣ Organized crimes #3 profit center (after drugs & arms)
- ▣ GAO: “Better life” promised ...
 - waitressing 22%, domestic work 14%, sales 10%,
dancers 10%, sex workers 10% *held by debt bondage*
- ▣ Varying estimates: FBI 700,000 UNICEF 1.75million
IOM 400,000 UN 1million
- ▣ 34% trafficked victims are NOT exploited as sex workers

Trafficking Protocol 2003

- ▣ Key: legal definition of human trafficking lacking –
Article 3 remains purposively undefined to allow state to interpret
- ▣ Covers forced labor & sexual exploitation
- ▣ In force by 2006 117 signatories; 110 parties
- ▣ TIP reports to shame non-compliance

Track record to date

- ▣ Fighting economic deprivation →
development programs
- ▣ Deceptive recruiting →
education & support programs
- ▣ Spotlighting tactics: oversight of employment
agencies & transport facilities

All have uneven and unimpressive results ...

Legal Tactics

- ▣ Arrest, indict, prosecute traffickers
 - ▣ Rescue victims
 - ▣ Arrest, indict, prosecute customers
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- ▣ **KONEVSKA Study –**
only solution = comprehensive legislative framework
- ▣ **Expand & refine criminalization**
- ▣ **Sharpen procedural tools for investigation**
- ▣ **Reward prosecution**
- ▣ **Expedite trials**
- ▣ **Create & maintain provisions for victim & witness protect.**
- ▣ **MUST be embraced by gov, private sector, civil society**

Kinds of traffickers ...

- ▣ Family members
- ▣ Organized criminal networks
- ▣ Corrupt officials
- ▣ International stabilization & police forces