

Feature

Trafficking and smuggling

Since we published an issue on human trafficking in 2006, increased reporting of both trafficking and smuggling has triggered renewed attention around the growing impact of, and the links between, these related but distinct phenomena. The articles in this feature explore some of the current challenges, misconceptions, insights and innovations in these fields.

This 36-page feature, as a standalone A5-format PDF, is available online in English at www.fmreview.org/issue64.

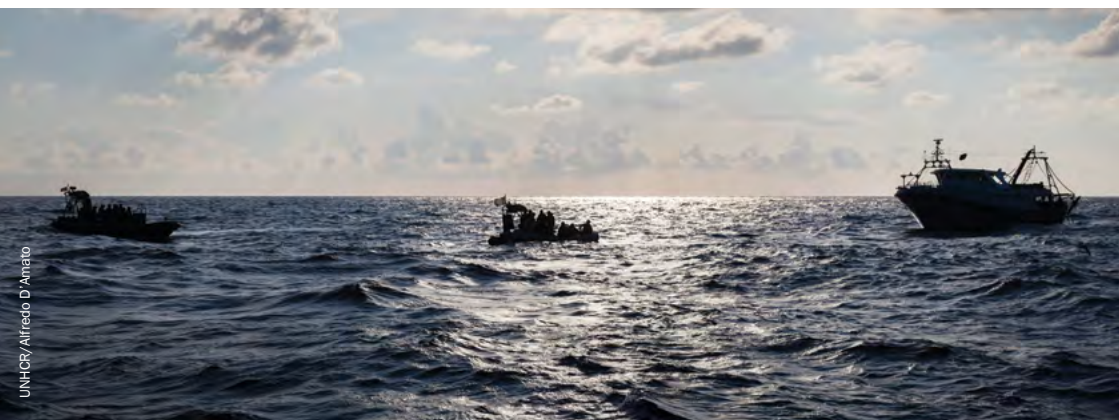
The standalone PDF is not available in print but you are welcome to print your own copy (use the 'booklet' setting on your printer). However, all the articles have been published as part of FMR issue 64, which is available online and in print, free of charge. To request print copies of FMR 64, email fmr@geh.ox.ac.uk.

All the articles except for two are also available in the shorter Arabic, Spanish and French editions of this issue.

To be updated about future themes, please see www.fmreview.org/forthcoming and request notifications at www.fmreview.org/request/alerts.

Plus: see our thematic listing on Trafficking at www.fmreview.org/thematic-listings, which provides quick access to previous articles (and a full issue) published in FMR on this topic.

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The same ruler for everyone: improving trafficking estimates

Joshua Youle and Abigail Long

Current guidelines for measuring the prevalence of trafficking are inadequate. Improving the accuracy of trafficking estimates will require comprehensive, standardised guidelines which have been rigorously tested in the field.

Donors increasingly call upon their grant recipients to conduct survey research in order to estimate the number of victims of trafficking in a target region or industry. Donors use these estimates to plan resource allocation, inform programme design, and engage with other governments. They also look to these estimates for empirical proof that an anti-trafficking programme is reducing the prevalence (the number of detected victims) of trafficking. However, most organisations do not include prevalence of victims as an indicator of success because there are no comprehensive, standardised guidelines which academics or researchers employed by these organisations could feasibly use to implement prevalence estimate methodologies. This means researchers develop survey instruments and methodologies that, although context-specific, do not benefit from systematic field-testing, are difficult to broaden out for general use and do not lend themselves to prevalence comparisons. Those prevalence estimates that have been published so far have faced criticism and scepticism. Existing guidelines are not inclusive and are challenging for smaller organisations (a considerable proportion of those engaged in fighting trafficking) to implement.

Current metrics

The Global Slavery Index (GSI) provides national and regional estimates of the number of people in modern slavery.¹ It receives considerable media attention and its figures are frequently cited by organisations and governments. The most granular estimates that the GSI provides are at a national level. In order to provide a useful metric of success for an anti-trafficking programme, the

programme would need to be implemented at that same level. However, most anti-trafficking organisations usually implement programmes at a sub-national level, focusing on a handful of municipalities and often a specific type of trafficking. It would be difficult to demonstrate using the GSI data that any such anti-trafficking programme contributes to a decrease in national prevalence, given the many other forces at play on a national level. While the GSI continues to refine its methods and is likely to be able to produce sub-national estimates in the future, due to the immense expense of compiling the index the exercise is only carried out approximately every two years. For an organisation to use it as a baseline the organisation would need to coordinate its intervention with timing of GSI data collection, which is not always possible. Thus for national or regional programmes, the GSI figure can only provide indications of trends.

In 2012 the International Labour Organization (ILO) published survey guidelines² which contain detailed steps for national governments to implement a survey on forced labour, including definitions, assessment tools, ethical considerations and guidance on data analysis. Although useful for governments looking to obtain the full picture of forced labour in their country the guidelines are limited. The ILO itself called these guidelines “a starting point” and we believe it is now time to expand them to include additional methods targeting a wider research audience. The International Conference of Labour Statisticians, which is convened by the ILO, published guidelines on the measurement of forced labour in 2018 that largely focus on randomised household or establishment surveys.³

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However, most organisations or government agencies focused on trafficking have limited budgets and cannot afford to implement these. Consequently, many organisations end up using referral-based sampling methods (such as snowball sampling), which have been proven in other fields to better identify members of a hidden population. Other means of collecting data to measure prevalence are generally implemented in an ad hoc manner and rarely have a direct connection with a programme.

Legal definitions

A common statistical definition of trafficking has eluded researchers, in part due to the existence of different and sometimes overlapping international and national definitions. For example, international law uses the definition of forced labour in ILO Convention 29, requiring both involuntariness and the threat of a penalty; instead the Palermo Protocol⁴ defines trafficking as requiring an act, means and purpose. Despite the technical language, forced labour and labour trafficking both refer to compelling (and profiting from) the labour or services of others. While the 'means' of force, fraud or coercion and the 'purpose' of compelling individuals for labour services might be the same across both definitions, confusion for measurement arises around the 'acts', such as recruitment, transportation, harbouring or receipt, which are not part of the ILO's definition. This raises key questions for researchers: whether, for example, scientists should measure forced labour by the ILO's standards in order to demonstrate the prevalence of trafficking; and whether scientists need always to include the 'act' in surveys.

Another difficulty is applying international norms at a national level. Under the Palermo Protocol, movement is not required to constitute trafficking. However, some national governments have enacted domestic anti-trafficking legislation that does require some form of movement. These varying definitions can be an obstacle to researchers comparing national administrative data.

Forced migration and trafficking

Movement makes it more difficult not only to measure vulnerability and prevalence within a population, and to compare results with other studies, but also to reach vulnerable populations within migration flows. Many studies attempt to measure prevalence of trafficking by interviewing returnees, who can be more accessible than workers in destination countries or those who are in transit. However, research with returnees must take into account several factors that may limit the study. For example, exploited individuals may have small social or isolated networks and if using a referral or network-based sampling method, the resultant prevalence estimate will probably be too low. That research may have identified how many returnees themselves were subject to exploitation but not have captured the total trafficked population in the migration flow.

Additionally, forced migrants often do not use formal channels but instead move irregularly and may use smuggling networks. Forced migration routes may differ in each scenario, exacerbating the measurement difficulties of referral-based sampling and severely limiting the ability to conduct traditional household or establishment surveys.

Common methodologies

Trafficking researchers have used a wide variety of methods to calculate prevalence estimates. The most traditional survey sampling methods select a random **sample of households or establishments** from a complete list, such as a government census. Using their survey questions, they attempt to identify respondents who may be victims of trafficking. Because everyone in the population had the same likelihood of being included in the survey, the researchers are able to generalise the results to a larger population. Hidden populations, however, who are often obscured from these lists, make this problematic and random sampling is therefore likely to under-report trafficking victims.

Snowball sampling entails asking respondents to report on what they know of the trafficking experiences of members of their social networks. With enough waves

of sampling the results are seen as being representative of the general population, even though not every member of the population had an equal probability of being selected. However, snowball sampling in anti-trafficking studies tends to start with a known group of people who are connected to victims or who are victims themselves. Consequently, the final estimate is likely to over-report prevalence of trafficking in the general population. The true prevalence estimate is likely to be somewhere between the estimates produced by random and snowball sampling.

Multiple systems estimation is based on lists of trafficking victims detected and recorded by local authorities. It requires a country to have at least two lists from different sources with a minimum of around 80 victims.⁵ This technique is most frequently employed in high-income countries that have strong data systems.

While these methods provide a tremendous insight into the prevalence of trafficking, no single method provides a complete picture of the extent of the crime or of the victims' experiences. Each method has advantages in relation to evaluating certain types of crimes, environments or populations and, correlatively, each has its drawbacks. The chief difficulties have centred on researchers' lack of awareness of situations in which individuals are particularly vulnerable to being trafficked and the frequent inability or unwillingness of respondents to identify themselves as having experienced trafficking. This may be because of fear of stigma (no matter how strong the assurances of confidentiality); because respondents may not know that they are victims of trafficking; or because they fear retribution from their trafficker.

Another problem is the reliance on primary data for measuring programme success. Organisations increasingly see the value and importance of strong data collection and management practices, but it will indeed take a sea change before best practice principles are integrated into every organisation. If data collection and management practices were stronger, these could be heavily relied upon to validate estimates or even to develop estimates where there is insufficient budget to carry out new data collection.

Recommendations

This leads us to make three recommendations that we feel would help drive better data collection and management and lead to more accurate estimation of trafficking prevalence:

Develop comprehensive standardised guidelines: Given that no methodology provides a fully comprehensive estimate, guidelines are needed in order to help groups determine which method to use based on demographic factors, type of trafficking and their budget and timing constraints. These guidelines should be evidence-based, meaning that there needs to be further testing of each method. They must focus on returning the most precise estimates possible, in order for researchers to be able to confidently detect the effect that a programme has had on prevalence. Survivors should be consulted in the development of the guidelines and in the implementation of each methodology.

Utilise an impact evaluation methodology: Conducting and comparing prevalence estimates at the beginning and end of programme implementation can show an increase or a decrease but only through setting up a control group can a change in prevalence be attributed to the impact of the programme. While this impact evaluation methodology does not have to be used for every programme it should certainly be used for new programmes and to inform decisions about whether to expand existing programmes.

Involve new academics: Trafficking is an interdisciplinary topic that would benefit from the focus of a greater number and variety of researchers. When looking for partners, organisations should target emerging scholars and academics not customarily engaged in the trafficking arena, possibly from fields such as criminology, sociology, social work, economics, demography and public health. Their fresh perspectives can unearth new insights and help make much-needed progress. Combatting trafficking requires a scientifically rigorous, interdisciplinary response that does justice to the experiences of the victims.

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The views expressed in this paper are those of the authors and are not an official policy nor position of the US Department of State or the US government.

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Understanding the psychological effects of sex trafficking to inform service delivery

Jennifer McQuaid

Those providing assistance to survivors of trafficking should focus not only on the delivery of services but also on building survivors' capacity to engage in treatment and support.

When trafficked for sexual exploitation, women are subjected to extraordinary physical, sexual and psychological violence which puts them acutely at risk for developing not just short-term physical ailments but also lasting mental illness that can profoundly alter their ability to navigate effectively in the social world. Survivors may be dealing with HIV infections, experience gynaecological issues, succumb to substance and alcohol abuse, and suffer the prolonged effects of physical injury. The impacts on their mental health include anxiety, depression, self-harm and post-traumatic stress disorder (PTSD).

Violent exploitation may also result in survivors developing a mistrust of caregiving individuals and systems, which can severely hinder service delivery. Sex trafficking disrupts caregiving by hijacking the victim's relationship with trust and security. Victims rely on their traffickers to provide them with food and shelter but to obtain these victims must work, and that work involves sexual violence and coercion. The hand that feeds and gives shelter and promises a path to safety is therefore also the hand that leads to injury and persecution.

This severe rupturing of attachment relationships can have a significant impact on survivors – disrupting their sense of self and affecting their ability to leave exploitative situations, rebuild themselves emotionally and engage with services. After periods of imposed isolation, a loss of autonomy and forced servitude, survivors report feeling helpless and hopeless, struggling to feel competent with life skills, ashamed about their past victimisation, and angry about missed education and job training. Many feel lost in their personal search for identity and meaning. Regulating difficult emotions and interpersonal relationships can be challenging. All told, the effects of sex trafficking are wide-reaching, profound and often not well understood. Signs and symptoms of psychological distress may also fall outside diagnostic categories and manifest in cultural idioms of distress. Systems of care that adequately account for these experiences have a far greater chance of success.¹

The road map of complex PTSD

The traditional reliance on PTSD as a diagnostic means of describing distress and

then subsequently guiding treatment falls short of capturing the long-term effects of such debilitating trauma. Instead, 'complex PTSD' was developed as a framework for understanding the effects of complex trauma – trauma that is prolonged, repeated and interpersonal in nature, and from which escape is not possible due to physical, psychological, maturational, environmental or social constraints. Well-accepted examples of complex trauma include child abuse, domestic violence, sex trafficking and other forms of modern slavery, situations of genocide or organised torture campaigns. Complex PTSD includes the core defining symptoms of PTSD (re-experiencing, avoidance or numbing, and hyper-arousal) as well as disturbances to the regulation of emotion, interpersonal relationships, conception of self, consciousness and systems of meaning.² Complex PTSD has been suggested as the most accurate way to describe the deep disruptions to psychological functioning that are experienced by survivors of sex trafficking.³

Incorporating a complex-trauma informed approach

By incorporating an understanding of complex trauma into their approach, clinicians and humanitarian aid workers can build their capacities to bridge the divide between need and engagement. Several steps could help in doing this:

Recognise that providing for a survivor's unmet needs sets the stage for their recovery: Attending to physical safety, nutrition and general health-care needs sets the stage for psychological healing.

Incorporate elements of evidence-based treatment: Integrating ideas from the cognitive model of PTSD may enhance service delivery. This approach is anchored in the idea that appraisals of self and one's place in the world play important roles in the maintenance or remission of trauma symptoms. For example, attributing blame to oneself for negative life events has been shown to impede recovery. Psycho-

education about the effects of sexual violence – particularly the strategies that perpetrators deploy to create isolation and decrease victims' sense of self-worth – can be interwoven into programming. Also consider incorporating Interpersonal Psychotherapy (IPT), an evidence-based treatment focused on linking life events – grief, interpersonal conflict, role transitions and/or social isolation – with symptoms of distress. IPT helps individuals build skills that fight helplessness and hopelessness even in situations of extreme adversity.⁴ The treatment is recommended in the World Health Organization/UNHCR *mhGAP Humanitarian Intervention Guide* as an effective first-line treatment for depression that can be delivered by trained and supervised non-mental health community workers in low- and middle- income countries.⁵

Develop awareness of triggering interactions and incorporate opportunities for choice and autonomy:

A relationship might become fraught when a well-intentioned clinical provider introduces a legal or programmatic framework that is perceived as controlling or disenfranchising. For example, conversations about safe, effective parenting may backfire if they are undertaken with a punitive or overly authoritative tone. Similarly, interventions addressing 'harm to self' or 'harm to others' can be especially difficult. A trusted relationship can suddenly collapse if a service provider triggers memories of a trafficker by restricting freedom and autonomy. In these circumstances, providers should remember that loss of will and the ensuing feelings of fear may trigger anxiety and even dissociation in survivors, because in the past similar situations have signalled impending harm or assault.

Realise that rejecting treatment may be a way of communicating distress: Moments in which we, as providers, feel ineffective, or in which a survivor disengages or rejects agreed-upon goals or work, are the very moments when we need to pause and reflect on what is happening. Ask yourself

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if you can understand the interaction in light of the survivor's trauma history. It can also help to ask a colleague for their insights. For example, from a programmatic perspective, a certain housing plan or educational requirement might feel logical and even necessary. But for a survivor of sexual exploitation, it may feel like they are becoming ensnared in something with which they do not agree. Perhaps a survivor is resisting attending educational classes or job training. Consider the possibility that these situations might activate feelings of disappointment, irritability and self-blame related to lost time and opportunity as a result of being trafficked. Take the time to bring empathy into the relationship and solve problems collaboratively in order to support survivors in taking the steps needed to engage in services.

Increase opportunities for social support:

The strategic abuse and forced isolation imposed by traffickers result in shame, learned helplessness and mistrust. The effects of participating in survivor support groups cannot be overestimated. The validation, emotional connection and practical support provided by fellow survivors and group leaders encourage women to explore relying on others and building attachments. Parenting groups enable survivors to experience support from other mothers, to share feelings in a safe space, and gain information and guidance. Parenting group leaders can pay particular attention to processing 'flashpoints' – moments when interactions with children trigger feelings of vulnerability or set off a cascade of re-experiencing symptoms. By working through these moments in the group, mothers may feel better understood, better equipped to manage their parenting responsibilities, and possibly more confident in moments of intimate connection with their children.

Address vicarious traumatization: The isolating and paralyzing effects of trauma can transfer to care providers. Service providers should implement group consultation and provide staff with adequate

supervision. They should also consider establishing co-leadership of support groups. This allows for staff reflection and peer supervision while decreasing the burnout that comes from working independently and holding the weight of stories alone.

Consider the WHO/UNHCR recommendation to include mental health in primary care:

The *mhGAP Humanitarian Intervention Guide* calls upon humanitarian actors to routinely include mental health programming in primary care settings.⁶ Service providers should consider placing mental health practitioners in primary care or maternity clinics. Despite their need for gynecological and obstetrical care, survivors of sexual exploitation may avoid routine gynaecological or antenatal visits because examinations are a source of distress. Clinicians working in this area are in a unique position to help survivors build positive associations with medical care, and maternal health clinics are ideal venues for parenting groups.

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Addressing trafficking in the sex industry: time to recognise the contribution of sex workers

Borislav Gerasimov

Efforts to combat trafficking in the sex industry must respect sex workers' decisions and agency, and recognise them and their organisations as legitimate stakeholders in the anti-trafficking movement.

Anti-trafficking activism has greatly increased since the adoption of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2000.¹ Anti-trafficking efforts have attracted millions of dollars in funding and the activity of a diverse set of actors. These now include government institutions, international organisations, civil society organisations from the women's rights, migrants' rights and labour rights movements, trade unions, faith-based groups, and even for-profit entities.² These groups engage in one or more aspects of the three 'pillars' of anti-trafficking work as laid out in the UN Protocol: prevention, protection and prosecution.

In 2009, US Secretary of State Hillary Clinton added a fourth 'pillar' – partnerships – emphasising the need for more effective collaboration and coordination between actors. Since then, it has been institutionalised through various national and international multi-stakeholder working groups. Notably absent from the institutionalised response, however, have been organisations representing the interests of people in the sex industry. The exclusion of sex workers and their organisations from the development of policies that affect them is nothing new. Rooted in traditionally moralistic and stigmatising views of sex workers, this exclusion has more recently been shaped by the conceptualisation by feminist thinkers from the Global North of sex work as a form of violence against women, to which women cannot meaningfully consent. Such views have shaped anti-trafficking work and reinforced the marginalisation of sex workers, with hugely negative impacts on their lives, work and well-being.³

Research published by the Global Alliance Against Traffic in Women (GAATW)⁴ in 2018, on which this article is based, documents the strategies that sex workers and their organisations employ to prevent and address violence, coercion and exploitation in the sex industry, including instances of trafficking. It demonstrates clearly that they need to be viewed as key partners in the fight against trafficking.⁵

Knowledge is power

Despite operating in different contexts, the sex worker organisations whose representatives were interviewed by GAATW take the same approach to supporting sex workers. They each operate a space which serves as an accessible drop-in centre, where community members can share meals, establish friendships and discuss issues that concern them. They can also access a range of services, from language classes to support groups, counselling and health services. All the organisations also conduct outreach to sex workers – listening, advising, intervening and making referrals, as dictated by the individual's needs.

For example, in Thailand the organisation Empower organises Thai and English language classes for sex workers. These classes are useful not only for work with clients (for example, to negotiate services and prices and avoid miscommunication) but also if the sex worker decides to leave the industry and take up other work. All the organisations provide legal advice to sex workers, directly or through referral, including in relation to disputes with clients and managers, or about their immigration status. Several provide information to new sex workers about safe areas for work, how to communicate and

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Sex workers protest in South Africa during a trial for the murder of a sex worker.

negotiate with clients and which clients to avoid, how and where to advertise and what prices to charge. This kind of information provision about laws, rights and conditions of work is an established good practice to reduce the vulnerability of migrants and low-wage workers to exploitation and abuse, including trafficking, and many anti-trafficking organisations engage in such work.

All the organisations whose staff we spoke with also engage in public activities – lectures, rallies, work with the media or policy advocacy – to address the criminalisation and stigmatisation of sex work. This is important because traffickers exploit this criminalisation and stigma in order to keep victims under their control, convincing them that if they go to the police they will not be believed but will instead be arrested and jailed for prostitution and, in the case of migrants, deported. Removing the stigma

and the criminal and administrative penalties for sex work, as well as establishing a respectful relationship between sex workers and the police, would facilitate the identification (including self-identification) of victims of trafficking in the industry.

Community solutions

Our research also shows that sex workers use their own resources to offer assistance to peers. In Durban, South Africa, peer outreach educators from the organisation Sisonke encountered young women and adolescent girls who were being controlled by a pimp standing nearby. Under the guise of distributing condoms, they managed to give the number of the organisation's helpline to the girls, who later called, and the helpline staff reported the matter to the police. This led eventually to the successful prosecution of one of South Africa's largest cases of the trafficking of children for sexual exploitation.

In India, one of the committees of the Veshya Anyay Mukti Parishad (VAMP) sex worker collective was approached by the madam of a brothel, who suspected that a girl brought to her by a pimp was a minor. When committee members went to the brothel to investigate, the pimp took the girl away in a taxi to another brothel area. The committee alerted their counterparts in that area, who discovered where the pimp took the girl. Committee members found her, verified that she was indeed a minor, contacted her parents, provided counselling to them and to the girl, and referred them to the police. Although the pimp escaped again, the action taken by the committee women had such an impact that he never returned to that community.

What these and other cases documented in the GAATW research have in common is that the solutions are not always obvious or conventional; in some cases, sex workers have to get creative in order to find the best solution. Traditional anti-trafficking measures

to identify victims such as 'raid and rescue' operations led by NGOs or by the police are typically violent and traumatic events for both sex workers and victims of trafficking.⁶ Our research shows that the peer-led interventions, by contrast, are person-focused and sensitive to the realities of the industry.

In some of the countries in which we conducted our research, sex worker organisations have formed pragmatic, if sometimes uneasy, cooperation with State bodies and NGOs to address suspected cases of trafficking. For example, in South Africa, SWEAT and Sisonke have occasionally collaborated with the National Human Trafficking Resource Line, and in India some police officers recognise the need to work with VAMP to prevent trafficking.

However, in most cases sex worker organisations are excluded at the institutional and policy levels. In Spain, the organisation Hetaira was denied a place in the national anti-trafficking NGO network. In South Africa, SWEAT had to leave the Western Cape Counter-Trafficking Coalition due to hostilities from other members relating to their position on sex work.

A shared agenda

Ultimately, sex worker organisations are workers' rights organisations whose primary mandate is to ensure that the human, economic, social, political and labour rights of their constituents are respected by State and non-State actors. At some level, their work is very similar to the work of the anti-trafficking NGOs which are members of GAATW. For example, sex worker organisations provide information about rights and working conditions, and where to seek help in cases of rights violations. In the anti-trafficking field, this is commonly referred to as prevention, awareness-raising or empowerment. In cases of rights violations including trafficking, sex worker organisations offer assistance with: filing complaints and dealing with the police, courts and immigration authorities; meeting basic needs; providing psychosocial counselling and family mediation; and helping women return to the community and find employment. In anti-trafficking

programming these are broadly referred to as (re)integration or social inclusion services.

The automatic, inaccurate conflation of all sex work with trafficking, and the view of all prostitution as exploitation, prevent many anti-trafficking organisations from seeing the similarities between their agenda and work and that of sex workers' organisations. Yet the two are not incompatible: sex worker organisations can address situations of trafficking, and anti-trafficking organisations can respect the rights of sex workers. We hope that the GAATW research can lead to a new approach that respects sex workers' decisions and agency and recognises them as essential partners in combatting human trafficking.

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The return of vulnerable asylum seekers to Italy: protecting victims of trafficking

Lucia Della Torre, Adriana Romer and Margarite Zoetewej

The inadequacy of Italy's reception conditions for vulnerable asylum seekers raises serious questions about the legitimacy of Dublin transfers of those who have been trafficked.

Through the Dublin III Regulation¹ an EU Member State can be requested by another Member State to take back an asylum seeker who has previously applied for asylum in their first country of asylum. The application of this Regulation places disproportionate pressure on the asylum systems of those countries whose borders also form part of the external borders of the EU, of which Italy is one. The result of this pressure, combined with recent political and legal developments in Italy, means that the specific needs of vulnerable asylum seekers – which includes victims of trafficking – are often inadequately identified and met, casting doubt over the legitimacy of these 'Dublin transfers'.

Early identification of potential victims of trafficking in the asylum procedure is crucial in order to grant them the best possible conditions in which to properly present their asylum claim, and to protect them from further exploitation. The Council of Europe Convention on Action against Trafficking in Human Beings outlines how each Member State must ensure its authorities have staff who are trained and qualified in identifying and assisting survivors.

However, Italy's asylum procedure lacks a general screening for vulnerabilities and it falls short of these obligations. Anti-trafficking NGOs report that it is their own personnel who refer most of their cases, or referrals come from trained social workers employed by reception centres; very few come from the local police (and even then not always from those officers who are involved in registering asylum seekers).

The asylum procedure in Italy begins with the lodging of an asylum application at the local police station. Biometric data are collected – either immediately, if capacity allows, or at a later stage. A written statement

is also recorded, which is taken a few weeks or sometimes a few months after the application is first registered. The invitation to appear before the local Territorial Commission (which is responsible for examining asylum applications) is issued only after the statement is processed and, accordingly, an appearance before the Commission takes place at least a few months into the asylum procedure. For those who have been trafficked, this means that they spend a significant amount of time in the asylum procedure before being properly identified.

In cooperation with UNHCR and the European Asylum Support Office, the Italian Ministry of the Interior has published guidelines² for identifying victims of trafficking among applicants for international protection. Designed specifically for Territorial Commissions, they allow for the asylum procedure to be halted for up to four months if the Commission believes an applicant may have been trafficked. During this period, the applicant is referred to a specialised local NGO, as recommended in the guidelines. After interviewing the applicant, the organisation gives the Territorial Commission its assessment of the applicant's claim to have been trafficked and its relevance for the individual's claim for international protection.

In interviews conducted in September 2019 as part of an OSAR report on reception conditions in Italy,³ employees of these local NGOs and Territorial Commissions reported that the publication of the government guidelines and the training provided to staff have had a positive impact on their collaboration, and that the number of referrals coming from the Territorial Commissions has increased. But although this increase in referrals is good news, the funding and

resources available to local NGOs have not increased accordingly. As a result, local NGOs lack capacity to adequately assist all those who are referred to them.⁴

The Salvini Decree and reception conditions

With the coming into force of the Salvini Decree in October 2018, which amended several articles of Italian migration law, the situation for victims of trafficking has deteriorated even further. As well as abolishing humanitarian protection status (which had been used to a considerable extent for asylum seekers who did not meet the criteria to receive international protection), vulnerable asylum seekers – including those who have been trafficked – can no longer access reception centres which offer individual reception programmes. These are now reserved for people with international protection status or unaccompanied asylum-seeking children; those who do not fall into these categories are now only entitled to access larger, collective centres.

Concurrently, the financial contribution of the State towards those accommodated in these collective reception centres was reduced from around €35 to just €18 per day. This has led to a fall in the level of qualifications and experience of centre personnel and changed the ratio of asylum seekers to employees from ten-to-one to fifty-to-one. Centres with a capacity of less than 150 are not expected to have staff on duty through the night. Numbers of professional staff such as cultural mediators, social assistants and medical staff have been drastically reduced, and psychological support removed entirely. Qualified personnel are unable to spend more than a few minutes with each asylum seeker per week. The lack of personal contact and time does not allow for the building of a relationship of trust, nor does it give personnel the necessary time to identify residents' vulnerabilities and take appropriate measures. These changes have led to an unwillingness on the part of some charitable organisations to continue administering these centres, as they cannot offer the level of service that

they deem to be the absolute minimum. In many instances, their place is taken by organisations that focus on profit and do not necessarily place human dignity first.

The conditions in the collective reception centres have a negative effect on trafficking survivors. NGOs observe that individuals frequently leave the reception centres at night to engage in prostitution. Due to the lack of supervision, trafficking and re-trafficking may take place, and cases of sexual abuse including rape inside the centres have also been reported.

Asylum seekers also lose their right to accommodation if they are absent from the centre for more than 72 hours – and it is extremely difficult and time-consuming to regain the right to accommodation once revoked by the prefecture. Those who are returned to Italy under the Dublin III Regulation – which includes vulnerable asylum seekers – are likely to have lost the right to all material reception conditions because they were previously accommodated in Italy before moving on to another European country. This is contrary to case law of the Court of Justice of the European Union.⁵

Dublin transfers

Even though the Dublin III Regulation does not explicitly prohibit the transfer of vulnerable asylum seekers, States are bound by human rights law as well as the provisions of the Regulation. Under the terms of the Council of Europe's anti-trafficking Convention, those who have been trafficked should be given a recovery and reflection period of 30 days, during which time they can remain in the territory of the State Party. In light of the provisions of the Dublin III Regulation, this temporary residence might in itself be sufficient grounds for transferring responsibility for assessing these asylum applications to the State that is providing this recovery and reflection period.

After the recovery and reflection period has passed, if the State decides nonetheless that another State is responsible for assessing the claim, it has to inform that State, which must explicitly agree to take responsibility for the individual and also explicitly declare

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that they will receive the appropriate care upon being transferred. The State requesting to make a transfer can only do so if neither the transfer itself (because of potential risk of physical or psychological harm) nor the subsequent reception conditions are in contravention of relevant provisions in European law, including – but not limited to – the European Convention on Human Rights and the Council of Europe’s Convention.

Other international treaty bodies have also issued decisions regarding the legality of Dublin transfers to Italy. In 2018, the UN Committee against Torture decided in two cases that the transfer of asylum seekers who had been subjected to torture would infringe their rights under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as the provision of adequate health care could not be guaranteed upon their arrival. The Swiss Federal Administrative Tribunal as well as several German courts have also partially recognised the problematic situation in Italy. For example, in a December 2019 judgement the Swiss tribunal ruled that Italian authorities are required to furnish guarantees on an individual case basis concerning reception conditions.

Pre-existing precarious conditions in the Italian reception system have been exacerbated by recent legislative reforms,

and the timely identification of victims of trafficking and the facilitation of adequate provision are highly questionable. If explicit, individual guarantees with regard to the proper reception of asylum seekers who have been trafficked are not given (or if there are reasons to doubt that in practice these guarantees cannot be fulfilled), States should refrain from instigating Dublin transfers of these asylum seekers to Italy.

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Trafficking, ritual oaths and criminal investigations

Ana Dols García

The influence of traditional beliefs in the trafficking of Nigerian women for sexual exploitation must be better understood in order to help identify and protect victims and to properly inform judicial processes.

Oaths play a crucial role in Nigerian trafficking networks. By sealing the pact between women who want to migrate to Europe and their traffickers, oaths strengthen the ties between women and their traffickers, their family and the spirit world. Through these vows – known as juju oaths – women promise to pay off the debt, respect the traffickers and not report their traffickers to the police.

Oaths directly ties women with the spirits, from whom retaliation is expected if the agreement is breached. Women are persuaded that terrible things, including illness, death and madness, will befall them and their families if they do not repay their debt. Furthermore, breaking the pact is seen as an act of dishonour that reflects badly upon a woman’s family. Women also consider that, having accepted the oath, they

have accepted the situation of exploitation and this serves to reinforce the authority that their madams have over them.

The taking of the oath is performed in symbolic and theatrical ceremonies, usually in shrines to the deity Ayelala, who is known for delivering justice. In the course of these oath-taking ceremonies, women may be asked to remove their clothes, take baths, and drink or eat specific concoctions. Small incisions may be made to their bodies. Items including animal blood, kola nuts, water, palm oil, alcohol or herbs are usually used in addition to fingernails, blood, sweat, menstrual blood or hair, which are generally taken from both the oath-taker and from one of her female relatives. Priests use these corporeal extractions and other symbolic elements such as a woman's underwear to make a small 'packet'. It is believed that whoever has the packet can control the woman. Anecdotal accounts suggest that at times pacts are also being sanctioned in some Pentecostal churches, and that some churches may be involved in trafficking networks, both in Nigeria and in destination countries.

Fear of breaking the pact is so intense that sometimes traffickers may not need to exert other means of control. The result of this is that trafficked Nigerian women appear relatively free from constraints, which in turn hinders their identification as victims by law enforcement actors and renders subsequent police and judicial processes more difficult.

Breaking the oath

To combat the fear that is created in victims, the Nigerian National Agency for the Prohibition of Trafficking in Persons (NAPTIP) recommends that law enforcement officials and NGOs supporting victims inform the women that any contracts they may have signed are not legal, and assist them to seek spiritual counsel, if requested.¹ It encourages law enforcement actors to call on expert witnesses to emphasise the effects of ritual oaths in a prosecution, and also recommends the intervention of religious advisors to help bring forward a prosecution. In an operation in the Netherlands, for example, at least 10 victims agreed to

collaborate with the authorities following the intervention of a pastor and a woman who had formerly been trafficked. The Dutch attorney general claimed that the moral authority of the religious leader encouraged victims to trust the police and overcame any fears linked to breaking the oaths.

In March 2018, the Oba (traditional ruler) of Benin Kingdom in southern Nigeria performed a ritual to neutralise the oath curses that had already been administered to women and to invoke a curse on any native doctor who administers such oaths. Reportedly, this gave strength to some women to flee their traffickers, although there are no data available about how this revocation might have affected criminal investigations.

In destination countries in Europe, law enforcement actors are adapting their approaches to better protect victims and improve prosecution of traffickers.² For instance, in Spain, police officers are receiving specific training to bolster their understanding of these networks and the national police has a group of specialist officers who focus on African trafficking networks. However, despite these and other welcome steps, further progress is needed.

Interviewing potential victims

International anti-trafficking guidelines recommend that interviews with potential victims are conducted by specialist officers. Anecdotal evidence gathered in the course of my research suggests that traditional respect for elders means that women respond more positively to older interviewers. Women may interpret physical discomfort or malaise displayed by the interviewer as a sign of being cursed. Some police officers reported feeling nervous and uncomfortable when women avoided looking at them directly, believing that the women were not listening to them or were lying. However, generally in West African cultures, not looking directly into an interlocutor's eyes is a respectful gesture. Being attentive to non-verbal communication is also essential, as women may change their body language when referring to the oaths, for example choking or gagging when recalling the consumption of concoctions.³

Statements have to be collected accurately and thoroughly. Any transcription of a statement that is repetitive, automatic or over-simplified has less value in court. For example, one NGO respondent told how: “a victim explained how they made cuts in her chest, back and sides and how they took a kind of lime with which they rubbed her forehead until blood came out, which she had to drink. However, the police wrote that they had removed her nails and pubic hair to do a juju ritual.”

Stereotypes may influence the identification of the victim and the evaluation of protection risks. For example, during an interview with a potential victim from Guinea, the same NGO representative asked the police to inquire about ritual oaths. The police dismissed the suggestion, saying that ritual oaths were only relevant to Nigerians. The interpreter had to explain to the police officer that in Guinea people also believe in the power of juju oaths.

Some interpreters used during interviews may not be aware of crucial concepts like juju oaths; others may themselves also believe in the effects of spiritual powers and be afraid to work in cases involving Nigerian networks.

Cultural mediators – usually survivors of trafficking – can ease engagement with victims and provide women with a concrete example of how it is possible to extricate themselves from exploitative situations. And the accompaniment of victims by specialised NGOs can provide the women with the confidence, security and tools that they need in order to cope better with criminal proceedings.

Collecting physical evidence

When conducting forensic examinations such as obtaining blood or saliva for DNA tests, it is essential to explain to the women the purpose and relevance of the procedures performed, as they may link it to juju rituals.⁴ It is also crucial to differentiate between tribal scarifications, cuts made to the body linked to traditional medicine and cuts made in the context of trafficking. In conducting such examinations it is important not to dehumanise the women by

placing so much emphasis on their physical features that they are reduced to mere human manifestations of juju threats.⁵

Police may recover the ‘packets’ created during the oath ritual. These must be collected, preserved and documented correctly, in the greatest possible detail. After documentation police should return these to the victim if they so wish. Some victims report their exploitation situation only once their packet is in the hands of the police. Any personal object belonging to the victim should be removed from their place of exploitation, as victims may fear that it will be used to curse them.

Oaths in court

The particular dynamics of Nigerian networks should be considered in the preparation and development of a trafficking prosecution. The United Nations Office for Drugs and Crime (UNODC) recommends that consent-related issues should be addressed early on in the trial in order to provide the court with a framework within which to understand the vulnerability, inconsistencies in testimony and apparent consent of the victims to their exploitation. The presentation of physical evidence, such as remnants of rituals, or telephone conversations alluding to juju threats, gives judges a greater evidence base upon which to adopt a sound verdict.

In at least two cases in the UK, the intervention of experts on sub-Saharan spiritual beliefs was essential both for contextualising the behaviour of the victims and for explaining the cultural aspects linked to the cases.⁶ Psychologists are also increasingly providing expert evidence on how oaths become a mechanism of control that intensely influences women’s behaviour.

Judicial considerations

There is a mismatch between the importance attributed to the oaths by law enforcement actors and NGOs and how it is reflected in court decisions. Where oaths and juju are mentioned in court decisions it is mainly in the description of the facts, not in the justification of the sentence. There are also many inaccuracies in references to the oaths and spiritual powers.

A common mistake is to underestimate these beliefs as superstitions or to consider them 'backward', or the people who hold such beliefs credulous. Comments like these serve to discredit these beliefs without adding any value to the judicial reasoning. There is also a lack of knowledge of the prevalence of religious syncretism in sub-Saharan societies, and some judges assert that a woman who declares herself Christian cannot feel coerced by ritual oaths. Tribunals have also assumed that victims with a certain level of education cannot believe in the power of the oaths. Furthermore, courts ignore the fact that such ceremonies may create a situation of fear or psychological distress, even in those with weaker or no faith.

Frequently, there is a lack of understanding of the role played by oaths in trafficking networks. Some judges claim that the traffickers' objective is that women never repay their debt. However, the effectiveness of ritual oaths is based on the fact that it is feasible for the debt to be paid – by repaying what they owe, women can avoid the dire consequences. In this way the ritual oaths are very effective at binding the women to their traffickers. Traffickers

instrumentalise the oath to reinforce feelings of submission, secrecy and loyalty, seeking to prevent the victim breaking away from them for as long as possible. More evidence is needed to develop comprehensive, empirically based best practices to better equip those who work to combat trafficking.

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Civil litigation on behalf of trafficking survivors: a new approach to accountability?

Henry Wu

Criminal prosecutions of trafficking offences are limited in scope. Civil litigation may provide an avenue for justice and accountability within a victim-centred, trauma-informed framework.

Compared with the estimated number of trafficked persons, the number of criminal prosecutions of trafficking offences is exceedingly low. Globally, there were just over 11,000 prosecutions in 2018, of which just 4% related to labour trafficking.¹ Despite a well-ratified legal framework relating to trafficking, the criminal justice approach in many parts of the world has not been equal to the dual task of preventing trafficking and protecting victims. When criminal

prosecution is not an option, civil lawsuits can uphold the rights of victims and hold traffickers accountable. Rather than being merely a substitute for criminal prosecution, strategic civil litigation on behalf of survivors is a radically different approach.

Structural differences between civil and criminal action

Civil litigation allows trafficked persons to recover compensatory damages for loss,

injury or harm suffered. In some jurisdictions, courts may also award punitive damages to hold traffickers financially accountable and deter similar acts. The most important difference between civil and criminal cases, however, is that justice in the civil context is survivor-led. Civil action proceeds within a framework that is more responsive than the criminal prosecution framework to the goals and interests of trafficking survivors. The primary goal of trafficking prosecution is often to obtain convictions accompanied by lengthy prison terms but the process by which prosecutors obtain convictions may come at a cost to victims. For example, authorities have temporarily detained trafficked persons in order to compel them to testify.² Survivors may have various reasons for not cooperating with authorities but even when they are willing to testify appearing in court may be a stressful and traumatic ordeal. And it is not always the case that retributive justice outcomes like lengthy prison terms align with what survivors understand as 'justice'. Survivors, who may themselves face criminalisation or deportation due to involvement in sex work or having irregular migration status, may not view the criminal justice system as aligned with their interests. For example, survivors may seek substantive outcomes – such as stable housing and employment – that are not achieved through criminal prosecution because remedial measures like restitution are often not ordered in the criminal context.³ Finally, because civil cases often require a lower standard of proof, trafficked persons may be more likely to be successful in a civil proceeding.

A trauma-informed and victim-centred approach

Labour trafficking survivor Kendra Ross filed a civil case in the US District Court for the District of Kansas, alleging that her trafficker, a leader of a nationwide cult, forced her to work more than 40,000 uncompensated hours, starting when she was just 12 years old.⁴ Ross was awarded more than US\$8 million in restitution and damages, the largest single victim judgement in a US civil trafficking case. It is important

to note, however, that large sums are not an indication that a survivor has actually received any financial compensation. Traffickers often have hidden or inaccessible assets, making it very difficult to collect the monies that are due from the convicted trafficker. And focusing on monetary judgements can belittle the lengthy process of litigation and the courage exhibited by survivors.

This case also shows how civil cases can be part of a trauma-informed, victim-centred approach. Betsy Hutson, an attorney who led the pro bono team representing Ross, has described a gradual process of building trust.⁵ Because of her past trauma, Ross was reticent in initial meetings. Her attorneys did not start drafting her complaint until six months after meeting her, and her case was not filed until a year and a half after the first meeting. As the case proceeded, Hutson facilitated a trauma-informed approach by asking open-ended questions, creating a space for empathy and continually checking in with Ross about her goals and needs. The fact that a civil case proceeds only when a survivor is ready to pursue it is a crucial feature that is unique to the civil context. And because a trafficking survivor has an active role in the case, the very process of seeking civil damages is a recognition of their autonomy, and can support their evolving needs and their journey to recovery.

Civil litigation in an international context

Although the vast majority of civil trafficking cases have been filed in US courts, there have also been cases in a number of other countries including Australia, Uganda, Belgium and Israel.⁶ In contrast to criminal cases, civil cases mostly involve labour rather than sexual exploitation. Civil litigation is well-suited to labour trafficking cases for a number of reasons. First, criminal statutes are often limited with regards to labour trafficking and it may therefore be difficult for prosecutors to bring labour trafficking cases through criminal prosecution. In the civil context, attorneys may use a wide variety of existing, alternative legal frameworks, such as tort law or labour law. Second, courts may be unwilling to view certain instances of labour exploitation as

applicable under labour trafficking or modern slavery statutes. In the civil context, courts may be more familiar with traditional causes of action like claims relating to breach of contract.

Civil litigation can also be an especially promising approach when traffickers subvert the proper administration of justice. For example, a civil case was filed in the High Court of Uganda in 2012 in which the plaintiff, a Lebanese national, had initially been recruited to work as a manager. Instead, defendants confiscated his passport and forced him to work without pay in cruel and inhumane conditions. When the plaintiff sought help from local authorities, the defendants used various security services to harass him.⁷ Despite contacting the Uganda Human Rights Commission and a variety of government agencies, the plaintiff was unable to hold his traffickers accountable. In 2015, the court ruled in favour of the plaintiff in his civil suit and awarded him additional punitive damages for the stated purpose of deterring exploitative labour recruitment and labour exploitation.

A model for increasing access to justice

The Human Trafficking Legal Center (HTLC), a non-profit organisation based in the US, serves as a useful model of how to advance civil litigation on behalf of trafficking survivors.⁸ The HTLC has trained thousands of attorneys at international law firms. Most importantly, the HTLC serves as a bridge organisation – one that connects trafficking survivors to highly skilled attorneys in the private sector. The HTLC receives referrals from local NGO partners and other direct assistance organisations. HTLC attorneys may first interview survivors to determine if the case is eligible and the HTLC then refers survivors to private attorneys who take on cases on a pro bono basis. Attorneys from the HTLC provide technical assistance and may also serve as co-counsel.

This structure has several advantages. First, civil cases can take up to several years, depending on the nature of the case. As a result, litigating a civil case to completion can be incredibly costly. By engaging private attorneys working on a pro bono basis, the

HTLC ensures high-quality representation at no cost to survivors. Depending on the country, attorneys in private practice may be required to provide a minimum number of hours of pro bono service – a professional obligation that can be fulfilled through this kind of representation. This structure also means the HTLC can facilitate civil trafficking cases while keeping its overheads low, and can operate with a small permanent staff. The HTLC also provides attorneys with access to its database of over 400 civil cases filed in US federal courts.

Certain key aspects of the HTLC model highlight steps that could be replicated elsewhere to increase access to civil litigation for trafficking survivors:

- support for bridge organisations, which play an intermediary role between direct service providers and lawyers
- training for attorneys from the private bar, meaning impact can be scaled without requiring considerable additional funding
- facilitation of access to information resources, such as a global database of civil trafficking cases filings, as a first step in increasing the practical knowledge required to litigate these civil cases.

The replicability of the model depends on the involvement of a number of civil society stakeholders. This includes effective collaboration with NGOs and anti-trafficking organisations, which creates a steady flow of cases; the engagement of human rights lawyers and civil litigators in their willingness to represent survivors; and the support of donors for bridge organisations like the HTLC and for establishing similar organisations around the world. There are, however, practical and legislative challenges for expanding civil litigation efforts. In other countries there may not be an established culture of pro bono service by private attorneys such as exists in the US, and other countries' laws may not permit victims to sue their traffickers for damages.

Finally, civil litigation is not without risks. Improperly trained attorneys may subject a survivor to additional trauma through the detailed fact-finding process that is involved in civil litigation. Alternative

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fee arrangements, including contingency fee arrangements where lawyers receive a percentage of the final amount paid to the client, may be exploitatively costly. Finally, testifying in a civil context may be stressful for survivors. However, these disadvantages are not necessarily unique to civil cases, and may be more severe in the criminal context. Despite these risks, civil litigation deserves a place within a comprehensive, global anti-trafficking strategy.

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Challenging the so-called trafficking–terror finance nexus

Craig Damian Smith

The assertion of a causal relationship between trafficking and terror financing is called into question by poor evidence and weak data, and its troubling policy implications.

Since 2015, progressively bolder assertions about the connections between trafficking and terrorism have been made in a series of UN Security Council (UNSC) instruments. Most significantly, Resolution 2388 of 2017 asserted that trafficking is a major contributor to terror financing.¹ And in 2019 the UNSC's Counter-Terror Executive Directorate (CTED) published a report that claimed to provide evidence for a genuine nexus between "human trafficking, terrorism, and terror finance".²

Claims about the nexus developed in the context of the rise of the Islamic State (IS) group in Syria and Iraq, and EU and EU Member States' renewed efforts to contain irregular migration after the 2015 refugee 'crisis'. France initiated discussions around Resolution 2388 in response to media reports about sub-Saharan African migrants being sold at slave auctions in Libya and reports of IS affiliates profiting from trafficking operations there. These news stories seemed to offer evidence that was used to substantiate European claims that irregular migration was being driven

by transnational trafficking networks rather than by complex migration dynamics.

The UNSC cites Libya as part of a global trend of terror groups profiting from human trafficking, alongside enslavement and trafficking by IS in Iraq, Syria and Turkey; human smuggling by Al-Qaeda affiliates in the Sahel; kidnapping, forced marriage and forced recruitment by Boko Haram in Nigeria; ransoming by Al-Shabaab in the Horn of Africa; and the forced recruitment of child soldiers by the Lord's Resistance Army in central Africa. Although these cases are undoubtedly troubling, basic social science research methodology casts doubt on their comparability and on the necessary causal relationships implied by the term 'nexus'. Moreover, the term 'nexus' is often employed rhetorically in order to push for productive pairings between two seemingly disparate policy fields.³ There is reason for concern about the UNSC's policy agenda since it affirmed the existence of a trafficking–terror finance nexus, then commissioned research to provide evidence for it.

I make this claim based on the chronology of resolutions and because I was a consultant to the CTED report. I delivered four main findings. First, the cases were idiosyncratic and did not provide evidence of a nexus. Second, weak data on trafficking and terror financing in general make it impossible to estimate the proportion of funding which terror groups derive from trafficking, although it is likely to be insignificant in comparison with other sources.⁴ Third, terror groups exploit irregular migration routes that traverse their territory and rarely orchestrate international trafficking. Fourth, addressing trafficking with anti-terror tactics would potentially lead to more militarised policy agendas and ignore best practice relating to victim-centred approaches, the alleviation of root causes, and ensuring safe and legal migration channels. While the CTED report included some of these caveats, the evidence it presents does not support its claim of a clear nexus between trafficking and terror financing.

The purpose of this article is to persuade policymakers and researchers to approach the purported 'trafficking–terror finance nexus' with scepticism and to avoid disseminating such claims without more detailed research and reliable data. My findings are based on desk research and interviews with expert respondents from international organisations at headquarters and regional offices, think tanks, and international law enforcement in the US, Turkey, Egypt, Nigeria and Europe.⁵

Weak and uncomparable data

The main impediment to claiming the existence of a nexus between trafficking and terror finance is the absence of strong, comparable data from which to make observations about causal relationships between variables. First, the paucity of data on trafficking is evident when examining the relevant annual studies. For example, the United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons is limited to State-level prosecution statistics. The nature and reliability of these statistics vary widely, tell us little about overall trafficking rates,



A 17-year-old Eritrean refugee puts his handprint on a UNHCR #EndHumanTrafficking banner at Shagarab refugee camp, Sudan. Members of the refugee and host community came together to demonstrate solidarity against human trafficking in eastern Sudan.

and cannot be extrapolated to form global trafficking statistics. The International Labour Organization's Global Estimates of Modern Slavery reports focus on forced labour and forced marriage, take pains to highlight data limitations, and caution against extrapolation to global statistics. The US State Department's Trafficking in Persons (TIP) reports are perhaps the most influential, ranking States by compliance with international law and efforts to combat trafficking. Although TIP used to incorporate estimated trafficking rates, this was abandoned following criticism from the US Government Accountability Office about unverifiable data.⁶

While discussions around the Global Compact for Safe, Orderly and Regular Migration placed a renewed focus on UN Sustainable Development Goal 16.2's call for more robust monitoring tools being reached through common indicators, it was also recognised that fundamental barriers exist to comparative research on trafficking, particularly around disparities in legal regimes, terminology and case identification methods. Furthermore, traffickers (and often survivors of trafficking) have strong incentives to behave in ways that frustrate data collection.

The Walk Free Foundation's Global Slavery Index (GSI), which has gained influence by framing trafficking as a form of 'modern slavery' (and is widely cited,

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including by CTED), purports to offer country-level and global metrics, but relies on shaky estimation strategies derived from a range of activities which do not have a cross-border element – the factor that is largely used by law enforcement and international organisations to detect cases and estimate and collate data. Experts interviewed during my research made rather pointed criticisms about its reliability.⁷ They argued that despite anticipated scepticism among scholars over the statistics' rigour, there is widespread acceptance of the estimates at UN level, partly because of intense lobbying by the Walk Free Foundation and partly because the GSI appears to provide a solution to complex estimation problems.

The next step in identifying a causal nexus would be to estimate the scale of trafficking-related earnings made by terror groups. Here again we run into major issues. There is no doubt strong evidence that terror groups rely on criminal activity for financing. However, personnel from UNODC and from the Organization for Security and Cooperation in Europe relayed how terror financing figures are often based on classified intelligence from agencies who have a vested interest in over-emphasising the issue. Assessments are not made available for independent review, and instead researchers often simply cite official statistics. Likewise, respondents argued that there is a good deal of misunderstanding among policymakers around the connections between transnational criminality and terrorism, noting a trend of conflating geographical overlap with operational convergence.

The Financial Action Task Force (FATF) – an inter-governmental watchdog organisation – has emphasised the difficulties with tracing proceeds from irregular migration in general.⁸ While they were familiar with the cases cited in the UNSC instruments, UNODC respondents I interviewed were adamant they knew of no statistics (classified or otherwise) to support the claim that groups like Al-Qaeda, Boko Haram or IS earned a significant portion of their profits from trafficking. Since smuggling and trafficking are more often localised, there

might very well be limited transnational activity to measure in the first place.

Opportunism, oppression and recruitment

Trafficking carried out by IS is the most obvious case of terrorists trafficking for profit. Most notoriously, IS enslaved thousands of Yazidi women and girls in Iraq who were given as spoils of war, subjected to systematic rape, sold locally or trafficked to Syria and Turkey. At its peak, this involved complicated logistics organised by a dedicated IS committee but, organisational sophistication aside, the FATF acknowledges that “it is difficult to envisage human trafficking as a lucrative source of revenue” for the group when weighed against other sources like oil, antiquities, ransom money and taxing local populations.⁹

Evidence suggests that terror groups more often use trafficking and allied crimes for operational and ideological purposes rather than financing. Groups use slavery and forced marriage to recruit, retain and reward members, or to terrorise local populations, and routinely engage in forced recruitment of combatants and child soldiers. Most of these practices, however, do not amount to international trafficking. UNSC Resolutions therefore bundle long-standing crimes and human rights abuses with the new focus on Syria, Iraq and Libya. As one respondent who worked in the Obama administration observed, “The Security Council seems to be conflating trafficking with types of exploitation we’ve been combatting for a couple of decades.” More broadly, whereas traffickers seek to remain clandestine, terrorists court political attention, which is uncondusive to the bribery, collusion and corruption necessary to move people across borders. For example, in the Libyan coastal town of Sabratha, smugglers bankrolled the fight against IS because the presence of the group was jeopardising their revenues.

Armed groups have long operated along irregular migration routes. Before General Qaddafi was toppled in 2011, smuggling and trafficking in Libya were controlled by the regime and its allied forces. Migrants are now vulnerable to trafficking in areas controlled

by the Government of National Accord and by militants alike, but now face greater barriers to leaving Libya given migration deals with EU Member States. Indeed, entities funded by the international community (namely the Libyan Special Deterrent Forces, its coastguard, and Directorate for Countering Illegal Migration) have basically assumed control of the routes and now routinely engage in trafficking – and to a greater degree than did militants after the fall of Qaddafi.

Avoiding unproductive policy pairings

A final question is whether the reference to a trafficking–terror finance nexus offers a productive policy pairing – as was the case with the migration–development nexus. With the exception of one Nigerian security official, each of my respondents cautioned against using the kinds of militarised tactics associated with counter-terrorism policy. Several worried that treating trafficking as a hard security issue risked creating unintended, adverse results for international security and trafficking victims alike.

Military operations often destabilise States and regions, foster resentment and extremism, and act as a catalyst for displacement. They also create markets for trafficking. For example, the Kosovo Liberation Army and other armed groups in the former Yugoslavia trafficked women and girls to meet demand among NATO and UN forces. The same dynamics occur around international peacekeeping and humanitarian operations more broadly, which are often geared towards suppressing extremism.

There is ample evidence that securitised migration policies are detrimental to international protection norms, the rights of migrants, and State security. The pairing of trafficking with terror allows autocratic and authoritarian regimes to leverage Western preoccupation with Islamism and irregular migration in order to procure military aid and to consolidate domestic political control. As one senior post-conflict specialist asked: “What does it tell you when an authoritarian government confirms to the Security Council that yes, indeed, the threat du jour is a big problem in their territory? [It means] they

want more funding for security services [...] and best of all they want it off the books.”

Finally, deploying anti-terror policies in the fight against trafficking would ignore best practices advocated by scholars, practitioners and rights organisations, particularly around livelihoods, education and development provision, and around victim-centred legal regimes. Access to safe and legal migration channels could also alleviate vulnerability to trafficking on irregular migration routes. Unfortunately, the UNSC members who developed Resolution 2388 are increasingly reliant on cooperation with autocratic or authoritarian States as part of migration control agendas – which foster vulnerability to trafficking in the first place.

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1. For a full list of resolutions and associated statements see <http://unscr.com/en/resolutions/2388>
2. CTED (2019) *Identifying and Exploring the Nexus Between Human Trafficking, Terrorism, and Terror Financing* bit.ly/CTED-trafficking-terrorism-2019
3. The term ‘nexus’ implies a set of necessary causal relationships between two or more phenomena. To take a prominent example, the migration–development nexus describes a series of mutually reinforcing and complex causal relationships between different forms of development and (im)mobility.
4. Another issue with the purported nexus is the wide divergence in identifying terror groups. The EU lists 21 entities as terror organisations; the US State Department identifies 67 terrorist organisations; and the UN designates 82 entities as targets of sanctions for terror and terror-financing activities. The differences are the result of a rather broad divergence in designation criteria, interest groups, and political agendas.
5. Respondents drawn from international organisations including UNODC, the International Organization for Migration, the UN, UNHCR and OSCE.
6. UNODC *Global Report on Trafficking in Persons* www.unodc.org/unodc/data-and-analysis/glotip.html; ILO *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* bit.ly/ILO-Estimates-Slavery-2017; US Department of State *Trafficking in Persons Report* www.state.gov/trafficking-in-persons-report/
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Tackling exploitation through ‘technology for freedom’

Christa Foster Crawford and Ashley Kafton

Examples from Southeast Asia show both the promise and the pitfalls of emerging technologies and platforms that are being used to tackle forms of exploitation.

Factors that make migrants vulnerable to exploitation – while on the move or at their place of destination – include displacement and insecurity, lack of legal status, insufficient awareness of rights and potential risks, and inability to understand the language or how to access help. In Southeast Asia, two of the forms of exploitation to which migrants are vulnerable are online child sexual exploitation and forced labour.

Online child sexual exploitation involves the making of sexually explicit images or videos of children under the age of 18. Unlike in-person exploitation, the harm continues so long as the images exist. Although physical movement is not a prerequisite for a crime of this nature to be defined as trafficking, some children have been moved to places where the online exploitation takes place, including to major hubs in the Philippines and Thailand. Others are vulnerable to such exploitation because they are already on the move.

Another form of exploitation takes place in the fishing industry, when people who are fleeing harm or lack of economic opportunity in their home country are lured into forced labour. Job brokers who offer hope instead trap people on boats where they can be out at sea for months or years at a time, working in inhumane conditions for long hours with little or no pay. Those who try to escape are punished and sometimes killed.

Technology companies, NGOs and governments are harnessing the power of technology to prevent and prosecute these and other forms of harm. However, although these emerging technologies promise freedom for many, in the wrong hands they can also be used to facilitate exploitation.

Technology for prevention

One of the most effective ways of preventing exploitation is to reduce demand for products which involve labour exploitation. When

forced labour is no longer hidden in the supply chain, companies are incentivised to ensure that the entire production process is free of exploitation. Blockchain, which creates an immutable record of transactions, helps to promote greater transparency and accountability. It can be used, for instance, to track a product through the entire production process to verify that it was not made using forced labour, or to document labour contracts and wage payments.¹ However, technology cannot guarantee exploitation-free products, and may therefore give consumers what may be a false sense of security and shield producers from scrutiny.

First, supply chain accountability may not cover all inputs. For instance, there is current political will to address exploitation at sea (in the fishing industry) but exploitation in the sorting and packing process continues unchecked. Second, the reality is that the complex, inter-related global supply chain means that most end products will contain some inputs which have involved exploitation. Developers must ensure that technology accurately tracks constituent inputs and fungible goods, and governments and industry must ensure that accountability is built into all stages of the production process.

Prevention efforts must also address the supply side. Chatbots like Facebook’s Miss Migration,² and apps that can be accessed through mobile phones and devices as well as through online platforms, help prevent harm by educating migrants about their rights and providing resources for safer migration, access to ethical job brokers, and warnings about unscrupulous job brokers and transportation agents. Such tools also generate data about the users and so inform an evidence-based understanding of the problem and effective responses. However, the high cost of devices, lack of access to the internet (due to limitations on infrastructure

and freedom) and lack of resources in local languages are common barriers to information being shared widely and effectively. QR codes and radio-frequency identification (RFID) tags, which can transmit data without the use of mobile devices or computers, are one response to this, although they still require data readers, which are not available in every community. And cultural relevance and issues of literacy, numeracy and other potential barriers must also be taken into account when developing and presenting such information.

Prevention must be focused at the community level, including through economic empowerment. People in poor communities are more vulnerable to exploitation, which is often compounded by crisis migration. Technology can be used to indirectly mitigate risk, in part by creating new economic opportunities. For example, many communities that are at risk of trafficking lack access to banks or other traditional means of finance, making them vulnerable to predatory lenders or even unable to receive non-cash payments. The primary barrier is their lack of documentation to confirm their identity, finances or credit-worthiness. By providing an online identity, blockchain makes possible access to bank accounts, the ability to receive verified wage payments, and even access to credit. This in turn reduces their vulnerability to trafficking, especially in the context of crises such as fires or floods that may force them to move if they are unable to rebuild.

Technology can also be used to raise awareness of rights abuses. For instance, Rohingya people in Myanmar have faced internal displacement and exploitation in the international fishing industry for decades. Now monitoring groups can use drone and satellite imagery as well as geodata and data visualisations in order to document the destruction of villages in real time, with the goal of ending rights abuses through raising awareness. However, the same technology can equally be used by governments and individuals to commit abuses. Technology designers, in collaboration with governments, NGOs and the international community, must decide how to mitigate the potential damage the use of such technology can bring.

Technology for protection

Emerging technologies help law enforcement to identify and assist victims, whether they are online, out at sea, or elsewhere. For instance, not only does artificial intelligence permit law enforcement to locate and remove from circulation some of the hundreds of millions of exploitative images of children, but facial recognition software, metadata embedded in images and geolocation technology also enable them to identify and assist victims, regardless of their remote locations. Mobile apps and RFID tags help ensure that vulnerable migrants can be found at sea even if they lack documentation, making them even harder to trace, or are hidden through corrupt practices such as ships sailing under 'false flags'. In fact, geolocation records can be combined with blockchain to document how often workers are allowed off fishing vessels and then to alert law enforcement and NGOs to potential cases of labour exploitation and slave-like conditions. Furthermore, a digital identity can be created using blockchain technology and optional biometric identifiers to provide independent identity documents as an alternative to government-issued documentation. Digital identities help to protect against exploitation, including by enabling individuals to prove their eligibility for services, and by providing information about where they live if they do not know how to find their way home. However, the same technology can also give traffickers and unethical employers efficient unbreakable ways of tagging and tracking individuals in order to monitor and control them. This is particularly the case when biometric data are involved.

Also essential to protection is having the awareness of and ability to enjoy one's legal and human rights. Apps, QR codes and other tools can inform migrants about their labour and migration rights and where to get help if needed.³ Blockchain and e-payment services⁴ can help ensure that migrants are paid fair and legal wages, providing transparency and accountability, preventing employers from illegally withholding payment, and making it safer and easier to send home remittances. And other apps

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and services make it easier to document and monitor working conditions and employment terms, empowering the worker.⁵

However, such technological tools are only as good as the information they use and the extent to which they are accessible. As with tools focused on prevention, there are real accessibility concerns, which are compounded by the very real risk that the exploiter will confiscate the technology, or even use it to track and control those whom they exploit.

Technology for prosecution

Finally, technology is being used both to identify and locate perpetrators, and to provide evidence for criminal prosecution and other forms of enforcement. Just as they can be used to identify victims of online child sexual exploitation, the metadata, geolocation data and other unique identifiers embedded in exploitative images can reveal the identity and location of perpetrators, leading to their arrest and prosecution. Once convicted, technological restrictions (preventing computer use or blocking certain kinds of content) can help prevent future harm. However, the trend within the technology sector is towards greater privacy, anonymity and encryption which, although core rights and values that should be protected, make it harder to identify perpetrators and hold them accountable.

Similarly, blockchain technology gives banks and financial institutions an immutable record of transactions, providing clear evidence against traffickers with large-scale operations, who need to make use of the international banking system to profit from their crimes. Governments can use that evidence to hold perpetrators financially and criminally liable, and industries, investors and other stakeholders can more easily recognise exploitative transactions and create a culture of freedom.⁶ However, the issues around privacy that arise with perpetrator identification also apply to digital evidence. Furthermore, the vast number of lower-level perpetrators who do not operate through formal banking systems may escape this type of detection.

The answer to these pitfalls is not to hinder the role of technology, for it will continue to advance, with those advances often led by exploiters. Instead, the power of technology must be harnessed for the greatest good and must mitigate the most avoidable harms. In doing so, several key principles should be considered.⁷ The first is to scale better, not just bigger. Increased anonymity, privacy and encryption are essential elements of technology for freedom, but developers and policymakers must take into account how they can be used for harm. The second principle is to focus on people. While tracking the identity and location of products has few ethical implications, there are many implications for human rights, dignity and safety in tracking the identity and location of human beings, especially when this involves biometric data. Finally, technology must be informed by communities. Communities should be asked what they need and solutions should be designed to meet those needs and to adapt in the face of rapidly evolving forms of harm.

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2. www.facebook.com/MissMigration
3. For example, in Thailand apps are being developed by a number of partnerships between technology companies, NGOs and governments, relating to rights and resources in the fishing industry (for three examples, see www.MASThuman.org, the Apprise pilot study being conducted by the UNU Institute in Macau, and work by Winrock International) and to rights and resources during detention (see the Association for the Prevention of Torture and the Payap Center for Human Rights Law).
4. For example, SaverAsia www.saverasia.com
5. For example, the eMin project bit.ly/Diginex-Verifik8-eMin
6. For example, Liberty Shared Operational Research and Analysis Programme <https://libertyshared.org/operational-research>
7. These recommendations and the framework for this article were first included in Crawford C F (2019) 'Sex and Shrimp: Blockchain Use Cases for Ending Child Sex Trafficking and Modern Slavery' presented at the Blockchain for Social Impact Conference 2019, New York City, 10 June 2019.

Smuggling and trafficking from Vietnam to Europe

Mimi Vu and Nadia Sebtaoui

Vietnamese migration to Europe is a complex, fluid phenomenon where a course of action that begins as smuggling can also involve trafficking and other forms of exploitation.

Vietnam is one of the top source countries for those who are smuggled and trafficked into Europe. The majority are young men and boys from a handful of central-north and northern provinces who undertake the long and dangerous journey primarily because they believe they have better economic prospects overseas. Despite steady growth in Vietnam's economy, access to opportunities for upward mobility through education or employment is unequal and mostly concentrated in urban areas. Vietnamese who lack this access and who come from provinces with a long history of seeking work overseas make up the bulk of migrants to Europe.

In the 1980s, Vietnam had labour export and study abroad programmes with former Soviet-bloc countries, which led to the establishment of diaspora communities in Moscow, Kiev, Warsaw, Prague and Berlin. These trade and migration routes still exist today, and Vietnam is now the ninth highest remittance-receiving country in the world. Services facilitating migration continued after the Cold War, but these are now operated by people-smuggling operations controlled by Vietnamese-led organised crime groups in Vietnam and overseas.

Currently, recruitment is through word of mouth and social media and messaging channels such as Facebook and Zalo. Following the tragedy in October 2019 in which 39 Vietnamese were found dead in a refrigerated lorry in Essex (in the south-east of the UK), smugglers now charge US\$50,000 or more and claim to guarantee safe passage to the UK plus employment. Families borrow at least half of the total amount to pay for the first stage from Vietnam to a European country.

If a Vietnamese person decides to borrow money and undertake the journey to Europe, they assume an enormous financial and psychological burden. Smugglers and

criminal gangs use the indebtedness as leverage to control the migrant throughout the journey, often forcing them into exploitative situations en route such as working in sweatshops or selling counterfeit drugs. Women and children in particular are vulnerable to rape and forced prostitution or other forms of sexual exploitation in transit countries such as Russia, Ukraine, Poland, Czech Republic, Germany, the Netherlands, Belgium and France.

First responders in Europe, including law enforcement officials and NGOs, face many challenges in identifying and supporting potential Vietnamese victims of trafficking. These include: insufficient Vietnamese-speaking law enforcement officials and social workers; a lack of knowledge of Vietnamese cultural context, which makes it difficult, when conducting interviews, to make accurate age assessments and reassure migrants of their safety; and a limited number of official translators who have knowledge of the trafficking and smuggling situation. First responders and authorities also often only know about activities within their own borders, and a lack of coordinated law enforcement response allows Vietnamese-led organised criminal groups to operate both under the radar and in plain sight. Finally, a lack of communication and coordination between countries and their analogous agencies prevents the tracking of migrants as they cross borders.

Building trust as first responders

In 2018, nearly 50% of all unaccompanied minors arriving at Paris-Roissy airport (part of a fairly new smuggling route transiting through Haiti) were Vietnamese nationals. The French Red Cross, acting as ad hoc administrators for unaccompanied minors detained at the French border, asked our team to provide interpretation

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and social/cultural support for two young Vietnamese people, one male and one female, who had been identified as potential victims of trafficking. They had been granted temporary leave to remain in France, released into child protection services, and provided with housing while awaiting a ruling on their official status.

We arrived at the migrants' hotel very early, knowing that there was a strong possibility that they would flee. During the six hours we spent together we explained their legal situation and the advantages of staying in France, and forged as many personal connections as possible so they would begin to trust us.

There were clear indicators that the initial stories given by the young adults, Mai and Tuan,¹ were rehearsed and untrue. Mai stated that she was an orphan from Quang Tri Province – although her accent indicated otherwise – who had been kidnapped when she was 10 years old and brought to China, where she endured slave labour for several years. She claimed that one day she met a Chinese man (whose name she had never asked) who offered to pay for her journey to Europe and helped her escape. This story is one that smugglers frequently tell migrants to give to authorities when asked. In reality, criminal gangs rarely take on non-paying orphans. We had to be sensitive with Mai, however, as the reasons for giving her false story could also have been due to abuse or sexual exploitation en route.

The first step in building trust was to show empathy, offering food and drinks, and explaining that we were only volunteers who wanted to help. We discussed lighthearted topics such as their favourite Vietnamese food and football player, and joked about Mai's

nails and how important it was for every Vietnamese woman to find a good nail salon. We used the appropriate terms to address each other – 'big sister' (*chi*) and 'little sister/brother' (*em*) – and used the Vietnamese zodiac to inquire about their ages, as it is customary for Vietnamese to respond with their animal sign rather than a number.

Mai and Tuan slowly began to trust

us and eventually felt comfortable enough to reveal more of their true stories. Mai was just over 18, scared of travelling by herself, and missed her family very much. She had embarked on this journey after her father had been deported from Europe a few months earlier, and now it was her duty to repay the debts and provide for her family. Mai had no idea how much her debt was. She had taken the 'VIP' route that used air transport to reach France but would have to wait until her final destination – the UK – before the smugglers would tell her how much

she owed them. This was likely to be around €50,000, and the burden of repaying it and supporting her family were enormous weights that motivated her subsequent actions.

Tuan's father had died, leaving the family in debt. Tuan was studying law and politics at university, but his aunt and uncle encouraged him to drop out and go to the UK to earn money to support the entire family, including his mother and disabled sister. Like Mai, Tuan would not know how much his journey cost until he reached the UK. His aunt and uncle would borrow funds from elsewhere to pay the sum and Tuan would then be responsible for earning the money to repay his aunt and uncle's debt.

Less than two hours after we left the hotel, social services notified us that Mai



A mirror reflects Vietnamese migrants in 'Vietnam City', France, often the last transit point for Vietnamese migrants before they enter the UK hidden in lorries.

and Tuan had jumped into a passing car that we assume was part of the smuggling network. We learned several valuable lessons from this experience. As first responders, we were unable to adequately explain and offer reassurance to Mai and Tuan of their rights to protection as vulnerable persons in Europe, especially in light of their risk of being trafficked at a later stage of their journey. We should also have asked social services to remove their mobile phones to prevent communication with the smugglers. Lastly, we needed more time to build trust with them and to speak openly and constructively about how they could repay their debt so that they would feel able to decide to stay in France.

Recommendations

European authorities and NGOs should adopt the following recommendations to improve their overall responses in identifying and protecting migrants and potential victims of trafficking or exploitation:

- collect comprehensive data about victims of trafficking across Europe
- adopt a multi-country and multi-agency approach towards Vietnamese organised crime and increase information sharing and networking between State bodies, law enforcement agencies and NGOs
- focus on the blurred lines between trafficking and smuggling to design a more effective response
- recruit and train social workers and law enforcement officials from Vietnamese diaspora communities
- provide mandatory, additional specialised training for translators, NGO representatives, social workers and law enforcement officials who are in contact with potential victims. This should include how to provide information that is specific to the Vietnamese context and how to conduct culturally sensitive interviews, and briefing on the specific control mechanisms used by traffickers and smugglers
- engage private sector actors to deploy prevention programmes in Vietnam that address economic push factors

Prevention and awareness-raising campaigns

There is a need for awareness-raising campaigns in Europe and Vietnam which depict the reality of working in Europe and make clear the increased risks of exploitation and trafficking that accompany the accumulation of considerable debt. All prevention programmes must take place prior to debt being incurred since repayment begins once money has changed hands in Vietnam, not after the migrant embarks on his or her journey. These programmes should be multi-pronged, involve multiple stakeholders and address root causes. They must combine awareness-raising activities with provision of opportunities for advancement such as scholarships to secondary or vocational schools and employment programmes.

Prevention messages must also be tailored to cultural and linguistic characteristics specific to the provinces from which the majority of migrants come. Such programmes are generally well received when they are delivered by local community leaders such as the Women's Union or by influential role models.

One example of a successful prevention programme was developed through a partnership between a Vietnam-based anti-trafficking NGO, the UK and Vietnamese governments and the private sector. The campaign used public service announcements, delivered via traditional and social media channels, featuring star players from Vietnam's national football team. Football is the most popular sport in Vietnam, and national team players are considered heroes and role models. The announcements were also used to introduce viewers to the NGO's existing vocational school scholarship and job placement programme, providing an alternate path to a better future in Vietnam.

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1. Names have been changed to protect their identities.

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Migrant ‘caravans’ in Mexico and the fight against smuggling

Eduardo Torre Cantalapiedra

The treatment of the migrant and asylum seeker caravans travelling through Mexico shows the negative consequences that the fight against people smuggling has had for those making these journeys and their defenders.

Several migrant and asylum seeker ‘caravans’ have arrived in Mexico since the end of 2018. These gatherings of groups of people travelling together are largely made up of people from Honduras, El Salvador and Guatemala who are aiming to reach the US. Different caravans have met with different fates on arrival in Mexico. Those arriving at the end of 2018 faced Mexican authorities who were initially reluctant to allow their free transit through the country, although did finally do so. Those arriving at the beginning of 2019 were given temporary documentation that allowed them to remain in the country or to move freely through it for a period of one year. However, subsequent caravans – including the one that originated in the southern Mexican city of Tapachula in October 2019 and the one that left Honduras in January 2020 – have been resolutely suppressed.

The way these caravans have been managed by the Mexican government raises key questions about the reasons for their formation and for State responses to them. Although this new form of mobility is largely an alternative to crossing borders and territories via the use of smugglers (known in Mexico as *coyotes*), the Mexican government maintained that among the caravan organisers were people smugglers whose activities presented a serious danger to individuals in the caravan. In Mexico, people smuggling carries a potential prison sentence of between eight and sixteen years, plus substantial fines. By linking the arrival of these caravans with the war that it is waging on people smuggling, the government sought to legitimise its control and containment of the caravans, while at the same time criminalising this type of mobility, those

who participated, and those activists who supported and accompanied the caravans.

Criminalising caravans and defenders

Throughout the first half of 2019, leading government representatives made several statements in which they implied that the caravans had been organised at least in part by people smugglers. These included a press release issued by the Ministry of Finance and Public Credit announcing that the bank accounts of several people had been frozen because of transactions that suggested they were involved in people smuggling operations; in a poorly founded argument it suggested that these same people were illegally promoting the caravans. This statement and others like it promoted the association of migrant and asylum seeker caravans with illegal acts.

Migrant human rights defenders were also criminalised. Several Mexican government representatives suggested that the activists supporting the caravans were involved in people smuggling, and particularly singled out the organisation Pueblos Sin Fronteras. In addition, two prominent defenders of the rights of migrants in Mexico were arrested on charges of people smuggling during Mexico–US negotiations over migrant mobility because of their activism and the role they had played as human rights defenders.

Caravans as an alternative to *coyotaje*

In contrast to the negative view that governments have of *coyotaje* services, migrants from low-wage regions use their services as a survival strategy. Data from a survey on migration in the southern border region of Mexico confirm that using *coyotes* has been a very widespread strategy among

Honduran, Salvadoran and Guatemalan people who travel through Mexico to reach the US.¹ However, the data suggest that fewer Hondurans have enough money to employ *coyotaje* services compared with Guatemalans and Salvadorans. Hondurans cross the country alone, in small groups or in caravans, using a combination of different strategies that allow them to travel despite having few or no economic resources. This may include travelling on foot or using freight trains, relying on the solidarity network of shelters that exists along the migration routes, or doing casual work en route. As an alternative to using the services offered by *coyotes*, caravans provide a safer way of travel for migrants, offering – through sheer numbers – protection, information and assistance, regardless of people's financial resources.²

The criminalisation of migrants, asylum seekers and defenders can also be observed in many other countries including the US, Spain and Morocco, and we can draw out

the following lessons for all States. Firstly, do not use the discourse of the fight against people smuggling to legitimise migration control policies. Secondly, do not criminalise the mobility of migrants and refugees (in this case in the form of caravans) because of perceived connections with people smuggling. And finally, do not criminalise human rights defenders (either in discourse or practice); instead, enable them to carry out their humanitarian work without being harassed by any authority or criminal groups.

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The adverse effects of Niger's anti-smuggling law

Colleen Moser

The criminalisation of human smuggling in Niger has had a range of negative effects on migrants and asylum seekers, as well as on their former smugglers and host communities. Alternative avenues must be pursued.

Due to its position along traditional migration routes through West Africa, mixed flows of migrants and asylum seekers have historically passed through northern Niger. These mixed movements contained migrants searching for employment elsewhere in the region and a range of migrants and asylum seekers hoping to reach Europe, primarily via Libya. In this context, a relatively formalised smuggling system emerged, which eventually contributed substantially to the local economy.

However, as flows through the Sahel and Sahara grew during the early 2010s, the European Union (EU) became increasingly interested in preventing West Africans from arriving in Europe. Niger began cooperating with the EU on migration control and security policies, and in 2015

passed comprehensive national-level anti-smuggling legislation.¹ Building on the increased engagement in the region that had taken place over this period and in response to growing asylum seeker and migrant arrivals in Europe, the EU created its Emergency Trust Fund for Africa (EUTF) to fund programmes in development, border control and migration in order to prevent irregular migration flows at their source.

Enormous quantities of EU development assistance have been allocated to Niger in recent years, including €1.2 billion between 2014 and 2020 alone. The EUTF, which has projects worth €253 million in Niger, has supported anti-smuggling efforts by training Nigerien border personnel and offering small business projects to former

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smugglers as a livelihoods alternative. From the perspective of limiting flows through northern Niger these policies have been a success, with an estimated fivefold decrease from the pre-crackdown rates.²

However, this reduction has also led to numerous negative results. Firstly, by preventing all non-Nigerien citizens from travelling north of Agadez, the anti-smuggling law unjustly limits regional mobility. Many of those migrants and asylum seekers who have traditionally transited through northern Niger should be permitted to migrate legally through the country. Niger is a member of the Economic Community of West African States (ECOWAS), whose Common Approach on Migration prioritises freedom of movement for ECOWAS citizens and emphasises the rights of migrants, asylum seekers and refugees.³ This movement ban weakens Niger's efforts on both fronts by hindering the ability of ECOWAS nationals to circulate freely, and by impeding asylum seekers' ability to flee armed conflict and other violence in neighbouring countries such as Mali and Nigeria.

In addition, this crackdown on smuggling has had a severe impact on both the economy in northern Niger – an isolated region in one of the poorest countries in the world – and the economic opportunities available to migrants and asylum seekers. The ban's abrupt implementation left Nigeriens with no alternatives to the income they had been earning from the estimated hundreds of thousands of migrants and asylum seekers who crossed cities such as Agadez during the peak period of 2015 and 2016. This Nigerien population includes not only former transporters but also those who ran restaurants, hotels and shops used by those in transit. Furthermore, the curtailment of transit through Niger of those seeking employment opportunities in Algeria, Libya or elsewhere on the African continent has further exacerbated economic pressures in an already challenging environment.

Finally, this ban has created numerous security risks for smugglers, their would-be clients and the region's broader population alike. Although the flows have decreased,

they have not been entirely eliminated. Instead, smugglers and their clients have been forced to take alternative routes around Agadez and other well-policed locations, often shifting into neighboring countries such as Chad, where the routes are less safe or less well-known. Whereas, before, smugglers' vehicles were accompanied by State-sanctioned security personnel, the ban now incentivises smugglers to avoid police and the military at all costs, even if it means abandoning passengers in the desert. As a result, although complete data are unavailable, mortalities appear to have skyrocketed, with twice as many migrants estimated to die crossing the Sahara desert than the Mediterranean.⁴ Furthermore, tensions between the native and migrant populations have increased, a worrying sign in a region already facing economic downturn and the threat of non-State armed groups.

Policy responses and analysis

Although some measures are being taken to protect those who are at risk of being abandoned by smugglers who fear punishment under the anti-smuggling law, these need to be extended and better supported. For instance, donors should consider increasing financial and logistical assistance for actors such as the International Organization for Migration (IOM) that is currently conducting life-saving search and rescue missions in the desert. This additional funding could be coupled with guarantees of amnesty from Nigerien law enforcement for smugglers willing to divulge the routes taken or the locations of their stranded passengers. While this two-pronged approach does not address the underlying drivers of this phenomenon, it would go some way towards addressing the mounting death toll in the Sahara.

EU-funded livelihoods programmes have been framed as an alternative for smugglers, largely through their funding of small business creation. However, these programmes have been criticised for their slow roll-out times, strict eligibility criteria, and limitations in terms of replacing the income previously generated through

transportation, housing and provision of food to migrants and asylum seekers. These limitations also have gendered implications, with women (who were more likely to have indirectly participated in the smuggling industry) less able to access the already limited funding for alternative livelihoods activities. International funders such as the EU should prioritise the expansion of livelihoods programmes, while also ensuring that broader development cooperation and other financial assistance actually reaches and directly benefits recipients. While it is important to acknowledge that such systematic economic change is not a short-term process, clear steps to improve the current situation would contribute to a decrease in the widespread vulnerability and tensions in northern Niger. This easing of economic pressures could also alleviate hostilities towards asylum seekers and migrants still attempting to transit through Agadez.

Niger's anti-smuggling law and its de facto externalisation of European border enforcement have created extensive harm in northern Niger. Although the law was enacted by Nigerien authorities, its conception and implementation were clearly swayed

by EU interests and funding. Ultimately, this type of control-oriented policy will never completely eliminate the underlying drivers of these mixed flows and will only continue to generate conflict, economic hardship and dangerous smuggling practices. The anti-smuggling law should be repealed, and Niger and the EU should instead consider alternative policies that better correspond to the regional context and the needs and interests of local people, migrants, asylum seekers and refugees.

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Tackling smuggling in the Balkans: policy lessons

Charles Simpson

Across the world, restrictive border security policies are being pursued in an attempt to tackle smuggling yet there is relatively little discussion of the evidence around what actually happens when these policies are enacted.

Shocked by the arrival of some 1.5 million refugees between 2014 and 2015, the European Union (EU) enacted a series of policies to secure its borders and prevent smuggling. These included militarising the land borders in the Balkans, building physical fences and other barriers, launching maritime patrols in the eastern Mediterranean, and detaining smugglers. The enforcement of security along the Western Balkans transit route between 2015 and 2017 was one of the largest multinational efforts

in recent memory, and it offers useful lessons about the effects of such policies.

During this period I jointly conducted a two-year study of the route – from countries of first asylum like Jordan, through transit countries like Turkey, Greece and Serbia, into destination countries such as Germany.¹ The findings of this research offer lessons for other contexts where State institutions are attempting to restrict border movements and prevent smuggling. These include the US–Mexico border wall, Italy's maritime

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UNHCR/Achilleas Zavelis

A man found at the wheel of a boat carrying a group of Syrian refugees crossing the Aegean sea from Turkey is taken into custody by Greek police on the island of Lesbos on suspicion of smuggling.

operations off the Libyan coast, South Africa's immigration crackdowns, and the militarisation of borders across south Asia, including the India–Bangladesh border.

Impact on refugees

The impact of this State enforcement fell mainly on the migrants rather than on the smugglers, who were able to pass their increasing costs and risks onto their refugee clients. For example, prior to 2014, smugglers would regularly accompany refugees on their crossing from the Turkish coast to the Greek islands, afterwards returning to Turkey. Facing growing risk of interception and arrest after 2014, smugglers stopped accompanying refugees, instead giving them a tablet computer, a compass or often nothing more than a gesture in the direction of a light on the horizon to navigate the 24km crossing. Knowing that boats would be apprehended and destroyed, smugglers began using old unreliable vessels to minimise their operating costs, overcrowding dinghies far

beyond their capacities, and increasing the cost of a seat on board. To avoid detection by maritime patrols, boat launches began taking place at night, even in inclement conditions. These adaptations resulted in numerous sinkings and drownings, while smugglers remained safely on dry land.

Furthermore, the increased presence of State security actors – most of whom had been transferred from unrelated departments to fill capacity gaps, and therefore had little or no experience with refugees or border operations – resulted in numerous incidents of confusion among State security actors, or in violence by these actors against refugees who were mistaken for smugglers. For example, to avoid being arrested smugglers began assigning to a refugee the role of navigator; upon arrival on a Greek island this refugee navigator was often mistakenly identified by police as a smuggler and detained. Without training in how to differentiate smugglers from refugees, distinguish different nationalities or understand international

humanitarian law, police were unequipped to understand these experiences and often kept refugees incarcerated for months or longer, unsure about what to do.

The same trends of shifting risk onto refugee clients were reported on the land part of the Western Balkans route. Where previously smugglers had accompanied refugees, after 2014 they would point refugees in a general direction and tell them to keep walking until they reached a transit city. We spoke to refugees who were unaccompanied for hundreds of kilometres in the wilderness, suffering flu, symptoms of hypothermia, dehydration, poisonous insect bites and exposure to cold. The most severe incidents of shifted risk were from counter-smuggling operations that were surreptitiously delegated by national governments to paramilitary groups who were armed with machetes, firearms, dogs and all-terrain vehicles, violently assaulting refugees that they either misperceived as being 'illegal immigrants' or misidentified as smugglers.

Costs as well as risks increased dramatically: a pre-2014 level of several hundred US dollars per person per border crossing rose to \$10,000 or more after 2017. As these costs spiked, smuggling became a luxury service available only to the wealthiest and best-connected refugees. Elaborate, extremely costly smuggling packages emerged, such as operations involving a yacht and crew, simulating a lavish personal cruise in order to avoid detection by maritime patrols on the lookout for cheap, rigid-hull inflatable dinghies. Other expensive options included fake passports with plane tickets and coaching on how to assume the fake identity.

By the end of 2017, the costs and risks of smuggling had begun to exceed the financial means and risk tolerance of most refugees, reducing the prevalence of smuggling in the Balkans in terms of absolute numbers. Having dodged any real risk, most smugglers simply found other work, living on savings while blending into cities along the route as part-time construction workers, tailors, barbers, traders or money lenders – although often still making approaches to newcomers

to offer a crossing to Greece at the right price. These smuggling networks remained mostly dormant until new pressures emerged to make the risks of the trip relatively lower than the risks of staying in the country of first asylum. For example, as a result of Turkish crackdowns on ethnic Kurds, hundreds of smuggled Kurdish Syrians are now appearing on a weekly basis in Greek cities from Athens to Thessaloniki.

Impact on citizens assisting refugees

Struggling to reach evasive and adaptive smugglers, State institutions also targeted humanitarian NGOs as the first point of intersection between the illicit and licit market activities. Along the Western Balkans route, the most heavily affected were small, local NGOs that have none of the resilience provided by the multi-million dollar budgets or legal offices of larger, international NGOs. For example, on the Greek island of Lesbos authorities were for the most part unable to detain high-level smugglers who managed operations remotely from Turkey while delegating risky work in Greek waters to lower-level operatives. As a result, Greek authorities began pressuring NGOs that were perceived to be facilitating smuggling operations. This included arrests of volunteers for the NGO Emergency Response Centre International for alleged collusion with smugglers in their attempts to prevent drownings of refugees crossing from the Turkish coast.

In Belgrade, Serbia, national policies focused on limiting local NGOs' freedom to operate. For example, one local NGO that reached thousands of refugees, Miksaliste, was required to relocate from its premises near the city's central bus station to a location far less accessible to the refugees who depend on its services. These efforts had the effect of breaking up civil society and limiting local humanitarianism, but did little to disrupt smugglers, who simply adapted to the changes. As an illustration, as the volume of licit non-food aid handouts from NGOs shrank, a booming grey/black-market economy emerged for everything from diapers to tents as smugglers saw

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an opportunity to sell items that would previously have been donated to refugees.

'Strategic pre-emption' as an alternative

Rather than trying to shut smugglers down, States might instead offer safer, lower-cost, profit-making migration options in order to draw demand away from illicit actors. This 'strategic pre-emption' policy would mobilise national resources, including private licit businesses like bus companies, to provide transportation options that are safer, more affordable and more reliable than those offered by smugglers, thus creating de facto humanitarian corridors. It is worth considering that the annual budget of the EU's counter-smuggling mission Operation Sophia was \$11.82 million. Meanwhile, smugglers made an estimated \$1.8 billion from refugees in 2015.² Had Germany offered a practical means of reaching Germany (for example, via a \$250 flight, the average cost of a ticket from Istanbul to Frankfurt) alongside its ambiguous promise of asylum, then based on the 600,000 Syrian refugees currently in Germany this would have generated at least \$150 million, equivalent to meeting Operation Sophia operating costs for a decade. These funds might be applied to providing services and protection to other refugees who cannot afford even a reduced cost option for reaching safe countries. Smugglers would be out-competed and lose their revenue stream, preventing smuggling without military or policing efforts, and affording refugees a safe and efficient method for accessing the promised asylum.

Humanitarian organisations as allies

Admittedly, the policy of strategic pre-emption is unlikely to be pursued by any but the most forward-looking and pragmatic of State leaders. A more realistic policy suggestion based on the Western Balkans

route is for State security institutions to see humanitarian civil society as potential allies and, instead of criminalising them, to allow them to provide alternative services. Before the crackdown on humanitarian NGOs in the Balkans, local NGOs were actively providing timely information to refugees on changing border policies; offering safe, temporary overnight accommodation; and sometimes buying bus tickets or other forms of legitimate transportation. In doing so, these local NGOs undercut the smugglers' services. After the closure of humanitarian NGOs, however, refugees had to turn to smugglers to obtain places in safe houses before continuing their journey to northern Europe. Similarly, in Greece's cities, local NGOs often provided cash-based temporary work for refugees; with NGO shutdowns or restrictions on the hiring of migrants, refugees had to turn to the illicit economy, sometimes having to sell narcotics or work as smugglers themselves to make ends meet.

Smuggling networks are adaptive and, like other private enterprises, able to efficiently shift the risks imposed by States onto their consumers. By out-competing smugglers and avoiding criminalising humanitarian organisations, States could reduce demand for smuggling while improving the safety and well-being of refugees and humanitarians alike.

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