



Dialogue on Globalization

BRIEFING PAPERS

FES GENEVA

Strategies against trafficking in human beings

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Although sufficient data-based evidence is often lacking, experts agree that trafficking in persons, also referred to as “the new slave trade,” has significantly increased in recent years. Nevertheless as the extent of the problem is difficult to assess, there is still a lack of awareness in both countries of origin and destination. Trafficking in persons means, according to the definition provided by the United Nations, “[...] the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” There exists general agreement that adequate steps have to be taken to combat this growing crime at the national, bilateral and multilateral level. Consequently, several declarations of intent have been issued, and national, regional and international programs have followed. Most of these strategies, however, address the problem in terms of its observable effects rather than trying to eliminate the underlying root causes.

The present briefing paper will first take a look at possible causes of trafficking. The following overview of strategies adopted so far illustrates how different assessments of the problem’s causes lead to different approaches concerning ways to respond to the increasing trend in trafficking. In a concluding section the reader’s attention is drawn to some of the many questions that still remain open.

1 Immediate and root causes of trafficking

The current trend toward increased trafficking in persons is claimed to be caused mainly by growing demand in destination countries on the one hand and on the other by the practice's attractiveness to traffickers, who expect high profits and low risks. Still, these are merely the observable effects of a probably somewhat more complex problem. So far, there has been little research aimed at figuring out what the actual root causes of trafficking are.

International actors often emphasize that unemployment and poverty in countries of origin are two of the main underlying causes. The phenomenon, some of them argue, has been facilitated by globalisation as well as by modern technologies. Others additionally stress the issue of the power imbalance between women and men and consequently underline the need to fight gender-based violence and patriarchal structures. In keeping with this argument, the EU Gender Equality Programme 2001-2005¹, for instance, provides for a scope of action.

Within Europe, which has become one of the focal points of trafficking, the phenomenon is seen in close relation to the end of the Cold War: the end of the continent's division, i.e. the opening up of borders, paved the way to freedom of movement in all its consequences.

The OSCE has declared trafficking in human beings to be a multifaceted problem that cuts across all dimensions (human, politico-military and economic) of the organization's work. In practice, however, all current programs described on the ODIHR-homepage² are situated within the human dimension.

Poverty, unemployment, lack of education and access to resources are some but not all of the problem's root causes. It is not only that people are so desperate that they are prepared to take the risk of falling into the hands of traffickers;

also, the demand for cheap labour in industrial countries, as well as the willingness to exploit women and children in prostitution and pornography, is increasing at a worrying pace.

A comprehensive approach to combating trafficking should therefore bear in mind both the supply side and the demand side.

2 Strategies to combat trafficking

Trafficking is a multifaceted problem which calls for comprehensive approaches. Obviously, countering the effects of human trafficking, such as efforts designed to provide victim support, is very important to alleviate the current situation. Nevertheless, we might ask ourselves how far these strategies can lead and what has to be done in order to combat the problem at its roots and draw up preventive measures.

Depending on the positions in which countries of origin and destination find themselves, and which of the dimensions of trafficking policy-makers focus on, the latter have adopted various approaches on how to tackle the problem. These basically comprise (a) a focus on trafficking as an offence subject to criminal law, attempts to establish effective and commensurate sanctions and punishments for individuals and legal persons found guilty of trafficking and (b) a human rights focus aiming at providing help and support for the victims of trafficking.

Trafficking as a crime

Some of Germany's anti-trafficking policies are a very typical case of a criminal-law approach: The country's criminal code has been revised several times, the aim being to provide for effective and commensurate sanctions and punishments for individuals and legal persons found guilty of trafficking. It is in essence §§ 180b and 181 of the penal code that set out punishments for traffickers. These paragraphs also apply to criminal acts committed abroad, independently of the law applicable in the territory in which the offence was committed.

These measures comprise the above-mentioned condemnation of traffickers. Prosecution of offenders, however, depends on reliable testimony, which can only be provided if victims are not immediately sent back to their countries of origin for having entered Germany and remained there illegally. Women who might be victims of human trafficking are given a minimum of four

¹ The programme was designed to provide financial support for the implementation of the Community framework strategy on gender equality and thus to support and finance general activities in the fields of economic life, equal participation and representation, social rights, civil life, gender roles and stereotypes.

² http://www.osce.org/odihr/projects/index.php?country=0®ion=0&thm_area=9&year=2004&keywords=&st=0&pp=5&PHPSESSID=89de7fd5f90860d624945e5f9ff28efa.

weeks prior to deportation in order to allow them to decide, together with the criminal prosecution authorities, whether they could serve as witnesses and would be willing to do so. The German state governments, together with police staff and foreign immigrant authorities, are developing strategies to both protect witnesses during their stay in Germany and provide for a safe return to their countries of origin.

At the international level, Interpol plays an important role in the field of law enforcement. It further sees its mandate as a platform for raising awareness, building competence and identifying best practices, as well as for improving cooperation by providing a worldwide forum for exchanging information on current trends and investigations.

At the European level, the mandate of the Europol Drug Unit (EDU) was extended in September 1996 to include trafficking in human beings. Furthermore, Europol has the authority to prevent and combat trade in human beings, including forms of sexual exploitation and violence against minors or trade in abandoned children. Additionally, since its establishment in 2002 Eurojust has had the authority to combat trafficking in human beings.

The human rights aspect of trafficking

Based on a strong human rights focus, the United Nations and its subdivisions have recently taken a number of different measures against trafficking in humans, in conformity with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organised crime, which was adopted in 2000.

It is in particular the OHCHR that explicitly sets its anti-trafficking strategy in relation to "two fundamental principles: [...] human rights must be at the core of any credible anti-trafficking strategy; and [...] such strategies must be developed and implemented from the perspective of those who most need to have their human rights protected and promoted."³

³ <http://www.unhchr/women/focus-trafficking.html>

As noted above, the increasing problem of trafficking has presented a growing problem for the European continent since the end of the Cold War. Whereas traffickers often recruit their victims in Central and Eastern Europe, the main trafficking routes run through transit countries in the Balkans, including Greece, and have their final destinations mainly in France, Germany and Italy.

Consequently, the European Union has a special responsibility to develop strategies (mentioned below) and finance programmes aimed at combating human trafficking. The Union's concern about the human rights aspect of the problem is evident in Article 5, III, of the Charter of Fundamental Rights of the European Union: "Trafficking in human beings is prohibited."

Regarding the question of how to finance member state actions to combat trafficking, the European Structural Funds (ESF) have an important role to play. Community assistance, including ESF, may be available for rehabilitation measures and other forms of support for victims of trafficking who reside in member states after they have escaped.

Specific funds have been made available to support cooperation with new member states before their accession, as combating and preventing trafficking is seen as a shared responsibility for countries of origin, transit and destination. Accession partnerships and twinning projects proved to be of major importance in this connection.

Holistic approaches

More and more, while pointing to the primacy of human rights, actors have been coming out in favour of a more holistic approach, as did the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which stated that "combating the phenomenon will require holistic, interdisciplinary and long-term approaches which address each aspect of the trafficking cycle."⁴

In accordance with the Economic and Social Council's guidelines on human trafficking,⁵ an

⁴ <http://www.unhchr.ch/html/racism/index.htm>

⁵ United Nations Economic and Social Council: Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1

approach of this kind would include the promotion and protection of human rights, especially victim support; the prevention of trafficking by means of investigation and prosecution of cases involving trafficking; criminalization and punishment of traffickers; national and international law-enforcement cooperation and assistance; awareness-raising; research, analysis and evaluation.

Since 1996 the EU, sometimes in association with third countries and organizations, has taken a number of initiatives concerning trafficking for the purposes of sexual exploitation. These include the STOP and STOP II programme, followed by AGIS⁶, which aims at developing a coordinated multidisciplinary approach to preventing and combating trade in human beings and the sexual exploitation of children by means of research, training and exchange programmes involving the various parties responsible for combating trafficking at the European Union level. STOP was closely related to the DAPHNE initiative, which was launched in 2000 to prevent violence against children, young people and women, as well as to provide support to the victims of violence and prevent their future exposure to violence. The first Daphne programme has already expired, but a DAPHNE II programme has recently been adopted.

With a view to addressing divergences in legal approaches in EU member states, a framework decision on combating trafficking in human beings (2002/629/HA) was adopted in 2002. Its implementation in the member states is to be completed by August of this year. Further harmonization is to be achieved by Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography.

To prevent trafficking, it also is essential to address the social and economic differentials which push people to accept the first job propo-

sed in the West in the misguided hope of a brighter future. Accordingly, European Employment and the Social Inclusion Strategies are designed to address unemployment and poverty at the roots of trafficking, which is why other less specific programmes and initiatives in the field of employment, social affairs and gender equality, such as the EQUAL initiative⁷, can be used to finance and enhance certain preventive strategies, most of which are financed by the European Social Fund.

Furthermore, the EU recently established an Expert Group on Trafficking in Human Beings. This group, made up of 20 experts from old and new member states, accession countries and organisations active in the fight against trafficking, is meant to be a consultative body, tabling reports on a regular basis and giving opinions either on the commission's request or on its own initiative.

With regards to further action, the Brussels Declaration plays an important role. It aims at further developing European and international co-operation, calls for concrete measures, and establishes standards, best practices and mechanisms to prevent and combat trafficking in human beings

In order to expand Germany's formerly more criminal-law based approach towards trafficking in human beings, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has set up a working group "Trafficking in Women." Federal and state ministries, the Federal Criminal Police Office as well as specialised advisory services are involved in this working group, whose task it is to⁸

- ensure the mutual exchange of information concerning measures to combat traffic in women
- analyse potential problems which could impede an effective strategy
- elaborate joint activities and proposals,

⁶ The STOP II programme expired at the end of 2002 and has been replaced by AGIS. Named after a king of ancient Sparta, AGIS is a framework programme to help police, the judiciary and professionals from the EU member states and candidate countries cooperate in criminal matters as well as in the fight against crime:
http://europa.eu.int/comm/justice_home/funding/ags/wai/funding_agis_en.htm

⁷ EQUAL is part of the European Union's strategy for more and better jobs, designed to address discrimination and inequality. With regard to victims of trafficking (and asylum-seekers in general), the initiative promotes social and vocational integration.

⁸ <http://www.bmfsfj.de/RedaktionBMFSFJ/Broschuerens-telle/Pdf-Anlagen/PRM-15389-Broschue-Aktionsplan-zur-Beka.property=pdf.pdf>

- prepare German positions in the context of international measures.

One of the working group's achievements has been the elaboration of proposals concerning administrative regulations with respect to the Aliens Act, as well as of a concept for cooperation in the field of victim-witness protection in trials having to do with the trafficking in human beings.

Such measures, as the Federal Government comments in its action plan to combat violence against women, only address single aspects of the general problem. Topics and projects have often been guided by the public discussion instead of following a long-term strategy. That, the report concludes, might be one of the reasons why little change has been noted regarding violence against women.

Several steps have been taken so far by policy-makers at both national and international level. Nevertheless it is often claimed that many countries do not have adequate laws against trafficking. One counter-example is the Republic of the Philippines: Whereas trafficking in persons is usually understood as inherent to other human rights and not addressed explicitly in other legislation, the Philippine government has adopted a law against this crime, namely the Anti-Trafficking in Persons Act 2003 (Republic of the Philippines 2002). Aiming at eliminating trafficking in persons, especially women and children, the act sets out policies and establishes necessary institutional mechanisms, such as the Inter-Agency Council Against Trafficking (IACAT), to protect and support trafficked persons and to prosecute and punish their violators.

Concerted action: Bringing together different approaches

The above-mentioned are only some of the efforts that have been undertaken to address the problem of trafficking. Also worth mentioning is the work of the ILO and the International Organization for Migration (IOM), both of which have several programs to combat trafficking.

Yet, isolated efforts mean little without concerted international action. Thus, the OHCHR's anti-trafficking strategy mainly focuses on the enforcement and coordination of already existing stra-

tegies. In line with this approach, the OSCE's Stability Pact for South Eastern Europe set up the Task Force on Trafficking in Human Beings, which is designed to bridge the gap between efforts of countries of origin, transit and destination, and consequently to strengthen regional cooperation and promote concerted international action.

Still, it is often claimed that despite these and other counter-measures that have been taken so far, there is nevertheless a huge gap between declarations of intent and real practical action.

3 Conclusion/ Outlook

Taking into consideration the steps that have been taken so far, several questions still remain unanswered.

Firstly, we might ask ourselves what strategies designed to combat human trafficking actually aim to accomplish. There could be a conflict of aims between different policy arenas which in effect serves to impede an effective approach. This, however, does not necessarily mean that holistic approaches are a mere illusion, as there may well be ways to overcome this conflict of aims. As noted above, some approaches, such as the OHCHR strategy, explicitly aim at integrating and coordinating different approaches and strategies.

Looking at programs for victim protection, such as immunity from persecution, some claim that victim protection was guaranteed only in order to gain testimony and set the stage for prosecuting and convicting traffickers. Most policy actors, however, agree that victims of trafficking are in a very vulnerable position and that states should consequently beware of offering witness protection – instead of victim protection. Still, some policy-makers fear that protection mechanisms could be misused. Victim protection, they argue, might even foster illegal migration.

It has been pointed out that a comprehensive response to trafficking should take into consideration the problem's root causes. Presumably, eradicating these causes calls for a more long-term approach. Consequently, states often merely take ad hoc measures to temporarily alleviate the problem, and this often undercuts the question of whether there actually are ways to

take preventive measures and thus eliminate the problem at its roots. To sum up, even though noteworthy efforts are underway, much still

needs to be done to break the cycle of trafficking in human beings and eliminate its root causes.

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