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SMUGGLING AND TRAFFICKING IN HUMAN BEINGS: THE PHENOMENON, THE MARKETS THAT DRIVE IT AND THE ORGANISATIONS THAT PROMOTE IT *

ABSTRACT. This article will define the concepts of smuggling and trafficking in human beings and discuss the difficulty in applying the definition. The magnitude and scope of the problem will be examined as well as its causes. Trafficking in human beings will be analysed as an illegal market, particularly with reference to its relationship with other illegal markets and the involvement of organised crime groups. The phenomenon will be discussed in more depth focusing on countries and regions where projects are currently being implemented under the auspices of the United Nations Global Programme against Trafficking in Human Beings. The discussion closes with an overview of situations which facilitate the practice, and current measures and recommendations to stem the tide of smuggling and trafficking.

KEY WORDS: criminal organisations, illegal markets, migration, smuggling, trafficking

“Trafficking of women and children is not a new problem – it has occurred throughout history. What is new is the growing involvement of organised crime and the increasing sophistication of its methods” (Warnath 1998)

INTRODUCTION

The recent death of 58 Chinese nationals found suffocated in the back of a truck in Dover served as a tragic reminder of what can go drastically wrong when people use the service of illicit smugglers. It is by no means the first time that smuggled migrants have died trying to enter other countries. More than 2,000 deaths of migrants trying to enter the European Union illegally have been documented since 1993 (J. Graff, *Time*, 3–7–2000, pp. 24–25).¹ As the number of illegal migrants increases – the International Organiza-

*All positions, statements of fact, opinion and analysis expressed in this article are those of the author. They do not necessarily represent the position or views of the United Nations Interregional Crime and Justice Research Institute or of the United Nations Centre for International Crime Prevention.

¹In one tragic incident in 1996, some 200 Sri Lankan, Pakistani and Indian immigrants drowned off the coast of Italy when the ferry they were on sank after ramming the fishing vessel that had brought them to their destination after a six-week trip (McAllister 2000). The most recent tragedy occurred on New Year’s Day 2001 when a Georgian ship sank off the Turkish coast with its human cargo of illegal Pakistani, Indian and Bangladeshi immigrants locked in the hold. Ten bodies were recovered; Turkish authorities believe 40 more perished (*Time* 15–01–2001, p. 8).



tion for Migration (IOM) estimates that traffickers move over four million illegal immigrants a year (cited in Kendall 1999) – the world can expect more of these tragic incidents.

In response to the increasing² problem of migrants being smuggled and trafficked worldwide and the growing involvement of criminal organisations in this practice, the UN Office for Drug Control and Crime Prevention (UNODCCP) launched the Global Programme against Trafficking in Human Beings in March 1999. The twofold programme emphasises research, which seeks to shed more light on the phenomenon of trafficking in human beings, in particular on the criminal practices, routes and networks that facilitate the process, and provides technical assistance projects to strengthen governmental responses to the smuggling and trafficking problem.

DEFINITIONS

Both smuggling and trafficking are forms of irregular migration. There are as many different definitions of smuggling and trafficking as there are organisations and governments concerned with addressing the issue (Kelly and Regan 2000; IOM 2000). While they differ, there are shared, common elements. Often both smuggled and trafficked individuals leave a country of origin willingly. Additionally, as their status in the country of destination is that of an illegal alien, both smuggled and trafficked persons are at risk of being exploited.

The UN *ad hoc* Committee on the Elaboration of a Convention against Transnational Organised Crime submitted proposals in January 1999 for optional protocols on the smuggling of migrants and the trafficking of human beings, in particular, women and children. The UN Convention against Transnational Organized Crime³ was adopted by the General Assembly at its Millennium meeting in November 2000. It was opened for signature at a high-level conference in Palermo, Italy, in December 2000. It is the first legally binding UN instrument in the field of crime.⁴ It must

²Various organisations (UNHCR, UN, IOM) talk about an increase in the number of persons being smuggled and trafficked. This increase – in detection – could also be due to increased law enforcement initiatives and better law enforcement co-operation.

³The UN Convention and both protocols can be downloaded from the Internet at: www.uncjin.org/documents/conventions/dcatoc/final_documents_2/index.htm.

⁴The new instrument spells out how countries can improve co-operation on such matters as extradition, mutual legal assistance, transfer of proceedings and joint investigations. It contains provisions for victim and witness protection and shielding legal markets from infiltration by organised criminal groups. Parties to the Treaty would also provide technical assistance to developing countries to help them take the necessary measures and upgrade their capacities for dealing with organised crime.

be signed and ratified by 40 countries before it comes into force. In line with the proposed definitions in the Convention and two protocols, the UN Global Programme against Trafficking in Human Beings uses the following definitions:

Organized criminal group shall mean a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention,⁵ in order to obtain, directly, or indirectly, a financial or other material benefit.

Smuggling of migrants shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. *Exploitation* shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.⁶

There are four elements that differentiate smuggling from trafficking (Bajrektarevic 2000a, p. 16):

1. smuggled persons always travel voluntarily; trafficked persons can either begin their trip voluntarily or may have been coerced or kidnapped;
2. trafficked persons are used and exploited over a long period of time;
3. an interdependency occurs between the trafficked person and organised crime groups;
4. trafficked persons are eligible for further networking (recruitment for criminal purposes).

⁵*Serious crime* shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. *Structured group* shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

⁶The consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth (in the definition) have been used. Furthermore, the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in the definition.

While the definitions appear straightforward enough, they are open to interpretation based upon the definition of deception and coercion being utilised. There is no doubt that deception is involved and victims have been trafficked in instances where young women are promised jobs as governesses or in restaurants only to find themselves forced into prostitution upon arrival in the destination country. The situation becomes a bit more obscure when an individual, as an illegal migrant, willingly accepts a position as a domestic worker and is paid less than a national would be who is registered and must pay taxes. In some cases the 'victims' are willing collaborators (Ojomo 1999); a woman is willingly smuggled to another country to knowingly work in prostitution because her wages are much higher in the destination country than in the country of origin. However, when this woman is not allowed to keep all of her wages but is forced to pay a higher percentage to her traffickers, or 'buy back' her passport at an exorbitant fee, then she too is exploited and is a victim of trafficking.

There are varying degrees of 'victimisation' which can be viewed on a continuum. Complete coercion exists when victims have been abducted. Deception occurs when individuals have been promised jobs in the legitimate economy only to find themselves forced into sexual slavery. The third level involves those individuals deceived through half-truths where they are told they will be working in the 'entertainment industry' or as dancers or strippers. The fourth category involves those women who were aware, prior to departure, of their work as prostitutes but were unaware of the extent to which they would be intimidated, indebted, controlled and exploited (Kelly and Regan 2000).

Definitions with respect to countries of origin, transit and destination are more diffuse. Traditional countries of origin are being used more frequently as transit and destination countries. Some are all three (Kelly and Regan 2000). This situation is evident in the former Yugoslavian province of Kosovo where Albanian criminal gangs traditionally abducted or lured young women to Italy and further into Europe and forced them to work in brothels. With the arrival of peacekeeping missions in Kosovo, gangs began setting up brothels filled with trafficked women to provide services to the foreign peacekeepers (Kenety 2000; Stop-Traffick 2000). With the frequent rotation between countries of young women smuggled into the European Union, it is becoming more and more difficult to determine which are the transit and which are the destination countries.

There is some indication of a link between sending and receiving countries. These links are influenced by a number of factors, such as the traffickers' use of the local knowledge about key locations or weaknesses in border or migration control (IOM 2000) or the ease in crossing borders

(Kelly and Regan 2000). Other determining factors are the presence and tolerance of an extensive sex industry, historical/colonial links between countries (Kelly and Regan 2000) and the existence of a large immigrant population.

SMUGGLED PERSONS AND TRAFFICKED VICTIMS

The borders between smuggling and trafficking become blurred when migrants voluntarily use the services of smugglers only to find themselves in coercive situations and thus become the victims of traffickers. What began as a voluntary activity on the part of the migrant, who may in fact have sought out the services of the smuggler, is easily transformed to a situation of trafficking where initial consent is invalidated through the use of deception or coercion.

The major difference between these two groups of persons is the amount of money that is paid prior to departure from the country of origin. Smuggled persons pay the amount up front and upon entering the destination country have ended their journey. Trafficked persons, on the other hand, usually pay a percentage and incur a debt for the remainder of the trip. This situation creates a type of debt bondage⁷ and places them at the mercy of the traffickers and in situations in which they are easily exploited.

When illegal migrants are arrested at a border or in a country without proper documentation, they are smuggled persons. The distinction between smuggled persons and trafficked victims can only be determined after the individual has arrived in the destination country, is either free to walk away from the smuggler or is placed in a situation of debt bondage and is exploited. At this point the smuggled person becomes a trafficked victim.

Backgrounds of the Victims

The backgrounds of the smuggled persons and trafficked victims differ as much as their motivation for wanting to leave their countries of origin. Many who fall prey to smugglers and traffickers are usually those most disadvantaged in their own countries: those with poor job skills or little chance of successful employment at home. They are often women and children. This pattern is clearly seen in the trafficking patterns in countries in East and Central Europe (where women are trafficked to the West for sexual exploitation) and West Africa (where children are trafficked for forced labour).

⁷For the definitive work on debt bondage and modern slavery, see Bales (1999b).

Persons fleeing war zones or political persecution may be better educated or skilled. Once they choose, however, to use the service of smugglers to illegally enter a country, their use of these illicit channels often leads to a situation of total dependence which may result in serious human rights abuses.

Trafficking for Sexual Exploitation versus Forced Labour

Trafficked individuals are subject to various forms of exploitation and forced labour. The market in which victims are forced to work influences a number of factors such as the social stigma attached to the 'trade', the visibility of the individual, and the length of time during which the operations can exist before being dismantled by the authorities.

Both types of exploitation involve serious human rights abuses.⁸ It could be argued, though, that forced sexual exploitation is morally more reprehensible and, due to the social stigma and prejudice attached to this activity, and its sometimes illegal status in the origin and destination countries, it is more difficult to gain the co-operation of victims of sexual exploitation and to later reintegrate them back into their original communities (Ateneo 1999; Ould 1999). Additionally, these victims require more emotional and psychological support.

Because of their interaction with clients, prostitutes have more contacts with those other than their exploiters. This increases the likelihood that they will seek help, escape, or come to the attention of the authorities. To prevent this from occurring, young women are often rotated between criminal groups or between cities, states or countries (Kendall 1999; Richard 1999).

Perhaps because of isolated locations and the lack of contact with clients, forced labour operations are able to survive for longer periods of time. According to the United States Department of Justice

[. . .] these operations went unnoticed or were able to exist longer than trafficking operations involving the sex industry. Labour trafficking operations generally lasted from 4½ to 6½ years whereas trafficking operations for prostitution lasted from a little over a year to approximately 2½ years before being discovered. (Richard 1999, p. 3)

The illicit markets in which trafficked migrants are forced to work will be discussed in more depth below.

⁸In a case prosecuted in the United States, 70 Thai nationals had been held against their will, systematically abused and forced to work 20-hour shifts in a sweatshop (Richard 1999).

MAGNITUDE OF THE PROBLEM

Due to its clandestine nature, accurate statistics on the magnitude of the problem are elusive. The International Organization for Migration (IOM), which received EU 'STOP' funds to produce accurate estimates for trafficking in women across Europe came to the conclusion that "it was not possible with any level of accuracy" (Kelly and Regan 2000). In their study of the magnitude of trafficking in the United Kingdom, Kelly and Regan (2000), based on 71 known cases, extrapolate the actual figure at between 142 and 1,420 cases annually. Experts in governmental agencies and international non-governmental organisations (NGOs) estimate the number of women and children trafficked internationally at between 700,000 and 2 million annually. This figure does not include trafficking within internal borders (Richard 1999).

At a public hearing before the European Parliament in February 2000, experts from Interpol and Europol agreed that, in spite of the difficulty in collecting statistical data, trafficking was a growing phenomenon (Kenety 2000). The Dutch Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*) estimates that while 30% of asylum seekers entering Europe used the services of smugglers in 1996, the number has risen to between 60 and 70% over the past few years (Verduyn 2000). Trafficking has become a major source of both activity and income for organised criminal networks. It was estimated that in 1993, smuggling and trafficking of human beings generated gross earnings of between US\$5 billion and US\$7 billion dollars (Widgren 1994); some researchers think the figure reaches \$12 billion (F. McAllister, *Time*, 3–7–2000, pp. 26–28).

As difficult as it is to measure, the magnitude of the problem is further determined by a number of other factors including the recognition of the problem, the definition used, the available resources and the investigation efforts by the police.

In terms of the definition, if one considers trafficking for the purpose of sexual exploitation, all other forms of forced labour will be excluded. Furthermore, if internal trafficking is not taken into account, the numbers will also be much smaller. In many countries such as Brazil or Togo and Benin (West Africa), internal trafficking for the purpose of labour exploitation is a serious problem and one which occurs with greater frequency than that of transnational trafficking.

There are five basic factors which point toward an increasing and expanding market in the smuggling and trafficking of human beings (Widgren 1994). The first is the sheer number of willing targets, driven by poverty and a lack of opportunity, to take chances with smugglers and traffickers

to improve their lives. Secondly, border controls, particularly with reference to a number of source and transit countries were previously strictly controlled. With the dissolution of the Soviet Union and the Warsaw Pact, control systems and the democratisation of a number of African, Asian and Latin American countries, exit controls are more lax. The third – the internationalisation of the world economy and the globalisation of world markets – and fourth – advanced communication and technology and cheap and rapid air travel – factors are closely intertwined. The fifth factor is the growing involvement of organised crime in the market and the fact that, along with money-laundering, weapons smuggling and sales, and drug transports, the smuggling and trafficking in human beings is becoming a specialised branch.

CAUSES

(II) legal migration and trafficking are driven by ‘push’ and ‘pull’ factors. The causes that propel people to leave their country either through legitimate or illicit channels are the same. Traditionally, countries of origin are developing nations or those in a state of transition. Migration takes place from poorer countries to wealthier, more stable states. The ‘pull’ of promises of a better future are powerful.

Major migration waves, both legal and illicit, are propelled by the same ‘push’ factors. Immigration from Russia, Central and Eastern Europe and Asia have been greatly influenced by economic crises in these areas. Regional conflicts have been the cause of migration from areas such as Kosovo, the former Yugoslavia and certain African nations. Political and religious persecution drives others from nations such as China and Russia. A rise in illegal migration facilitates trafficking as does the increasing use of temporary labour contracts (Bales 1999a). Technological and communications advances, as well as open borders which facilitate the flow of goods also facilitate the flow of people.

The root causes of migration – both licit and illicit – lay in the

social, economic and political conditions in the sending countries – rapid growth of population, persistent poverty, high unemployment, internal conflicts resulting in widespread violence and civil disorder, oppressive political regimes and grave violation of human rights. At a different level, inequalities in living standard as between the more developed and less developed countries and the rising expectations act a push factors that induce people to migrate in search of opportunities for a better life. (Gunatilleke 1994, p. 65).

In an exploratory test of a theory of global trafficking, Bales (1999b) compiled a number of factors in order to empirically test which variables are

significant predictors of trafficking from (the push factors) and to (the pull factors) a country. Using multiple regression,⁹ the research identified the following predictors, rank ordered, 'from' a country: government corruption, the country's infant mortality rate (an indication of population pressure), the proportion of the population below the age of 14, the country's food production index (an indication of poverty), population density and conflict and social unrest.

The factors predicting trafficking 'to' a country were less conclusive. While the permeability of the country's border is a strong indicator of a 'pull' factor, this concept is virtually impossible to measure. It could be argued, however, that government corruption, particularly within border control or immigration agencies, is an indication of a permeable border (Bales 1999b). Other factors, rank ordered, predicting the 'pull' of a country were: the male population over the age of 60, governmental corruption, food production, energy consumption and infant mortality (the last three taken as indicators of the economic well-being of the destination country; Bales 1999b).

SMUGGLING/TRAFFICKING AS AN ILLEGAL MARKET

Smuggling and trafficking in migrants could not have grown to such proportions if it were not supported by powerful market forces. The increased demand for migrant labour coupled with stricter entry controls or requirements and diminishing legal channels to enter destination countries

[. . .] has provided unscrupulous entrepreneurs with a potential for profit. The number of persons attempting to enter a country clandestinely has given rise to a market for services such as the provision of fraudulent travel documents, transportation, guided border crossings, accommodation and job brokering. (Escaler 1998, p. 16)

The crime industry involves the illicit exploitation of business opportunities and is dominated by supply organisations. Criminal organisations provide illicit goods and services to markets where the profits are high (Savona et al. 1995). Transnational criminal organisations¹⁰

⁹Multiple regression examines a number of factors simultaneously and calculates the independent effect of each of the factors on the dependent variable. It indicates the strength of each factor, allowing for rank ordering, or whether a factor has no predictive value.

¹⁰Transnational criminal organisations are defined as those who have a home base in one state but that operate in one or more host states where there are favourable market opportunities. The term was coined by Phil Williams, "Transnational Criminal Organisation and International Security", *Survival*, 36(1), pp. 96–113, 1994; cited in Savona et al. (1995).

[. . .] have become major player in global economic activity, and are the key players in industries such as drug production and trafficking that are global in scope and that yield profits higher than the gross national products of some developing and developed states. Their common feature is that they engage in unregulated forms of capitalist enterprise involving illicit products, illicit smuggling of licit products and the theft of licit products, or all three kinds of activity (Savona et al. 1995, p. 5).

Unlike lawful enterprises which operate within legal parameters, transnational criminal organisations circumvent legal requirements through corruption, deceit, threats, force and other evasive tactics.

Smuggling usually involves short-term monetary profit whereas trafficking usually involves long-term exploitation for economic gain (Richard 1999). The profit in smuggling is generated possibly prior to departure and during the transportation phase. In trafficking, the profit can be made prior to and during the transportation phase and is made, in particular, afterwards through the exploitation, sexual or otherwise, of the trafficked victims.

Smuggling and trafficking can be viewed as an illicit market. It is the interaction between supply and demand. In the receiving countries there is, and always will be a demand for cheap labour and sex. In countries of origin there is always a dream of a better life and the ability to support oneself and family members back home. There is never a shortage of those willing to take risks to fulfil that dream. What occurs between the supply and demand sides of the market is a complex process linking the two.

Markets Profiting from Smuggled and Trafficked Persons

One can identify three basic (il)legal markets which are profiting from smuggled and trafficked migrants. These are the legitimate or conventional market economies (restaurants, factories, farms, etcetera), the legitimate domestic service economy (households which employ maids) and the criminal economies of the sex industry – foremost, prostitution (Ruggiero 1996, 1997).¹¹

Forced labour on farms or plantations often involve deplorable working, living and sanitary conditions (Bales 1999a). Ould (1999) reports that Haitian workers in the Dominican Republic and Brazilian workers on plantations in Para State in Amazonia (Brazil) are subjected to slave-like conditions, kept in virtual debt-bondage and are subjected to the control of

¹¹Prostitution is not an illegal activity in all countries. In the Netherlands, for example, prostitution by adult women, if voluntary, is not an offence. It is, however, a criminal offence to live off the proceeds of a prostitute, thus pimping is illegal.

soldiers and armed guards who, on the estates of Para, will beat or shoot workers who try to escape.

Across Europe, the building trade and textile industries have benefited from smuggled and trafficked migrants. A Chinese organised crime group in Milan forced dozens of immigrants, under inhumane conditions, to manufacture clothes, handbags and belts which were bought by leading companies operating in the renowned Italian fashion world.¹² Profit is reaped by the organisations which smuggle and exploit these illegal migrants. However, the legitimate economy, which often subcontracts with these smaller operations also benefits financially from the use of exploited labour. Thus, there is a symbiotic relationship between the legal and illegal economies in this type of labour market. It is estimated that in Italy, the underground economy accounts for 28% of the GDP (*Business Week*, 27–11–2000, pp. 57–68).

Within the domestic service economy, the employers of domestic servants profit from their exploitation. The domestic servants are often underpaid and mistreated, both psychologically and physically. The boundaries between these three markets is not always strictly drawn and it is not uncommon for those working in the legitimate economy or in domestic service to escape unbearable conditions and find themselves in the illicit prostitution or sex industry economy. Research conducted in Germany shows that many servants escape their employee-owner and drift into prostitution (Ruggiero 1996).

In the case of the illicit sex industry, Italian researchers identify three different levels of illicit prostitution: those individual entrepreneurs who are involved in small-scale activities such as running a brothel in a particular area; the second or the mid-level prostitution schemes in which women are controlled by the clandestine operations which imported them; the third and most sophisticated level involves large-scale international criminal organisations that are linked with domestic criminal organisations. The women under the control of the third group have no documentation and are kept under tight control (Pomodoro and Stefanizzi 1995). Profits in this industry are generated for the traffickers as well as for the owners of the brothels in which the women are often bought and forced to work. Huge profits generated by this industry are often reinvested in the legitimate economy through money-laundering operations and thus there is once again a profit nexus between the illicit and legitimate business worlds.

¹²Information obtained from an article in the Italian newspaper *La Stampa*, 22–9–1994; cited in Ruggiero (1996, 1997).

THE ORGANISATION OF SMUGGLING AND TRAFFICKING OPERATIONS

The degree of organisation within the smuggling/trafficking chain can vary dramatically. It can be as simplistic as a single individual providing a single service – hiding migrants in the back of a truck and smuggling them across the US–Mexican border only to abandon them once in the US. Offenders trafficking Central and Eastern European women to the Netherlands were found to be organised in trafficking networks (Vocks and Nijboer 1999). It can be a segmented business involving an interaction between a criminal network and a legitimate transportation company, as was the case involving the tragic death of almost 300 illegal migrants in 1996.¹³ It can involve numerous people who provide the entire range of services¹⁴ and be as sophisticated and complex as the international operation which smuggled 60 Chinese persons over a 4-month period from Fujian, China, through Russia, the Czech Republic, Germany, The Netherlands and on to the UK.

It has been described as a process, depending upon the complexity of the operation, involving numerous players. Smuggling operations moving large numbers of persons through numerous countries over a longer period of time are, by nature, highly organised. Bajrektarevic (2000a, pp. 19–21; 2000b, p. 6) discusses the horizontal design of smuggling and trafficking organisations and argues that they are divided into several sub-units that specialise in a particular part or sequence of the operation. All but two of these units are common to both smuggling and trafficking rings. The exploiting unit and re-escort unit only provide ‘services’ to networks dealing with trafficked persons. The management unit maintains a vertical structure and has knowledge of and controls the other sub-units. All other sub-units are organised horizontally and have very limited knowledge of the other sub-units.

Schloenhardt (1999, pp. 217–219), similar to Bajrektarevic, identifies a number of specific roles that individuals take on within the organisation to provide specific services. Additionally, he addresses the issue of those in the organisation responsible for the laundering of money:

¹³A group of Pakistanis who had been smuggled from Pakistan via Turkey to Cairo, were joined by a larger group of Sri Lankans. After boarding a ship in Alexandria and reaching the Malta-Sicily channel, they were to transfer to a smaller ship – one operated by a legitimate shipping company. The ship, which could carry approximately 100 passengers floundered and sunk resulting in the death of almost 300 passengers (Ruggiero 1997).

¹⁴Ruggiero (1996) reports that Albanians wishing to reside in Italy are offered a ‘package’ which includes transport and illegal entry into Italy as well as a variety of job opportunities.

- *investors*: those who put forward funding for the operation, and oversee the entire operation. These people are unlikely to be known by the everyday employees of the operation, as they are sheltered by an organisational pyramid structure that protects their anonymity;
- *recruiters*: seek out potential migrants and secure their financial commitment. These people may be members of the culture and the community from which migrants are drawn;
- *transporters*: assist the migrants in leaving their country of origin, either by land, sea or air;
- *corrupt public officials or protectors*: may assist in obtaining travel documents, or accept bribes to enable migrants to enter/exit illegally;
- *informers*: gather information on matters such as border surveillance, immigration and transit procedures, asylum systems, law enforcement activities;
- *guides and crew members*: are responsible for moving illegal migrants from one transit point to the other or helping the migrants to enter the destination country;
- *enforcers*: are primarily responsible for policing staff and migrants, and for maintaining order;
- *debt-collectors*: are in the destination country to collect fees;
- *money-launderers*: launder the proceeds of crime, disguising their origin through a series of transactions or investing them in legitimate businesses;
- *supporting personnel and specialists*: may include local people at transit points who might provide accommodation and other assistance.

What evidence points toward a high degree of organisation in the trafficking of migrants? Europol (1999) provides the following indications: different nationalities are smuggled on the same transport, a great degree of organisation is needed to smuggle large numbers of persons over great distances, large amounts of money change hands, and when things go wrong, immediate legal assistance is available. A study of illegal migrants intercepted in Lithuania (Sipaviciene 2000, cited in IOM 2000) found that they had passed through an average of 3.6 transit countries and that their journey had been ‘multi-modal’ with an average of 4 modes of transport used. No migrant had covered the entire journey by the same means of transport.

TRANSNATIONAL ORGANISED CRIME GROUPS

Adamoli et al. (1998, p. 11) describe organised crime groups as becoming increasingly more flexible and decentralised. This flexible structure and

increased co-operation with other criminal groups allows for the prompt re-organisation of illicit activities according to threats from law enforcement, demand for services and the number of competitors. The incorporation of small sub-units of criminal specialists, who provide particular services and expertise that might otherwise be outside of the scope of the criminal organisation, enables the organisation to rapidly adjust to new market opportunities.

Criminal groups are adapting to the environment, new opportunities and markets. Europol¹⁵ reports that criminal groups are active in a number of different markets. Technological advances have facilitated criminal activities (counterfeiting and fraud) requiring less specialisation than was previously necessary and which have allowed criminals to diversify their activities. Criminal organisations have changed from large, cumbersome, hierarchical entities to smaller, more flexible, horizontal structures. These criminal groups reach informal agreements to work together and Europol reports an increase in multinational criminal groups active in the European Union (*Staatscourant*, 18–12–2000, p. 5). In July 2000, the Dutch police apprehended an international criminal group including 54 Iranians, 3 Iraqis, 2 Algerians and a Romanian. They were charged with drug trafficking and falsification of documents. The criminal group, in possession of 265 passports, Schengen visas and other identification papers were also believed to be involved in the smuggling of migrants.

A number of organisations have documented the involvement of organised crime groups in the smuggling and trafficking of human beings.¹⁶ They fall on a continuum ranging from freelance criminals with ties to organised crime overseas, as is the case with Russians smuggling women into the US to work in the sex industry, to loose confederations of organised criminal entrepreneurs or enterprises, as is seen among the Asian gangs who control the trafficking of women to and in the United States (Richard 1999). At the end of the continuum are the highly structured, criminal organisations controlling the trafficking process from start to finish (as is the case with the Albanians; see Ruggiero 1996).

Interpol's General Secretariat indicates that there has been a recent change in the structure of trafficking and smuggling.

¹⁵Europol 1999 *Annual Report on Organised Crime*, cited in *Staatscourant*, 18–12–2000, p. 5.

¹⁶These include international and national law enforcement and intelligence-gathering agencies as well as inter-governmental agencies including, but not limited to Europol, Interpol, the US State Department, the IOM, the Global Survival Network (GSN).

Whereas in the past, the sex business was in the hands of nationals with a link to suppliers of women, and those groups dealing with women used to restrict themselves mainly to the import of women, new analysis has shown that they now tend to control the whole sex business chain, including the 'voluntary' prostitution market, in order to maximise profits [. . .] whereas in the past the Lithuanian and Ukrainian traffickers needed to rely on the well-organised logistics and well-defined personnel structure in the countries of destination, they can now run their own exploitation business. (Kendall 1999, p. 5)

Analytical surveys generated by Interpol indicate that half of the sex business is now in the hands of non-nationals.

Exploitative Practices and Maintaining Control over their Victims

Traffickers and enforcers have characteristically been known to use excessive violence against their victims to maintain control. Less sinister practices include seizing of documents, confinement of victims to the workplace or threatening them with deportation. More threatening practices include constant monitoring of the victims' whereabouts, threats of violence against the victim and his or her family in the country of origin, actual violence to include tattooing victims, burning them with cigarettes, assault and rape (Jantsch 1998; Vocks and Nijboer 2000).

Unlike the domineering and often violence-prone practices that Albanian and other Central and Eastern European traffickers use to maintain control over their victims, this is not the case in other countries. Accused by the US government of running a global crime network that netted her more than \$40 million dollars, of corrupting foreign government officials and making her a major competitor of China's Central Bank, the 'Mother of All Snakeheads' was, to the thousands of Chinese she helped smuggle into the US, the best-known and most revered figure in New York's Chinatown. She was considered a saint for 'reuniting families' (E. Barnes, *Time*, 31–7–2000, pp. 40–42).

Link to Other Criminal Activities

The networks which smuggle and traffic human beings as well as the victims themselves have been linked to other criminal activities. Criminal groups involved in smuggling and trafficking have not only forced their victims into prostitution, a criminal offence in some countries, but they have also been known to coerce trafficked victims into selling drugs (Gunatilleke 1994; Richard 1999), organised begging and pick pocketing (Kendall 1999).

The criminal groups themselves develop “horizontal interdependencies” (Adamoli et al. 1998, p. 17) which refers to the connections established among different activities by the same criminal organisation and indicates a pattern of diversification. Criminal enterprises make use of the skills, routes, existing contacts and corrupt networks developed in certain markets in specific countries and expand into other illicit markets. In addition to the trafficking, smuggling and pimping of their victims, these organisations are involved in numerous criminal activities. Intelligence sources at Interpol indicate that trafficking supplements more traditional criminal activities such as vehicle theft, drug trafficking¹⁷ (Kendall 1999), trafficking in arms (Savona et al. 1995; Jantsch 1998), and money laundering. Traffickers have been linked to physical violence, extortion for protection money or money lending to repay debts.

THE UNITED NATIONS GLOBAL PROGRAMME AGAINST TRAFFICKING IN HUMAN BEINGS

The Global Programme has been developed by the Centre for International Crime Prevention (CICP) and the United Nations Interregional Crime and Justice Research Institute (UNICRI). UNICRI’s research programme brings to the foreground the involvement of organised crime groups in the smuggling and trafficking of human beings and the CICP’s technical assistance projects promote the development of effective criminal justice responses to it. The projects consist of an integrated package of policy-oriented research and targeted technical co-operation (UNODCCP 1999). In order to fully understand the phenomenon and be able to make effective policy recommendations at the national, regional and international levels, the projects focus on countries of origin, transit and destination.

There are a number of projects, in different stages of development in four different regions of the world: Asia Pacific (Philippines), West Africa (Benin, Nigeria and Togo), Eastern Europe (Czech Republic and Poland) and South America (Brazil). The focus of the research and assessment component is to identify the *modus operandi*, travel routes and degree of organisation of criminal networks/organised crime groups.

¹⁷According to Adamoli et al. (1998, p. 17), Albanian groups smuggle both drugs and aliens across the Adriatic, while Asian crime groups use the same routes to smuggle aliens across the US–Canadian border that were formally used to smuggle cigarettes.

One of the objectives of the Global Programme against Trafficking in Human Beings is to collect quantitative data on trafficking patterns, routes, and illegal practices during all stages of the process from recruitment and transport to settlement and forced labour in the destination country. This data, along with information collected on best practices (to include, among others, legislation, inter-agency co-operation, victim support services) should be made available in a database at the end of the three-year project.

Towards this purpose, UNICRI has developed a number of questionnaires and a checklist for the analysis of case files¹⁸ which should allow for the standardisation and comparison of data. There are three standard questionnaires aimed at different audiences. One questionnaire is designed to collect information on the work of NGOs – their mandates, the clients they serve, the services they provide, and their relationship with both NGOs and governmental agencies. As NGOs have been the forerunners in the field of identifying the problems and providing services to victims, it was felt that many of the best practices could be identified within this group.

The second questionnaire seeks to gather data directly from the victims by asking them a number of questions on their experiences. The focus remains on the illegal practices and the involvement of criminals and criminal groups. This questionnaire will undergo modifications to address specific situations or cultural variables in the countries under study. The third questionnaire, aimed at government law enforcement and intelligence sources emphasises even more strongly the practices and role of organised criminal groups in the smuggling and trafficking of human beings. There is a degree of overlap between the surveys for victims and government agencies. The topics covered in the questionnaire include recruitment practices, exploitation, routes and experience during the travel, costs and debts incurred by the victim (or his or her family), the involvement of criminal groups and organised crime, connivance and corruption. The questionnaire designed to obtain information from intelligence sources delves more deeply into the smuggling/trafficking organisation's involvement into other criminal practices and the nature of criminal earnings.

Generating detailed empirical data will allow us to transcend anecdotal stories and provide us with a deeper understanding of the phenomenon,

¹⁸This checklist was adapted from the checklist that was developed by members of the Van Traa Commission (a parliamentary inquiry commission in the Netherlands to examine the role of police investigative methods and organised crime) and further refined by the Research and Documentation Centre at the Dutch Ministry of Justice. It was developed for the purpose of analysing case files for the Organised Crime Monitor. For more information see Kleemans et al. (1998).

which will allow us to develop better measures to educate potential victims and punish transgressors.

Projects in the Global Programme against Trafficking in Human Beings

In order to fully understand what fuels the phenomenon of smuggling and trafficking in the different countries under study, one must also comprehend the historical, economic, cultural and political situation in the countries of origin and destination. This section focuses on two UN projects to show the differences in the illegal markets and what sustains them.

The Case of the Philippines: An Economically Accepted Practice

The Philippines provides the world's second largest population of overseas workers. What began as a temporary solution to the unemployment problem and balance of payment in 1974, has now reached large-scale proportions and has acquired a life of its own (Go 1996). Remittances from overseas Filipino workers amounted to US\$6,794,550 in 1999.¹⁹ The Philippine government has a vested interest in keeping its citizens safely employed abroad.

Filipinos work in over 150 countries around the world. While most of the migration of women from the Philippines is for the purpose of domestic labour and marriage, a number of the women work in Japan on entertainer visas. Two excellent studies on trafficking of Filipinos to Europe (Ateneo 1999) and Japan (IOM 1997) document cases of trafficking of Filipinas for forced labour and sexual exploitation. However, preliminary interviews in both Australia and Europe during the course of this research project²⁰ indicate that while Filipinos make use of 'extra-legal' smuggling routes, usually for the purpose of joining family members, the *trafficking*

¹⁹Source: Foreign Exchange Department, Bureau of Labour and Employment Statistics. These figures include remittances from overseas Filipino workers as well as immigrants.

²⁰Interviews with officers at the Australian Embassy in Manila, the Consulate General of the Philippines, Torino, Italy, an investigative officer specialising in trafficking in human beings at Europol, the Hague, and an intelligence officer at the UK Immigration Service, London, point to the fact there are few cases of trafficking of Filipinos to these destinations. The situation involves more often cases of Filipinos using illegal channels to be smuggled into the country after their relatives in Western Europe or Australia have paid their passage. While there are cases of trafficking, in particular of women, from South-East Asia, it involves women from other countries in the region.

of Filipinas to Western Europe and Australia is not reaching noticeable proportions among embassy and intelligence sources. Interviews with government officials²¹ in the Philippines point to the fact that the government is most concerned with the welfare of women who have been trafficked to Japan and exploited in the sex industry. There are indications that these women are falling under the control of Japanese organised crime (Heazle 1993). The Philippines Centre for Transnational Crime (PCTC) reports, however, that Japan is no longer a favourite destination for Filipino 'entertainers' and only half of the 150,000 entertainers remain in Japan. The other half seek employment in Canada, Nigeria, the Middle East and other countries (Cascolan 2000).

The Philippine Government has taken strict and extensive measures to protect its citizens, including mandatory, pre-travel counselling and background checks on perspective spouses. Women wanting to leave the country on an entertainment visa must undergo an audition to prove that they can perform professionally. If this is not the case, permission to leave the country is denied.

Within the framework of the UN pilot project on Coalitions against Trafficking in Human Beings in the Philippines, a coalition has been formed between 13 government agencies which, in one way or another, address the issue of foreign workers and/or smuggled or trafficked individuals. This should facilitate the government's approach to successfully addressing the problem. To collect and concentrate expertise, the Philippines Center on Transnational Crime has been created. Awareness-raising training for law enforcement officers in outlying regions is another technical assistance measure introduced through the project.

The Case of West Africa: A Culturally-Accepted, Historical Practice

There has been extensive research on the trafficking of children for labour exploitation in West Africa (see Kekeh 1997; UNICEF 1998, 2000; ESAM 1998, 1999; Entraide Universitaire Mondiale du Canada 1999; Bazzi-Veil 2000; Verbeet 2000). The CICP/UNICRI project in West Africa focuses on the countries of Benin, Nigeria and Togo.

²¹Interviews were held during a mission to the Philippines in September 2000 with high ranking government officials from the following departments: Bureau of Immigration, Interpol Liaison Office, National Bureau of Intelligence, Commission for Filipinos Overseas, Philippine Overseas Employment Administration and the National Police Commission.

In West Africa, movement of persons, placement of children outside of the home and trafficking within the borders of a country are fairly common practices although, due to the stark differences in the economies of some of the Western African nations, trans-border trafficking occurs as well.

In the countries of Benin and Togo, trafficking predominantly involves children for the purpose of labour exploitation as domestic servants²² (female children) and on farms and plantations (male children). This movement can be attributed to social, economic and historical factors. Historically, the West African region has been characterised by patterns of migration. Children have taken part in these migratory practices. Children are introduced to work at very young ages. Through this work they are taught social values. Furthermore, the life and education of a child is the responsibility of the extended family. It is not uncommon for children to grow up in the family of relatives, or third persons, if these persons are living in better circumstances and can thus provide the child with better educational and work opportunities. In part, the voluntary placement of children (which often leads to their trafficking) is driven by poverty, in part by the desire to provide a better life for their children (Verbeet 2000).

The trafficking of children may take a number of forms (Entraide Universitaire Mondiale du Canada 1999). The child can be sold outright by his or her parents for a small amount of money (which may range from CFA 10,000 to CFA 100,000 depending on the country where the transaction takes place); the child may be placed with the creditor of the family as reimbursement; the child may be promised a job and may in fact work but usually under exploitative conditions and the mediator usually collects the child's salary; lastly, the child may be given by the parents to an individual who promises to provide the child with either a good education or job training. The child receives neither and is usually forced into working on a plantation or as a maid, a 'load carrier'²³ or street vendor.

Interviews with NGOs, government officials and even trafficked children (while on mission to Benin and Togo in September and November 2000) paints a tragic picture of parents willingly giving their children to strangers who come to the village with promises of providing the children with an education and a job. The author had the opportunity to interview a nine-year-old Beninese female child who had been brought by her sister at the age of six to work as a domestic helper in a Nigerian household.

²²In Togo, girls are (trafficked and) placed to work as domestic servants in order to prepare them for married life and to gain their dowry (Verbeet 2000).

²³'Load carrier' is the name given to individuals who are paid meager amounts to carry large, heavy loads on top of their heads. Often these are women and young children.

After three years, the child escaped and was being assisted by the Consulate General of the Republic of Benin to repatriate her. She could not remember her native dialect and had difficulties speaking French; she could, however, speak the Yoruba dialect that she learned in the Nigerian household. Two Togolese boys were interviewed during one of the missions. Their parents had sent them to another West African country to learn a trade. Instead, they were exploited for three years and then dismissed with not even enough money to pay their transportation back to Togo. While some children want to leave, enticed by promises of bicycles or small radios, the majority of them are too young and inexperienced to make a rational decision. The younger children are involuntarily sent by their parents, in the false belief that they are helping their child who is often subjected to years of hard work and exploitation in foreign countries.

The situation in Nigeria differs somewhat from that in the other two countries under study. While Nigeria serves as a destination country for children being trafficked from Togo and Benin, it is also a source country. While Nigerian children are trafficked in the sub-region for labour exploitation, young girls and women are also being trafficked not only in the sub-region but also to destinations in Europe and beyond for the purpose of sexual exploitation.²⁴

Approximately 95% of the Nigerian women trafficked to Italy for the purpose of prostitution come from Benin City in Edo State, which, interestingly enough, is not the most poverty-stricken region in Nigeria. Reports abound of the use of 'ju-ju' or ritual contracts or oaths originating in Voodoo practices to ensure the women's success, prevent them from speaking out and protect the traffickers (Gramegna 1999; Aronowitz, interviews with various officials during the UN start-up mission to Nigeria, November 2000).

The governments in all three countries are aware of and concerned with the problem. Extensive research, in part conducted by local and foreign NGOs and Intergovernmental Organisations such as UNICEF, the International Labour Organisation (ILO) and the International Organisation for Migration (IOM) have called world-wide attention to the problem (the ILO study on child labour (Verbeet 2000) was conducted with the financial support of the US Department of Labour). Nigeria has signed bilateral agreements with a number of countries to repatriate its citizens and for-

²⁴Young unaccompanied (female) minors arrive in the Netherlands and within weeks disappear from reception centres to end up in prostitution. Italy is the main destination for adult Nigerian women entering (or being forced into) prostitution. Few countries are immune to the problem and even on the idyllic, tourist Canary Island of Tenerife, Nigerian traffickers have been running prostitution rings (*Tenerife News* 4-1-2001, p. 13).

eign governments have expressed interest in investing in both prevention and repatriation projects. NGOs in all three countries were and continue to be the forerunners in calling attention to the problem and providing shelter and awareness-raising prevention campaigns to victims or potential victims. In all three countries the NGOs work fairly closely with government agencies. One of the objectives of the UN's trafficking project is to assist in the design and development of a council involving all three countries in order to facilitate study of the problem of trafficking as a sub-regional problem and to assist in the repatriation and follow-up of trafficked victims between the countries.

These two examples shed some light on problems endemic to these countries or areas. The reasons which propel individuals from these countries or areas to sometimes use irregular channels to migrate, or the methods which are used to entice and traffic the individuals may differ somewhat from those which affect migrants from other parts of the world. The nature of the trafficking or the destination countries may differ. The conditions which these individuals flee from in their own countries, however, are comparable to those in other countries: extreme poverty, limited or non-existent educational and job opportunities and the hope for a better life for themselves or their children, elsewhere. The following section will examine, in more depth, the conditions which facilitate the smuggling and trafficking of human beings.

CONDITIONS FACILITATING THE SMUGGLING AND TRAFFICKING OF HUMAN BEINGS

This section examines some of the reasons why transnational trafficking can exist and continue with little impunity. There are a number of elements facilitating smuggling and trafficking of migrants (Winer 1996). These elements are applicable, in varying degrees, to source, transit and receiving countries.

Lack of Legislation

Perhaps the most pervasive problem in many countries is the lack of legislation defining, and putting forth a sentence to punish the offence. While this is true of many countries in transition and development, they often have legislation prohibiting activities included in the trafficking process—falsification of documents, living off of the proceeds of a prostitute, kidnapping and/or transporting children across borders without the permission of the parents, and false imprisonment.

Lack of Political Will and Corruption

These two elements often go hand in hand. Corrupt government officials who profit from the practices involved in trafficking of human beings – payment for false documentation, visas, or the safe passage at border crossings – often lack the political will to commit to passing and enforcing legislation.

Lack of Capacity

Extensive, unguarded borders and weak border patrols as a result of a lack of both manpower and material resources,²⁵ hinder many immigration and law enforcement agencies and thus facilitate the smuggling of migrants and children.

Lack of Co-operation Both Internally and Internationally

Domestically, various agencies are concerned with the protection of individuals' rights and safety as well as the investigation of criminal activities. Co-operation between agencies does not always exist within a country. In order to address the problem of transnational trafficking, international police and justice co-operation is essential.

These factors, however, do not address the real causes which drive persons to take the risks: increased and widespread poverty, insufficient educational and training opportunities, high demand for cheap labour and sex, and ignorance of the risks and dangers involved (UNICEF 2000).

STRATEGIES TO PREVENT AND FIGHT SMUGGLING AND TRAFFICKING IN
HUMAN BEINGS

Only an integrated and comprehensive approach will be effective in fighting and reducing the transnational trafficking in human beings. This ap-

²⁵In Benin there are 700 kilometres of unguarded, porous borders. The agency responsible for protecting children throughout the country, the Brigade for the Protection of Minors, is comprised of only eight people. Nigeria must struggle with another set of problems as the country is constantly plagued by electricity outages and the immigration outposts often do not even have telephones, let alone computers. Such limitations greatly hamper even the most honest efforts to address the problem.

proach must meet the following three-pronged test: prevention, protection and assistance to trafficked victims, and enforcement and prosecution of traffickers (Warnath 1998).

Prevention

Awareness and sensitisation campaigns are important at two levels. On the one hand, it is necessary to target persons at risk of becoming trafficking victims in their countries of origin. Sensitisation campaigns are also necessary in the transit and destination countries to inform the local population of the plight of these victims. Too often the victims are criminalised because of their illegal status in the country or their involvement in prostitution. Populations in the receiving countries must be made to understand that these trafficked migrants are victims and need legal protection and social support services. Many NGOs at the local, national and international level (La Strada) as well as intergovernmental organisations (IOM) in the source countries are actively involved in awareness campaigns targeting potential victims.

Research is essential to identify individuals or groups at risk and to determine whether or not awareness-raising campaigns, assistance programmes and laws are effective. A study (Vocks and Nijboer 1999, 2000) on trafficked women from Central and Eastern Europe who were brought to the Netherlands and forced to work in prostitution shows that the majority of those interviewed were working as prostitutes in their own countries and/or at least knew that they would be working as prostitutes abroad. This, of course, has implications for awareness-raising campaigns in countries of origin, where information about the dangers of trafficking must be targeted toward the local prostitution population as well as towards other potential victims.

Economic alternatives require strengthening educational, training and job opportunities in the countries of origin. Numerous intergovernmental organisations such as UNICEF and NGOs in the countries of origin are actively involved in providing such opportunities to children and young women to prevent their departure or facilitate their return. Governments in destination countries can play a role as well. The United States through USAID participates in economic alternative programmes in source countries, including job and skills training, economic opportunity and small business development (Warnath 1998, p. 64). This programme has committed \$3.1 million to developing economic alternatives for women in countries of origin (aimed at women in the Ukraine and Poland; US Department of State).

Intervention and deterrence measures (development of training material) are important to help those in consular offices, immigration, police and health care workers recognise a situation and be able to intervene to assist trafficking victims extract themselves from dangerous situations. This, however, is not sufficient but must be followed-up with assistance to the victims.

Strengthening Protection and Assistance to Victims

Victims require a variety of services. These range from financial and legal assistance to psychosocial support, and support and protection for the families in the country of origin. Should victims desire to return home, co-operation between destination and source countries is necessary in order to strengthen reintegration. Reintegration assistance must be provided to victims who chose to or are forced to return (for a description of IOM's work in this area see Escaler 1998).

Legislation should offer victims protection, particularly in situations when their life is in danger. In Italy, for instance, Article 16 allows the chief of police to grant a special residence permit whenever police operations, investigations or court proceedings, or the social services of a local administration identify situations of abuse or severe exploitation of a foreign citizen, and whenever the safety of the foreign citizen is seen to be endangered as a consequence of attempts to escape from the conditioning of a criminal organisation or of statements made during preliminary investigations or in the course of court proceedings (Giammarinaro 1998).

Efforts must be made to strengthen NGOs which are often the front line workers with victims of trafficking, particularly with migrants who fear or mistrust the police. Furthermore, a positive and strong working relationship must be established between police and NGOs if efforts to assist and protect victims and strengthen prosecutions are to be successful. As an example of a successful co-operative relationship, the German police often work closely with NGOs so that even in the investigative phase the trafficking unit co-operates with interpreters and the NGOs, who are present as early as the raid (Kangaspunta 2000). CO14 of the London Metropolitan Police Department endeavours to establish links with NGOs and embassy personnel in the countries of origin in order to facilitate the safe return of trafficked victims (Kelly and Regan 2000).

It must be remembered that victims of trafficking, even if the initial departure from the country of origin was voluntary, have often suffered unspeakable degradations and physical violence at the hands of the traffickers. Until their safety can be guaranteed in the destination country and

the country of origin, should they choose to, or be forced to return, they should be given the right to remain safely in the destination country. A number of countries²⁶ have implemented this protection which grants victims of forced prostitution temporary resident permits.

Effective Legislation, Law Enforcement and Prosecution

First and foremost, legislation must exist prohibiting the offences of smuggling and trafficking. It must also be enforced. Governments must take the violation of this legislation seriously. According to Bales (1999b, p. 9)

[. . .] a key finding (in his study) is the importance of governmental corruption in predicting trafficking. This analysis suggests that reducing corruption should be the first and most effective way to reduce trafficking. In other words, potential traffickers need to understand that their government perceives trafficking as a crime and that they cannot bribe their way out of prosecution or through the border if they commit the crime.

More research must be done on trafficking routes, the *modus operandi* of criminals and their organisations and the relationship that victims have with their traffickers. Law enforcement and intelligence agencies must keep abreast of new technology and the use of the Internet for recruitment purposes. Technical assistance programmes are essential to help strengthen law enforcement and criminal justice systems in developing countries and those in transition which are the countries of origin and increasingly new countries of transition and destination.

Awareness-raising and training among law enforcement officials is essential in many countries. It is of the utmost importance that cases be recognised as trafficking cases and not simply classified, for instance, as document forgery or prostitution cases. Further, expertise must be developed and these 'task forces' must be adequately staffed. Law enforcement should dedicate sufficient staffing to work with victims to ensure their protection and co-operation. It would behove law enforcement (and prosecutors) to work more closely with NGOs. NGOs such as the *Stichting Tegen Vrouwenhandel* (Foundation against the Traffic of Women) in the Netherlands and PAYOKE in Belgium enable about half of the trafficked women they support to provide evidence against their exploiters (Kelly and Regan 2000).

²⁶Austria, Belgium, Germany, Italy and the Netherlands are among the countries which have implemented this regulation.

Law enforcement should not, however, rely upon evidence and testimony supplied by trafficked victims. It is essential that agencies, in addition to taking a reactive approach (responding to a complaint) take disruptive and proactive measures to fight trafficking in human beings. When evidence is insufficient to mount a criminal investigation, disruptive measures can be taken by implementing health, safety, and fire regulations to 'interfere' with the smooth operation of suspected businesses. Proactive approaches require intelligence gathering (such as wiretaps or surveillance) aimed at collecting enough evidence for a prosecution (Kelly and Regan 2000).

The improvement of data collection and information sharing is essential in the fight against organised trafficking schemes. This must occur at the local and national level to fight internal trafficking, and at the international level to aid in the fight against transnational trafficking operations. Furthermore, this information must be shared between law enforcement agencies in countries of origin, transit and destination.²⁷

Awareness-raising, information sharing and training must also occur among consular and embassy offices in foreign countries to ensure that traffickers do not use false documents to apply for visas.²⁸

Domestically, at the local and national level, interagency co-operation is needed to strengthen prosecutions (that is, the Department of Labour should assist in prosecution of cases involving forced labour).

Penalties for smuggling must be strengthened.²⁹ The length of the sentence which may be handed down upon conviction, determines, in many countries, whether or not the suspect can be held on remand. In international trafficking cases, particularly when suspects are likely to flee, it is

²⁷Within weeks after 58 Chinese migrants were found dead in the back of a truck in Dover, law enforcement agents in various countries were able to trace the exact route taken by the smuggled victims and were able to identify part of the trafficking ring responsible for their transport and ultimate deaths.

²⁸In one West African country, consular and embassy offices of many of the EU countries and the US, among others, share information on falsified documents to guarantee that smugglers and traffickers do not go 'visa hopping' (going from one embassy to the next until they find one which will issue a visa). The US embassy prints a monthly 'Anti-Fraud' bulletin and there are meetings in which embassies and consular offices exchange information on the latest 'tricks' that are being used to apply for visas.

²⁹Richard (2000) makes a plea for penalty enhancement (increasing the length of a penalty for a particular offence) if certain conditions exist, such as the trafficking of underage victims, trafficking a large number of victims, unsafe transportation or an act resulting in bodily injury or death, sexual assault, involvement in organised crime or the laundering of profits.

essential that the criminal justice system is able to hold them on remand prior to trial.

Research (Slobbe and Kuipers 1999) found that an increased sentence for the smuggling of human beings in the Netherlands resulted in more cases being investigated and prosecuted in the courts than under the previous law. The increased penalty was an indication that this offence was now a priority for the criminal justice system and warranted large-scale, timely and costly investigations and prosecutions.

International Co-operation

Unless countries begin co-operating, law enforcement and criminal justice responses will continue to be ineffective. Furthermore, stringent measures in one country do not stem the flow of illegal migration or trafficking but simply displaces it. It is believed that the increase in illegal Chinese immigrants to Europe is a response to the US Government crackdown on illegal Chinese after the Golden Adventure disaster in 1993. The influx of illegal Chinese to Great Britain, is in part, attributable to Germany's 1994 law which allows migrants to be turned away along the German border before they have set foot on German soil to apply for asylum (*Newsweek*, 25–6–2000).

International co-operation must include, but not be limited to, the exchange of information,³⁰ co-ordination and harmonisation of national policies and laws, bilateral or multilateral agreements with respect to victim protection and repatriation and reintegration assistance, and extradition of criminals. More technically advanced nations should provide technical assistance to developing nations and those in transition in the fields of legislation, data collection and travel documentation. The provision of training and assistance is necessary to help eradicate corruption amongst poorly trained government officials.

CONCLUSIONS

The smuggling and trafficking of human beings, while difficult to measure in terms of the magnitude and scope, appears to be a growing phenomenon. It has been suggested that trafficking in human beings generates more

³⁰The United States and Italy have entered into a formal agreement with respect to an exchange programme on investigation methods, statistical data and analyses of trafficking between the two countries (Sciacchitano 1999).

profit than trafficking in drugs, because a person can be used, traded and sold numerous times. If one is caught, penalties are low compared to trafficking in drugs.

The push towards illegal migration is fuelled in the source countries by severe economic conditions, ethnic wars and little future perspective. Safety and economic security in the richer countries make them attractive destinations. The patterns of illegal migration are in a constant state of flux and what were once traditional countries of origin and transition are themselves becoming countries of destination. People continue to strive towards a more positive future in other countries and there are those who will provide the illegal mechanisms to facilitate the migration. In the best case scenario, smuggled individuals become illegal migrants; in the worst they become victims of trafficking and are subjected to exploitative conditions.

The illicit migration movement can be viewed as an illegal market. The smuggling/trafficking process generates profits in its own right. Further, the hidden markets, many of them (semi-)legal, profit from the use of illegal, cheap labour, thereby intersecting with the criminal(s) who smuggle and traffic illegal migrants. Individuals who employ and exploit illegal migrants range from legal 'entrepreneurs' to organised crime networks. Lastly, there is a strong link between the smuggled and trafficked persons and criminal activities as well as between the illicit markets (supported by smuggled and trafficked persons) and organised criminal activities.

Smuggled persons and trafficked 'victims' differ as do the individuals and organisations which move them. Educational and skill levels vary tremendously, as do the degree to which victims were deceived or the degree of exploitation to which they are exposed. By the same token, the criminals who smuggle and traffic them can range from individuals providing a single service to loose criminal networks to highly organised criminal operations.

The smuggling/trafficking problem is exacerbated by a number of factors to varying degrees in source, transit and destination countries, among them, lack of awareness of the problem and a common definition, insufficient or non-existent legislation, lack of, or insufficient co-operation between agencies both at the domestic and international levels.

A number of NGOs, governments and international bodies have taken measures to address the problem. The General Assembly of the United Nations has signed a Convention on transnational organised crime and two protocols on the smuggling of migrants and the trafficking of human beings. As of 15 December 2000, 123 countries have signed the Convention, 77 the Smuggling Protocol, and 80 the Trafficking Protocol. This provides

governments with a common definition. Knowledge is being increased through research which is shedding light on the nature of victims and how to protect them, the effect of increased penalties, and the involvement of organised criminal networks and the routes used in the smuggling and trafficking process. Numerous conventions and conferences are placing the topic high on the national and international agenda. Countries of destination are beginning to invest in source countries. International networks of NGOs and IGOs are providing educative prevention programmes and services to victims and those at risk. And government agencies are beginning to form coalitions to address the problem at home, while international co-operation is addressing the problem at the transnational level. The United Nations, through its Global Programme against Trafficking in Human Beings will be a major contributor in assisting countries prepare for the ratification and implementation of the Convention and the protocols as well as at strengthening government responses to the smuggling and trafficking problem.

In spite of all the measures that are currently being undertaken, it will be impossible to stem the tide of illegal migration until the root causes of the problems in source countries are permanently rectified. This is a long-term commitment, but the only permanent solution to the problem.

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