



Geneva Centre for the Democratic Control of
Armed Forces (DCAF)

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Security Sector Responses to Trafficking in Human Beings

Megan Bastick and Karin Grimm

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Megan Bastick and Karin Grimm

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Abstract

In recent years trafficking in human beings has become an issue of increasing concern to European states. Trafficking in human beings is understood as a human rights issue, a violation of labour and migration laws, and as undermining national and international security through its links to organised crime and corruption.

United Nations agencies, the European Union, the Council of Europe and the Organisation for Security and Cooperation in Europe, amongst others, make important contributions to coordinating the fight against human trafficking. However, there remain significant deficits in concrete information sharing and cooperation between the security agencies of different states necessary to achieve success. In many countries, cooperation among local security sector actors, other state agencies and non governmental organisations has improved. However, ensuring that the human rights of trafficking victims are protected requires more substantial training and specialised operational procedures within the security sector.

This paper brings a governance analysis to security sector responses to human trafficking. It focuses on security governance approaches concerning criminalisation and harmonisation of laws, prosecution of traffickers, protection of trafficked persons, prevention in countries of origin and prevention in countries of destination. The authors identify key shortcomings in current security responses to human trafficking, and make recommendations to states with a particular focus on national and international coordination and the prevention of human trafficking.

Security Sector Responses to Trafficking in Human Beings¹

Megan Bastick and Karin Grimm

1. Introduction

Human trafficking violates human rights and undermines national and international security through its links to organised crime and corruption. The Geneva Centre for Democratic Control of Armed Forces (DCAF) highlighted the scourge of human trafficking in its book, *Women in an Insecure World: Violence against women – facts, figures and analysis*.² The related issue of anti-trafficking measures in post-conflict peace-building was addressed in DCAF's 2005 Year Book.³ DCAF also collaborates in the important work of the Global Coalition 'Women Defending Peace', initiators of the campaign 'End Human Trafficking Now!'⁴

The security sector plays a central role in preventing human trafficking, and has important responsibilities in responding to trafficking in such a manner as to respect and promote the human rights of trafficked persons. This policy paper discusses a number of ways to strengthen responses of the security sector to human trafficking. It employs a security governance analysis of anti-trafficking initiatives, identifying priorities with regard to laws concerning trafficking; law enforcement; support for trafficked persons; and prevention of trafficking in origin, transit and destination countries. It is important to note here that while the security sector is the focus of this paper, given the complex causes and consequences of trafficking in persons, it can never be more than a vital element of a much larger anti-trafficking strategy.

This paper has a particular focus on anti-trafficking policies and activities in and around the European Union (EU). Europe has long constituted a key site of source, transit and, most especially, destination for trafficked persons. Europe has been host to a great number of anti-trafficking programmes, from which important lessons can be distilled. The recent Finnish EU Presidency (1 July 2006 – 31 December 2006) had a strong focus on implementation of the *EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human*

¹ Thanks for revisions and comments go to: Benjamin Buckland, Research Assistant, DCAF; Anja H. Ebnöther, Assistant Director, DCAF; Dr. Cornelius Friesendorf, ISN; and Stephan Libiszewski, of the Swiss Federal Police's Coordination Unit against the Trafficking in Persons and Smuggling of Migrants.

² Vlachová, M. and BIASON, L. eds. (2005) *Women in an Insecure World: Violence against women – facts, figures and analysis*, DCAF, Geneva.

³ V.-Y. Gheballi, "Designing Effective Measures Against Trafficking in Human Beings" in *Security Governance in Post-Conflict Peacebuilding*, ed. A. Bryden and H. Hänggi (Geneva: DCAF, 2005), 233-250.

⁴ The 'End Human Trafficking Now!' campaign engages the private sector in initiatives to prevent human trafficking. Initiated at the Athens roundtable in January 2006, the campaign brings together the business community with the IOM, ILO, INTERPOL, governments, legislative bodies, international organisations, NGOs and others involved in combating human trafficking.

Beings (the EU Action Plan).⁵ The German EU Presidency (1 January 2007 – 30 June 2007) continued implementation of this Action Plan, emphasising closer cooperation with Europe’s eastern neighbours and discussing proposals to expand the powers and mandate of EUROPOL and other cross-border policing mechanisms. Many EU Member States are also involved in implementing the 2003 Organization for Security and Co-operation in Europe (OSCE) *Action Plan to Combat Trafficking in Human Beings*.

The paper is divided into two sections. The first section gives an overview of the nature and scope of human trafficking. The second section identifies particular inadequacies of the security sector in preventing and responding to trafficking, and makes recommendations to address these inadequacies. The analysis includes the following dimensions of anti-trafficking action:

- regulation and harmonisation of human trafficking laws;
- criminal justice and law enforcement;
- support for trafficked persons;
- prevention in countries of origin;
- prevention in countries of destination.

It is intended that this paper form the initial basis for future work by DCAF on the issue of trafficking in human beings, including a manual containing both geographical and thematic approaches to the issue as well as a comprehensive set of tools for policy makers and high-level security sector actors.

2. The Nature and Scope of Trafficking in Human Beings

2.1. Key concepts

Trafficking in persons is defined by the 2000 *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children* (Palermo Protocol) as:

(a) [T]he 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

⁵ European Council, “EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings. Regulation No OJ C 311, 9.12.2005” Official Journal of the European Union 311, no.1 (9 December 2004), http://www.osce.org/documents/cthb/2005/12/18676_en.pdf (accessed 7 August 2007).

labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) 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 subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.⁶

From this definition we can draw out a key distinction between trafficked and smuggled persons. Trafficking always involves an element of coercion and exploitation. Trafficked persons have not consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers. Smuggling of illegal migrants, on the other hand, while often dangerous and degrading, almost always involves an element of consent on the part of the smuggled person. Furthermore, smuggling involves movement across internal or international borders while, as the United States Government’s 2007 *Trafficking in Persons Report* points out: “Movement to the new location is incidental. The force, fraud, or coercion exercised on that person to perform or remain in service to another is the defining element of human trafficking...”.⁷

In practice, the distinction between persons being trafficked and persons being smuggled is often hazy or even non-existent. Many people may end up beginning their journey in one category and ending it in another. Smuggled persons are often forced into slavery or servitude as they struggle to repay the “debts” that they have incurred to smugglers/traffickers.⁸ Similarly, many trafficked persons may be refugees and vice-versa.⁹

⁶ Adopted by GA resolution A/RES/55/25 of 15 November 2000; entered into force 25 December 2003. As of September 2007, 117 states have signed the protocol with 115 ratifications. The grave consequences of human trafficking have also been recognized in the Rome Statute of the International Criminal Court. Under the Statute, trafficking may constitute the crime against humanity of ‘enslavement’ or be a war crime in certain circumstances.

⁷ United States of America, Department of State, *Trafficking in Persons Report*, Condoleezza Rice, introduction (Washington: Department of State, 2007).

⁸ Claire Brolan. “An Analysis of the Human Smuggling Trade and the Protocol Against the Smuggling of Migrants by Land, Air and Sea (2000) From a Refugee Protection Perspective.” *International Journal of Refugee Law* 14, no.4 (2003): 579.

⁹ Anne Gallagher. “Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis.” *Human Rights Quarterly* 23, (2001): 1001; Andrew Brouwer, and Judith Kumin. “Interception and Asylum: Where Migration Control and Human Rights Collide.” *Refugee* 21, no.4 (December 2003): 9.

Further compounding difficulties in drawing accurate distinctions is the fact that, due to reasons of cost, corruption or administrative convenience, government agents may have incentives to misclassify migrants.¹⁰ As Gallagher has highlighted:

The regime created by the convention and its protocols (whereby trafficked persons are accorded greater protection and therefore impose a greater financial and administrative burden than smuggled migrants) creates a clear incentive for national authorities to identify irregular migrants as smuggled rather than trafficked.¹¹

This problem is often exacerbated by the fact that in many cases governments have placed the burden of proof of status on the individual.

As a final point, it is important to note that children under 18 years of age can never give valid consent to be trafficked. Any recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation is a form of trafficking, regardless of the means used.

2.2. Overview of Global Patterns in Human Trafficking

The International Labour Organisation's (ILO) 2005 report, *A Global Alliance Against Forced Labour*, estimates that each year 2.45 million persons are trafficked for forced labour worldwide.¹² The United Nations Children's Fund (UNICEF) estimates that some 1.2 million children are trafficked each year.¹³ The United Nations Office on Drugs and Crime (UNODC), based upon its Database on Human Trafficking Trends, reports that people are trafficked from 127 countries into exploitation in 137 states.¹⁴

These figures tell us that human trafficking is truly a global phenomenon but little more. The lack of proper data on trafficking in persons is a serious obstacle to addressing the issue effectively and efficiently. In the absence of an adequate system to collect and analyse data, it is difficult to draw comparative conclusions.

The purposes for which people are trafficked vary between and within regions. In Asia, for example, it is estimated that of the approximately 9.5 million people in forced labour, less than 10% are trafficked for commercial sexual exploitation. Looking at the situation globally, this percentage is estimated to be just under half. In the European context the percentage may be much higher but, as elsewhere, there is a lack of good comprehensive data, indeed, the failure to systematically collect and exchange data is one of the prime weaknesses of anti-trafficking action

¹⁰ Michele Anne Clark. "Trafficking in Persons: An Issue of Human Security." *Journal of Human Development* 4, no.2 (July 2003): 253.

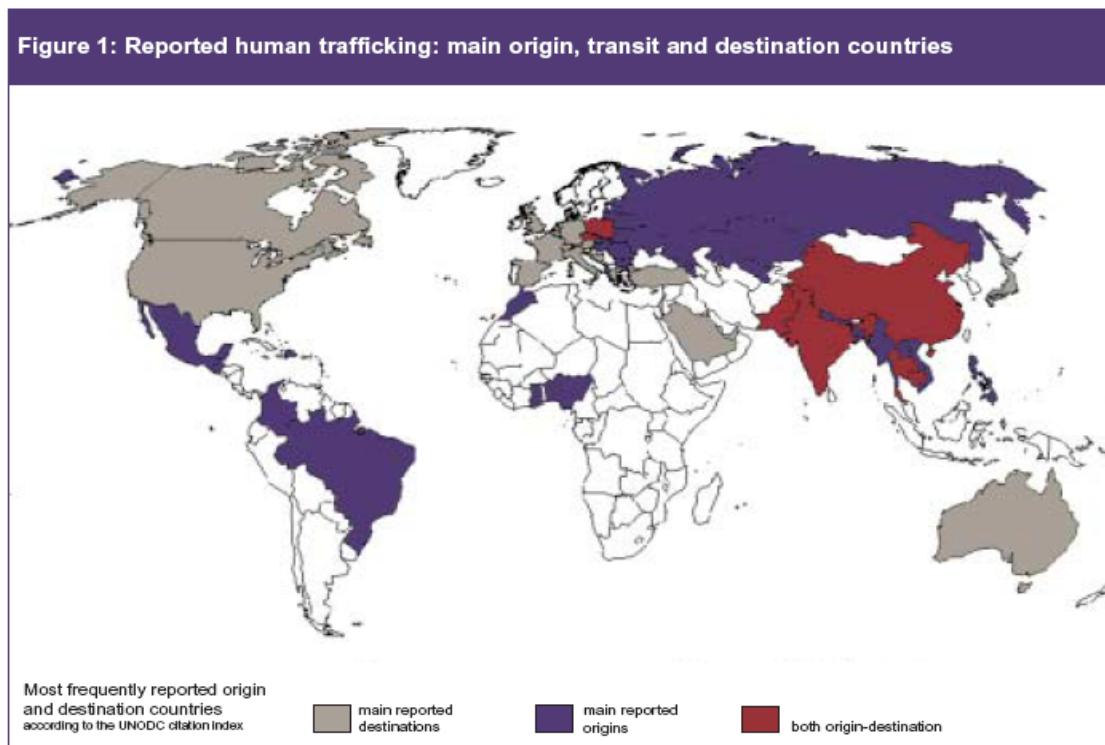
¹¹ Anne Gallagher, "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." *Human Rights Quarterly* 23 (2001): 995.

¹² International Labour Organisation, *A Global Alliance Against Forced Labour*, Report of the Director General (Geneva: International Labour Office, 2005), 1-94.

¹³ UNICEF, "Facts on children: Child Protection," *UNICEF Press Centre*, April 2007, http://www.unicef.org/media/media_35903.html (accessed 7 August 2007).

¹⁴ UNODC, *Trafficking in Persons - Global Patterns*, Vienna: UNODC, 2006, 17.

worldwide.¹⁵ What is clear is that the vast majority of attention by governments, international organisations and non-governmental organisations has been on the traffic of women and children for commercial sexual exploitation.¹⁶



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2.3. Overview of Patterns in Human Trafficking in Europe

Western Europe is predominantly a *destination* region for trafficking, while Central and South Eastern Europe are primarily regions of *origin and transit*, acting to a lesser extent as final destinations.

While purposes of trafficking vary by region, many sources estimate that, in Europe, the majority of trafficked persons are women and girls trafficked for sexual exploitation. This is, of course, not to discount the importance that policymakers should attach to the sizable number of people trafficked into Europe for other types of labour, notably in the construction, agricultural and textile sectors.

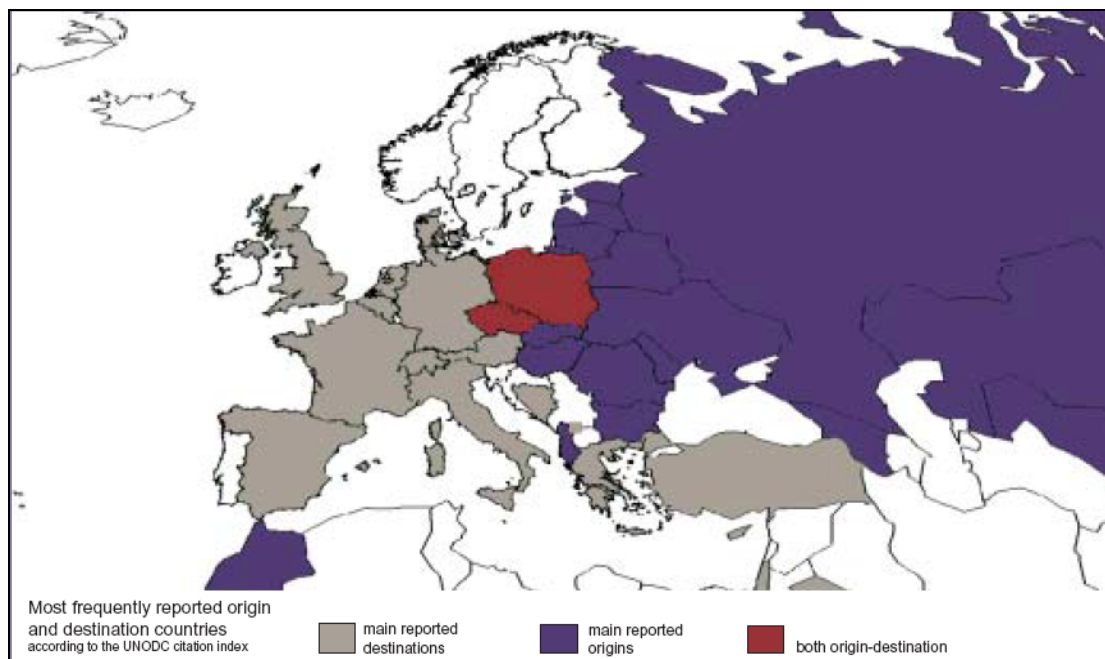
Looking specifically at the EU, its members are a combination of origin, transit and destination states (or some combination of the three). The EU candidate countries (Croatia, The Former Yugoslav Republic of Macedonia and Turkey) and its so-called potential candidate countries (Albania, Bosnia and Herzegovina,

¹⁵ David A. Feingold, "Think Again: Human Trafficking." *Foreign Policy* 150, (October 2005): 26-32.

¹⁶ UNODC, *Trafficking in Persons: Global Patterns* (Vienna: UNODC, 2006), 17-33. UNODC notes that the sum of percentages is over 100 because one source can indicate more than one victim profile or form of exploitation. The UNODC Trafficking Database and report do not include trafficking of persons within one territory.

¹⁷ UNODC, *Trafficking in Persons - Global Patterns*, Vienna: UNODC, 2006, 17.

Montenegro and Serbia)¹⁸ are all medium-to-high origin and transit countries, but also trafficking destination countries to varying degrees.¹⁹ Western Europe is the destination of trafficking victims from all over the world, with the majority arriving from Central and South Eastern Europe. UNODC reports the most frequent origin countries for Western Europe as (in no particular order): Albania, Romania, the Czech Republic, Lithuania, Bulgaria, Latvia, Poland, Hungary, Ukraine, Russia, Moldova, Nigeria, Colombia, Brazil and the Dominican Republic.²⁰ Persons from Central and South Eastern Europe are not only trafficked into Western Europe, but trafficked *within* Central and South Eastern Europe. Persons are, in turn, trafficked *into* Central and South Eastern Europe from Russia, Belarus, Moldova, Ukraine and other members of the Commonwealth of Independent States.



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Trafficking routes are highly fluid. A 2004 report on human trafficking in South Eastern Europe noted complex European trends:

[I]t seems that the Western Balkans is now being used less often as a region of transit. Much more information emerged in 2004 about trafficking organised from Moldova, Romania and Bulgaria directly to EU states. There is also more information about trafficking

¹⁸ Serbia here is taken to include Kosovo, a major trafficking hub over recent years.

¹⁹ The UNODC assigned characteristics for EU members states include: Italy - very high destination, very high transit; Belgium, Germany, Greece - very high destination, high transit; Netherlands - very high destination; Austria, Denmark, Spain, United Kingdom - high destination; France - high destination, high transit; Poland - high destination, very high transit, high origin; Hungary- very high transit, high origin; Czech, Slovakia - high transit, high origin; Estonia, Latvia - high origin; Lithuania - very high origin; Romania - very high origin, high transit; Bulgaria - very high origin, very high transit. For full details, consult UNODC, *Trafficking in Persons: Global Patterns* (Vienna: UNODC, 2006), 18-20.

²⁰ *Ibid.*, 93.

²¹ UNODC, *Trafficking in Persons - Global Patterns*, Vienna: UNODC, 2006, 27.

from Moldova, Romania, Bulgaria and Ukraine to Turkey and Russia, as well as to Israel and the Middle East ...²²

That there has been a steady decrease in the number of assisted persons in South Eastern Europe has been attributed by experts more to the fact that trafficking is becoming better hidden and better organised, rather than to an actual decline in the number of trafficked persons.²³

2.4. Both Organised Crime and Violation of Human Rights

Trafficked persons are usually the subjects of crimes beyond that of being trafficked. They are often exposed to violent acts at the hands of traffickers including rape, beatings and drugging, as well as being forced into prostitution and sexual slavery, detained, and prevented from accessing health, legal and other support services.

Such treatment of trafficked persons is in violation of a number of specific human rights. In the context of the *European Convention on Human Rights*, such acts may violate the Convention's Article 3 prohibition on inhuman or degrading treatment, the Article 4 prohibition on slavery, servitude and forced or compulsory labour, the Article 5 protection of the liberty and security of persons and, if governments fail to adequately respond, the Article 13 right to an effective remedy before a national authority. While this paper is primarily concerned with the European context, such rights are found in many international instruments such as the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* as well as regional instruments such as the *American Convention on Human Rights* and the *African Charter on Human and People's Rights*.

Despite the recent increase in penalties and sentences in many states, trafficking in human beings is still a relatively low-risk and highly profitable business. According to the ILO, the yearly turnover from human trafficking is estimated to be 32 billion US dollars – higher than comparable figures for arms and drugs trafficking.²⁴ Many scholars argue that human trafficking is frequently tied to other forms of illicit trade, and is often undertaken by transnational organised crime groups alongside activities such as smuggling, money laundering, drug trafficking, trade in illegal weapons and document forgery. There is no predominant structure of trafficking groups: it is as often disorganised crime as organised crime and as such is particularly opaque to law enforcement actors. Many forms of trafficking, however, through the encouragement of corrupt practices and use of fraudulent documentation, undermine border security and migration control regimes, the police, judiciary and public authorities. Such corruption in turn undermines democratic institutions as well as threatening overall economic development and stability.

²² UNICEF/UNOHCHR/OSCE ODIHR, *Trafficking in Human Beings in South Eastern Europe* (New York: UNDP, 2005), 51, <http://www.unicef.org/ceecis/Trafficking.Report.2005.pdf> (accessed 7 August 2007).

²³ *Ibid*, 49.

²⁴ International Labour Organisation, *A Global Alliance Against Forced Labour*, 55.

While it is important that human trafficking is treated as a serious form of organised crime, one must also understand the social and economic conditions that lead women and men to seek migration and that make them vulnerable to traffickers. The root causes of human trafficking include poverty, unemployment, lack of education and lack of access to resources. Women are particularly vulnerable due to their greater poverty, gender discrimination, and lack of education and professional opportunities in many states of origin. Victor-Yves Ghebali highlights the link between trafficking in South Eastern Europe and women's inequality, stating that in many places: "women are perceived through the lens of a deep-rooted cultural depreciation and are currently treated as a male's property, servants or even commodities."²⁵

It is not the intention of this paper to survey the causes of human trafficking, the gross violations of human rights that accompany trafficking, and the many international anti-trafficking initiatives and actors. These are much discussed elsewhere.²⁶ This paper focuses instead on the particular roles of the security sector in responding to human trafficking, and ways to improve these responses. The purpose of this section, however, has been to underline the fact that the security sector responses outlined below must be embedded in a coordinated multi-dimensional and multi-level strategy which includes rights-based approaches to both the elimination of human trafficking as well as the many economic, social, political and economic rights violations that are among its fundamental causes. Security sector reform, while important, is only one element of what must be a multi-faceted approach.

3. A Security Governance Analysis of Responses to Trafficking in Human Beings

Policies designed to combat human trafficking are obstructed where the security sector is dysfunctional - for example, because of ineffective law enforcement institutions, weak border control regimes and corruption.²⁷ To combat human trafficking in and around the EU, it is necessary to support the development of well-functioning security sectors. At the same time, anti-trafficking measures should be mainstreamed into other activities aimed at improving security sector governance.

The various anti-trafficking initiatives being undertaken by governments, international organisations (IOs) and non-governmental organisations (NGOs) in Europe can be understood as a system of security governance encompassing

²⁵ V.-Y. Ghebali, "Designing Effective Measures Against Trafficking in Human Beings", 234.

²⁶ Key resources regarding human trafficking in Europe are set out in Appendix 1.

²⁷ V.-Y. Ghebali, "Designing Effective Measures against Trafficking in Human Beings", 240.

different approaches. Friesendorf has developed a helpful analysis of five governance approaches within this anti-trafficking architecture:²⁸

Governance Approach	Activity	Dominant Actors
Legal measures	Criminalization of trafficking Harmonization of laws	IOs Governments NGOs
Prosecution	Arrest of traffickers Zero-tolerance policies Asset seizure and forfeiture Capacity-building Creation of databases Witness protection programs Border controls Anti-corruption efforts	Governments IOs International authorities
Protection	Identification of trafficked persons Hotline services Sheltering and counselling Medical and psychological support Reintegration of trafficked persons Private-sector programs	IOs NGOs Governments Businesses
Prevention in countries of origin	Awareness campaigns Empowering high-risk groups Measures against discrimination Assisting migrant workers Research on trafficking Development policy	IOs NGOs Governments
Prevention in countries of destination	Migration policy Awareness campaigns Prostitution policies Private-sector programs	Governments NGOs Businesses

By examining security sector and law enforcement functions within different governance approaches, one can better identify deficits in responses to trafficking. In some cases, this points to a need for security sector reform initiatives, rather than isolated anti-trafficking actions. Friesendorf's framework will be employed in the following discussion.

²⁸ Cornelius Friesendorf, "Pathologies of Security Governance: Efforts Against Human Trafficking in Europe," *Security Dialogue* 38, no.3 (September 2007): 379-402, on 387.

4. Improving Security Sector Responses to Trafficking in Human Beings

4.1. Legal measures

Clear and robust anti-trafficking legislation is a precondition for effective intelligence gathering, intelligence sharing and prosecution. Without legislation that makes anti-trafficking efforts a priority for law enforcement bodies, it is likely to remain under the radar in many states. Lack of proper legislation is thus a serious obstacle to attempts to end human trafficking.

Trafficking often shares elements with the crimes of slavery, forced removal or unlawful detention, but provisions criminalising only these acts are inadequate for the proper identification and prosecution of traffickers. At the beginning of the trafficking process, many victims voluntarily cooperate with their traffickers, travelling under their “protection”. In some cases, a trafficked person’s journey, from their home to the final destination, is made using legal documentation. It is often only when a victim reaches their destination that their exploitation commences and they become identifiable as having been trafficked. It is thus extremely difficult to identify when and where the crime of trafficking begins. When legislation criminalises only acts of violence and detention and fails to include acts of “recruitment, transportation, transfer, harbouring or receipt”, traffickers can evade prosecution for many acts typical of the trafficking process. Consistent with such legislation, intelligence and criminal databases in most countries do not contain “human trafficking” as a separate category of crime, although efforts are underway in many states to build such databases.²⁹

Efforts to redress this situation are underway at national, regional and international levels, but there is still a long way to go. The most important international anti-trafficking instrument, the Palermo Protocol, has only attracted 114 ratifications.³⁰ Among those yet to ratify are several EU Member States (although all are signatories). The Council of Europe’s 2005 *Convention on Action against Trafficking in Human Beings*, which uses a similar definition to the Palermo Protocol, has been ratified only by Azerbaijan, Moldova and Romania, and has thus not yet entered into force (although it is again important to note that the Convention has been signed by 34 states).³¹ While most European countries have adopted anti-human trafficking legislation of some type, not all countries have adopted the definition used in the Palermo Protocol or implemented legislation that is in line with it. As recently as 2006, for example, there was no definition of “trafficking in human beings” in Estonian law, while Swedish law continued to

²⁹ Frank Laczko and Marco A. Gramegna, “Developing Better Indicators of Human Trafficking,” *Brown Journal of World Affairs* X, no.1 (Summer/Fall 2003): 179-194.

³⁰ Figure current for 7 August 2007. For up to date information on ratifications and signatures see: http://www.unodc.org/unodc/crime_cicp_signatures_trafficking.html (accessed 7 August 2007).

³¹ Figure current for 7 August 2007. For up to date information on ratifications and signatures see: <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=197&CM=1&DF=1/5/2007&CL=ENG> (accessed 7 August 2007). The Convention will enter into force when it has received 10 ratifications.

cover the relevant crimes under anti-slavery provisions and not under a unified trafficking banner.³²

In 2001 the OSCE developed a *Reference Guide for Anti-Trafficking Legislative Review*, providing a comprehensive view of the legislation necessary for effective anti-trafficking policies. The guide goes beyond the recommendations of the Palermo Protocol to address prevention, prosecution, and protection and assistance for trafficked persons, providing international standards, examples of national legislation and recommendations for legal initiatives. This study is an excellent guide for states wishing to pursue reform, but data is unavailable on how far or how widely such reform has been pursued.

One reason for this slow rate of implementation and ratification is the fact that human trafficking is a highly political issue, not least because of its links to national migration and labour policies. Public opinion and competing political agenda define many of the expectations and constraints that shape anti-trafficking efforts. These include the definition of what constitutes a criminal act, the severity of penalties, and the budget allocated to fighting the crime. To reduce human trafficking, the greatest challenge is to mobilise the necessary political will in all states. The EU, the UN and states in bilateral dialogue have a crucial role in this regard. They should maintain pressure for universal ratification and full implementation of the Palermo Protocol and regional anti-trafficking instruments.

To strengthen the anti-trafficking security governance architecture in the EU and the region, the EU should, for example, continue the process whereby common positions, decisions and framework decisions (such as the 2002 *Council Framework Decision on Combating Trafficking in Human Beings*) are being integrated into the binding sections of the *acquis communautaire*. Given that many states in the region

Recommendations concerning legal measures

- All States should ratify and fully implement in domestic legislation the Palermo Protocol and relevant regional instruments, such as the Council of Europe *Convention on Action against Trafficking in Human Beings*.
- States should ensure that their legislative definition of trafficking in human beings reflects internationally agreed standards, to ensure that it is sufficiently precise for effective intelligence gathering and prosecution, and sufficiently universal to permit intelligence sharing and criminal cooperation.
- All states should engage in open dialogue on regional best practices in anti-trafficking efforts.

³² IOM & the Austrian Federal Ministry of the Interior, *Final Report: 'Comprehensive Training Seminar for Law Enforcement Authorities on Good Practices in Combating Child Trafficking'* (Vienna: IOM & Austrian Federal Ministry of the Interior, 2006), 13-14, http://www.austria.iom.int/en/images/uploads/FINAL%20REPORT_1148987974.pdf (accessed 7 August 2007).

have advanced levels of expertise in anti-trafficking, the EU should redouble efforts to learn from regional best practice and promote open dialogue on trafficking action.³³ Within the EU, efforts to harmonise legislation among Member States should be increased.

4.2. Prosecution

Improving the Responses of Police and Border Authorities at the National Level

Law enforcement and border control are much emphasised in efforts to fight human trafficking, reflecting the coincidence of interest by states in preventing trafficking and preventing illegal immigration. There are many shortcomings, however, in the attitudes and methods of law enforcement institutions in responding to both trafficked persons and perpetrators. Law enforcement agencies tend to see human trafficking as criminal only in relation to illegal migration and illegal labour or prostitution, rather than as a crime and set of human rights abuses in its own right. This lack of priority given to human trafficking both reflects and is reinforced (as discussed above) by the absence in many countries of clear legislation addressing human trafficking. Even where appropriate legislation does exist, specific resources dedicated to investigating and prosecuting trafficking are, in many cases, either inadequate or not properly used.

Many countries have established specialised anti-trafficking police units,³⁴ and there has been some progress in achieving prosecutions. However, the existence of such police units does not necessarily mean that policing is of a good standard. According to the UNICEF/OHCHR/OSCE ODIHR report, *Trafficking in Human Beings in South-Eastern Europe: Focus on Prevention*, in South-Eastern Europe there is neither control nor any clear standards covering the work of such units in relation to the identification and treatment of trafficked persons. Although some traffickers have been arrested, they are not usually prosecuted or they receive a derisory punishment. In some places, the police, afraid of organised crime groups or themselves corrupt, only pretend to combat trafficking. They repeatedly raid the same establishments and there is often cooperation between the traffickers, venue owners and the local police. The report also claims that, in many cases, police have not developed new approaches based on intelligence-led investigations.³⁵

Despite the emphasis on border control in efforts to disrupt trafficking networks, border guards continue, in many contexts, to be oriented towards the

³³ European Commission Experts Group, *Report of the Experts Group on Trafficking in Human Beings*, (Brussels: European Commission, Directorate-General Justice, Freedom and Security, 2004).

³⁴ Such states include: Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Finland, Germany, Greece, Italy, Latvia, Lithuania, Macedonia, Montenegro, Nigeria, Romania, Sweden, Slovakia and the Ukraine. For more information see: IOM & the Austrian Federal Ministry of the Interior, *Final Report: 'Comprehensive Training Seminar for Law Enforcement Authorities on Good Practices in Combating Child Trafficking'*, 17.

³⁵ UNICEF/UNOHCHR/OSCE ODIHR, *Trafficking in Human Beings in South Eastern Europe*, 58-59.

identification of illegal migrants rather than trafficked persons. Even if border officials are aware that human trafficking exists within their territory, in many cases they have not received the education and training they require in order to be able to recognise a trafficked person or a trafficker. There is thus an urgent need for further implementation of the many standard procedures, centralised registers of information and information exchange mechanisms that have been developed for use at border crossing points over recent years.

Improving the Responses of Police and Border Authorities at the Regional and International Levels

Various national and regional initiatives seek to improve the responses of police, border authorities and other security personnel to human trafficking. The OSCE has focussed on police capacity building and training for law enforcement officials through its Strategic Police Matters Unit. The International Centre for Migration Policy Development (ICMPD) conducts training and capacity building activities for police, border guards and customs officials, judges and prosecutors, with a focus on EU member states and candidate countries. The IOM and NGOs such as Anti-Slavery International have developed training resources for use by those responsible for identifying and assisting trafficked persons. The World Health Organisation (WHO) promotes adherence to their *Ethical and Safety Recommendations for Interviewing Trafficked Women*. Despite these initiatives it is clear that more specific training in specialised areas is required.³⁶

At the EU level, the new European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) is mandated to mainstream trafficking in all its work.³⁷ One of FRONTEX's tasks is to develop a common core curriculum for border guard training.³⁸ Such work has the potential to improve the quality and coherence of national level training and thus to address important deficits in the border management dimensions of responding to trafficking in human beings.

Cross-border cooperation initiatives have seen some success. During 2005, courts in Bosnia and Herzegovina successfully prosecuted a number of cases of trafficking in human beings, benefiting from international cooperation realised through the South-Eastern Cooperative Initiative Regional Centre for Combating Trans-border Crime (SECI Centre). In one case, this cooperation enabled a

³⁶ IOM, *Identification and Protection Schemes for Victims of Trafficking in Persons in Europe: Tools and Best Practices* (Brussels: IOM Regional Liaison and Co-ordination Office to the European Union, 2005): 17, http://www.belgium.iom.int/AGIS2004/PDF/AGIS%20_Publication_FINAL_cover%2013.12.2005.pdf (accessed 7 August 2007).

³⁷ European Commission, *Communication from the Commission to the European Parliament and the Council: Fighting Trafficking in Human Beings: An Integrated Approach and Proposals for an Action Plan* (Brussels: European Commission, 2005): 7, http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0514en01.pdf (accessed 7 August 2007).

³⁸ European Council, "Regulation No 2007/2004" *Official Journal of the European Union* 349, no.1 (26 October 2004): Article 5, http://www.frontex.europa.eu/gfx/frontex/files/frontex_regulation_en.pdf (accessed 7 August 2007).

foreign citizen to be brought to Bosnia and Herzegovina to serve as a witness at a trial against local traffickers.³⁹

However, in general, transnational cooperation in the criminal justice and law enforcement sector suffers from red tape and corruption, which means that traffickers are often not arrested, not convicted, or given lenient sentences.⁴⁰ Border guards, for example, cannot relay information on suspected traffickers or trafficked persons via any database, information system or intelligence network, because such networks do not yet exist. Referring to issues at both the national and international level, the IOM describes “Lack of sustainable cooperation and information exchange networks involving law enforcement officers (police, border guards, customs officials), immigration officers, expert international organisations and NGOs and other professionals ...”⁴¹

The need to improve the capacity and ability of strategic and tactical intelligence to respond to human trafficking is emphasised in the EU Action Plan. Strengthening cooperation with and between Interpol, Europol, international organisations and FRONTEX was prioritised during 2006, as were mechanisms for operational cooperation between police, and in investigations and prosecutions. However, there is still room for further improvement in the area of cooperation between the EU’s intelligence-sharing and criminal cooperation mechanisms and those of states in the wider region.

It is important to stress the importance of nuancing the use of stricter controls on traveller documentation, tightened border security and the increased use by states of measures such as carrier sanctions. While such policies may perhaps be effective in preventing trafficking, they are also precisely the policies that states commonly use to deter migrants more generally. By closing down existing avenues of entry, such measures invariably lead to increased numbers of migrants using smuggling routes and other illegal channels. Increasing the number of smuggled people is not only harmful in itself, it also increases the number of vulnerable people at risk of predation by traffickers.⁴² Smuggled people are, for example, highly vulnerable to trafficking as a result of debt-bondage.

The education measures advocated below go some way to addressing this concern. Once again, however, it is important to emphasise that this is an issue that is difficult to deal with in a security sector reform context alone. When implemented outside a comprehensive rights-based approach, there will always be

³⁹ Zene Zenama Sarajevo, *Annual Report* (Sarajevo: Zene Zenama, 2005), <http://www.zenezenama.com.ba/eng/archive/Annual%20report%202005.pdf> (accessed 7 August 2007).

⁴⁰ C. Friesendorf, “Pathologies of Security Governance”, 12.

⁴¹ IOM, *Identification and Protection Schemes for Victims of Trafficking in Persons in Europe: Tools and Best Practices*, 7.

⁴² Yuji Tamura, “On the Coexistence of Smuggling and Trafficking in Migrants,” *Warwick Economic Research Papers*, no.730 (2005): 7; Melissa Ditmore and Marjan Wijers, “The Negotiations on the UN Protocol on Trafficking in Persons,” *Nemesis*, no.4 (2003): 87; François Crépeau and Delphine Nakache, “Choices: Controlling Irregular Migration in Canada. Reconciling Security Concerns with Human Rights Protection,” *Immigration and Refugee Policy* 12, no.1 (February 2006): 4; Claire Brolan, “An Analysis of the Human Smuggling Trade and the Protocol Against the Smuggling of Migrants by Land, Air and Sea (2000) From a Refugee Protection Perspective,” *International Journal of Refugee Law* 14, no.4 (2003): 576.

a danger that border security measures solve one pressing problem while only serving to exacerbate another.

Recommendations concerning prosecution

Improving the responses of police and border authorities at the national level

- States should ensure that police, immigration officers, border guards and other security personnel are trained to prevent and respond to human trafficking. Such training should be sustained, and go beyond simple awareness-raising to include improving capabilities for recognition of trafficking, interviewing of trafficked persons, handling investigations, protecting victims and prosecuting traffickers. In addition to basic training on human trafficking, specialised training on specific areas should be provided to front-line officers. There should be regular follow-up assessments and evaluation of progress achieved.
- Clear operational procedures for handling human trafficking cases should be developed and implemented.
- Specialised anti-trafficking units within the police should be created to facilitate rapid action.
- Genuine cooperation between law enforcement and protection organisations is a prerequisite for combating trafficking successfully.
- Stronger national mechanisms for cross-sector cooperation and coordination between police forces, border guards and the judicial system should be established.
- Mechanisms should be established at national and community levels to facilitate confidential reporting of trafficking, both by trafficked persons and members of the community.
- Adequate funds should be allocated to investigation and prosecution of human traffickers. This would include costs such as the travel of trafficked persons and other witnesses from their country of origin to the destination country in order that they be able testify in court.

Improving the responses of police and border authorities at the regional and international levels

- There should be closer coordination, cooperation and information exchange between police, visa authorities, immigration authorities, border and port authorities and intelligence agencies to identify and combat trafficking networks. This should include cooperation between destination countries and origin countries, cooperation within the EU, and between EU and non-EU States.
- International police cooperation could be improved through standardised information sharing. The Europol Liaison Officer Network and Interpol's global police communication system, I-24/7, could be better used to this end.
- States must set up adequate data collection systems for the provision of complete and comparable data on all aspects of trafficking.
- Cross-sector and cross-border cooperation and knowledge-sharing approaches in law enforcement should be specifically addressed in training and encouraged among front-line officers.

4.3. Protection

At borders, it is often not easy to identify or distinguish trafficked or smuggled people. If questioned, a trafficked person may well deny that she or he is under any threat out of fear for their own or their family's safety. In addition, it may be that the person is unaware of the exploitation intended for them. Security sector actors require comprehensive training in identification, interviewing and treatment of trafficked persons, with particular emphasis on gender-sensitive approaches and child protection.

When a trafficked person is identified or suspected, there is often a lack of cooperation between law enforcement agencies and NGOs, and other providers of health, welfare, legal assistance and support. The OSCE has developed the concept of National Referral Mechanisms as a cooperative framework within which government, civil society and law enforcement agencies work together in developing and implementing approaches to victim identification, support, protection, repatriation and social inclusion.⁴³ Authorities should actively inform trafficked people about the assistance programmes that are available to them.

Trafficked persons are often arrested and deported for having violated migration and/or prostitution laws. In 2004, the EU Council of Ministers issued a Directive on short term residence permits for third-country survivors of trafficking who cooperate with the authorities.⁴⁴ This provides for a (non-specified) period of reflection for a trafficked person to "recover and escape the influence" of their traffickers so that they can take an informed decision as to whether to cooperate with the competent authorities. Groups that assist trafficked women and children in the EU argue that in many countries the period of reflection provided is too short, women are not given adequate support to understand their choices, and the requirements to cooperate with authorities are too stringent and unfair. The permit lasts only until proceedings are finished, and may be withdrawn *inter alia* if the authorities decide to discontinue the proceedings. A trafficked person may expose themselves and their family to reprisals by cooperating with the authorities, but be deported if their testimony is deemed inadequate to secure prosecution. It is widely argued that the EU Directive aims to assist law enforcement but gives inadequate attention to protecting human rights. Best practice is perhaps found in Italy, where trafficked persons have the right to receive advice and emergency assistance irrespective of their willingness to cooperate in prosecutions.

⁴³ OSCE ODIHR, *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons, A Practical Handbook* (Warsaw: OSCE Office for Democratic Institutions and Human Rights, 2004), http://www.osce.org/publications/odihr/2004/05/12351_131_en.pdf (accessed 7 August 2007). As an example of state practice see: Swiss Coordination Unit Against the Trafficking of Persons and the Smuggling of Migrants (KSMM), *Cooperation Mechanisms for Combating Trafficking in Human Beings: Guidelines* (Bern: KSMM, 2005).

⁴⁴ European Council, "Directive No 2004/81" *Official Journal of the European Union* 261, no. 1 (6 August 2004): 19-23, http://www.unicri.it/www/trafficking/legal_framework/docs/CouncilDirective200481EC.pdf (accessed 7 August 2007).

It is important to recognise that the forcible deportation of trafficked persons may expose them to violence at the hands of their traffickers or associates, and in many cases to persecution by their own families or communities, upon their return home. While peremptory norms of international law (codified in instruments such as the 1951 *Refugee Convention* and the 1984 *Convention Against Torture*) only prevent a person's deportation where they risk persecution by state actors, legislation governing the treatment of trafficked persons should consider the human rights risks associated with their forcible return.⁴⁵

Outside of the EU, trafficked persons have even less protection from either deportation by the 'rescuing' authorities or against reprisals by their traffickers. Traffickers often use the threat of deportation to control their victims. If they are deported, trafficked persons may be at risk of further harm from their traffickers and, without support and reintegration assistance, are vulnerable to being re-trafficked. These failings seriously undermine law enforcement by discouraging

Recommendations concerning protection

- States should establish protection mechanisms for trafficked persons. Survivors' concerns about their physical safety, the safety of families/friends, their residence status, the confidentiality of their communications with the police and their fear of reprisals by traffickers should be taken into account in witness protection and assistance programmes.
- To ensure proper victim identification and protection, close cooperation between law enforcement and protection and between state actors and NGOs is needed. Cooperation is most reliable and effective if there is an institutionalised referral mechanism in place.
- Trafficked persons should be properly informed by security sector actors about access to justice, legal protection and assistance.
- Assistance should be given to trafficked persons independent of their decision to testify.
- The trafficked persons should under no circumstances be treated as criminals. When interviewing, security sector actors should respect specific ethical standards and also closely cooperate with NGOs.
- When making decisions about the return of trafficked persons to their countries of origin, decision-makers should take into account the high risk that returnees face of persecution and violence by traffickers, their communities and even their own families.

⁴⁵ The European Court of Human Rights, in the case of *HLR v France*, considered an analogous problem, signaling the potential for legal development in this area. The applicant was a Colombian national who, having been caught trying to smuggle a sizeable quantity of cocaine through France, supplied information to the French police which enabled them to arrest another Colombian drug trafficker. The applicant served his prison sentence in France and was then ordered to leave the country. He argued that in view of his criminal record he would not be able to find a third country to accept him, and that he would face reprisals from the drug traffickers if he returned to Columbia, against which the Colombian authorities would not be able to protect him. The Government's primary submission was that the application was incompatible with the provisions of Article 3 of the *European Convention on Human Rights*, since the risk of inhuman or degrading treatment relied on did not stem from the conduct of the Colombian authorities. The Court refused to rule out the possibility that Article 3 might also apply where the danger emanated from persons or groups who were not public officials. However, it required it to be shown that the risk was real and that the authorities of the receiving state were not able to obviate it by providing appropriate protection. It was not satisfied that the applicant had done this.

trafficked persons from seeking assistance when held by traffickers, and making them reluctant to testify. More urgently, they compound the harm done to trafficked persons and further violate their human rights.

4.4. Prevention in Countries of Origin

Trafficking is not least an economic phenomenon. Supply and demand, risk and return, are trafficking's primary drivers. Unless and until traffickers face diminished incentives – less demand, lower profit margins and higher risks – it is arguably futile to talk about other remedies. A key driver of human trafficking is the demand for better opportunities in other countries, with deep roots in poverty, gender inequality, insecurity and exclusion. It is this that leads people to fall vulnerable to traffickers. Berman and Friesendorf highlight the lack of development-orientated anti-trafficking programmes as the biggest obstacle to addressing the economic and social causes of trafficking.⁴⁶ Any anti-trafficking strategy adopted by the security sector must be part of a balanced and holistic strategy involving policies in areas such as migration and labour, poverty alleviation and social programmes addressing discrimination and inequity.

Many trafficked persons travel with legal documents. Visa issue requires particular attention in countries of origin to guard against corruption, abuse and collusion with traffickers. Responsibilities within the visa sections of consulates must be carefully defined, with senior-level supervision and procedures that ensure transparency and accountability. Of particular importance are systems that randomise and otherwise depersonalise interactions between the public and visa officials. In states known to be origin countries for trafficking, locally hired staff should be vetted and all staff should receive trafficking-specific training. Procedures governing the issuance of visas should be regularly inspected and prioritised in anti-corruption initiatives.

Prevention in countries of origin also requires non-coercive anti-trafficking policies informed by a labour market perspective. Such a perspective would identify labour market needs and involve the private sector. While the majority of those persons trafficked into Europe are thought to be trafficked for sexual exploitation, a significant and under-researched minority are trafficked for other types of forced labour in areas such as construction, agriculture and the textile industry.⁴⁷

Many trafficked persons leave their homes under the impression that they are travelling abroad to work in service sector jobs such as child care, hospitality, housecleaning and even legal prostitution. It is often only when they arrive at their destinations that they discover that they have been trafficked. Education and awareness raising campaigns targeting at-risk groups of people are thus essential.

⁴⁶ Jacqueline Berman and Cornelius Friesendorf, "Coercive Governance as Crime Control: EU Foreign Policy and the Fight Against Human Trafficking," *European Foreign Affairs Review* (forthcoming).

⁴⁷ Beate Andrees, Mariska N.J. van der Linden, "Designing Trafficking Research from a Labour Market Perspective: The ILO Experience," *International Migration* 43 no.1-2 (2005): 55-73.

Ideally, these would include strategies for recognising and mitigating the risk of being trafficked. It has long been recognised that it is often not the very poorest who migrate and that successful anti-poverty and education measures often result in increased migration (a “migration hump”). Given this fact, it is important that anti-trafficking campaigns are combined with efforts to promote democracy, good governance and gender equality, as well as the migration and employment opportunities that potentially trafficked people seek.⁴⁸

Recommendations concerning prevention in countries of origin

- Anti-trafficking strategies that focus on security and law enforcement should be coordinated with migration and labour policies, poverty alleviation and social programmes addressing discrimination and inequality.
- Special attention needs to be paid to consular procedures. Specific measures should include trafficking-specific training for staff as well as robust anti-corruption measures.
- Education and awareness raising campaigns must be combined with efforts to promote democracy, good governance and gender equality, as well as the migration and employment opportunities that potentially trafficked people seek
- Education and awareness raising campaigns should also target the owners of legitimate businesses (such as travel agencies) who may be unwittingly involved in facilitating the travel of trafficked persons.

4.5. Prevention in Countries of Destination

Demand for Trafficked Women and Children

Increasing attention is being directed to how consumers of the services of trafficked people fuel the market for human trafficking.⁴⁹ The links between demand for cheap, unregulated and sometimes illegitimate labour and trafficking are undeniable and require measured consideration.

With regards to trafficking for sexual exploitation there is enormous controversy, with states and anti-trafficking groups alike split in their approach. Many anti-trafficking groups of the so-called “abolitionist” camp argue forcefully that legal prostitution inevitably leads to trafficking. An example of state practice that follows this school of thought is the 1999 Swedish legislation that legalises the selling of sexual services (combined with supportive measures for women wishing to leave the sex industry) while criminalising the purchase of sexual services. With this policy, Sweden aimed to strike at the economic incentives for traffickers: penalising the customer of trafficked services and thus reducing demand and lowering the return that traffickers can expect to gain from bringing people to

⁴⁸ The United Kingdom Parliament, Select Committee on International Development, *Sixth Report*, (London: Hansard Archives Research, 2004).

⁴⁹ See, for example: Bridget Anderson and Julia O’Connell Davidson, *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study* (Geneva: IOM, 2003).

Sweden. Whether the policy has in fact resulted in a reduction of trafficking into Sweden is contested.

The abolitionist line is not, however, popular in all EU countries. Many sex worker and human rights groups, for example, argue that prohibition of prostitution denies a woman's right to decide to sell sexual services. In addition, there is a danger that portraying all sex workers as victims, as such prohibitions invariably do, transforms them from individuals with capacity for action and initiative into what Makau Mutua called "hordes of nameless, despairing, and dispirited masses... powerless, helpless [and] innocent."⁵⁰ The consequence of such a portrayal is that, as Andrew Clapham and Susan Marks point out, we are encouraged to view sex workers as merely objects of intervention by others.⁵¹

A further danger associated with making all forms of prostitution illegal is that such a ban merely drives the industry underground, reducing accountability and transparency, increasing control of the industry by criminal groups and reducing the ability of support NGOs and agencies to access sex workers and potential trafficked persons.

One alternative to the prohibition model above is to enact specific penalties for paying for sex with a trafficked person. An April 2006 Council of Europe Resolution urged member states to 'consider the possibility of holding responsible those who use the services provided by victims of trafficking'.⁵² In June 2006, Finland's Parliament enacted into law a bill that will make the purchase of sexual services a crime where the client is aware that the prostitute was forced into selling such services.⁵³

A further type of compromise approach to reducing the demand for trafficked women are awareness-raising campaigns that inform buyers of sexual services that they may be abusing a child or woman who has been trafficked. Such programmes might usefully be directed at military personnel being deployed overseas and other groups at 'high risk' of coming into contact with trafficked persons. However, there is a need for evaluation of the effectiveness of such awareness-raising programmes in changing the behaviour of persons who pay for sex, and of whether such policies and programmes in fact reduce trafficking.

Turning to the question of reducing demand for other types of trafficked persons: companies are being alerted to the fact that they or their contractors might use trafficked labour. Perhaps important in this regard are recent cases in the United States domestic courts, brought under the *Alien Torts Claims Act*, which considered allegations of human rights abuses by US firms abroad. Holding companies

⁵⁰ M. Mutua, *Human Rights: A Political and Cultural Critique* (Philadelphia: University of Pennsylvania Press, 2002), 11.

⁵¹ S. Marks & A. Clapham, *International Human Rights Lexicon* (Oxford: Oxford University Press, date?), 404-5.

⁵² Council of Europe (CoE) Parliamentary Assembly, *Resolution 1494: Stopping Trafficking in Women Before the FIFA World Cup* (Strasbourg CoE Parliamentary Assembly, 2006), <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/ERES1494.htm> (accessed 7 August 2007).

⁵³ Anonymous, "Finns Pass Anti-Prostitution Law," *BBC News Online*, 21 June 2006, Wednesday, <http://news.bbc.co.uk/2/hi/europe/5103132.stm> (accessed 7 August 2007).

criminally responsible for acts committed abroad can only lead to increased efforts by companies to ensure that their practices and those of their contractors comply with international labour standards. Education and law enforcement campaigns should target firms that continue to violate established standards by using trafficked labour.

Security Sector Actors and Demand for Trafficked Women and Children

In conflict or post-conflict settings, the role of peacekeepers and other security sector actors in creating demand for trafficked women and children has received increasing attention. During the 1990s and after the Kosovo war, local women's organisations in Bosnia and Herzegovina estimated that around 50 per cent of sex buyers at brothels were foreign citizens, representing around 70 per cent of the brothels' earnings, and that around 90 per cent of the women and girls at the brothels had been brought into the country by traffickers.⁵⁴ While the situation in Bosnia and Kosovo has improved, they serve as an example of the importance of measures to prevent trafficking in post-conflict settings.

NATO has responded to the growing understanding of the role of military personnel in attracting and supporting trafficking with a 'zero-tolerance' policy on facilitating or engaging in trafficking, and *Guidelines on combating trafficking in human beings for military forces and civilian personnel deployed in NATO-led operations*.⁵⁵ Under the guidelines, forces conducting operations under NATO command and control and any civilian elements accompanying such forces, including contractors, are "prohibited from engaging in trafficking in human beings or facilitating it". The Geneva Centre for Security Policy, the International Security Network and the NATO School in Oberammergau have developed a distance learning course to sensitise soldiers to trafficking in human beings.⁵⁶ Unfortunately, implementation and enforcement of the NATO policy remains the responsibility of NATO member states, which leads to important discrepancies regarding training of military personnel and prosecution of offenders. Continuing obstacles to proper implementation include jurisdictional gaps, a lack of political will in the home country of the offenders, and a general indifference to the problem of trafficking.

The UN Department of Peacekeeping Operations issued a policy paper on human trafficking in 2004. It acknowledges that international personnel create demand for trafficking, and sets out a framework for awareness and training; discipline, accountability and community relations; and support to anti-trafficking activities.⁵⁷

⁵⁴ Kvinna till Kvinna, *Reaction and Revolt Against Trafficking in Women and Girls* (Stockholm: Kvinna till Kvinna, 2003): 3, <http://www.iktk.se/pdf/reaction.pdf> (accessed 7 August 2007).

⁵⁵ NATO, *NATO Guidelines on Combating Trafficking in Human Beings for Military Forces and Civilian Personnel Deployed in NATO-led Operations* (Brussels: NATO Policy Documents, 2004), <http://www.nato.int/docu/comm/2004/06-istanbul/docu-traffic-app1.htm> (accessed 7 August 2007).

⁵⁶ G. Reiter, "Developing Training Modules for Peacekeeping Operations," in *Challenging Trafficking in Persons: Theoretical Debate & Practical Approaches*, ed. Anna Erdelmann, Kerstin Brunner, Astrid Niehaus and Johanna Willems (Baden Baden: Nomos, 2005), 149-152.

⁵⁷ United Nations Peacekeeping, *Human Trafficking and United Nations Peacekeeping* (New York: DPKO Policy Papers, 2004), http://www.unmikonline.org/civpol/gender/doc/Human_trafficking.pdf (accessed 7 August 2007).

However, the policy is vague on whether paying for sex with prostitutes is forbidden, merely recognising that “in many mission areas” it may be extremely difficult to differentiate between trafficked persons and prostitution, and paying for sex with prostitutes is “likely to be highly exploitative”. The UN *Secretary-General’s Bulletin on special measures for protection from sexual exploitation and sexual abuse* prohibits sex with children less than 18 years of age and prohibits paying for sex with prostitutes (the “exchange of money ... for sex”).⁵⁸ Despite this apparent clarity in UN policy, there is broad uncertainty as to whether there is a line between paying for sex with prostitutes and facilitating trafficking and/or committing sexual misconduct and, if so, where that line is drawn. (Of course, in a number of countries where there are UN missions, such as Liberia, prostitution is illegal under local law.)

An example of national measures addressing this dimension of demand are Norwegian laws prohibiting military personnel and civil servants and employees of the Norwegian Department of Defence from purchasing sexual services while abroad or on official business.⁵⁹

Regional and international organisations that deploy military and other personnel abroad have a heightened responsibility to ensure that their personnel do not exploit trafficked persons. Such bodies should continue to discuss, develop, monitor and evaluate awareness-raising programmes and policies to stop human trafficking. This requires a more open and rigorous examination, both of the practice of paying for sex with prostitutes, under what (if any) circumstances this is to be tolerated, and how to prevent legal prostitution being a cover for trafficking. Of equal importance is that policies be backed by robust empirical research in order that anti-trafficking measures do not become a cover for simple abolitionism.

A final dimension meriting further research and attention is the behaviour of private military and security companies. Their ambiguous legal status and lack of political will to ensure accountability could (and have) resulted in human rights abuses, including involvement in trafficking in persons.⁶⁰ The most well-publicised case concerns private security contractor DynCorp, operating in Bosnia. Investigations by both the Bosnian police and US Military found that at least seven DynCorp employees had been involved in the purchase of women from local brothels - some of whom were kept as sex-slaves. Despite compelling evidence, no-one faced criminal proceedings in either Bosnia or the United States.⁶¹ As Singer points out: “You have a situation where employees of these

⁵⁸ Kofi A. Annan, “Special Measures for Protection from Sexual Exploitation and Sexual Abuse,” *Secretary-General’s Bulletin*: ST/SGB/2003/13, (2003), <http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=405ac6614> (accessed 7 August 2007).

⁵⁹ Ministry of Justice and the Police, *Ethical Guidelines for Government Employees prohibiting the Purchase and Acceptance of Sexual Services* (Oslo: Ministry of Justice and the Police, 2002), <http://odin.dep.no/jd/engelsk/publ/veiledninger/012101-990367/index-dok000-b-n-a.html> (accessed 7 August 2007).

⁶⁰ Chaloka Beyani, and Damian Lilly, “Regulating Private Military Companies: Options for The UK Government,” *International Alert*, (August 2001): 16.

⁶¹ Capps, Robert, “Crime Without Punishment,” *Salon*, 27 June 2002, <http://dir.salon.com/story/news/feature/2002/06/27/military/> (accessed 18 September 2007).

companies can commit serious crimes and the only enforcement we have against them is the law of the marketplace. That's proven to be insufficient.”⁶²

Recommendations concerning demand for trafficked persons

- States should develop public awareness-raising campaigns, especially targeting buyers of sexual services and other forms of labour associated with trafficking of persons.
- States should monitor and evaluate the effectiveness of such awareness-raising campaigns.

Recommendations concerning security sector actors and demand for trafficked persons

- NATO and the UN should discuss, develop, monitor and evaluate awareness-raising programmes and policies to stop human trafficking.
- States and partners contributing to peacekeeping missions should ensure that the personnel are properly trained to avoid facilitating human trafficking, and that domestic laws permit the prosecution of offenders.
- States should ensure that any allegations that their personnel are involved in human trafficking are fully investigated, and where substantiated, that such personnel face criminal prosecution. Whilst protecting the confidentiality of victims, States should make public information on how such allegations are being handled, and the outcomes of investigations and prosecutions.

5. Conclusions

A security governance analysis of anti-trafficking activities illustrates the need for a holistic approach. This should involve all security sector actors, including border guards, customs authorities, police, intelligence services and immigration authorities, as well as NGOs, and international organisations. The multi-faceted nature of trafficking in human beings requires political and operational coordination, and cooperation at national, regional and international levels.

At the national level, the implementation of OSCE-type National Referral Mechanisms, national action plans, and a national Rapporteur who reports to governments on trafficking issues can strengthen planning and coordination of responses. At regional and international levels, some progress has been made regarding harmonisation of legislation. However, standardised data collection, trans-border and trans-sector coordination and cooperation (including in law enforcement and intelligence) should be a focus of further anti-trafficking policies. Within the European Union, appointing an EU coordinator for trafficking in human beings should be considered.⁶³ Furthermore, coordination and cooperation

⁶² P. W. Singer, “War, Profits and The Vacuum of War: Privatised Military Firms and International Law,” *Columbia Journal of Transnational Law* 42, (2004): 534.

⁶³ Cornelius Friesendorf, *Security Governance in Europe: Shortcomings of Efforts Against Human Trafficking* (Zurich: CSS Zurich Contributions to Security Policy, forthcoming).

at political and operational levels between the EU and non-EU states must be improved.

While the security sector is a crucial part of any anti-trafficking strategy, a focus on security agencies should not obscure the need for wider, developmental responses. Whilst effective response and protection of victims is essential, prevention of trafficking in human beings requires concrete action to alleviate the grinding poverty, gender inequality and lack of opportunity that drive so many people into the brutal web of human trafficking.

Appendix

Selected References on Trafficking in Human Beings in Europe

International instruments addressing trafficking in human beings

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted by GA resolution A/RES/55/25 of 15 November 2000, entered into force 25 December 2003).

Rome Statute of the International Criminal Court (adopted by UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, entered into force 1 July 2002).

Slavery Convention (signed at Geneva on 25 September 1926, entered into force 17 July 1955).

Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery (adopted by a Conference of Plenipotentiaries on 7 September 1956, entered into force on 30 April 1957).

Convention on the Rights of the Child (adopted by GA resolution 44/25 of 20 November 1989, entered into force 2 September 1990).

Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Pornography (adopted by GA resolution 54/263 of 25 May 2000, entered into force 18 January 2002).

Worst Forms of Child Labour Convention No. 182 (adopted by the General Conference of the International Labour Organization at its eighty-seventh session, 1999, entered into force 19 November 2000).

European instruments addressing trafficking in human beings

Council of Europe, Convention on Action against Trafficking in Human Beings, CETS N° 197 (adopted by the Committee of Ministers on 3 May 2005 and opened for signature in Warsaw on 16 May 2005).

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Council of the European Union, Council Directive on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, 2004/81/EC, 29 April 2004.

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Principal actors in combating trafficking in human beings in Europe

Amnesty International	www.amnesty.org
Anti-Slavery International	www.antislavery.org
Centre for International Crime Prevention - Global Programme against Trafficking in Human Beings	www.uncjin.org/CICP/Folder/traff.htm
Coalition against Trafficking in Women	www.catwinternational.org
Council of Europe	www.coe.int/T/E/human_rights/trafficking
End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT)	www.ecpat.net
European Commission	http://ec.europa.eu
Europol	www.europol.eu.int
Global Alliance against Traffic in Women	www.gaatw.net
Human Rights Watch	www.hrw.org/women/trafficking.html
ILO SAP-FL	www.ilo.org/sapfl/index.htm
International Centre for Migration Policy Development Anti-Trafficking.Net	www.anti-trafficking.net
International Organization for Migration	www.iom.int
Interpol	www.interpol.int/Public/THB/default.asp
Kvinna till Kvinna Foundation	www.iktk.se/english/index.html
Medica Mondiale	www.medicamondiale.org

Nordic-Baltic Campaign Against Trafficking in Women	www.nordicbalticcampaign.org
Nordic Baltic Task Force Against Trafficking in Human Beings	www.against-trafficking.org
Organization for Security and Co-operation in Europe (OSCE)	www.osce.org/activities/13029.html
SECI - Regional Center for Combating Trans-border Crime	www.secicenter.org/html/index.htm
Stability Pact for South Eastern Europe Anti-Trafficking Task Force	www.stabilitypact.org/trafficking/info.asp
United Nations Development Programme	www.undp.org
United Nations Office on Drugs and Crime - UN Global Programme against Trafficking in Human Beings (GPAT)	www.unodc.org/unodc/en/trafficking_human_beings.html



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