

HUMAN RIGHTS AND HUMAN TRAFFICKING: REFLECTIONS ON THE SLOVENIAN CASE

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ABSTRACT

Human Rights and Human Trafficking: Reflections on the Slovenian Case²

The article is based on the paradigm of human rights as the basis for formulating policies against global trafficking in human beings. As a rule, the responses of national policies and intergovernmental organizations involve a migration management strategy based on restrictive border regimes, quotas, and other mechanisms to limit the inflow of migrants and regularize their stay. Instead of the preferred regulatory approach, aimed at protecting the national state, this paper advances human rights protection for the victims of organized criminal activities. "Modern slavery" requires greater sensitization of global policies and commitment to the protection and rights of vulnerable individuals. The paper calls for individualized and gender-specific treatment of human trafficking victims, in particular sex industry victims.

Keywords: human rights, trafficking in human beings, migration, victim's perspective, the case of Slovenia

IZVLEČEK

Človekove pravice in trgovanje z ljudmi: Refleksije študije primera Slovenije

Članek temelji na paradigmi človekovih pravic kot ključnem izhodišču pri oblikovanju politik preprečevanja globaliziranega trgovanja z ljudmi. Odzivi nacionalnih politik in medvladnih organizacij so praviloma usmerjeni k upravljanju z migracijami, slednje pa temelji na restriktivnih mejnih režimih, kvotah in drugih omejevalnih mehanizmih vstopa in regularizacije bivanja imigrantov. Tekst nasproti sistemskemu pristoru, ki preferira varovanje nacionalne države, izpostavlja varovanje človekovih pravic žrtev organiziranega kriminala. »Novodobno suženjstvo« zahteva večjo senzibilizacijo svetovnih politik in usmerjenost k zaščiti in pravi-

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cam ranljivega posameznika/-ice. Besedilo poudarja individualizirano in spolno specifično obravnavo žrtev trgovanja z ljudmi, zlasti žrtev v spolni industriji.

KLJUČNE BESEDE: človekove pravice, trgovanje z ljudmi, migracije, perspektiva žrtve, primer Slovenije

INTRODUCTION

Human trafficking is present as a global migration trend in a number of countries of origin, transit, and destination. Particularly in the last decade, combating human trafficking from, through, or to specific countries or regions has become a major priority in most countries, irrespective of their geographical position, political or other orientation. Some areas or countries are denoted as being typically or primarily countries of origin; in the European context these are the Balkan and Eastern European countries. Other countries can be classified as typical transit countries on the route to the migrants' destination – Western Europe. A fact deserving more research attention than defining the status of individual countries (which can change: transit countries can become countries of origin or destination countries, destination countries can turn into transit countries etc.) is that human trafficking is a crucial issue in human rights protection.

Let's take a look at this phenomenon in terms of figures or, better, available estimates. The number of victims is large. The International Organization for Migration provides the following comprehensive data: "Although the global scale of human trafficking is difficult to quantify, as many as 800,000 people may be trafficked across international borders annually, with many more trafficked within the borders of their own countries."³ Several experts, analysts, and non-governmental organizations believe that the actual figures are considerably higher. Human trafficking is obviously a fast-growing criminal industry and strategies at the level of preventing human trafficking and providing assistance to its victims are crucial.⁴

The topic of this paper is trafficking in human beings with an emphasis on the future prospects of human rights protection. This point of departure is the only legitimate one in order to individualize the issue of human trafficking, and to focus on the individual victims of modern "white slavery", as described by a number of authors (e.g. Petra de Vries). From the historical perspective, trafficking in women has largely been a prostitution-related issue; as suggested by Petra de Vries (2003), the late 19th and early 20th centuries already saw the use of terms like the 'white slave trade' and 'white slavery campaign'. Contempo-

³ IOM, <http://www.iom.int/jahia/Jahia/counter-trafficking> (1 Jan. 2010).

⁴ Referring to the IOM's anti-trafficking activities, it should be noted that the IOM has been working actively to counter trafficking in persons since 1997; in this period, nearly 500 projects were implemented in 85 countries, providing direct assistance to several thousands of trafficked persons (see more in: *The IOM Handbook on Direct Assistance for Victims of Trafficking*, 2007). This data is important in terms of existing know-how, although it is evident that many other players, especially NGOs, have a crucial role in assisting victims or survivors of trafficking.

rary discussions often employ the term ‘modern slavery’, directly referring to the living conditions and circumstances in which trafficked women work and live, and indirectly referring to the attitude toward the victims, i.e. the perception and social construction of human trafficking. Firstly, because of the elements of coercion and exploitation in the victim’s life; victims are frequently forced to engage in prostitution, and their freedom of choice is thus taken away from them; they work in ‘isolation’, are supervised and coerced by threats and violence, and receive meagre or no payment. Secondly, because of the attitudes other social participants adopt towards the victims; among the most significant is the attitude of the state and its specialized agencies for migration issues, gender relations, gender discrimination, and human rights.

In this article, we first draw attention to the urgent need for anti-trafficking policies to focus on the victims, as well as on individualized and gender-specific treatment.

In the past decade, sociological studies have pointed to the diverse dimensions of trafficking in human beings, establishing that most of this organized criminal activity is highly gender specific, e.g. sex trafficking involving primarily women and children (adolescent women). Trafficking in women for the purpose of sexual exploitation, in particular for prostitution, was initially dealt with in the studies of the International Organization for Migration (IOM), presenting case studies in particular crisis areas, e.g. the Balkans and regions or countries which are a major source of sex-trafficking victims, e.g. Romania, Ukraine, Moldavia⁵ etc. As noted in this paper, these studies mainly pointed out the issue’s basic dimensions, trafficking routes, causes of migration, and the methods used to recruit migrants/future victims. Academic research followed suit with some delay, but provided better contextualization and, in particular, a basis for action policies by placing trafficking in human beings in the context of modern migration trends, indicating that neither restrictive border policies nor carefully considered entry regulations can put a stop to the individual migration projects of migrants and their aspirations.

Research into trafficking in human beings falls within the domain of several disciplines and a variety of approaches. It seems that a range of disciplines have addressed human trafficking within the academic tradition, including sociology, geography, political and gender sciences, as well as various cross-sections of the mentioned disciplines. In my opinion, gender theory and political science in particular can provide a useful perspective by focusing first on gendered migrations and the central position of the victim and, subsequently, on the issues of the sovereign state, entry, freedom of movement, and borders. Such an intersection of gender theory and international relations was suggested by Jacqueline Berman (2003) – and is discussed below – in terms of common points of departure for research into trafficking in women. There seem to be two diametrically opposite approaches to the treatment of human trafficking, both in academic research

⁵ See more in the following studies: IOM: *Vulnerability to Trafficking in Human Beings of Young Female Population in Romania*, Bucharest, 1999; IOM: *Research on Trafficking in Unaccompanied Minors for Sexual Exploitation in the European Union*, Brussels: 2001; IOM: *Victims of Trafficking in the Balkans. A Study of Trafficking in Women and Children for Sexual Exploitation to, through and from the Balkans Region*, Vienna: 2001.

and the production of policies: the first approach is regulatory, the second individualized (illustrated below in arguments by Jordan, Berman, Zavratnik, Pajnik, Hopkins, Nijboer). The regulatory approach stems from the aspect of security – protecting the “national body” from migrants, in particular female migrants, who cross national boundaries and, as participants in the sex industry, moral boundaries as well. The protection of countries and national systems against the immigrant “time bomb”, as termed in the language of biopolitics, is the basic mechanism of migration management. From this position, the individualized perception of a person as a victim of organized criminal activity falls critically short. States clearly set their migration policies with a view to provide a selection mechanism for a global population policy. In general, population movements are limited by restrictive border regimes, but selection mechanisms are further introduced for migrants who have already entered the country (e.g. deportation of “unwanted immigrants”, readmission agreements, etc.). All these mechanisms support the regulatory approach, but at the expense of an individualized approach to the treatment of victims. Such mechanisms are in fact aimed at removing the perceived threat to the system instead of providing prompt treatment, protection and assistance to the victims of organized criminal activities.

In the Slovenian context, the first comprehensive study on trafficking in women was carried out by the IOM Office and the Peace institute in Ljubljana in 2003 (Zavratnik et al. 2003). In the assessment study “Where in the Puzzle: Trafficking From, To and Through Slovenia”, the questions posed at the beginning of the research process concerned the international and local contexts in which the processes of human trafficking take place (origin, transit and destination areas), the structure and extent of the phenomenon in the Slovene environment, related governmental policies, and the responses of other participants in the field of international and non-governmental organizations. In addition, the study concentrated on the perception of trafficking in women among different public groups, from ‘general’ public opinions to those of narrower groups, including the secondary school population. Last but not least, given that the media have played the most significant role in publicizing the phenomenon, the research framework concentrated on media constructions of human trafficking, traffickers, and their victims. Regarding methodology, various data collection techniques were used: descriptive data and reviews of existing data collected at the national level and in European countries, interviews with key officials dealing with human trafficking in Slovenia, interviews with victims of trafficking (at the time the study was carried out, no victim of trafficking had been identified in Slovenia). Interviews with victims – 15 altogether – were provided by governmental, non-governmental, domestic, and international sources. In Slovenia, the interviews with victims of trafficking were conducted by a member of the research team. One of the authors’ key emphases is that due consideration should be given to integration strategies to be provided by the state for the benefit of the victims. It may be noted that, so far, such victim-centred approach has remained underutilized in practice.

In this paper, many cases refer specifically to the sexual exploitation of migrant women; foreigners forced to engage in prostitution. It is important to understand that in certain respects trafficking in women and prostitution are closely connected and inter-

twined; however, the paper does not explore this correlation in detail. Reflecting on the Slovenian case, this aspect of trafficking in women is the core issue, analysed in detail already in the 2003 study. In order to avoid any misunderstandings, it is essential to note at this early point that focusing on women's perspectives in human trafficking implies gender-specific research, without claiming in any way that the victims of sex trafficking are exclusively women.

HUMAN TRAFFICKING: A HUMAN-RIGHTS CENTRED APPROACH

In their introduction to a special issue of the journal *International Migration* entitled 'Rights of Migrants', Reginald Appleyard and Patrick Taran (2002) note that mobility processes have advanced from being peripheral issues published on the back pages of newspapers to the front pages of global reporting. The authors suggest that despite the recent rapid shift, the position of migrants, immigrants and refugees as individuals has received consideration merely in the form of footnotes to numerous political debates, government sessions, and academic contributions. Discourse on human rights entered the migration debate relatively late, and according to analysts of migration processes it was actually influenced by media reports on tragic deaths in smuggling or trafficking migrants, abuse of women and children in the sex industry, forced labour at large construction sites, in restaurants, etc. In recent years, human rights have become the framework that exerts the most significant influence on the formation of migration policies at various levels, governmental, inter-governmental, as well as non-governmental. From the perspective of the protection of human rights, Appleyard and Taran remind us of the fundamental principle developed in the fifty-year tradition of the Universal Declaration of Human Rights:

...human rights are universal (they apply everywhere), indivisible (political and civil rights cannot be separated from social and cultural rights); and inalienable (they cannot be denied to any human beings). However, their de facto extension to many vulnerable groups has been a long and difficult process, by no means complete. Migrants and indigenous persons, in particular, experience strong resistance to recognition of their human rights. (Appleyard and Taran 2002: 3)

The implementation of this fundamental principle, in particular from the perspective of vulnerable groups and individuals within these groups, is undoubtedly a long and sensitive process, subject to very diverse influences, ranging from momentary or coincidental factors, such as the short-term political priorities of political parties, which are either more or less favourably disposed toward migrants, to arguments related specifically to demographic trends and developmental changes in economies.

Additional significance should be attributed to the approach that recognizes human rights as a framework for implementing policies in the broader field of migration, not exclusively or primarily related to forced migration, where the protection of human rights

serves as a logical starting point.⁶ Regardless of the approach used in the treatment of migration, whether based on political, economic, cultural, or other criteria, the concept of human rights today provides a framework that can no longer be circumvented by migration policies and debates, not to mention that migration has become a highly politicized question, calling for political responses at the local and global levels. A significant step toward the protection of the rights of migrants was made by the 1990 Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; the Convention does not reduce migration to the field of the labour market, but takes into account the broader aspect of everyday life. Regardless of the status they are accorded or granted by individual states, the spirit of the Convention implies that migrants shall be recognized as social entities, as people who exist beyond the labour market. The text gave ‘more face’ to the migrants who work and pay taxes; the shift concerns the guest worker, who has become a neighbour, consumer, lover, member of a soccer club, family father, etc. Another significant element introduced by the Convention is the consideration of migrants together with their families. Furthermore, the Convention also introduced consideration of the rights of all immigrants, including ‘undocumented’ migrants, who are or should be the starting point for the formation of policies acknowledging equal treatment for migrants and their families, without excluding ‘undocumented’ migrants for being ‘illegal immigrants’, ‘foreigners without citizenship’ or ‘temporary guests’.

The recent situation in the field of policy responses of different agencies to human trafficking on global and local levels is illustrated in an analysis by Mojca Pajnik:

Although the majority of contemporary international conventions, protocols and agreements refer to the protection of human rights, it is “illegal” migrations and organized crime that are still the imperatives for governmental as well as non-governmental campaigns against human trafficking. Under the growing pressure of restrictive migration policies, human trafficking is also increasingly becoming an “illegal” migration phenomenon. [...] “Illegal” entry into a country and unregistered residence are criminalized, while migrants’ experiences (not considered active citizen practices) are not receiving any serious attention. Anti-trafficking policies create a situation in which the state becomes a victim of human trafficking and of the migrants who cross its borders and the individuals who assist them. (Pajnik 2008: 84)

At this point, the debate on human trafficking cannot ignore the “biopolitical dimension” and the question of managing and directing the human lives of migrants, including trafficked persons. Jacqueline Berman analyzes Michel Foucault’s notion of biopower in the context of migration management, arguing that:

...the narratives surrounding human trafficking often include biopolitical language,

⁶ Practical policies as responses to forced migrations derive from the concept of human rights protection and refer to the regulation of refugee status, asylum legislation, institute of temporary protection, etc.

describing it as an “epidemic,” an “HIV time bomb,” [...] These images seem to demand a response to trafficking that can manage people metaphorized into bodily and biological threats to the “body” of the nation and citizenry. Thus narratives once again seem to be engaged in engendering panic as well as obscuring how receiving countries are themselves implicated in a global flow of peoples that maintains global inequalities and benefits. (Berman: 2010: 89)

Berman (2010) shows that migration management, including responses to trafficked persons, involves the surveillance, discipline, and control of populations through the marking of individual bodies. As such, these practices constitute acts of biopolitical management. In Berman’s words: “Migration becomes a contested site at which state control can be performed over borders and bodies in the service of the demands of global security and capital.” (Berman: 2010: 89) Furthermore, the human rights protection approach is crucial to the treatment of human trafficking in relation to the gender dimension. Human trafficking is generally analyzed from viewpoints that focus on concepts of safety, prevention of organized crime, and supervision of borders and migrations, while secondary attention is paid to the victims and the analysis of their position. At this point, it seems that the state (which first considers the victim through the lens of his or her status, i.e. as an undocumented migrant) and the victim (including the recognition that her or his fundamental human rights are violated) have different interests, and this may result in the interest of the state being placed above the interest of the victim; the victim does not actually compete with the interest of the state, but could rather and ideally present an opportunity for essential improvement of the state, to the benefit of both the state and the victim.

The competition of these three aspects – human trafficking as illegal migration, organized crime, and violations of human rights – is discussed by Dutch researchers Ruth Hopkins and Jan Nijboer (2004). They point out that the protection of human rights is clearly stated in international conventions, contracts and treaties, but also that international and national legal systems mainly concentrate on illegal migration and organized crime. A legitimate question (and a key problem for practical implementation) is that of the shift in the practical approach to the benefit of the victims, ensuring that their protection will become more than simply an aesthetic corrigendum to the priority of crime suppression. A further stance of vital importance is that appropriate protection of the rights of victims of human trafficking is not exclusively or largely a matter of adopting adequate legislation; in addition to the Universal Declaration of Human Rights, several other binding legal instruments can be cited,⁷ which are not always directly related to the

⁷ Hopkins and Nijboer (2004) suggest that significant documents among these are the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (1984), and the Convention on the Rights of the Child of 1989 (ibid.). The importance of the issue of human rights in migrations is confirmed by the appointment of a special rapporteur of

protection and rights of trafficked victims, but are relevant in the broader context of the protection of vulnerable groups and individuals.

The key problem lies in the fact that the principles provided by these legal instruments can only be implemented consistently in the presence of a positive political culture, i.e. in circumstances where the importance of human rights is recognized and the public is sensitive to their violation. Only efforts toward developing a culture of human rights can bring about higher sensitivity to the protection of vulnerable groups and individuals, as well as the elaboration of adequate instruments for preventing violations of the rights of the most marginalized (including victims of human trafficking, which are often subjected to exclusion at several levels). An illustration of a model case – that of trafficking women for the purpose of exploitation in the sex industry – might be helpful at this point: the victim appears as a ‘complete foreigner’ with no documents, and as a woman employed in the sex industry; she remains invisible as a citizen⁸ or works as a ‘foreign body’. As numerous cases reveal, human rights seem not to be compatible with an ‘illegal immigrant woman’ or ‘prostitute’, and within this perception she can hardly be considered a victim. The recognition of a victim in this context is not only a question of legal interpretation, but also of morals. Trafficked and traded women are frequently participants in the sex industry, simultaneously trespassing not only national but also ‘moral’ boundaries, and thus reinforcing the tendency to perceive them as criminal. In relation to this aspect, Jacqueline Berman (2003) points out the simultaneity of the portrayal of criminals and victims. From the perspective of government policies, the criminal act of trafficking in women is frequently discussed indirectly, often without considering the victim’s human rights, or as Ann Jordan put it:

They view trafficking as a problem of organized crime, migration, and/or prostitution, rather than as a human rights abuse. Thus, advocates bear the burden of educating authorities on the rights and needs of trafficked persons. A particular difficult aspect of this work involves demonstrating to authorities that women who are trafficked into forced prostitution, forced domestic work, and other forms of forced labour should not be deprived of their rights on the grounds that they are undocumented migrants who ‘knew’ what to expect and so deserved what they ‘got’. (Jordan: 2002: 29)

The de-marginalization of human rights, which is thought to have genuinely happened

the UN for the human rights of migrants, which indicates the practical and symbolic demarginalization of an issue that was considered peripheral not long ago.

⁸ When using the term ‘citizenship’, I rely on the conception presented by Marshall (1992) of the triad of civil, political and social rights that provide a concrete starting point for the theoretical structuring of the problem of the exclusion of victims of trafficking. Stephen Castles and Alastair Davidson (2000) expand the model of citizen rights to cultural rights and rights deriving from the gender perspective. Within the context of the analysis of trafficking victims, stances of citizenship as a field of active operations (participation of individuals) – in contrast to explanations considering citizen rights as related to the status of ‘being a citizen’ – emerge as relevant.

in relation to migrants, may provide a significant opportunity for a consistent approach to trafficking in women, focusing on the victim's perspective and introducing individualized experience as the foundation for adequate trafficking prevention policies, as well as victim assistance and protection programs. As suggested by Mojca Pajnik, the media framing of human trafficking in Slovenia adheres to an approach centred on criminality and illegality, without expanding the debate to broader social issues:

Media perspectives on trafficking rehearse and reinforce the assumption that the phenomenon is first and foremost an issue of organized crime, necessitating fighting criminals and saving the victims. Consequently, more complex social and economic circumstances are neglected. Trafficking is framed as a global panic in mediated representations, which helps to construct a context in which the anti-trafficking paradigm is promoted as 'natural' response, one that is necessary for the survival of the nation-state and of the world social order, and that is also in the interest of the victims. (Pajnik 2010: 49)

According to other authors (e.g. Berman's analysis), this approach dominates in most world media reporting. Contemporary media reporting simply seems to agree with the discourse that human trafficking is just another form of crime, and consequently adheres to the paradigm of protecting all citizens through increasingly restrictive border controls. My argument is that this 'systemic' or regulatory approach, as referred to in the introduction to this article, cannot yield efficient answers for contemporary anti-trafficking policies, which should put the victim at the core of policy formulation. In addition to practical policy questions, this viewpoint challenges us to differentiate: Which approaches are necessary? What methodology will enable us to monitor the diversity and dynamics of the phenomenon? How can we establish and sustain contact with vulnerable individual women and men who have become victims of trafficking? Finally, how can we construct a recognized research field of human trafficking that will enable a focused approach, while simultaneously strengthening the specific nature of the recognized disciplines, e.g. gender studies, sociology, economy, international relations, criminology, etc.? The list is not exhaustive, but recent research evidence has provided some guidelines and recommendations.

THE RESEARCH PERSPECTIVE: MARGINALIZE THE VICTIM'S PERSPECTIVE OR FOCUS ON IT?

Research into human trafficking falls within the domain of several disciplines and a variety of approaches. As a rule and given the diversification of information, aspects, emphases, suggestions, and solutions, broad interdisciplinary research has several advantages. Nevertheless, interdisciplinary analyses can result in the absence of a clear anchorage for focused research into a particular phenomenon. Human trafficking often seems to be devoid of such an anchorage. The resulting impression is that the phenomenon is studied

with insufficient focus. Of the various disciplines and their theoretical and methodological approaches, two contribute significantly to a specifically profiled approach to trafficking in women (more than to human trafficking in general): gender studies and studies in international relations (in Jacqueline Berman's terms), or in a broader sense: political science. Although it seems that these two disciplines only rarely coincide, I believe that their meeting points provide an opportunity for developing a focused research perspective. The emphasis should be that combining them unites several key elements: the perspectives of gender and human rights within the contextual framework of global mobility processes and a world divided into sovereign national states. Safety, sovereignty, borders and nation-states are the dominant concepts in the analyses of migration trends; reflecting the real state of affairs in the examined research field, they are not controversial *per se*. What gives reason for concern is the insufficient focus on the gender perspective within the theory of contemporary international relations, as pointed out by Jacqueline Berman:

As many feminist IR theorists have argued, gender and women provide the study of security and sovereignty with an axiomatic frame of analysis. In the case of discourses of sex-trafficking, a gendered frame helps to reveal how the issue of trafficking in women is directly related to the status of the state in international affairs in a globalizing world. Among the many effects of these discourses is an attempt to reinvigorate the state as the defender of 'white' women, punisher of illegal immigrants and criminals and protector of the political community. Despite their central relevance to such fundamental issues in IR as the nation and of globalization as immigration, however, gendered analysis continues to be marginalized, if not ignored, in much of the disciplinary literature. (Berman 2010)

Another point, which has to be introduced or at least briefly mentioned, concerns the debate on prostitution and its close link to trafficking in women. The discourse on prostitution draws one of the principal demarcation lines between voluntary and forced prostitution. The dichotomy has been transferred to the field of human trafficking, or as Zavratnik Zimic and Pajnik suggest, to trafficking in women and the victim's perspective:

The differentiation between 'forced' and 'voluntary' prostitution was applied in the field of trafficking in women, which deepened the marginalization of the victim. In contemporary analyses, this controversial differentiation applied to the field of trafficking in women results in diverting attention from a serious treatment of the position of the victim. The inclusion of trafficking into the context of voluntary migration or even voluntary sex labour contributes to an emphasized treatment of trafficking in women as criminal acts while not paying adequate attention to the treatment of the position of the victim, the question of victimization. In addition, at the practical level it does not trigger the need for the implementation of victim protection and integration programs. (Zavratnik Zimic and Pajnik 2005)

Some aspects of the dichotomy between voluntary and forced prostitution are remi-

niscent of aspects inherent to the issue of legal and illegal migration. Ironically, human trafficking often involves both. The emphasis is on the possibility of choice, although the possibility that 'I can make my own choice' does not reveal anything about the nature of the woman's work – exploitation, constraints, abuse – that is or may be the result of this choice. Therefore, the victim is no less a victim because of it. In real life migration and human trafficking the possibilities of choice are significantly limited, if not eliminated entirely.

The selection of the research perspective or, rather, its construction, is not a simple theoretical and methodological venture. Gender-related perspectives bear additional importance because they consider trafficked women as the most vulnerable group, with emphasis on diversity in the sense of exploring the diversity of their experiences, i.e. recognizing diversity in terms of gender differentiation, specific needs, and level of vulnerability. This perspective introduces an explanation of the approach to female victims of trafficking without establishing the position of the victim as an absolute one. In the feminist approach, the position of the victim in the context of violence (rape) is often subject to criticism for its connotation of the woman's passive role. Elizabeth Kelly (2002: 17) defines an alternative denomination – the term 'survivor' – which, however, is not adequate in the field of trafficking: many women in fact do not survive their exploitation.

In research on trafficking, the emphasis should clearly be on the victim's perspective. In fact, the very term 'trafficking' is devoid of any recognition of its relation to victimization and exploitation. In addition to striving for focused research into the issue, based on adequate knowledge from gender studies, international relations, and sociological findings on globalization, several other questions should be considered: how to demarginalize the victim, how to place her at the core of the research and consequently increase her visibility without undue exposure and subsequent secondary victimization. Non-governmental organizations and advocacy networks, which often speak on behalf of vulnerable groups and individuals, seem to have become the most successful intermediaries.

A further determinant in the research of human trafficking is connected with the relation between research practices and life practices, which do not always overlap, as confirmed among others by John Salt's findings based on empirical research in the European sphere, mostly conducted by the IOM:

What is revealed is that the enormous interest and concern for trafficking and human smuggling in governmental, inter-governmental and non-governmental organizations, in the media and popular opinion, is running ahead of theoretical understanding and factual evidence. (Salt 2002: 32)

These findings are also applicable to Eastern Europe and the Balkan countries, including Slovenia. The research is packed with data acquired for the needs of strategically-oriented public policies, focusing on statistical data and estimates remaining at the level of recording 'evidence'. The resulting interpretations are often reduced to descriptive narratives of the phenomenon of trafficking in women, which is causing 'problems' at

the state, regional, local, or global level. Estimates are often related to the geographic location of the analyzed country, in particular its status as a country of origin, transit or destination in the context of the routes of organized human trafficking. In addition to theoretical reflection, the applied methodology generates a need for comprehensive analyses: firstly, systematic collection of data provided by different sources and their cross verification (governmental, inter-governmental, non-governmental, independent expert groups, and individuals), and secondly, the transfer of focus from recording statistics to data contextualization. The collection of reliable data on the scope and structure of human trafficking is an extremely difficult, if not impossible enterprise; hence, what is required is a transition from statistics and groups to individuals and individualized life experiences. It is essential for indirect sources to be supplemented by direct ones, based on repeated interviews with the victims.

In contemporary research, the victim's perspective is often obscured by the broader issues of the economy, migration trends, and the fight against organized crime. As determined by Elizabeth Kelly (2002: 7–8), past research into trafficking for sexual exploitation focused on estimates of the problem's scope, research of routes, recruiting methods, control mechanisms, violations of human rights, and critical overviews of current legal and policy frameworks, as well as recommendations for further action. In addition, attention ought to be drawn to another finding proposed by Kelly that may be considered as a methodological guideline:

A large part of the data collected has been limited to official statistics and responses to short questionnaires/interviews by women who are either included in return programmes or who have been deported. (Kelly 2002: 8)

Interviews, in particular repeated ones, which enable the researcher to trace the victim's testimony in the form of her life story, seem to be the best available methodological instrument for a comprehensive study on the position of human trafficking victims. This yields another reason for emphasizing the importance of an interviewing mechanism that would strengthen the role of the victim in the entire process, without reducing her role to that of a passive respondent who is 'obliged' to provide information to government institutions. An interview must not resemble an interrogation, but rather be supportive of the victim so that she can, by means of the interview, reflect on past events, her current position, and future life. As part of a series of interviews, attempts should be made to reach an agreement on the victim's future.

TRAFFICKING IN WOMEN IN SLOVENIA: "WHERE IN THE PUZZLE?"

The question in the title of this chapter was one of the central motifs of the research team that analyzed human trafficking in Slovenia (Zavratnik Zimic et al. 2003). The

following sections present the first two mentioned components – the issue of the social (economic and political) context in which human trafficking in ‘United Europe’ is taking place, and some empirical data shedding light on the phenomenon’s local extent in Slovenia compared to the international situation.

Trafficking in Women: Eastern Europe – Western Europe, closed borders, and poverty

When concentrating on Europe, human trafficking, and in particular trafficking in women for the purpose of sexual exploitation, should be traced along the routes connecting Eastern and Western Europe, bearing in mind that the emergence of ‘a single Europe’ also resulted in the abolition of once impassable borders. At the time when Europe was still divided into two blocks, freedom of movement was an exception granted only to a chosen few. The dissolution of borders is thus a significant achievement for the parts of the now united Europe. The process of attempting to establish a united Europe has resulted in numerous changes, significantly influenced by economic factors. The transition to a capitalist market economy resulted in enormous social differences, which weak welfare systems were unable to cope with. Poverty was inflicted upon numerous women, who were suddenly unable to find employment in their local environment and consequently decided to emigrate. The economies of the former socialist societies with typical ‘full employment’ – unemployment was virtually unknown or at very low levels – changed and led to increasing deprivation, difficulties in finding employment in the domestic labour market, and widespread inability to attain a ‘decent’ standard of living even when employed.

A study conducted in Slovenia (Zavratnik Zimic et al. 2003) demonstrated that the majority of the victims originate from Eastern European and Balkan countries in transition with relatively low standards of living, extensive poverty, and high unemployment rates. An environment bereft of economic opportunities, in particular for women, has been listed as one of the crucial factors for emigration. As a rule, the victims were unemployed or working at temporary and poorly paid jobs before they emigrated. Many victims had never been employed or had only limited work experience. In addition, we should consider that numerous trafficking victims are young women, including minors, who had yet to begin their professional careers or had planned to enter the labour market after emigrating. Based on the testimonies of the victims, we can conclude that a significant motive for migrating is the hope of providing for the family left behind, in particular of the migrants’ children, who usually remain in the country of origin and are taken care of by other family members. The compilation of a ‘victim profile’ may be questionable or controversial, but the empirical data reveal important findings. When interviewed, the victims of human trafficking⁹ frequently identify poverty and the lack of job opportunities as the main push factor.

⁹ The study included 15 interviews with victims of trafficking. Although the number of interviews can

Excluding cases of more or less voluntary decisions to emigrate, the expectations about the West harboured by the emigrants proved illusory in most instances. We cannot claim that the entire phenomenon of female migration falls within the framework of organized human trafficking, but we do believe that a significant portion of the migrants are *a priori* forced to engage in illegal activities, given that the borders are still virtually impassable for unwanted migrants. This is one of the key problems of migration management in the contemporary world. When the borders are closed and the legal channels highly selective, migrants whose evident target destination is Western Europe turn to smugglers and traffickers. The ‘lucky’ ones only pay the smugglers to help them cross the border, while those less fortunate fall victim to organized crime and human trafficking. The data provided by IOM’s study *Victims of Trafficking in the Balkans* (2001) reveal that while in Central and Eastern Europe trafficking had been on the increase since the late 1980s and early 1990s, the Balkans and neighbouring countries seem to have turned into a region of origin, transit and destination for trafficked women only in the mid-1990s, in the wake of the humanitarian crisis and wars in the former Yugoslavia. (IOM 2001)

Slovenia: the shift from a non-existent to an evident phenomenon

The next section summarizes the results of a study conducted in Slovenia (Zavratnik Zimic et al. 2003). What needs to be pointed out, however, is the problem of limited information. Due to the lack of available data, attempts to explicitly and precisely evaluate the scope of trafficking through, to and from Slovenia have only just begun. The problem of limited information and the absence of a database of cases of human trafficking both derive from the phenomenon’s ‘specific’ nature and inadequate legislation. Consequently, the authors found that:

The registered number of trafficked women has been relatively low in recent years, while until the end of the 1990s cases of trafficking in women had been even more rarely reported. Still today, only a very small percentage of the actual extent of trafficking in human beings is registered; the prosecution of traffickers is the exception rather than the rule, and not many victims receive appropriate assistance. It is evident that trafficking in women for sexual exploitation has been given very low priority in Slovenia. In fact, if trafficking in human beings is not being explicitly measured and registered, the issue appears to be non-existent. (Zavratnik Zimic et al. 2003: 23)

A logical consequence of the lack of data or the failure to address the phenomenon is the non-existence of public policies that would provide solutions to problems in specific fields. The period before 2000–2002 seems to have been marked by ‘concealment’ – an

be considered low, these were the only ones accessible. The interviews were conducted by different sources – six by the IOM Office in Ljubljana, five submitted by foreign non-governmental organizations, five conducted by local non-governmental organizations, and one broadcast on a TV show.

almost total disregard of human trafficking. After 2002, a slight increase in systematic sources is recorded. The research practice, with the exception of a handful which indirectly addressed the issue of organized crime, entered the research into human trafficking relatively late, even when compared to the other countries of Eastern Europe and the Balkans.¹⁰ Nevertheless, it is worth mentioning that the existing data on prostitution in Slovenia can shed at least some light on the local extent of the phenomenon of human trafficking.¹¹

The results of the study revealed that Slovenia contributes fragments of all three pieces of the global puzzle of human trafficking: origin, transit, and destination. The results of the questionnaires sent abroad showed that 90% of respondents believed that Slovenia is primarily a transit country for victims of trafficking because of its geographical position and proximity to the Balkans and Western Europe (Zavratnik Zimic et al. 2003: 27).

The non-governmental organization Ključ (Key) estimates the number of victims annually crossing the territory of Slovenia on their way to Western Europe to be between 1,500 and 2,500, even if the number of registered cases is considerably lower. The Ministry of the Interior, for example, recorded 50 victims of human trafficking in 2002: 21 from Bulgaria, 15 from Moldavia, 10 from Romania, 2 from Estonia, 1 from Yugoslavia, and 1 from Albania. In addition, some foreign non-governmental organizations reported cases involving networks of human trafficking across Slovene territory. A Ukrainian non-governmental organization, for instance, reported 110 known cases in the period since 1999;¹² two further cases were reported by a Moldavian non-governmental organization, and one case by Norway.

Slovenia is also a country of destination for trafficking victims. According to a Slovene non-governmental organization, between 1,500 and 2,000 girls are trafficked to Slovenia every year, mostly from the Ukraine and Moldavia. However, this number is a crude estimate because the authorities are unable to provide statistical data on trafficked persons identified in the country. According to data from the Ministry of the Interior, 32 cases of victims of human trafficking were recorded in 2001, and 25 in 2002. Non-governmental organizations from the Ukraine and Moldavia reported cases of victims from these countries identifying Slovenia as the country of destination. Moreover, in 2001–2002, the IOM in Ljubljana provided assistance to six victims from the Ukraine, Russia, Moldavia, and Bulgaria.

Furthermore, Slovenia appears to be a country of origin as well. Data from the Ministry of the Interior confirm that Slovenia was the country of origin of five victims

¹⁰ In Slovenia, research into trafficking in human beings began relatively late, compared to both Western and Eastern European countries. In the latter, several case studies were initiated in the mid-1990s (e.g. in Poland, Hungary, Romania), while Western Europe is characterized by research into human trafficking within the domain of various disciplines (gender studies, sociology, law, political science, geography, anthropology, and history). The majority of studies on human trafficking in the former socialist Europe were conducted as part of the IOM's research programme; some of their studies focused on the local extent of the phenomenon; e.g. *Victims of Trafficking in the Balkans* (2001).

¹¹ In particular the work by the research journalist Jurij Popov (1999).

¹² The period from 1999 to the beginning of 2003, when the study began.

who were sold abroad in 2002. According to the estimates of a local non-governmental organization, Slovenia is the country of origin of around 100 Slovenian girls and women. Most of them were sold when still minors to Western European countries such as Italy, Spain, the Netherlands, and Germany (Popov 2002). In 2002, the Ministry of the Interior dealt with a well-organized international criminal group which had sold five Slovene girls and women to traffickers in different Western European countries. In 2002, a Slovene non-governmental organization assisted three Slovene girls who were potential victims of trafficking,¹³ providing psychosocial help to one girl who had become a victim of trafficking a few years earlier. International sources also reported Slovene victims of trafficking: from a total of 751 trafficking victims established in Austria between January 1994 and June 1995, seven were from Slovenia (CATW 1996). Other data can be added, depending on different sources and times of observation. In 1998, for instance, seven victims from the Balkans and neighbouring countries were recorded in the Netherlands, including one from Slovenia. In the same year one Slovene girl was recognized as a victim in Spain; in 1999/2000 and in the same country, of 10 BNC victims three were Slovene. In 1999/2000, five women from the BNC were identified as trafficked women in Germany, including two from Slovenia (IOM 2001). In 1998, the British police recorded 71 women trafficked to the United Kingdom, some of them being Slovene (no information on the exact number is available).

Recent research in Slovenia includes the work of the Peace Institute in Ljubljana and the regional IOM. In 2007,¹⁴ the researchers analysed the supply of and demand for sexual services and their connections to human trafficking in Slovenia and the wider Central European region. In Slovenia, the main observation was that prostitution has grown since the country's independence and that specific forms have emerged. There is no street prostitution, for instance, and the most common form is so-called "mobile prostitution" in which mainly Slovenian women participate, while foreign women are involved in night club and hotel prostitution (Bianchi et al 2007: 18–19). The research included the demand for sexual services, i.e. the clients of prostitutes. It is interesting to note that prostitution clients in Hungary declared (Ibid.: 18–19) that in the event of meeting a prostitute whom they could identify as a victim of violence or trafficking, they would call an NGO dealing with trafficking victims. Clients in Slovakia expressed a similar opinion, showing that they had more confidence in NGOs than in the police. The distrust of police was even greater among the prostitutes, who would also prefer to contact an NGO. Most clients were willing to call a safe number, but anonymously, probably reflecting their fear of the sex industry providers. Information on the extent of human trafficking is scant. Researchers established that the data on human trafficking in Hungary, Slovakia, and Slovenia are based on police and court statistics, reporting about 20 to 50 cases per year, with some differences between the countries.

¹³ They denied it, but there were indications that they may have been victims of trafficking.

¹⁴ See more in comparative study of Gabriel Bianchi et al (2007). The Slovene researchers in the international team were Mojca Pajnik and Urša Kavčič.

Mojca Pajnik's (2008) research provides a more detailed picture, where the interviewees (prostitutes, clients) distinguish between voluntary and forced prostitution, supporting non-punishment of voluntary prostitution, but rigorous persecution of forced prostitution and human trafficking, which the respondents considered totally unacceptable and connected with criminal groups (Ibid: 128–129). Attention should be paid to the fact that the users of sexual services stated that the prostitutes they had visited had not been forced into prostitution, admitting at the same time that it would be difficult to identify trafficking victims among them (Ibid: 130); this further increases the vulnerability of such victims in the work they perform and, last but not least, in their everyday life.

Positioning the victim: individualized experiences

As mentioned above, the Slovene case study from 2003 analyzed 15 interviews with victims of human trafficking. The interviews were provided by various domestic and international, non-governmental and inter-governmental sources. Some interviews were submitted by foreign non-governmental organizations. In Slovenia the interviews with the victims were conducted by a member of the research team. The research practice highlighted numerous practical and theoretical problems concerning the methodological approach to research into human trafficking and the position of the victim in the research process.

The study confirmed the findings of researchers who claimed that interviews are a key methodological instrument for data acquisition. In my opinion, interviews have a two-fold function: they may provide support to the victim and are a mechanism for collecting data from the broader context that is essential to research into the diverse aspects of human trafficking (e.g. methods for recruiting vulnerable individuals who begin their migration journey by contacting intermediaries, including human traffickers). Interviews enable us to identify typical recruiting methods and the initial steps the victims take in the process of human trafficking. In addition, they allow us to follow events through the lens of a direct life story.

Nevertheless, an analysis of the existing interviews revealed flaws as well. The testimonies of the victims are incomplete; they may provide essential information on the victims and the circumstances of trafficking, but it is often insufficient and inaccurate. For instance, the interviews do not include detailed information on the future – the end of the story, so to speak – after the victim's contact with the police or another state institution. They do not constitute a conversation about the current position of the victim nor on the options for short-term solutions (e.g., types of assistance, integration processes, etc.) or the future of the victim. Still, the data collected by means of interviews provide important information for elaborating strategic policies for the victims of human trafficking. One research goal should therefore be the elaboration of a sensitive interview, which provides assistance to the victim and bears as little resemblance as possible to an interrogation.

Moreover, when such an interview is accepted as a standardized tool in communicat-

ing with potential trafficking victims, it is necessary to make its use standard practice. This means that the proposed “Protocol of an interview with a potential human trafficking victim” (as the tool may be called) actually replaces a police interview. At the practical level, it is in any case important to include NGOs with adequate skills and expertise in the process of approaching and supporting victims. In Slovenia, the Ključ association is such an NGO and it is important to provide for its regular operation and the cooperation of governmental and non-governmental sectors.

FINAL OBSERVATIONS

Recently, human trafficking, migration, and female migration have been the subjects of discussions at numerous academic conferences, meetings of non-governmental organizations and other similar public events, as well as government sessions at the level of specialized international expert groups. In the daily media, human trafficking and especially sex trafficking is reported mostly in the crime section, taking the form of reports on ‘such and such woman has been sold’ and rarely among seriously treated topics. In these cases, when the victim becomes a ‘news item’, we often read that she is a foreigner and that in ‘such and such’ country she engages in prostitution or related activities. In brief, she is a sex worker. In my opinion, this is one of the crucial points in determining the responses and policies of different public sectors in relation to trafficking in women: in other words, whether we recognize the double labelling constructed around the recognition of trafficked women. Both issues, foreigners/immigrants and prostitution/sex work, are surrounded by piles of litter from the domains of (negative) emotions, stereotypes, and phobias. The inefficiency of public policies seems to stem from the complex recognition that trafficking in women is fraught with the fears and challenges of contemporary society; trafficking in women is a central issue in the context of migration – issues of policies toward foreigners, the possibility of social cohesion, adaptation to multiculturalism, and the coexistence of ethnic and cultural diversity. In addition, it also relates to the issue of gender inequality, dominance in the gender hierarchy and the ensuing re-actualization of topics concerning modern slavery, both from the perspective of gender relations and that of the specific services provided by sex workers.

It doesn’t come as a surprise then when constructions of women or human trafficking generally reflect biased notions of what the reality of ‘being sold’ actually entails for the victim of the process. The scope of the issue, encompassing the entire field of migration and essentially requiring a specialized approach to enable focused analysis and action, even seems to have cornered research practice. Research appears to be lagging behind the events in the real world. Human trafficking is the subject of interest of several social sciences: sociology mainly focuses on mobility processes, economics is interested in labour and labour force markets, criminology concentrates on the prevention of organized crime, geography analyzes the overlapping areas of some of the above mentioned aspects. And we could go on. However, two fields – gender studies and the study of international

relations – deserve special attention because they contribute significantly to bringing us closer to the specialized study of trafficking in women. Although it seems that these two aspects rarely coincide, I believe that the meeting points of the two provide an opportunity for developing a focused research perspective. Research is often based on economic models, considering human trafficking as an economic activity within the broader context of migration, and focusing on the research of the labour market principle; migrations are often analyzed in terms of the push-pull theory, i.e. the pull factors of the immigration environment and the push factors of the environment of origin. Both perspectives often fail to consider the most vulnerable participants in the process – its victims.

Migration, including human trafficking, has been studied from the perspective of human rights only in recent years, and the studies can make a significant contribution to our understanding of migrants and the broader field of migration. In human trafficking, in particular trafficking in women, it is essential to establish links to human rights and other specific aspects deriving from gender policies. Being gender-specific, the abuse of trafficked women is mostly related to their work in the sex industry.

At the practical level, emphasis must be put on the need for efficient communication between theoretical and applied research, assistance programs for victims, and the formation of policy by the protagonists in the governmental and non-governmental sectors. Such communication can make a significant contribution to understanding the local characteristics of human trafficking and its role in the global context. Efficient and inventive policies can only be developed as a result of perceptive communication between research and the victim's everyday experience, including the experiences of networks of local non-governmental and international inter-governmental organizations which are in direct contact with the victims. Given that it provides vulnerable individual victims with an opportunity to participate in institutionalized policies for the prevention of human trafficking, the victim's perspective should play an essential role. The central concepts in this field – borders, migrations, and crime – have to be supplemented with defining the victim's position; the concept of security – mainly understood as national security – must be amended with consideration for the vulnerability of the victim and her or his security.

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POVZETEK

ČLOVEKOVE PRAVICE IN TRGOVANJE Z LJUDMI: REFLEKSIJA ŠTUDIJE
PRIMERA SLOVENIJE

Simona Zavratnik

V besedilu utemeljujem paradigmo človekovih pravic kot temeljno izhodišče obravnave problematike globaliziranega trgovanja z ljudmi, zlasti trgovanja z ženskami. V taki poziciji je regulatorna politika nacionalnih držav in mednarodnih organizacij, ki temelji na varovalnih mehanizmih (selektivna, neprehodna meja, kvote, sporazumi o vračanju migrantov, itd.), soočena s perspektivo individualiziranih, senzibilnih politik, ki v središče postavljajo žrtve trgovanja z ljudmi, žrtve t. i. »novodobnega belega suženjstva«. Regulatorna perspektiva temelji na zagotavljanju varnosti »za nacionalno državo in njene državljane«, pri čemer so migranti potencialna grožnja. V taki poziciji pa kritično umanjka individualizirana obravnava posameznika kot žrtve organiziranega kriminala, ki ima le malo ali nikakršne možnosti za izhod iz stanja popolnega nadzora in odvzema osebne svobode s strani »lastnikov«, nenazadnje mu/ji je odvzeta tudi svoboda razpolaganja s svojim telesom.

Zato je pomembno, da so sodobne politike osredotočene k ranljivim posameznicam in posameznikom, k žrtvam trgovanja z ljudmi; da so individualizirane in spolno specifične.

Spolno specifičnost politik preprečevanja trgovanja z ljudmi prikažemo na primeru zelo razširjenega trgovanja z ženskami z nameni izkoriščanja v spolni industriji, to je zlasti prisilni prostituciji. Žrtev trgovanja se pogosto ne povezuje s kršenjem njihovih temeljnih človekovih pravic, za kar je razlog v njihovem statusu – kot tujke ali nedokumentirane migrantke so v družbi povsem nevidne, pa tudi brez državljanskih pravic. Polega dejstva, da so številne žrtve prestopile nacionalne meje nelegalno, so z delom v seksualni industriji prestopile tudi moralne meje, ki jih glede prostitucije prakticirajo številne družbe. Kot migrantka in spolna delavka pa posameznica nima nobene možnosti, da je v javnem prostoru percepirana kot žrtev. Javne politike so torej tisti mehanizem, ki mora legitimizirati pozicijo žrtve, zavarovati temeljne človekove pravice in ji hkrati zagotavljati ustrezne mehanizme pomoči.

V besedilu opozarjam na v praksi premalo prakticirane možnosti integracijskih politik za žrtve, ki želijo ostati v okoljih, kamor so se priselile. Hkrati poudarjam nujnost ustreznih mehanizmov obravnave, to je predvsem komunikacije z žrtvijo. Izpostavljam, da je poglobljen in večkratni intervju z žrtvijo standardno orodje pri vzpostavljanju zaupne komunikacije – taka komunikacija na podlagi standardiziranega intervjuja vključuje po eni strani življenjsko zgodbo žrtve (njen migracijski projekt), prav tako pa je usmerjen k prihodnjim strategijam vključevanja v novo družbo. Predlagam, da bi tak standardiziran instrument (delovno ga poimenujem Protokol pogovora s potencialno žrtvijo trgovanja z ljudmi) nadomestil k zaslišanju usmerjen policijski intervju. Slednje pa pomeni, da bi

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tak protokol postal standard, ki bi ga v praksi morale v sodelovanju izvajati policija in specializirane nevladne organizacije.