

HUMAN TRAFFICKING: THE 21st CENTURY SLAVE TRADE
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AN ELUSIVE REALITY

Human trafficking is as old as the world but the magnitude of the problem has only come to light in the last 20 years.

- In colonial times, women and girls, especially Africans and Aborigines, were torn from their home communities to be sold as labour, slaves or sexual objects.
- Human trafficking began to be recognized as a social problem at the turn of the 20th century with what is known as the “white slave trade”, a term referring to the mobility of European and American Caucasian women and the traffic in them in Arab, African and Asian countries, where they were sold as prostitutes or concubines.
- The notion of “white slave trade” is tied to prostitution and prostitution, to slavery.
- The terms “human trafficking” or “trafficking in persons” began to be used with reference to international trafficking in women and minors, but no consensus emerged around a single definition or expression to explain or name the problem.
- It is only toward the end of the 20th century that the international community was able to more precisely define what is meant by “human trafficking”.
- Because human trafficking is a clandestine criminal activity and there is no consensus on how it is to be defined or understood, it is hard to measure, hence the lack of precise figures and statistics.

1993	Vienna, Austria World Conference on Human Rights. Information on cases that involved trafficking in foreign women where human rights had clearly been violated and that were tried before the courts in various European countries is collated for the first time ever. It is established that human trafficking is a violation of basic human rights.
1995	Beijing, China Fourth World Conference on Women. This was the first time that trafficking in women for sexual exploitation is reported on. The cases described involved women from Columbia, Benin and the Balkans. As a result, the issue of human trafficking is addressed in two articles of the Beijing Declaration.
1996	On the initiative of the United Nations Special Rapporteur on violence against women, Radica Coomasasway, a first international assessment of human trafficking was established using data on cases and victims collected from various States and authorities, international organizations and NGOs. The findings of this study convinced many governments of the need to combat this criminal activity by putting in place specific international instruments.

1997-2000	Representatives of a hundred or so States gathered in Vienna to draft the Convention Against Transnational Organized Crime and the Protocol against Trafficking in Persons.
December 2000	Palermo, Italy As part of a world conference convened by the UN, 147 countries signed the United Nations Convention against Transnational Organized Crime and the associated protocols: the Protocol against Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Air and Sea.
September 2003	The Convention came into force after ratification by more than 40 States. The Protocol against Trafficking in Persons came into force in the same way on December 25, 2003.

Subparagraph *a* of article 3 of the Protocol gives the following definition:

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

According to the Protocol, therefore, human trafficking is

- a) an **ACTIVITY**: “the recruitment, transportation, transfer, harbouring or receipt of persons”;
- b) that uses specific **MEANS**: “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”
- c) for the **PURPOSE** of exploitation: “Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” In the case of children, whether boys or girls, consent is irrelevant, meaning that under the Protocol, the means mentioned earlier need not be used for the activity to be considered as trafficking: “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” (article 3, subparagraph *c*). “Child” is defined as meaning any person under 18 years of age (article 3, subparagraph *d*).

BLEAK FINDINGS

The International Organization for Migration (IOM)¹ estimates that, each year, worldwide, approximately one million men, women, boys and girls are tricked, sold or coerced into slavery or conditions similar to slavery in various sectors—construction, manufacturing, agriculture, domestic service—and for various purposes—prostitution, pornography, sex tourism, forced marriage, child soldiering, organ trafficking, child trafficking—women and children (male and female) being the most vulnerable.

According to the Trafficking in Persons Report published annually by the U.S. Department of State, between 600,000 and 800,000 people are trafficked across borders each year; of these, 80% are women and girls and 50% are minors.

The International Labour Organization (ILO) has found that, of the estimated total number of persons who are trafficked into forced labour (which the Organization puts at 2,450,000), around 56% of those trafficked for economic or labour exploitation are women and girls, and the remaining 44% are men and boys. At 98%, women and girls account for very nearly all victims of trafficking for sexual exploitation.

These figures highlight the fact that human trafficking is not a gender-neutral crime. It does affect women disproportionately, however, not only because most victims of trafficking, including trafficking for labour exploitation, are women, but also because the forms of exploitation they are subjected to are generally more serious.

Trafficking in women should be considered in the broader context of gender inequalities and of the structural violence that women are exposed to. In all societies, women and girls face, to varying degrees, constant violations of their basic or economic rights in their home communities. Women are generally at a greater risk than men for gender-based violence and discrimination in the education sector and gender inequity in the workplace, which is characterized by job segregation and the disproportionate representation of women in the informal sectors of the labour market. As a result, women are extremely vulnerable and economically insecure, and therefore more inclined to migrate, often illicitly, despite the risks and consequences.

Women generally do not have equal access to official emigration channels. Those who emigrate through unofficial channels receive little or no information on the risks involved and find themselves cut off from specialized services networks, especially health services and emergency medical assistance, at a time when they have little or no control over their circumstances.

1. IOM, *World Migration 2005: Costs and Benefits of International Migration*, Irena Omelaniuk, ed., Volume 3—IOM World Migration Reports Series (Geneva: IOM, 2005), p. 417.

Trafficking in women in Latin America and the Antilles, though already apparently widespread within the countries concerned, is also driven by high international demand. Traditionally, the more active recruitment centres were located in Brazil, Colombia, the Dominican Republic, Surinam and the Antilles, but more recently, the list has come to include Mexico, Argentina, Ecuador and Peru. It is estimated that, each year, close to 100,000 women and teenage girls from these countries are lured to the United States, Spain, the Netherlands, Belgium, Israel, Japan and other Asian countries with false promises of work.

According to Civil Guard statistics, approximately 70% of trafficking victims in Spain are women from Latin America. No fewer than 1,700 women from Latin America and the Antilles end up as sexual slaves in Japan. Other studies even state that some 3,000 Mexican women are recruited through networks of traffickers and forced into prostitution in that country.

The Central American and Antilles region is faced with what is becoming an increasingly acute problem, as more and more women, girls and boys are being trafficked for sexual exploitation. This problem comes with a set of specific characteristics and challenges that must be taken into account in the development of public strategies. A study conducted by the Inter-American Commission of Women and the Inter-American Children's Institute of the Organization of American States (OAS) found that prevention and victim protection strategies are lacking in the region, as are avenues for recourse against traffickers. Young girls in general, but particularly young girls who have been sexually abused in the past, are thus at the mercy of domestic and international exploitation networks that can look to an increasingly lucrative market for the commercial sexual exploitation of children.

The United States is a dream destination for many, but official statistics put the number of people trafficked into the country each year at somewhere between 14,500 and 17,500. Close to 7,000 of these victims—the largest group—are from Southeast Asia. Some 5,500 victims—the second largest group—are from Latin American countries. When it comes to trafficking for sexual exploitation, the figures reported by the U.S. Department of State are nothing short of astounding: between 45,000 and 50,000 women, girls and boys are exploited in the sex industry in that country each year.

- Each year, 50,000 women, girls and boys are victims of trafficking in the United States (U.S. Central Intelligence Agency (CIA)).
- Each year, 35,000 Columbian women are victims of trafficking (INTERPOL).
- Between 50,000 and 70,000 women from the Dominican Republic, and 75,000 from Brazil, work outside their country in the prostitution trade.
- In 2002, over 2,000 girls and boys from Central America, most of them migrants, were found in brothels in Guatemala.
- In Brazil, close to 500,000 girls, including numerous trafficking victims, work as prostitutes. Many are forced to ply the trade in Amazonian communities located close to gold mines.
- Between 1,000 and 1,500 Guatemalan babies are trafficked into Europe and the United States each year for illegal adoptions (UNICEF).
- In San Jose, Costa Rica, some 2,000 girls are involved in prostitution. Many are migrants (Casa Alianza).
- Columbian, Dominican and Filipino teenage girls were trafficked into Costa Rica and forced to work as prostitutes in recognized sex tourism destinations.

PREVENTION STRATEGIES

A comprehensive strategy to combat human trafficking must necessarily include preventive measures.

We must design or revisit public policy strategies with a view to alleviating the factors that make people vulnerable to trafficking, factors such as poverty, underdevelopment and unequal opportunities.

We need to develop a broader, better articulated vision in order to obtain lasting results based on interwoven synergies and multilateral, intersectoral action in which all local, national, regional and international stakeholders participate. Human trafficking calls for far-reaching action because it is not a straightforward phenomenon but a complex mix of criminal offences, a legal, moral and economic problem that also raises gender equality and health issues.

Paragraph 1 of article 5 of the Protocol against Trafficking in Persons requires the State Parties to combat this crime and punish its perpetrators but also to prevent it, to protect its victims and to help them reintegrate society.

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol . . .

Paragraph 2 stipulates that it is also a criminal offence to attempt to commit an offence established in accordance with paragraph 1, to participate as an accomplice in such an offence or to organize or direct other persons to commit such an offence.

Dedicated legislation is necessary for a number of reasons.

First, to make it possible to combat human trafficking on all fronts, by classifying it as a crime and punishing its perpetrators, but also through concrete steps and measures to prevent trafficking and protect and assist trafficking victims.

Second, to establish that trafficked persons are victims who must be protected and helped, not offenders (even if they are illegal migrants) and even less so accomplices. This status opens the door for additional legislative provisions that allow victims to launch criminal proceedings against their abusers or to appear as plaintiffs in civil actions for the compensation for damages or the restitution of property, that grant victims who are foreigners temporary or permanent resident status or that create a witness protection program.

Third, to put measures in place to allow tougher penalties than those currently on the books for crimes of a similar nature—keeping a bawdy house, pimping, corruption, enticement and so on.

Lastly, to meet the need for harmonized national legislations both within the region and across the world in order to close any legal loopholes through which organized crime networks could operate with impunity, and to set standards for legal aid and protection for trafficking victims.

To date, Colombia, the United States, the Dominican Republic and more recently Ecuador and Mexico are the only jurisdictions on our continent that have passed anti-human trafficking laws. Various Central and South American countries have, however, drafted like-minded bills or proposals.

Anti-human trafficking legislation must be based on a global vision similar to that embodied in the Protocol if it is to be conducive to what certain institutions refer to as the three Ps:

- (1) prosecution;
- (2) protection; and
- (3) prevention.

Trafficking in persons is the slave trade of the 21st century, aggression, torture and debasement, its tools, and the belief that human beings are of less value than general merchandise, its banner.

Trafficking in persons generates fear and indignation the world over. It is a rapidly growing crime not just in terms of the number of victims it makes but also in terms of its incidence and expansion in various countries.

Lawmaking alone will not solve the problem in any of our countries. Laws must be backed up by the necessary budgets and by effective measures to facilitate adequate and rapid enforcement. We must make the institutional changes that are required and provide the people in charge of enforcing anti-human trafficking laws with the training they need to be able to ensure compliance with the spirit of those laws. We must raise judges' awareness of the human rights issues raised by trafficking and of the tragic consequences suffered by victims of this crime, and provide judges with appropriate training.

Mexico enacted anti-human trafficking legislation in November 2007. Our new law punishes traffickers and protects victims through measures that involve government and non-government organizations working hand in hand. It also emphasizes the need to develop and implement prevention-oriented public policies.

And yet the Trafficking in Persons report published each year by the U.S. Department of States continues to put Mexico on the watch list because of the weakness of its interventions against trafficking in persons for sexual or labour exploitation. Lydia Cacho's arrest was cited as a black mark on Mexico's record and the enactment of anti-human trafficking legislation as a step forward.

According to the same report, despite its efforts, the Government of Mexico does not fully comply with the minimum standards for the elimination of human trafficking. The report ranks all countries into four categories and places Mexico, a source, transit and destination country for trafficked persons, in the second-to-last category, which sparked a strong response from the Foreign Relations Secretariat.

The report highlights the fact that trafficking victims in Mexico are for the most part Central Americans who come into the country through its southern border but that their number also includes South Americans and Eastern Europeans. It further notes the existence of internal trafficking, whereby Mexicans are lured through false promises or brought by force to regions close to urban and tourist areas and subjected to sexual exploitation.

The Department of State also points out that, despite the laudable measures put in place by the Mexican government, the arrest of a journalist in Puebla for reporting on official collusion with traffickers and accomplices—a clear reference to Lydia Cacho—demonstrates that corruption of judicial and political figures presents a major obstacle to improved anti-trafficking efforts.

The report stresses that child sex tourism is still a problem, mainly in border regions and tourist areas, and that organized criminal networks traffic women within Mexico and to the United States for sexual exploitation.

Mexico must therefore focus on two priorities: (1) allocating maximum resources to the interagency commission mandated by law to combat trafficking in persons and providing it in the shortest possible term with the capacity to operate and intervene efficiently; and (2) accelerating the training of police officers, public servants and judges so that they will be able to identify possible trafficking victims, to treat them with humanity and dignity, to protect them effectively and to help them fully reintegrate society.

Justice will never reign in Mexico or the region if we continue to tolerate crimes such as human trafficking. The authorities, civil society and we, the people's representatives, must step up to the plate and take strong action to protect basic human rights and defend liberty and human dignity.