



IOM International Organization for Migration

Combating Human Trafficking and Illicit Trade: a Systemic Approach

**Presentation for the Committee on Non-Governmental Organizations of
the Executive Board of UNESCO, Paris 5th May 2011**

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When we look at human trafficking today and the work many of us have done over the past 20 years or so, we can say with some satisfaction that the situation is positive: a large number of states have ratified the United Nations Protocol; there are national action plans and referral systems; there are regional action plans and bilateral MoUs, a multitude of shelters, a number of law enforcement units dedicated to fighting human trafficking and so on and so forth. But having achieved all this, have we actually made any impact?

If we look at the estimates of the number of individuals trafficked, these have hardly changed over the past ten years. One could take to task the methodologies used in calculating these estimates, but a number of dedicated activists and practitioners believe that if anything the problem may have become worse.

What then has gone wrong? Why, with all the progress that has been made in establishing protection and prosecution systems, does the problem remain much as it was ten years ago? We could start by asking ourselves whether the Protocol has provided a viable road map to combat trafficking. From a migration angle I would have to venture a “no”. I say this based on experience in the field where one of IOM’s primary roles is to provide assistance and protection, not just to victims of trafficking, but more generally to migrants in a situation of distress.

The definition of human trafficking is extremely complex and can be interpreted in any numbers of ways. This lack of clarity as to what constitutes human trafficking cascades down to the level of the person or institution tasked with identifying victims. In 2009, IOM undertook a four country comparative study of trafficking legislation and procedures in Austria, Belgium, Italy and the United States, and the principal conclusion was that the provision of protection often comes down to an arbitrary decision: that of whether or not an individual is a victim of trafficking. If the decision goes against the individual, not only will they not receive protection but they may be liable to prosecution under criminal or immigration law. IOM staff and others regularly come across abused and exploited migrants in this unenviable situation. In IOM we increasingly use the terms “abused” and “exploited”, because the term “trafficked” in the legal sense is often little more than an arbitrarily decided administrative category that excludes a vast number of vulnerable migrants in need of protection. This situation, which some have described in terms of a hierarchy of suffering,

indicates that there is something fundamentally wrong with the current system. The Protocol – and the way it is used by governments as the international legal instrument of reference when it comes to exploited and abused migrants in general -- has contributed in a large way to this confusion.

Faced with the frustrating lack of progress made in combating human trafficking, rather than re-examine the reigning framework and strategies governed by the Protocol, there has been a tendency toward an emotional response typified by increasing reference to slavery rather than trafficking. The language of slavery is the language of good and evil. It is part of a pre-modern vocabulary that reflects a simpler era; it leads to powerful but futile condemnation of the phenomenon as “shameful”, “egregious” and “horrific”. This linguistic simplification mirrors the general treatment of human trafficking with its tendency to lock the phenomenon into a Manichean box and try to address it as a stand-alone issue without taking into account the broader, complex and often politically sensitive factors that provide an enabling environment in which human trafficking can flourish.

Migration is the most obvious phenomenon we need to look at in order to provide context for an analysis of human trafficking. The number of migrants worldwide today is over 200 million, and while it is impossible to predict the realities of future decades, if global social and economic disparities persist, and current demographic trends continue, the stock of international migrants in 2050 could be as high as 415 million. Faced with new and complex global phenomena that pose enormous challenges, there is a tendency for governments to opt for a securitization approach (much as others, as mentioned above, retreat into the vocabulary of good and evil.) In the case of the growth in irregular migration this means that the favoured policy is that of tightening visa and immigration regimes and strengthening border controls. But this approach does nothing to alter the fact that changing demographics require industrialised countries to find workers to replace their aging populations. Regrettably though, this is not a truth that can easily be told by politicians who wish to be elected by increasingly anti-immigration and sometimes xenophobic constituencies. The result is a growing market and increasing opportunities for human traffickers and smugglers who can assist migrants in bypassing migration controls, and a consequent increase in migrant vulnerability.

In the context of globalisation and the liberalisation of markets, it is often said that capital can be separated from its owner and whizz around the world at the speed of light, whereas labour cannot be separated from its owner and therefore cannot obey the same laws of the free market. But labour is being separated from its owner, be it by traffickers or unscrupulous employers who see migrant workers as cheap, unprotected and exploitable labour. It is a form of alienation that even Marx did not envisage: hundreds of thousands of individuals transported across often great distances to situations where their labour is separated from their humanity and any semblance of community and family or social support and protection. And while governments are busy trying to develop new migration policies (that regrettably focus too little on safeguarding the rights of migrant workers), many are at the same time tolerating the exploitation of migrant labour which can be tantamount to subsidising whole sectors where this form of labour abounds.

Irregular migration – and I do not make the distinction here between human trafficking and smuggling both of which, as we have seen, can result in an exploitation outcome – can be seen as one component of the broader phenomenon of illicit trade. The World Economic Forum Global Agenda Council on Illicit Trade, a grouping of academics, business leaders and NGO and IO representatives, has defined illicit trade as “money, goods or value gained from illegal or commonly viewed to be unethical activity, and which generates economic, social, environmental or political harm.” It encompasses *inter alia* natural resources, arms, human beings, narcotics, counterfeiting and tax evasion. It is estimated that 8-10% of global trade (or some 650 billion USD annually) is illicit which is not far off the percentage of transnational migrants estimated to be irregular (10-15%.)

As with the exploitation of migrants, much (although by no means all) of the harm caused by illicit trade falls on developing countries. This can take the form of depletion of human or natural resources, the flight of capital (an estimated 1.3 trillion USD has been illegally transferred out of developing countries) and even the collapse of fragile states.

But why, you may ask, do I wish to further complicate an already complex problem by bringing in to the equation an apparently quite different issue? For most States, managing migration in a comprehensive way poses a challenge. Policies that deal with specific migration issues are often isolated from other policies and, owing to political implications, are often short sighted and reactive, concerned primarily with addressing immediate short-

term challenges. The same is true in the area of trade where one corporation's efforts to eliminate illicit trade from its business, or one government-led effort to eliminate illicit trade in a particular sector, will generally have limited impact on the broader problem. For one thing, the criminal groups involved in illicit trade have the built-in flexibility to move from one trade to another (including the trade in human beings) depending on the risks and opportunities involved.

A systemic approach that incorporates the whole panoply of illicit trade is warranted, and not just because of the varieties of trade but, even more importantly, because of its inter-linkages with major global risks such as corruption (both a driver and consequence of illicit trade), terrorism (which is partly fueled by profits from illicit trade), fragile states (massive illicit trade often being their cause and nearly always an important consequence) or economic disparities (which contribute to and are exacerbated by illicit trade.)

A systemic approach to addressing the problem also requires the engagement of all concerned parties, namely private sector, governments and civil society, all of which have a stake in the elimination of this phenomenon that harms business, society and state sovereignty. All also have key roles to play whether in developing and enforcing regulatory frameworks, monitoring supply chains and eliminating illicit trade components, or raising social awareness.

While we need to guard against the commodifying of migration and the consequent risk of underestimating the motivations, experiences and rights of individual migrants, if we are to build a safer global migration framework we need to view migration as a form of exchange much like international trade. A global trade regime that is both free and fair requires a strong regulatory framework that leaves little space for the operators of the shadow economy to engage in illicit trade. The same holds true for an international migration management framework. Similarly, practices such as agricultural subsidies in Europe and North America that upset the whole notion of free and fair trade, have negative consequences for migrants and potential migrants. The subsidies that prevent farmers in developing countries from marketing their produce often push them into migrating irregularly for work to the country where the subsidy is in place (and where, ironically, they may end up working in substandard conditions on a farm.)

Migration, whether legal or irregular and just like the trade in goods, obeys the laws of supply and demand. As long ago as 1997, a pair of researchers, John Salt and Jeremy Stein, wrote: “Today, it (migration) is better regarded as a diverse international business, with a vast budget, providing hundreds of thousands of jobs world-wide, and managed by a set of individuals and institutions, each of which has an interest in how the business develops.” This is even truer today in 2011 when the world has felt the full force of globalisation. Just as migration has profound consequences for human rights so does international trade, and if we are to find long-term solutions to the question of protecting the rights and well-being of migrants both actual and potential, we need to do so within the framework of realising the civil, economic and social rights of all individuals. A first step could be to start considering migration and trade policies together with the aim of establishing an international, development-oriented trade and migration framework that benefits both individuals and states.

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